

*Final Review Draft 7/18/12*

**COUNTY-WIDE  
ACT 167  
STORMWATER MANAGEMENT  
MODEL ORDINANCE**

**FINAL REVIEW DRAFT**

**COMMENTS DUE**

**AUGUST 31, 2012**

**CHESTER COUNTY, PENNSYLVANIA**

Approved by PA Department of Environmental Protection

\_\_\_\_\_, 20\_\_

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**[Municipality]**  
**STORMWATER MANAGEMENT**  
**ORDINANCE**

**ORDINANCE NO. \_\_\_\_\_ OF \_\_\_\_\_**

**[Municipality], Chester COUNTY,**

**PENNSYLVANIA**

**Adopted at a Public Meeting held on**

**\_\_\_\_\_, 20\_\_**

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## **COUNTY-WIDE MODEL ORDINANCE 2012**

**NOTES TO MUNICIPAL EDITOR:**

- 1) *ALL CONTENTS OF THIS DRAFT MODEL ORDINANCE ARE STILL SUBJECT TO PADEP REVIEW AND APPROVAL.*
- 2) *It is recommended that the Municipality adopt this Model Ordinance as a stand-alone ordinance. It is further recommended that it be adopted/enacted under the provisions of Act 247 Municipalities Planning Code. Enactment in this manner is anticipated to provide maximum flexibility and authority for enforcement.*
- 3) *Municipality may, at its option, replace the term “Municipal Engineer” with “Municipality” in any or all places where “Municipal Engineer” currently appears throughout the Ordinance.*
- 4) *To ensure applicability of this Ordinance to your Municipality, be sure to insert your Municipality’s name in each of the following locations:*
  - a) *Ordinance Title*
  - b) *Section 101*
  - c) *Article II, within the definitions of the following terms –*
    - i. *Governing Body*
    - ii. *Municipality*
    - iii. *Planning Commission*
    - iv. *Subdivision and Land Development Ordinance.*
- 5) *If any portion of your Municipality is located within any of the following watersheds, see NOTE TO MUNICIPALITIES on the following page: Chester Creek, Conestoga River, Crum Creek, Darby Creek, (East) Valley Creek.*
- 6) *The Municipality may set more restrictive or stringent standards and requirements than those included herein, but they cannot be reduced or diminished.*
- 7) *It is recommended that each municipality also adopt a companion ordinance governing prohibitions (as presented in Article VIII herein) that applies to all existing development – see “Note to Editor” in Article VIII for further explanation.*
- 8) *This Draft Model Ordinance presents the Municipality with several options for of regulatory applicability for small projects and agricultural related structures. This provides each municipality with the opportunity to consider their individual needs and interests and tailor the Ordinance to their priorities in a manner that best suits their communities. The Municipality should also closely review “Subsection 106.C. Exemptions for Specific Activities” to become familiar with those activities that are eligible for exemption (regardless of size) from engineering, design, review/approval, and inspection requirements of the Ordinance. These options are presented at the following locations:*

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- *Small Projects* –
  - Subsections 106.B and 106.D;
  - Subsections 301.G and Section 304;
  - Section 40.2;
  - Subsection 502.A; and
  - Section 702.
- *Agricultural Structures* –
  - Subsection 106.E.

9) *This Draft Model Ordinance presents the Municipality with several options for setting the level and extent of standards and requirements to be included in the Ordinance. This provides each municipality with the opportunity to consider their individual needs and interests and tailor the Ordinance to their stormwater management priorities in a manner that best suits their communities. These options are presented at the following locations:*

- Subsections 103.S and 106.C.5.a;
- Subsections 301.I, 301.O, 301.R, 301.S, 301.T, 305.D, 306.N, 306.O, and 308.A., and Section 311;
- Subsections 402.B.8.p and 402.B.8.q;
- Subsections 502.C, 502.D, 502.F;
- Section 601; and
- Article VII.

10) *“Notes to Editor”, “Notes to Municipality”, and imbedded notes shown in italics, bold, and [brackets] are intended to be removed from the Ordinance document by the Municipality’s editor prior to adoption.*

11) *Cross-references to Articles, Sections, Subsections, Tables, and Appendices are grey shaded throughout for the convenience of the municipal editor; all shading is intended to be deleted prior to adoption.*

12) *Page numbering is left to the municipal editor.*

NOTE TO MUNICIPALITIES THAT ARE LOCATED PARTIALLY WITHIN ANY OF THE FOLLOWING WATERSHEDS THAT HAVE APPROVED ACT 167 STORMWATER MANAGEMENT PLANS – Chester Creek, Conestoga River, Crum Creek, Darby Creek, and (East) Valley Creek:

- *Where more than one Act 167 stormwater management plan applies to any given Municipality, it is recommended that the Municipality prepare and adopt one composite stormwater management ordinance that applies to the entire Municipality. If this County-wide 167 Ordinance is used as the basis for a composite Ordinance, then the following must be included –*

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- *The peak runoff release rate standards from the previously approved Act 167 plan(s) and a clear description and delineation of those land areas to which those peak rate standards apply, and the ground cover assumptions to be used for those peak rate calculations for those areas.*
- *For Crum and Darby Creek, the following must be carried forward into this Ordinance (at least for the land areas within those watersheds):*
  - *Riparian buffer requirements; and*
  - *Requirements for proposed activities with five hundred (500) to nine hundred ninety-nine (999) square feet of Proposed Impervious Surfaces to comply with the Simplified Approach.*
- *For Chester Creek watershed, this County-wide Act 167 Model Ordinance must be used to replace the 2003 Chester Creek Act 167 Ordinance, and:*
  - *The peak runoff release rate standards (and corresponding peak rate calculation ground cover assumptions) must be carried forward from the Chester Creek ordinance into this Ordinance for the portion of the Municipality located within the Chester Creek watershed; and,*
  - *The following provisions from the Chester Creek ordinance must be carried into the Municipality's ordinance (at least for the area within the Chester Creek watershed):*
    - *Riparian buffer requirements; and*
    - *Requirements for activities with five hundred (500) to nine hundred ninety-nine (999) square feet of Proposed Impervious Surfaces to comply with the Simplified Approach.*
- *Any Municipality that chooses to adopt the applicable Act 167 ordinance(s) for only those areas of their Municipality that lie within any of the above listed watersheds (except Chester Creek), must then adopt this County-wide 167 Ordinance (or equivalent or more restrictive standards) for all remaining areas of the Municipality. In this circumstance, the following are required:*
  - *The first paragraph of **Section 105** of this Ordinance must be revised to clearly and accurately indicate the land area to which this Ordinance applies.*
  - *A map clearly illustrating the boundaries of the area to which this Ordinance applies should be included in an Appendix, and referenced in paragraph 1 of **Section 105**.*
  - *A stand-alone ordinance must be adopted to enable the Municipality to establish and enforce prohibitions such as non-stormwater discharges to, connections to, and alterations of stormwater facilities, BMPs and Conveyances, etc. (those provisions as presented in **Article VIII** of this Ordinance) in all areas of the Municipality, if not already included within another ordinance.*



## **ARTICLE I – GENERAL PROVISIONS**

### **Section 101. Short Title**

This Ordinance shall be known as the [*Municipality name*]'s Stormwater Management Ordinance.”

### **Section 102. Statement of Findings**

The Governing Body of the Municipality finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from land disturbance and development throughout a watershed increases flooding, flows and velocities, contributes to erosion and sedimentation, overtaxes the capacity of streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces infiltration and groundwater recharge, increases nonpoint source pollution to waterways, and threatens public health and safety.
- B. Inadequate planning and management of stormwater runoff resulting from land disturbance and development throughout a watershed can harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream beds and stream banks, thereby elevating sedimentation), destroying aquatic habitat, and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals, and pathogens. Groundwater resources are also impacted through loss of recharge.
- C. A comprehensive program of stormwater management, including minimization of impacts of New Development, Redevelopment, and other Earth Disturbance Activities causing accelerated runoff and erosion and loss of natural infiltration, is fundamental to the public health, safety, and general welfare of the people of the Municipality and all of the people of the Commonwealth, their resources, and the environment.
- D. Stormwater is an important water resource that provides infiltration and groundwater recharge for water supplies and baseflow of streams, which also protects and maintains surface water quality.
- E. Impacts from stormwater runoff can be minimized by reducing the volume of stormwater generated and by using project designs that maintain the natural hydrologic regime and sustain high water quality, infiltration, stream baseflow, and aquatic ecosystems. Cost-effective and environmentally sensitive stormwater

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management can be achieved through the use of nonstructural Site design techniques that minimize Impervious Surfaces, reduce disturbance of land and natural resources, avoid sensitive areas (i.e., riparian buffers, floodplains, steep slopes, wetlands, etc.), and consider topography and soils to maintain the natural hydrologic regime.

- F. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.

*NOTE TO EDITOR: Include Subsection 102.G if your Municipality is required to have an NPDES MS4 permit -*

- G. Federal and state regulations require the Municipality to implement a program of stormwater controls. The Municipality is required to obtain a permit and comply with its provisions for stormwater discharges from its Separate Storm Sewer System under the National Pollutant Discharge Elimination System (NPDES).

- H. Non-stormwater discharges to municipal separate storm sewer systems can contribute to pollution of the Waters of the Commonwealth by the Municipality.

**Section 103. Purpose**

The purpose of this Ordinance is to protect public health, safety and general welfare, property and water quality by implementing drainage and stormwater management practices, criteria, and provisions included herein for Land Development, construction and Earth Disturbance Activities, to achieve the following throughout the Municipality:

- A. Reduce the frequency and magnitude of flooding and stormwater impacts affecting people, property, infrastructure and public services.
- B. Sustain or improve the natural hydrologic characteristics and water quality of groundwater and surface waters.
- C. Protect natural resources, including riparian and aquatic living resources and habitats.
- D. Maintain the natural hydrologic regime of Land Development Sites and their receiving watersheds.
- E. Minimize land disturbance and protect and incorporate natural hydrologic features, drainage patterns, infiltration, and flow conditions within Land Development Site designs.

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- F. Reduce and minimize the volume of stormwater generated, and manage and release stormwater as close to the source of runoff as possible.
- G. Provide infiltration and maintain natural groundwater recharge to protect groundwater supplies and stream baseflows, prevent degradation of surface water and groundwater quality, and to otherwise protect water resources.
- H. Reduce stormwater pollutant loads to protect and improve the chemical, physical, and biological quality of ground and surface waters.
- I. Prevent scour, erosion and sedimentation of stream channels.
- J. Reduce flooding impacts and preserve and restore the natural flood-carrying capacity of streams and their floodplains.
- K. Protect adjacent and downgradient lands from adverse impacts of direct stormwater discharges.
- L. Minimize Impervious Surfaces and connected Impervious Surfaces to promote infiltration and reduce the volume and impacts of stormwater runoff.
- M. Provide proper long-term operation and maintenance of all permanent stormwater management facilities, BMPs and Conveyances that are implemented within the Municipality.
- N. Reduce the impacts of runoff from existing developed land undergoing Redevelopment while encouraging New Development and Redevelopment in urban areas and areas designated for growth.
- O. Implement an illicit discharge detection and elimination program that addresses non-stormwater discharges.
- P. Provide performance standards and design criteria based on watershed-based stormwater management planning.
- Q. Provide standards to meet certain NPDES stormwater permit requirements.
- R. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93, to protect, maintain, reclaim and restore the existing and designated uses of the Waters of the Commonwealth.

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*NOTE TO EDITOR: Municipality may, at its option, include **Subsection 103.S** if your Municipality is required to have an NPDES MS4 permit and implement TMDLs -*

S. Implement the requirements of Total Maximum Daily Load (TMDLs) where applicable to waters within or impacted by the Municipality.

T. Provide review procedures and performance standards for stormwater planning and management.

U. Fulfill the purpose and requirements of PA Act 167 (PA Act 167, Section 3):

*“(1)Encourage planning and management of storm water runoff in each watershed which is consistent with sound water and land use practices.*

*(2)Authorize a comprehensive program of stormwater management designated to preserve and restore the flood carrying capacity of Commonwealth streams; to preserve to the maximum extent practicable natural storm water runoff regimes and natural course, current and cross-section of water of the Commonwealth; and to protect and conserve ground waters and ground-water recharge areas.*

*(3)Encourage local administration and management of storm water consistent with the Commonwealth's duty as trustee of natural resources and the people's constitutional right to the preservation of natural, economic, scenic, aesthetic, recreational and historic values of the environment.”*

**Section 104. Statutory Authority**

The Municipality is empowered or required to regulate land use activities that affect runoff and surface and groundwater quality and quantity by the authority of:

A. Act of October 4, 1978, P.L. 864 (Act 167) 32 P.S., Section 680.1 et seq., as amended, the “Storm Water Management Act” (hereinafter referred to as “the Act”);

*NOTE TO EDITOR: Include whichever of **Subsections 104.B., 104.C., or 104.D.** applies to your Municipality.*

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- B. Borough Code, 53 P.S. Section 46201 et seq.;
- C. First Class Township Code, 53 P.S. Section 55101, et seq.;
- D. Second Class Township Code, 53 P.S. Sections 65101 et seq.;
- E. Act of July 31, 1968, P.L. 805, No. 247, 53 P.S. Section 10101, et seq., as amended, the Pennsylvania Municipalities Planning Code, Act 247 hereinafter referred to as the “MPC”).

**Section 105. Regulated Activities**

- A. The following activities are regulated by this Ordinance:
  - 1. All Regulated Activities as defined in this Ordinance including, but not limited to, New Development, Redevelopment, and Earth Disturbance Activities that are located within the Municipality shall be subject to regulation by this Ordinance.

*NOTE TO EDITOR: See NOTE TO MUNICIPALITIES (at front of this Ordinance) regarding incorporating ordinance provisions from other approved Act 167 Plans and determine if it is necessary to include here any mention of certain provisions being incorporated from other 167 plans that apply only to certain areas of your Municipality.*

- 2. When a building and/or grading permit is required for any Regulated Activity on an existing parcel or approved lot created by a subdivision and/or improved as a Land Development project, issuance of the permit shall be conditioned upon adherence to the terms of this Ordinance.
- 3. This Ordinance contains the stormwater management performance standards and design criteria that are necessary from a watershed-based perspective. The Municipality’s stormwater management Conveyance and system design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.) shall continue to be regulated by the applicable municipal ordinance(s) and applicable state regulations.

*NOTE TO EDITOR: Include the following phrase at the end of the preceding sentence if you choose to include these criteria within this Ordinance:*

“, or as included in **Section 311** of this Ordinance.”

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B. Duty of Persons Engaged in a Regulated Activity

Notwithstanding any provision(s) of this Ordinance, including exemptions, any Landowner or any person engaged in a Regulated Activity, including but not limited to the alteration or development of land, which may affect stormwater runoff characteristics, shall implement such measures as are reasonably necessary to prevent injury to health, safety, or other property. Such measures also shall include actions as are required to manage the rate, volume, direction, and quality of resulting stormwater runoff in a manner which otherwise adequately protects health, property, and water quality of Waters of the Commonwealth.

C. Phased and Incremental Project Requirements

Any Regulated Activity (including but not limited to New Development, Redevelopment, or Earth Disturbance) that is to take place incrementally or in phases, or occurs in sequential projects on the same parcel or property, shall be subject to regulation by this Ordinance if the cumulative Proposed Impervious Surface or Earth Disturbance exceeds the corresponding threshold for exemption (as presented in Table 106.1 “Thresholds for Regulated Activities that are Exempt from the Provisions of this Ordinance as Listed Below” ). The date of adoption of this Ordinance shall be the starting point from which to consider tracts as “parent tracts” relative to future subdivisions, and from which Impervious Surface and Earth Disturbance computations shall be cumulatively considered, (unless such requirements have previously been adopted, then the earliest date of the applicable municipal ordinance adoption shall remain as the starting point). For example:

If, after adoption of this Ordinance, an Applicant proposes construction of a six hundred (600) square foot garage, that project would be exempted from the requirements of this Ordinance as noted in Table 106.1. If, at a later date, an Applicant proposes to construct a nine hundred (900) square foot room addition on the same property, the Applicant would then be required to implement the stormwater management and plan submission requirements of this Ordinance for the cumulative total of one thousand five hundred (1,500) square feet of additional Impervious Surface added to the property since adoption of this Ordinance.

**Section 106. Exemptions and Modified Requirements**

A. Requirements for Exempt Activities

1. An exemption from any requirement of this Ordinance shall not relieve the Applicant from implementing all other applicable requirements of this Ordinance or from implementing such measures as are necessary to protect public health, safety, and welfare, property and water quality.

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2. An exemption shall not relieve the Applicant from complying with the requirements for state-designated special protection waters designated by PADEP as high quality (HQ) or exceptional value (EV) waters, or any other current or future state or municipal water quality protection requirements.
3. An exemption under this Ordinance shall not relieve the Applicant from complying with all other applicable municipal ordinances or regulations.

B. General Exemptions

Regulated Activities that:

1. Involve less than or equal to nine hundred ninety-nine (999) square feet of Proposed Impervious Surfaces AND less than or equal to four thousand nine hundred ninety-nine (4,999) square feet of Earth Disturbance; or
2. Are listed in Subsection 106.C,

are exempt from those (and only those) requirements of this Ordinance that are included in the sections and articles listed in Table 106.1. Exemptions are for the items noted in Table 106.1 only, and shall not relieve the Landowner from other applicable requirements of this Ordinance. Exemption shall not relieve the Applicant from implementing such measures as are necessary to protect health, safety, and welfare, property, and water quality.

*NOTE TO EDITOR: Municipality may, at its option, do either (or neither) of the following to reduce the minimum size of proposed projects that must comply with all provisions of this Ordinance:*

1. *Option 1 - Reduce the minimum size threshold(s) in Subsection 106.B.1 and Table 106.1 for projects that must comply with all stormwater plan and control provisions of this Ordinance; the thresholds cannot be increased.*
2. *Option 2 –*
  - a. *Reduce the minimum size threshold(s) in Subsection 106.B. and Table 106.1 for projects that must comply with the stormwater plan and control provisions of this Ordinance (the thresholds cannot be increased),*  
*AND*
  - b. *Establish a size range of small projects (not to exceed nine hundred ninety-nine (999) square feet of Proposed Impervious Surfaces and not to exceed four thousand nine hundred ninety nine (4,999) square feet of proposed Earth Disturbance) that would be eligible to implement the “Simplified Approach” to comply with the Ordinance requirements for a professionally engineered stormwater plan that must be subject to a complete municipal*

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*review and approval process. The “Simplified Approach” is further described in Note to Editor at Subsection 106.D and Appendix A.*

*If the Municipality chooses to incorporate Option 1, the following changes must be made:*

- 1. Subsection 106.B.1. must be revised to reflect the smaller size of projects that are exempt from the provisions indicated in Table 106.1.*
- 2. The titles of Columns 3 and 4 of Table 106.1 must be revised to reflect the smaller project size selected by the Municipality.*

*If the Municipality chooses to incorporate Option 2, the following changes must be made:*

- 1. Subsection 106.B.1. must be revised to reflect the smaller size of projects that are exempt from the provisions indicated in Table 106.1.*
- 2. The titles of Columns 3 and 4 of Table 106.1 must be revised to reflect the smaller project size selected by the Municipality.*
- 3. A new Subsection 106.D and new Table 106.2 MUST be inserted (see “NOTE TO EDITOR” at Subsection 106.D in this Model Ordinance for further information and instructions).*



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**TABLE 106.1  
Thresholds for Regulated Activities that are Exempt from the Provisions of this  
Ordinance as Listed Below**

Ordinance Article/Section	Activities Listed in Subsection 106.C.	≤ 999 sq. ft. of Proposed Impervious Surfaces AND ≤ 4,999 sq. ft. of Proposed Earth Disturbance	≥ 1,000 sq. ft. of Proposed Impervious Surfaces OR ≥ 5,000 sq. ft. of Proposed Earth Disturbance
Article I	Not Exempt	Not Exempt	Not Exempt
Article II	Not Exempt	Not Exempt	Not Exempt
Sections 302, and 303, 311	Not Exempt	Not Exempt	Not Exempt
Sections 301, 304, 305, 306, 307, 308, 309, and 310	Exempt	Exempt	Not Exempt
Article IV	Exempt	Exempt	Not Exempt
Article V	Exempt	Exempt	Not Exempt
Article VI	Exempt	Exempt	Not Exempt
Article VII	Exempt	Exempt	Not Exempt
Article VIII	Not Exempt	Not Exempt	Not Exempt
Article IX	Not Exempt	Not Exempt	Not Exempt
Other Erosion, Sediment and Pollution Control Requirements	Must comply with Title 25, Chapter 102 of the PA Code and other applicable state and municipal codes, including the Clean Streams Law.		

**Table 106.1 Legend:**

- Specific activities listed in Subsection 106.C are exempt from the indicated requirements, regardless of size.
- A proposed Regulated Activity must be less than BOTH the Proposed Impervious Surfaces and proposed Earth Disturbance thresholds to be eligible for exemption from the requirements listed in this table.
- “Proposed Impervious Surface” - as defined in this Ordinance.
- “Exempt” – Regulated Activities are exempt from the requirements of listed section(s) only; all other provisions of this Ordinance apply.

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C. Exemptions for Specific Activities

The following specific Regulated Activities are exempt from the requirements of Sections 301, 304, 305, 306, 307, 308, 309, and 310, and Article IV, Article V, Article VI and Article VII) of this Ordinance (as shown in Table 106.1), unless otherwise noted below. All other conveyance and system design standards established by the Municipality in other codes or ordinances shall be required, and all other provisions of this Ordinance shall apply.

*NOTE TO EDITOR: Municipality may, at its option, eliminate any or all of the items below from the list of exempted activities; however, no additional activities can be added to the list. Any items from the list below that the Municipality includes within its Ordinance must use the exact language shown herein for the item.*

1. Emergency Exemption - Emergency maintenance work performed for the protection of public health, safety and welfare. This exemption is limited to repair of the existing facility; upgrades, additions or other improvements are not exempt. A written description of the scope and extent of any emergency work performed shall be submitted to the Municipality within two (2) calendar days of the commencement of the activity. A detailed plan shall be submitted no later than thirty (30) days following commencement of the activity. If the Municipality finds that the work is not an emergency, then the work shall cease immediately and the requirements of this Ordinance shall be addressed as applicable.
2. Maintenance - Any maintenance to an existing stormwater management system, facility, BMP or Conveyance made in accordance with plans and specifications approved by the Municipal Engineer or Municipality.
3. Existing Landscaping - Use of land for maintenance, replacement or enhancement of existing landscaping.
4. Gardening - Use of land for gardening for home consumption.

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5. Agricultural Related Activities –
- a. Agricultural Activities (as defined in **Article II**), when operated in accordance with an Agricultural Erosion and Sediment Control Plan or a Conservation Plan (as defined in **Article II**) that complies with the requirements of 25 PA Code 102.
  - b. Conservation Practices (as defined in **Article II**) that do not involve construction of any expanded, replacement or new Impervious Surfaces.

*NOTE TO EDITOR: The Municipality may, at its option, replace **Subsection 106.C.5.a.** with the language presented below, but only if the following is true -*

- ***The Municipality has given full consideration to the potential of this change to cause or worsen flooding, stormwater, erosion, and pollution impacts to properties, infrastructure, public safety, and streams.***

“106.C.5.a. Agricultural Activities (as defined in **Article II**).”

*[Rationale - Under 25 PA Code 102 regulations, Agricultural Activities with 5,000 square feet. or more of tilling or animal heavy use area are required to have an Agricultural Erosion and Sediment Control Plan (or equivalent Conservation Plan); however those regulations do not require the plan to be reviewed or approved.]*

6. Forest Management - Forest management operations, which are consistent with a sound forest management plan as filed with the Municipality and which comply with the Pennsylvania Department of Environmental Protection’s management practices contained in its publication “Soil Erosion and Sedimentation Control Guidelines for Forestry.” Such operations are required to have an Erosion and Sedimentation Control Plan, which meets the requirements of 25 Pa. Code Chapter 102 and meets the erosion and sediment control standards of **Section 303** of this Ordinance.
7. Maintenance of Existing Paved Surfaces - Replacement of existing paved surfaces shall meet the erosion and sediment control requirements of 25 Pa. Code Chapter 102 and **Section 303** of this Ordinance, and is exempt from all other requirements of this Ordinance listed above. Resurfacing of existing paved surfaces is exempt from the requirements of this Ordinance listed above. Construction of new or additional Impervious Surfaces shall comply with all requirements of this Ordinance as indicated in **Table 106.1**.
8. Municipal Roadway Shoulder Improvements - Shoulder improvements conducted within the existing roadway cross-section of municipal owned roadways, unless

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an NPDES permit is required, in which case the proposed work must comply with all requirements of this Ordinance.

9. In-Kind Replacement of Residential Dwelling Unit - The replacement in the exact footprint of an existing one- or two-family dwelling unit.
  
10. In-Kind Replacement, Repair, or Maintenance of Residential Impervious Surfaces - The replacement of existing residential patios, decks, driveways, pools, garages, and/or sidewalks that are accessory to an existing one- or two-family dwelling unit in the exact footprint of the existing Impervious Surface.

D. Modified Requirements for Small Projects [*OPTIONAL*]

*NOTE TO EDITOR:*

*The Municipality may, at its option, choose to include provisions to allow the “modified” requirements of the “Simplified Approach” (as presented in Appendix A) to be applied for small projects to comply with the provisions of this Ordinance included in Sections 301, 304, 305, 306, 307, 308, 309, and 310, and Article IV, Article V, Article VI and Article VII. All other provisions of this Ordinance shall apply to the small projects.*

*A “Simplified Approach to Stormwater Management for Small Projects - Handbook” is presented in Appendix A of this Model Ordinance. Appendix A includes instructions and simplified requirements for runoff control that do not require a professionally engineered design. Appendix A also includes simplified requirements for SWM Site Plan content, submission, and approval, and a corresponding “Simplified Approach Stormwater Best Management Practices Operation, Maintenance and Inspection Plan and Agreement” sample document that is required to be fully executed and recorded.*

*The Municipality may choose to include provisions allowing the use of the “Simplified Approach” for either of the following purposes:*

1. *To reduce the size of projects to which the Municipality’s Ordinance applies,*
  - *for this purpose, the Municipality will have chosen to modify Subsection 106.B.1 and Table 106.1 (using Option 2) to reduce the minimum size threshold(s) in Subsection 106.B.1 and Table 106.1 for projects that must comply with the stormwater plan and control provisions of this Ordinance to less than 1,000 square feet of Proposed Impervious Surfaces, and will have chosen to allow the Simplified Approach to be used for non-exempt projects that involve less than 1,000 square feet of Proposed Impervious Surfaces.*

*OR*

2. *To relax the regulatory requirements on small projects that involve more than 1,000 square feet of Proposed Impervious Surfaces, and that are not otherwise exempt,*

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- *for this purpose, the Municipality will have chosen NOT to modify Subsection 106.B.1 and Table 106.1 and to retain the exemption size thresholds shown in this Model Ordinance for Subsection 106.B.1 and Table 106.1, and wishes to consider allowing the “Simplified Approach” to be used for non-exempt projects that involve 1,000 to 2,000 (or less) square feet of Proposed Impervious Surfaces and 5,000 to 10,000 (or less) square feet of proposed Earth Disturbance – these are the maximum thresholds for which the “Simplified Approach” may be applied, and shall not be increased. This purpose is best suited for rural municipalities and should be considered ONLY IF the following is true:*
  - ***The Municipality has given full consideration to the potential of this provision to cause or worsen flooding, stormwater, erosion, and pollution impacts to properties, infrastructure, public safety, and streams.***

*If the Municipality chooses to include provisions allowing the use of the “Simplified Approach”, then Subsection 106.D. and Table 106.2 must be included in the Ordinance and completed based on the following instructions:*

- *Add Subsection 106.D using the text shown below within the Ordinance:*

“D. Modified Requirements for Small Projects

Regulated Activities that involve [ \*\* see below ] square feet of Proposed Impervious Surfaces and [ \*\* see below ] square feet of propose Earth Disturbance may apply the modified requirements presented in the “Simplified Approach” (Appendix A) to comply with the requirements of Sections 304, 305, 306, 307, 308, 309, and 310, and Article IV, Article V, Article VI and Article VII of this Ordinance (as shown in Table 106.2). The Applicant shall first contact the Municipal Engineer to confirm that the proposed project is eligible for use of the “Simplified Approach” and is not otherwise exempt from these Ordinance provisions; to determine what components of the proposed project are to be considered as Impervious Surfaces; and to determine if other known Site or local conditions exist that may preclude the use of any techniques included in the “Simplified Approach”. Appendix A includes instructions and procedures for preparation, submittal, review and approval of documents required when using the “Simplified Approach” and shall be adhered to by the Applicant. All other provisions of this Ordinance shall apply.”

- *Insert within the text of Subsection 106.D the appropriate size ranges of small projects for which use of the “Simplified Approach” is to be allowed (dependent upon the “purpose” above), and the size ranges must be consistent with Subsection 106.B.1, Table 106.1, and Table 106.2.*
  - *If in Subsection 106.B.1. the Municipality decreased the size threshold of Proposed Impervious Surfaces eligible for exemption to below 1,000 square feet and chooses to apply the “Simplified Approach” to projects with less than*

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*1,000 square feet of Proposed Impervious Surfaces, then insert the size range specified in Subsection 106.B.1. (e.g., “five hundred (500) to nine hundred ninety-nine (999) square feet of Proposed Impervious Surfaces”) where indicated in Subsection 106.D above, and insert a corresponding size range for proposed Earth Disturbance.*

- *If the Municipality chooses to allow the “Simplified Approach” to be used for small projects with 1,000 to 2,000 (or less) square feet of Proposed Impervious Surfaces and 5,000 to 10,000 (or less) square feet of proposed Earth Disturbance, then insert the selected size ranges where indicated in Subsection 106.D above (e.g., “one thousand (1,000) to two thousand (2,000) square feet of Proposed Impervious Surfaces and five thousand (5,000) to ten thousand (10,000) square feet of proposed Earth Disturbance”).*
- *Table 106.2 must be edited to include Subsection 106.D. in the title and entries of column 2, and in the Legend (below the table).*
- *Appendix A must also be included in the Municipality’s Ordinance.*
- *The cover page for Appendix A and the instructions page in Appendix A.1 must be completed and be consistent with the information included in Subsections 106.B.1., and 106.D, and Tables 106.1 and 106.2.*

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*NOTE TO EDITOR: Include Table 106.2 ONLY if the Municipality chooses to include either or both of Subsections 106.D and/or 106.E within its Ordinance. Then, edit the title and entries of column 2 and the Legend (below the table) to include the appropriate Subsection number(s) [e.g., Subsection(s) 106.D and/or E].*

**TABLE 106.2  
Thresholds for Regulated Activities that are Eligible for “Modified” Requirements  
for the Provisions of this Ordinance that are Listed Below**

Ordinance Article/Section	Activities Listed in Subsection [106. D and 106. E Municipality to insert appropriate subsection number(s) here]
Article I	All Provisions Apply
Article II	All Provisions Apply
Sections 302, and 303, 311	All Provisions Apply
Sections 301, 304, 305, 306, 307, 308, 309, and 310	Exempt if Modified Requirements of [Subsection(s) 106.D and/or E] are Applied
Article IV	Exempt if Modified Requirements of [Subsection(s) 106.D and/or E] are Applied
Article V	Exempt if Modified Requirements of [Subsection(s) 106.D and/or E] are Applied
Article VI	Exempt if Modified Requirements of [Subsection(s) 106.D and/or E] are Applied
Article VII	Exempt if Modified Requirements of [Subsection(s) 106.D and/or E] are Applied
Article VIII	All Provisions Apply
Article IX	All Provisions Apply
Other Erosion, Sediment and Pollution Control Requirements	Must comply with Title 25, Chapter 102 of the PA Code and other applicable state and municipal codes, including the Clean Streams Law.

**Table 106.2 Legend:**

- “Modified Requirements” – Regulated Activities listed within the Subsections of this Ordinance noted in Table 106.2 are eligible for exemption only from the indicated sections and subsections of this Ordinance and only if the modified requirements of [Subsections 106.D and/or E – Municipality to insert appropriate subsections here] are met to the satisfaction of the Municipality; all other provisions of this Ordinance apply.

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E. Modified Requirements for Agricultural Structures [*OPTIONAL*]

*NOTE TO EDITOR: The Municipality may, at its option, consider including Subsection 106.E presented below, within their Ordinance, but ONLY IF the following is true:*

- *The Municipality has given full consideration to the potential of this change to cause or worsen flooding, stormwater, erosion, and pollution impacts to properties, infrastructure, public safety, and streams.*
- *If the Municipality chooses to include Subsection 106.E, then Table 106.2 must also be included.*
- *Table 106.2 must be edited to include Subsection 106.E in the title and entries for column 2 and in the Legend (below the table).*

“106.E. Modified Requirements for Agricultural Structures

It is the declared policy of the Commonwealth to conserve and protect and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. Municipalities must encourage the continuity, development and viability of agricultural operations within its jurisdiction. Except as necessary to protect the public health, safety and welfare, Regulated Activities involving Proposed Impervious Surfaces associated with Agricultural Activities are exempt from the requirements of Sections 301, 304, 305, 306, 307, 308, 309, and 310, and Article IV, Article V, Article VI and Article VII of this Ordinance (and listed in Table 106.2) only when it has been demonstrated to the satisfaction of the Municipality that the proposed project will comply with all of the requirements listed below. All other provisions of this Ordinance shall apply. To be eligible for exemption from the Ordinance provisions stated above, the proposed Regulated Activity shall:

1. Be directly associated with an Agricultural Activity (as defined in Article II);
2. Include less than ten thousand (10,000) square feet of Proposed Impervious Surface (excluding adjoining vehicle parking and movement areas) and not more than an additional five thousand (5,000) square feet of adjoining vehicle parking and movement area;
3. Be installed on a farm or mushroom operation that has a current Mushroom Farm Environmental Management Plan (MFEMP) reviewed and deemed adequate by the Conservation District, or an Agricultural Erosion and Sediment Control Plan or Conservation Plan (as defined in Article II) that complies with the requirements of 25 PA Code 102;
4. Divert runoff from the Proposed Impervious Surfaces (including vehicle parking and movement area) entirely away from animal management, waste management and crop farming areas and any other source of pollutants;



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5. Include BMP(s) that will permanently retain at least one (1) inch of rainfall runoff from the total area of Proposed Impervious Surfaces and vehicle parking and movement areas;
6. Be designed so that any point of discharge of runoff from the Proposed Impervious Surface (excluding vehicle movement area):
  - a. Is not directly connected to, and is not directly connected to any constructed Conveyance that is connected to, a municipal Separate Storm Sewer System or public roadway;
  - b. Is located at least one hundred fifty (150) feet from any municipal Separate Storm Sewer System or public roadway, or any constructed Conveyance connected to any municipal Separate Storm Sewer System or public roadway.
7. Either:
  - a. Have all Proposed Impervious Surfaces and proposed vehicle parking and movement areas and BMP(s) included within the current MFEMP or current Agricultural Erosion and Sediment Control Plan or a Conservation Plan for the farm or mushroom operation;  
OR
  - b. Be constructed per design plans prepared and sealed by a Licensed Professional in conformance with the PADEP “Best Practices for Environmental Protection in the Mushroom Farm Community” (2003 or as amended), or per design plans prepared and sealed by a Licensed Professional (or Conservation District staff person designated by NRCS) that comply with USDA NRCS standards and specifications, and for which completion of construction will be certified by the Licensed (or NRCS-designated design) Professional responsible for the design; and
8. Not be eligible for exemption if an NPDES permit is required.”

**Section 107. Repealer**

Any ordinance or ordinance provision of the Municipality inconsistent with any of the provisions of this Ordinance are hereby repealed to the extent of the inconsistency only.

**Section 108. Severability, Applicability**

A. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared the intent of the Governing Body of the Municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

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- B. Except as provided herein, when the provisions herein specified for health, safety and welfare are more restrictive than the provisions of any other Ordinance, code, rule or regulation of the Municipality, this Ordinance shall control; but in any case, the most rigid requirements of the applicable ordinances, codes, rules or regulations shall apply when they may be in conflict.

**Section 109. Compatibility with Other Ordinances or Legal Requirements**

- A. Approvals issued and actions taken pursuant to this Ordinance do not relieve the Applicant of the responsibility to secure and comply with other required permits or approvals for activities regulated by any other applicable code, rule, act, law, regulation, or ordinance.
- B. To the extent that this Ordinance imposes more rigorous or stringent requirements for stormwater management than any other code, rule, act, law, regulation or ordinance, the specific requirements contained in this Ordinance shall take precedence.
- C. Nothing in this Ordinance shall be construed to affect any of the Municipality's requirements regarding stormwater matters that do not conflict with the provisions of this Ordinance, such as local stormwater management design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.). The requirements of this Ordinance shall supersede any conflicting requirements in other municipal ordinances or regulations.

**Section 110. Financial Security**

For all activities requiring submittal of a Stormwater Management (SWM) Site Plan that involve Subdivision or Land Development, the Applicant shall post financial security to the Municipality for the timely installation and proper construction of all stormwater management facilities as required by the approved SWM Site Plan and this Ordinance, and such financial security shall:

- A. Be equal to or greater than the full construction cost of the required facilities;

AND

- B. Comply with Sections 509-511 of the MPC and the provisions of the Municipality's Subdivision and Land Development Ordinance (SALDO).

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**Section 111. Waivers**

A. General

The requirements of this Ordinance are essential and shall be strictly adhered to. For any Regulated Activity where, after a close evaluation of alternative Site designs, it proves to be impracticable to meet any one or more of the mandatory minimum standards of this Ordinance on the Site, the Municipality may approve measures other than those in this Ordinance, subject to **Subsections 111.B and 111.C.**

- B. The Governing Body shall have the authority to waive or modify the requirements of one or more provisions of this Ordinance if the literal enforcement will exact 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 Ordinance is observed. Cost or financial burden shall not be considered a hardship. Modification may also be considered if an alternative standard or approach can be demonstrated to provide equal or better achievement of the results intended by the Ordinance. A request for modification shall be in writing and accompany the SWM Site Plan submission. The request shall state in full the grounds and facts on which the request is based, the provision or provisions of the Ordinance involved and the minimum modification necessary.

C. PADEP Approval Required

For any proposed Regulated Activity involving Earth Disturbance equal to or greater than one (1) acre, the Municipality may approve measures for minimum volume and infiltration control other than those required in this Ordinance only after consultation with and evaluation by PADEP that the alternate Site design meets State water quality requirements and does not conflict with State law, including, but not limited to, the PA Clean Streams Law, 35 P.S. Section 691.1, et seq.

<p><i>NOTE TO EDITOR: Municipality may, at its option, include or delete <b>Section 112.</b></i></p>
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**Section 112. 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.

## ARTICLE II – DEFINITIONS

*NOTES TO EDITOR:*

- 1) Do not include a definition for the term “structure” within this Ordinance to avoid conflict with the meaning of the definition of “Impervious Surface”.*
- 2) Definitions shown with a “\*” have been specifically tailored for use within this Ordinance; any changes to these definitions should be avoided if possible, or very closely checked for applicability to all occurrences of the term throughout this Ordinance.*
- 3) The definitions shaded in grey are “mandatory” and must be retained in the Ordinance exactly as written here.*

### **Section 201. Interpretation**

For the purposes of this Ordinance, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word “includes” or “including” shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.
- C. The word “person” includes an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any section prescribing or imposing a penalty, the term “person” shall include the members of a partnership, the officers, members, servants and agents of an association, officers, agents and servants of a corporation, and the officers of a municipality.
- D. The words “shall” and “must” are mandatory; the words “may” and “should” are permissive.
- E. The words “used” or “occupied” include the words “intended, designed, maintained, or arranged to be used, occupied, or maintained.”
- F. The definitions in this Ordinance are for the purposes of enforcing the provisions of this Ordinance and have no bearing on other Municipal regulations or ordinances.

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**Section 202. Definitions**

**Agricultural Activity** – Activities associated with agriculture such as agricultural cultivation, agricultural operation, and animal heavy use areas. This includes the work of producing crops including tillage, 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. [MANDATORY DEFINITION]

**Applicant** – A Landowner, developer, or other person who has filed an application to the Municipality for approval to engage in any Regulated Activity defined in Section 105 of this Ordinance.

\* **As-Built Plans (Drawings)** – Engineering or Site plans or drawings that document the actual locations, dimensions and elevations of the improvements, and building components, and changes made to the original design plans. The final version of these documents, or a copy of same, are signed and sealed by a qualified Licensed Professional and submitted to the Municipality at the completion of the project, as per the requirements of Section 502 of this Ordinance as “final As-Built Plans”.

**Bankfull** – The channel at the top-of-bank or point from where water begins to overflow onto a floodplain.

**Baseflow** – Portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

\* **BMP (Best Management Practice)** – Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from Regulated Activities, to provide water quality treatment, infiltration, volume reduction, and peak rate control, to promote groundwater recharge, and to otherwise meet the purposes of this Ordinance. Stormwater BMPs are commonly grouped into one (1) of two (2) broad categories or measures: “structural” or “nonstructural.” In this Ordinance, 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 Site.

**Buffer** – See Riparian Buffer

**Carbonate Geology (or carbonate rock formations)** – See Karst

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**CFS** – Cubic Feet per Second.

**Channel** – A natural or artificial open drainage feature that conveys, continuously or periodically, flowing water and through which stormwater flows. Channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full.

**CN** – Curve number.

**Commonwealth** – Commonwealth of Pennsylvania.

\* **Conservation District** – The Chester County Conservation District.

**Conservation Plan** – A plan written by a planner certified by NRCS that identifies Conservation Practices and includes site specific BMPs for agricultural plowing or tilling activities and animal heavy use areas. *[MANDATORY DEFINITION]*

**Conservation Practices** – Practices installed on agricultural lands to improve farmland, soil and/or water quality which have been identified in a current Conservation Plan. *[MANDATORY DEFINITION]*

\* **Conveyance** – A natural or manmade, existing or proposed facility, structure or channel used for the transportation or transmission of stormwater from one place to another. For the purposes of this Ordinance, Conveyance shall include pipes, drainage ditches, channels and swales (vegetated and other), gutters, stream channels, and like facilities or features.

**Design Storm** – The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five (5)-year storm) and duration (e.g., twenty-four (24) hours), used in the design and evaluation of stormwater management systems. Also see Return Period.

\* **Detention (or To Detain)** – Capture and temporary storage of runoff in a stormwater management facility for release at a controlled rate.

**Detention Basin** – An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely shortly after any given rainfall event and are dry until the next rainfall event.

**Detention Volume** - The volume of runoff that is captured and released into the Waters of the Commonwealth at a controlled rate.

**Developer** – A person who seeks to undertake any Regulated Activities at a Site in the Municipality.

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**Diameter at Breast Height (DBH)** – The outside bark diameter of a tree at breast height which is defined as four and one half (4.5) feet (one and thirty-seven one-hundredths of a meter (1.37 m)) above the forest floor on the uphill side of the tree.

**Disturbed Area** – land area disturbed by or where an Earth Disturbance Activity is occurring or has occurred. *[MANDATORY DEFINITION]*

**Drainage Area** - That land area contributing runoff to a single point and that is enclosed by a ridge line.

**Earth Disturbance (or 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; land development; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials. *[MANDATORY DEFINITION]*

\* **Easement** – A right of use granted by a Landowner to allow a grantee the use of the designated portion of land for a specified purpose, such as for stormwater management or other drainage purposes.

**Erosion** – The process by which the surface of the land, including water/stream channels, is worn away by water, wind, or chemical action.

\* **Erosion and Sediment Control Plan** – A plan required by the Conservation District or the Municipality to minimize accelerated erosion and sedimentation, and must be prepared and approved per the applicable requirements.

**FEMA** – Federal Emergency Management Agency.

**Flood** – A temporary condition of partial or complete inundation of land areas from the overflow of streams, rivers, and other waters of this Commonwealth.

**Floodplain** - Any land area susceptible to inundation by water from any natural source or 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 (100)-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 (100)-year floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the centerline of the stream and to fifty (50) feet beyond the top of the bank of the stream on both sides.

**Forest Management/Timber Operations** – Planning and activities necessary for the management of forest lands. These include timber inventory, preparation of forest

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management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, Site preparation, and reforestation.

**Freeboard** – A vertical distance between the elevation of the design high-water and the top of a dam, levee, tank, basin, swale, or diversion berm. The space is required as a safety margin in a pond or basin.

**Geotextile** – A fabric manufactured from synthetic fiber that is used to achieve specific objectives, including infiltration, separation between different types of media (i.e., between soil and stone), or filtration.

\* **Governing Body** - the *[Municipality keep whichever of the following applies: council, board of commissioners, board of supervisors]* of *[Municipal name]*.

**Grade/Grading** – 1. (noun) A slope, usually of a road, channel, or natural ground, specified in percent and shown on plans as specified herein. 2. (verb) To finish the surface of a roadbed, the top of an embankment, or the bottom of an excavation.

**Groundwater** – Water that occurs in the subsurface and fills or saturates the porous openings, fractures and fissures of under-ground soils and rock units.

**Groundwater Recharge** – The replenishment of existing natural groundwater supplies from infiltration of rain or overland flow.

**HEC-1** – The U.S. Army Corps of Engineers, Hydrologic Engineering Center (HEC) hydrologic runoff model.

**HEC-HMS** – The U.S. Army Corps of Engineers, Hydrologic Engineering Center (HEC) - Hydrologic Modeling System (HMS).

**Hotspots** – Areas where prior or existing land use or activities can potentially generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater.

**Hydrologic Regime** – The hydrologic system, cycle or balance that sustains the quality and quantity of stormwater, stream baseflow, storage, and groundwater supplies under natural conditions.

**Hydrologic Soil Group (HSG)** – A classification of soils by the Natural Resources Conservation Service (NRCS), into four (4) runoff potential groups. The groups range

from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

**Impervious Surface** - A surface that has been compacted or covered with a layer of material so that it prevents or is resistant to infiltration of water, including but not limited



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to: structures such as roofs, buildings, storage sheds; other solid, paved or concrete areas such as streets, driveways, sidewalks, parking lots, patios, [*decks, swimming pools see Note to User below*], tennis or other paved courts; or athletic playfields comprised of synthetic turf materials. For the purposes of determining compliance with this Ordinance, compacted soils or stone surfaces used for vehicle parking and movement shall be considered impervious. Surfaces that were designed to allow infiltration (i.e. areas of porous pavement) will be considered on a case-by-case basis by the Municipal Engineer, based on appropriate documentation and condition of the material, etc. [**MANDATORY DEFINITION**]

*NOTE TO EDITOR: Municipality may, at its option, include or delete decks or swimming pools in first sentence of Impervious Surface definition.*

**Infiltration** – Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolated downward to recharge groundwater.

**Infiltration Structures** – A stormwater BMP structure designed to collect and discharge runoff into the subsurface in a manner that allows infiltration into underlying soils and groundwater (e.g., French drains, seepage pits, or seepage trenches, etc.).

**Intermittent Stream** – A defined channel in which surface water is absent during a portion of the year, in response to seasonal variations in precipitation or groundwater discharge.

**Invert** – The lowest surface, the floor or bottom of a culvert, pipe, drain, sewer, channel, basin, BMP, or orifice.

**Karst** – A type of topography that is formed over limestone or other carbonate rock formations by dissolving or solution of the rock by water, and that is characterized by closed depressions, sinkholes, caves, a subsurface network of solution conduits and fissures through which ground water moves, and no perennial surface drainage features.

**Land Development** – Any of the following activities:

- A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - 1. A group of two (2) 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, whether initially or cumulatively, between or among two (2) 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;

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C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code (as amended).

\* **Landowner** – the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if they are authorized under the lease to exercise the rights of the Landowner, or other person having a proprietary interest in land.

\* **Licensed Professional** – A Pennsylvania Registered Professional Engineer, Registered Landscape Architect, Registered Professional Land Surveyor, or Registered Professional Geologist, or any person licensed by the Pennsylvania Department of State or qualified by law to perform the work required by the Ordinance within the Commonwealth of Pennsylvania.

**Limiting Zone** – A soil horizon or condition in the soil profile or underlying strata that includes one of the following:

- A. A seasonal high water table, whether perched or regional, determined by direct observation of the water table or indicated by soil mottling.
- B. A rock with open joints, fracture or solution channels, or masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.
- C. A rock formation, other stratum, or soil condition that is so slowly permeable that it effectively limits downward passage of water.

**MPC** - Act of July 31, 1968, P.L. 805, No. 247, 53 P.S. Section 10101, et seq., as amended, the Pennsylvania Municipalities Planning Code, Act 247.

**MFEMP** – Mushroom Farm Environmental Management Plan.

**MS4** - Municipal Separate Storm Sewer System.

**Maintenance** - The action taken to restore or preserve the as-built functional design of any facility or system.

**Municipal Engineer** – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a Municipality, planning agency, or joint planning commission.

**Municipality** – [*Municipality*], Chester County, Pennsylvania.

**NOAA** - National Oceanic and Atmospheric Administration.

**New Development** – any Regulated Activity involving placement or construction of new Impervious Surface or grading over existing pervious land areas not classified as Redevelopment as defined in this Ordinance. [**MANDATORY DEFINITION**]

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**Nonpoint Source Pollution** – Pollution that enters a waterbody from diffuse origins in the watershed and does not result from discernible, confined, or discrete Conveyances.

**Nonstormwater Discharges** – Water flowing in stormwater collection facilities, such as pipes or swales, which is not the result of a rainfall event or snowmelt.

**Nonstructural Best Management Practice (BMPs)** – (see Best Management Practice (BMP)).

**NPDES** – National Pollutant Discharge Elimination System, the federal government’s system for issuance of permits under the Clean Water Act, which is delegated to PADEP in Pennsylvania.

**NRCS** – Natural Resource Conservation Service (previously Soil Conservation Service, SCS), an agency of the U.S. Department of Agriculture.

**PADEP** – Pennsylvania Department of Environmental Protection.

**Parent Tract** – The parcel of land from which a land development or subdivision originates, determined from the date of municipal adoption of this Ordinance.

**Peak Discharge** – The maximum rate of stormwater runoff from a specific storm event.

**Penn DOT** – Pennsylvania Department of Transportation.

**Pennsylvania Stormwater Best Management Practices Manual** (PADEP BMP Manual) - Document Number 363-0300-002 (December 2006, and as subsequently amended).

**Pervious Surface (or Pervious Area)** – Any area not defined as Impervious Surface. *[MANDATORY DEFINITION]*

**Planning Commission** – The Planning Commission of *[Municipal Name]*.

**Point Source** – Any discernible, confined, and discrete Conveyance including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined in state regulations at 25 Pennsylvania Code § 92.1.

**Post-construction** – Period after construction during which Disturbed Areas are stabilized, stormwater controls are in place and functioning, and all proposed improvements in the approved land development plan are completed. *[MANDATORY DEFINITION]*

**Predevelopment** – Land cover conditions assumed to exist within the proposed Disturbed Area prior to commencement of the Regulated Activity for the purpose of calculating the Predevelopment water quality volume, infiltration volume, and peak flow rates as required in this Ordinance. *[MANDATORY DEFINITION]*

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**Pretreatment** – Techniques employed in stormwater BMPs to provide storage or filtering, or other methods to trap or remove coarse materials and other pollutants before they enter the stormwater system, but may not necessarily be designed to meet the entire water quality volume requirements of this Ordinance.

**Proposed Impervious Surface** - All new, additional and replacement Impervious Surfaces. *[MANDATORY DEFINITION]*

**Rainfall Intensity** - The depth of accumulated rainfall per unit of time.

**Recharge** – The replenishment of groundwater through the infiltration of rainfall, other surface waters, or land application of water or treated wastewater.

**Redevelopment** - Any Regulated Activity that involves demolition, removal, reconstruction, or replacement of existing Impervious Surface(s). *[MANDATORY DEFINITION]*

**Regulated Activity** - Any Earth Disturbance Activity(ies) or any activity that involves the alteration or development of land in a manner that may affect stormwater runoff. *[MANDATORY DEFINITION]*

**Regulated Earth Disturbance Activity** – Any activity involving Earth Disturbance subject to regulation under 25 Pennsylvania Code Chapter 92, Chapter 102, or the Clean Streams Law. *[MANDATORY DEFINITION]*

\* **Retention or To Retain** – The prevention of direct discharge of stormwater runoff into surface waters or water bodies during or after a storm event by permanent containment in a pond or depression; examples include systems which discharge by percolation to groundwater, exfiltration, and/or evaporation processes and which generally have residence times of less than three (3) days.

**Retention Basin** – A structure in which stormwater is stored and not released during the storm event. Retention basins are designed for infiltration purposes and do not have an outlet.

**Retention Volume/Removed Runoff** – The volume of runoff that is captured and not released directly into the surface Waters of the 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 (1) time. For example, the twenty-five (25)-year return period rainfall would be expected to occur on average once every twenty-five (25) years; or stated in another way, the probability of a twenty-five (25)-year storm occurring in any one (1) year is four-one hundredths (0.04) (i.e., a four (4)% chance).

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**Riparian** – Pertaining to anything connected with or immediately adjacent to the banks of a stream or other body of water.

**Riparian Buffer** – An area of land adjacent to a body of water and managed to maintain vegetation to protect the integrity of stream channels and shorelines, to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover and thermal protection to fish and other aquatic species and wildlife.

**Runoff** – Any part of precipitation that flows over the land surface.

**SALDO** – See Subdivision and Land Development Ordinance.

**SCS** – Soil Conservation Service.

**Sediment** – Soil or other materials transported by, suspended in or deposited by surface water as a product of erosion.

**Separate Storm Sewer System** – A Conveyance or system of Conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) primarily used for collecting and conveying stormwater runoff.

**Sheet Flow** – A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

\* **Site** – total area of land in the Municipality where any proposed Regulated Activity, as defined in this Ordinance, is planned, conducted, or maintained or that is otherwise impacted by the Regulated Activity.

**Soil Cover Complex Method** – A method of runoff computation developed by NRCS that is based on relating soil type and land use/cover to a runoff parameter called curve number (CN).

**State Water Quality Requirements** – The regulatory requirements to protect, maintain, reclaim, and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.

**Storm Frequency** – (see Return Period).

**Stormwater** – Drainage runoff from the surface of the land resulting from precipitation, or snow or ice melt.

**Stormwater Management Facility** – Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff quality, rate, or quantity. Typical stormwater management facilities include, but are not

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limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration structures.

\* **Stormwater Management (SWM) Site Plan** – The plan prepared by the Applicant or its representative, in accordance with the requirements of **Article IV** of this Ordinance, indicating how stormwater runoff will be managed at a particular Site in accordance with this Ordinance, and including all necessary design drawings, calculations, supporting text, and documentation to demonstrate that Ordinance requirements have been met, herein referred to as “SWM Site Plan.” All references in this Ordinance to “final” or “approved” SWM Site Plans shall incorporate the approved SWM Site Plan and all subsequent approved revisions thereto.

**Stream** – A natural watercourse.

*NOTE TO EDITOR: Do not include definition for the term “structure” within this Ordinance to avoid conflict with the meaning of the definition of “Impervious Surface”.*

**Structural Stormwater Management Practices** - See BMP (Best Management Practices).

**Subdivision** - The division or re-division of a lot, tract, or parcel of land as defined in The Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247 (as amended).

**Subdivision and Land Development Ordinance** – Subdivision and Land Development ordinance of [*Municipal name*], Chester County, PA, as amended.

**Swale** – An artificial or natural waterway or low-lying stretch of land that gathers and conveys stormwater or runoff, and is generally vegetated for soil stabilization, stormwater pollutant removal, and infiltration.

**SWM Site Plan** – See Stormwater Management Site Plan.

**Timber Operations** – See Forest Management.

**Top-of-bank** – Highest point of elevation of the bank of a stream or channel cross-section at which a rising water level just begins to flow out of the channel and into the floodplain.

**USDA** – United States Department of Agriculture.

**Watercourse** – A channel or Conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

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**Water Table** – The upper most level of saturation of pore space or fractures by groundwater. Seasonal High Water Table refers to a water table that rises and falls with the seasons due either to natural or man-made causes.

**Waters of the 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 the Commonwealth.

**Watershed** – Region or area drained by a river, watercourse, or other body of water, whether natural or artificial.

**Wetland** – Those 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. Wetlands generally include swamps, marshes, bogs, fens, and similar areas.

**Woods** - Any land area of at least one-quarter (0.25) acre with a natural or naturalized ground cover (excluding manicured turf grass) and that has an average density of two (2) or more viable trees per one thousand five hundred (1,500) square feet with a DBH of six (6) inches or greater [*and where such trees existed at any time within three (3) years of the time of land development application submission of the proposed project.*] See Note to Editor below]. The land area to be considered Woods shall be measured from the outer drip lines of the outer trees. [MANDATORY DEFINITION]

*NOTE TO EDITOR: In the definition of “Woods”, the Municipality may, at its option delete or include the italicized text, which is intended to address concerns of potential for conversion or removal of trees or woodlands immediately in advance of submission of the land development application.*

## **ARTICLE III – STORMWATER MANAGEMENT STANDARDS**

### **Section 301. General Requirements**

- A. Applicants proposing Regulated Activities in the Municipality which are not exempt under **Section 106** shall submit a Stormwater Management Site Plan (SWM Site Plan) to the Municipality for review and approval in accordance with **Articles III and IV**. SWM Site Plans approved by the Municipality shall be on Site throughout the duration of the Regulated Activity.
- B. The stormwater management and runoff control criteria and standards in this Ordinance shall apply to the total proposed Regulated Activity, even if it is to take place in stages. The measurement of Impervious Surfaces shall include all of the Impervious Surfaces in the total proposed Regulated Activity even if the development is to take place in stages.
- C. No Regulated Activity within the Municipality shall commence until:
  - 1. The Municipality issues approval of a SWM Site Plan, which demonstrates compliance with the requirements of this Ordinance; and
  - 2. The Applicant has received a letter of adequacy or approval for the Erosion and Sediment Control Plan review by the Municipality and the Conservation District (if required), and has received all other local, state and federal permit approvals required for the project involving the Regulated Activity.
- D. Neither submission of an SWM Site Plan under the provisions herein nor compliance with the provisions of this Ordinance shall relieve any person from responsibility for damage to any person or property otherwise imposed by law.
- E. The Applicant shall design the Site to minimize disturbances to land, Site hydrology, and natural resources, and to maintain the natural hydrologic regime, drainage patterns and flow conditions. The Applicant shall apply the procedures set forth in **Section 304**, to the maximum extent practicable, for the overall Site design and for selection, location and design of features and BMPs to be used to comply with the requirements of this Ordinance.
- F. To the maximum extent practicable, Post-construction stormwater shall be discharged within the drainage area of the same stream or water body receiving the runoff prior to construction of the proposed Regulated Activity.
- G. Existing drainage peak rate discharges up to and including the one hundred (100)-year storm onto or through adjacent property(ies) or downgradient property(ies), including diffuse drainage discharge, shall not be altered in any manner without



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written permission from, and, where applicable as determined by the Municipality an easement and agreement with, the affected Landowner(s) for conveyance of discharges onto or through their property(ies). Such discharge shall be subject to any applicable discharge criteria specified in this Ordinance.

*NOTE TO EDITOR: Municipality may, at its option, insert the following language at the start of the first sentence of Subsection 301.G:*

*“For Regulated Activities with one (1) acre or more of proposed Earth Disturbance, existing... ”*

*NOTE TO EDITOR: Municipality may, at its option, include either or neither of the following versions of Subsection 301.G.1 to allow a less stringent provision for smaller projects; the size thresholds shown in the language below may be reduced, but they cannot be increased:*

- 1. For Regulated Activities with less than [ ten thousand (10,000) ] square feet of proposed Earth Disturbance AND less than [ two thousand (2,000) ] square feet of Proposed Impervious Surfaces, the Applicant shall provide written notification to the affected Landowner(s) describing the proposed Regulated Activity and proposed discharge(s), unless otherwise required by the Municipality.*

*OR, if 301.G is revised to apply to only Regulated Activities with one (1) acre or more of proposed Earth Disturbance, then the following version of Subsection 301.G.1 should be used in place of the above version:*

- 1. For Regulated Activities with one (1) acre or less proposed Earth Disturbance the Applicant shall provide written notification to the affected Landowner(s) describing the proposed Regulated Activity and proposed discharge(s), unless otherwise required by the Municipality.*

H. For all Regulated Activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the Regulated Activities (i.e., during construction) as required to meet the purposes and requirements of this Ordinance, to meet the erosion and sediment control requirements of the Municipality, if applicable, and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law.

I. If Site conditions preclude capture of runoff from limited portions of the Disturbed Area for achieving water quality volume control standards, stream channel protection standards, and the 2-year, **[5-year and 10-year – see Note below]** storm event peak

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runoff rate reduction standards for New Development required by this Ordinance, the Applicant shall propose alternate methods to mitigate the by-pass of the BMPs, subject to the approval of the Municipal Engineer. In no case shall resulting peak rate be greater than the Pre-development peak rate for the equivalent design storm .

*NOTE TO EDITOR – include the 5-year storm and/or the 10-year storm in Subsection 301.I only if Table 308.I requires the 5-year and/or the 10-year storm peak rate to be reduced to the 2-year storm peak rate.*

- J. For all Regulated Activities, permanent BMPs and Conveyances shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this Ordinance and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law, and the Storm Water Management Act.
- K. The design of all BMPs and Conveyances shall incorporate sound engineering principles and practices in a manner that does not aggravate existing stormwater problems as identified by the Municipality. The Municipality reserves the right to disapprove any design that would result in construction in an area affected by existing stormwater problem(s) or continuation of an existing stormwater problem(s).
- L. Existing wetlands, either on the Site or on an adjacent property, shall not be used to meet the minimum design requirements for stormwater management or stormwater runoff quality treatment, except when used as part of a treatment train that incorporates a portion of the outer zone (filter strip) of the wetland’s riparian buffer as a stormwater outfall. Stormwater discharges to existing wetlands shall not degrade the quality or hydrologic integrity of the wetland.
- M. Hotspots Runoff Controls –  
Specific structural or pollution prevention practices may be required, as determined to be necessary by the Municipal Engineer, to pretreat runoff from Hotspots prior to infiltration. Following is a list of examples of Hotspots:
  - 1. Vehicle salvage yards and recycling facilities;
  - 2. Vehicle fueling stations;
  - 3. Vehicle service and maintenance facilities;
  - 4. Vehicle and equipment cleaning facilities;
  - 5. Fleet storage areas (bus, truck, etc.);
  - 6. Industrial sites based on Standard Industrial Classification Codes;
  - 7. Marinas (service and maintenance areas);

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8. Outdoor liquid container storage;
9. Outdoor loading/unloading facilities;
10. Public works storage areas;
11. Facilities that generate or store hazardous materials;
12. Commercial container nursery;
13. Contaminated sites/brownfields;
14. Other land uses and activities as designated by the Municipality.

N. Contaminated and Brownfield Sites -

Where BMPs may contribute to the migration of contaminants in groundwater, the water quality and runoff volume, stream channel protection, and peak rate control standards shall be met; however, at the Municipal Engineer's discretion, the minimum infiltration requirement may be reduced or eliminated commensurate with the contaminated area and the required water quality and runoff control measures may be increased to mitigate the reduced infiltration requirement for the contaminated area.

O. Additional Water Quality Requirements -

The Municipality may require additional stormwater control measures for stormwater discharges to special management areas including, but not limited to:

*NOTE TO EDITOR: Municipality should modify the following Subsections 301.O.1 through 301.O.4 (e.g., delete or add others) to list those that apply to your Municipality.*

1. Water bodies listed as "impaired" by PADEP.
2. Any water body or watershed with an approved Total Maximum Daily Load (TMDL).
3. Areas of known existing flooding problems.
4. Critical areas with sensitive resources (e.g., state designated special protection waters, cold water fisheries, carbonate geology or other groundwater recharge areas that may be highly vulnerable to contamination, drainage areas to water supply reservoirs, etc.).

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- P. Applicants shall utilize the *Pennsylvania Stormwater Best Management Practices Manual* (PA BMP Manual), as amended, or other sources acceptable to the Municipal Engineer, for testing and design standards for BMPs, and where there is a conflict with the provisions of this Ordinance, the most restrictive applies.
- Q. For areas underlain by karst or carbonate geology that may be susceptible to the formation of sinkholes and other karst features, the location, type, and design of infiltration BMPs shall be based on a Site evaluation conducted by a qualified Licensed Professional and based on the PA BMP Manual or other design guidance acceptable to the Municipal Engineer.

*NOTE TO EDITOR: Municipality may, at its option, include or delete any or all of Subsections 301.R and 301.S.*

- R. All Regulated Activities located within a Special Flood Hazard Area designated by the Federal Emergency Management Agency (FEMA) shall comply with Chapter **[reference applicable Municipal ordinance section of the Zoning Ordinance i.e., Municipality's floodplain management ordinance]** and shall be designed to maintain the flood carrying capacity of the floodway such that the base flood elevations are not increased, either upstream or downstream. The natural conveyance characteristics of the Site and the receiving floodplain shall be incorporated into the stormwater management practices proposed for the Site.
- S. Disturbance of existing ground cover during construction of the proposed Regulated Activity is prohibited within fifty (50) feet of top-of-bank of all perennial and intermittent waterways, water bodies (lakes, ponds, etc.) and wetlands, except for activities otherwise approved by state or local agencies (e.g. stream restoration projects, road crossings, subsurface utility projects, etc.). At the Municipal Engineer's discretion, and with Conservation District and PADEP approval where necessary, the non-disturbance buffer may be reduced because of setback or other Site constraints, but never to be less than ten (10) feet.

T. *NOTE TO EDITOR: Municipality may, at its option, include requirements for establishment, protection, creation, and/or enhancement of riparian buffers within this Ordinance OR include a cross-reference here to other Municipal ordinance/code where those standards are codified. If the Municipality does not have existing standards, examples can be provided upon request. Municipalities in the Chester, Crum and Darby watersheds must carry forward the riparian buffer standards from the corresponding approved Act 167 Plan and ordinance, at least for the portion of the Municipality that is within those watersheds.*

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**Section 302. Permit Requirements by Other Governmental Entities**

The following permit or other regulatory requirements may apply to certain Regulated Activities and shall be met prior to (or as a condition of) final approval by the Municipality of the SWM Site Plan and prior to commencement of any Regulated Activities, as applicable:

- A. All Regulated Activities subject to permit or regulatory requirements by PADEP under regulations at Title 25 Pennsylvania Code Chapter 102, or erosion and sediment control requirements of the Municipality.
- B. Work within natural drainage ways subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.
- C. Any BMP or Conveyance that would be located in or adjacent to surface Waters of the Commonwealth, including wetlands, subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.
- D. Any BMP or Conveyance that would be located on or discharge to a state highway right-of-way, or require access to or from a state highway and be subject to approval by PennDOT.
- E. Culverts, bridges, storm sewers, or any other facilities which must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.

**Section 303. Erosion and Sediment Control**

- A. No Regulated Activity within the Municipality shall commence until:
  - 1. The Municipality receives documentation that the Applicant has received:
    - a. An approval from the Conservation District or PADEP in compliance with Title 25 Chapter 102 of the Pennsylvania Code of an Erosion and Sediment Control Plan for construction activities, if applicable;
    - b. A PADEP “NPDES Construction Activities” Permit as required under Title 25 Pennsylvania Code Chapter 92, if applicable;
    - c. Evidence of any other permit(s) or approvals required for the Regulated Activities; and

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2. An Erosion and Sediment Control Plan has been approved by the Municipality, if required.
- B. A copy of the Erosion and Sediment Control Plan and any required permit(s), as required by PADEP regulations, shall be available on the Site at all times.
- C. Additional erosion and sediment control measures shall be applied where infiltration BMPs are proposed, at a minimum including those required in **Subsection 306.M**.

**Section 304. Site Design Process**

*NOTE TO EDITOR: Municipality may, at its option, insert the following phrase at the beginning of the SECOND sentence of the introductory paragraph of **Section 304**; smaller thresholds may be used; but thresholds cannot be increased -*

“For Regulated Activities with ten thousand (10,000) or more square feet of proposed Earth Disturbance OR two thousand (2,000) or more square feet of Proposed Impervious Surfaces,”

The Applicant shall design the Site to minimize the disturbances to land, Site hydrology, and natural resources, and to maintain the natural hydrologic regime, drainage patterns and flow conditions. The Applicant shall demonstrate in its SWM Site Plan (as required in **Subsection 402.C** that the design sequence, objectives and techniques described below were applied to the maximum extent practicable in the Site design of the Regulated Activity while complying with all other requirements of this Ordinance. The Site design shall:

- A. First, identify and delineate all existing natural resources and natural and man-made hydrologic features listed in **Subsection 402.B.8** that are located within the Site, or receive discharge from, or may be impacted by the proposed Regulated Activity.
- B. Second, provide a prioritized listing of these resources and features to identify:
  1. Those to be incorporated into the Site design in a manner that provides protection from any disturbance or impact from the proposed Regulated Activity;
  2. Those to be protected from further disturbance or impact but for which the proposed Regulated Activity will provide improvement to existing conditions;
  3. Those that can be incorporated into and utilized as components of the overall Site design in a manner that protects or improves their existing conditions while utilizing their hydrologic function within the limits of their available capacity (e.g., for infiltration, evapotranspiration, or reducing pollutant loads, runoff

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volume or peak discharge rates, etc.) to reduce the need for or size of constructed BMPs; and

4. Those that may be considered for alteration, disturbance or removal.

C. Third, develop the Site design to achieve the following:

1. Recognize and incorporate the priorities identified in **Section 304.B** as the basis for the proposed Site lay-out, grading, construction, and permanent ground cover design;
2. Minimize Earth Disturbance (both surface and subsurface);
3. Maximize protection of or improvement to natural resources and special management areas;
4. Minimize the disturbance of natural Site hydrology, in particular natural drainage features and patterns, discharge points and flow characteristics, natural infiltration patterns and characteristics, and natural channel and floodplain conveyance capacity;
5. Incorporate natural hydrologic features and functions identified in **Subsection 304.B**, into the Site design to protect and utilize those features and their hydrologic functions to reduce the need for or size of constructed BMPs;
6. Maximize infiltration and the use of natural Site infiltration features, patterns and conditions, and evapotranspiration features;
7. Apply selective grading design methods to provide final grading patterns to, or preserve existing topography to, evenly distribute runoff and minimize concentrated flows.
8. Minimize the cumulative area to be covered by Impervious Surfaces and:
  - a. Minimize the size of individual Impervious Surfaces,
  - b. Separate large Impervious Surfaces into smaller components,
  - c. Disconnect runoff from one Impervious Surface to another, and
  - d. Utilize porous materials in place of impervious wherever practicable;
9. Minimize the volume and peak discharge rates of stormwater generated;
10. Avoid or minimize stormwater runoff pollutant loads and receiving stream channel erosion;

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11. Locate infiltration and other BMPs:
    - a. At or as near to the source of generation as possible, and
    - b. At depths that are as shallow as possible;
  12. Prioritize the selection and design of BMPs as follows:
    - a. Nonstructural and vegetation BMPs, then
    - b. Surface structural BMPs, then
    - c. Subsurface structural BMPs.
  13. For flow volumes requiring conveyance from the source of generation to a BMP for management, give preference to open channel conveyance techniques that provide infiltration and water quality benefits, and landscaped-based management in common open space areas, where practicable.
  14. Consider additional guidance for associated Site and BMP designs, methods and techniques that support the objectives of Subsections 304.B. and 304.C. such as “Conservation Design”, “Low Impact Design”, and “Sustainable Design” (see Appendix B).
- D. The procedures set forth above shall be utilized to the maximum extent practicable for the overall Site design and selection, location and design of features and BMPs to be used to comply with the requirements of Sections 305, 306, 307 and 308.

**Section 305. Water Quality and Runoff Volume Requirements**

To control Post-construction stormwater impacts from Regulated Activities and meet state water quality requirements, BMPs shall be provided in the Site design that replicate Predevelopment stormwater infiltration and runoff conditions, such that Post-construction stormwater discharges do not degrade the physical, chemical, or biological characteristics of the receiving waters. The Applicant shall comply with the following water quality and runoff volume requirements for all Regulated Activities, including all New Development and Redevelopment activities:

- A. The Post-construction total runoff volume shall not exceed the Predevelopment total runoff volume for all storms equal to or less than the two (2)-year, twenty-four (24)-hour duration precipitation (design storm). The water quality and runoff volume to be managed shall consist of any runoff volume generated by the proposed Regulated Activity over and above the Predevelopment total runoff volume and shall be captured and permanently retained or infiltrated on the Site. Permanent retention



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options may include, but are not limited to, reuse, evaporation, transpiration, and infiltration.

- B. For modeling purposes, the Predevelopment ground cover conditions shall be determined using the corresponding ground cover assumptions presented in Subsection 309.D of this Ordinance.
- C. The design of the facility outlet shall provide for protection from clogging and unwanted sedimentation.
- D. BMPs that moderate the temperature of stormwater shall be used to protect the temperature of receiving waters.

*NOTE TO EDITOR: Municipality may, at its option, include the following additional thermal requirement in Subsection 305.D –*

“The Applicant shall fulfill the requirements of the PADEP “Thermal Impact Analysis” for the “PAG-02 Stormwater Discharges Associated with Construction Activities, NOI for Coverage under General or Individual Permit” if they cannot meet the volume control requirements.”

- E. Water quality improvement shall be achieved in conjunction with achieving the infiltration requirements of Section 306. The infiltration volume required under Section 306 may be included as a component of the water quality volume. If the calculated water quality and runoff volume is greater than the volume infiltrated, then the difference between the two (2) volumes shall be managed for water quality and runoff volume control through other techniques or practices but shall not be discharged from the Site.
- F. Runoff from the Disturbed Area shall be treated for water quality prior to entering existing waterways or water bodies. If a stormwater management practice does not provide water quality treatment, then water quality BMPs shall be utilized prior to the runoff entering the stormwater management practice.
- G. The Municipality may require additional water quality and runoff control measures for stormwater discharging to special management areas such as those listed in Subsection 301.O.
- H. When the Regulated Activity contains or is divided by multiple drainage areas, the water quality and runoff volume shall be separately addressed for each drainage area.
- I. Weighted averaging of runoff coefficients shall not be used for manual computations or input data for water quality and runoff volume calculations.

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- J. Areas located outside of the Site (i.e., areas outside of the Regulated Activity) may be excluded from the calculation of the water quality and runoff volume requirements.
- K. Water quality and volume control practices shall be selected and designed to meet the criteria of **Subsection 304.C** that apply to water quality and volume control.

**Section 306. Infiltration Requirements**

Providing for infiltration consistent with the natural hydrologic regime is required to compensate for the reduction in the recharge that occurs when the ground surface is disturbed or Impervious Surface is created or expanded. The Applicant shall achieve the following infiltration requirements:

- A. Wherever possible, infiltration should be designed to accommodate the entire water quality volume.
- B. For Regulated Activities involving New Development, the volume of a minimum of one (1)-inch of runoff from all Proposed Impervious Surfaces shall be infiltrated.
- C. For Regulated Activities involving Redevelopment, whichever is less of the following volume options shall be infiltrated:
  - 1. The volume of a minimum of one (1)-inch of runoff from all Proposed Impervious Surfaces;
  - OR
  - 2. The total water quality and runoff volume required in **Section 305** of this Ordinance.
- D. If the requirements of **Section 306.C** cannot be physically accomplished, then the Applicant shall be responsible for demonstrating with data or calculations to the satisfaction of the Municipal Engineer why this infiltration volume cannot be physically accomplished on the Site (e.g., shallow depth to bedrock or limiting zone, open voids, steep slopes, etc.) and what alternative volume can be infiltrated; however in all cases at least the first one-half (0.5) inch of water quality volume shall be infiltrated.
- E. Only if the minimum one-half (0.5) inch infiltration requirement cannot be physically accomplished on the Site, shall a waiver from **Section 306** be considered by the Municipality.
- F. If Site conditions preclude capture of runoff from portions of the Impervious Surfaces, the infiltration volume for the remaining area shall be increased an equivalent amount to offset the loss.

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- G. When a project contains or is divided by multiple drainage areas, the infiltration volume shall be addressed for each drainage area.
- H. Existing Impervious Surfaces located in areas outside of the Site (i.e., outside of the Regulated Activity) may be excluded from the calculation of the required infiltration volume.
- I. A detailed soils evaluation of the Site shall be conducted by a qualified Licensed Professional and at a minimum shall address soil permeability, depth to bedrock, and subgrade stability. The general process for designing the infiltration BMP shall be consistent with the PA BMP Manual (as amended) (or other guidance acceptable to the Municipal Engineer) and in general shall::
1. Analyze hydrologic soil groups as well as natural and man-made features within the Site to determine general areas of suitability for infiltration practices. In areas where development on fill material is under consideration, conduct geotechnical investigations of sub-grade stability; infiltration may not be ruled out without conducting these tests.
  2. Provide field tests such as double ring infiltrometer or other hydraulic conductivity tests (at the elevation of the proposed infiltration surface) to determine the appropriate hydraulic conductivity rate. Percolation tests are not acceptable for design purposes.
  3. Design the infiltration structure for the required retention (infiltration) volume based on field-determined infiltration capacity (and apply safety factor as per applicable design guidelines) at the elevation of the proposed infiltration surface.
  4. On-lot infiltration features are encouraged; however, it shall be demonstrated to the Municipal Engineer that the soils are conducive to infiltration on the identified lots.
- J. Infiltration BMPs shall be selected based on suitability of soils and Site conditions and shall be constructed on soils that have the following characteristics:
1. A minimum depth of twenty-four (24) inches between the bottom of the BMP and the top of the limiting zone.
  2. An infiltration rate sufficient to accept the additional stormwater volume and drain completely as determined by field tests conducted by the Applicant.
  3. The infiltration facility shall completely drain the retention (infiltration) volume within three (3) days (seventy-two (72) hours) from the end of the design storm.

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- K. All infiltration practices shall:
1. Be selected and designed to meet the criteria of **Subsection 304.C** that are applicable to infiltration;
  2. Be set back at least [*Municipality to insert distance here, e.g. twenty-five (25)*] feet from all buildings and features with sub-grade elements (e.g., basements, foundation walls, etc.), unless otherwise approved by the Municipal Engineer due to Site constraints;
  3. For any infiltration practice that collects runoff from shared or multiple features and that is located within [*Municipality to insert distance here, e.g. fifty (50)*] feet of a building or feature with sub-grade elements (e.g., basements, foundation walls, etc.), the bottom elevation shall be set below the elevation of the sub-grade element.
- L. Infiltration facilities shall, to the maximum extent practicable, be located to avoid introducing contaminants to groundwater:
1. An evaluation of the potential of groundwater contamination from the proposed infiltration facility shall be performed, including a hydrogeologic investigation, if necessary by a qualified Licensed Professional.
  2. When located within a “well head protection area” of a public water supply well, infiltration practices shall be in conformance with the applicable approved source water protection assessment or source water protection plan.
  3. The Applicant shall provide appropriate safeguards against groundwater contamination for land uses that may cause groundwater contamination should there be a mishap or spill.
- M. During Site construction, all infiltration practice components shall be protected from compaction due to heavy equipment operation or storage of fill or construction material. Infiltration areas shall also be protected from sedimentation. Areas that are accidentally compacted or graded shall be remediated to restore soil composition and porosity. Adequate documentation to this effect shall be submitted to the Municipal Engineer for review. All areas designated for infiltration shall not receive runoff until the contributory drainage area has achieved final stabilization.

*NOTE TO EDITOR: Municipalities with areas of karst and/or carbonate geology must include the following **Subsections 306.N and 306.O**. For municipalities where no karst or carbonate geology exists, **Subsections 306.N and 306.O** can be deleted.*

- N. Consideration of infiltration BMPs for areas underlain by karst or carbonate geology is encouraged but only where the design, supporting calculations, results of soils or

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other Site investigations or other documentation are provided to the Municipality demonstrating that the potential or likelihood of subsidence or sinkholes is minimal. Evaluation of Site conditions and infiltration design shall rely on guidance in the PA BMP Manual (as amended) or other guidance acceptable to the Municipal Engineer.

- O. Groundwater quality of the carbonate aquifer shall be protected from infiltration of pollutants. At a minimum, stormwater runoff from Hotspots (i.e., sources of significant pollutant runoff) shall first be discharged through a water quality BMP(s) to remove pollutants prior to infiltration. Where soil characteristics are insufficient to provide removal of pollutants from sources other than Hotspots, stormwater runoff shall first be discharged through a water quality BMP(s) to remove pollutants prior to infiltration.
- P. Where sediment transport in the stormwater runoff is anticipated to reach the infiltration system, appropriate permanent measures to prevent or collect sediment shall be installed prior to discharge to the infiltration system.
- Q. Where roof drains are designed to discharge to infiltration practices, they shall have appropriate measures to prevent clogging by unwanted debris (for example, silt, leaves and vegetation). Such measures shall include but are not limited to leaf traps, gutter guards and cleanouts.
- R. All infiltration practices shall have appropriate positive overflow controls.
- S. No sand, salt or other particulate matter may be applied to a porous surface material for winter ice conditions.
- T. The following procedures and materials shall be required during the construction of all subsurface facilities:
  - 1. Excavation for the infiltration facility shall be performed with equipment that will not compact the bottom of the seepage bed/trench or like facility.
  - 2. The bottom of the bed and/or trench shall be scarified prior to the placement of aggregate.
  - 3. Only clean aggregate with documented porosity, free of fines, shall be allowed.
  - 4. The tops, bottoms and sides of all seepage beds, trenches, or like facilities shall be covered with drainage fabric. Fabric shall be non-woven fabric acceptable to the Municipal Engineer.
  - 5. Stormwater shall be distributed throughout the entire seepage bed/trench or like facility and provisions for the collection of debris shall be provided in all facilities.

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**Section 307. Stream Channel Protection Requirements**

To minimize stream channel erosion and associated water quality impacts to the receiving waters, the Applicant shall comply with the following stream channel protection requirements:

- A. For all Regulated Activities involving New Development, the peak flow rate of the Post-construction two (2)-year, twenty-four (24)-hour design storm shall be reduced to the Predevelopment peak flow rate of the one (1)-year, twenty-four (24)-hour duration precipitation, using the SCS Type II distribution..
- B. For all Regulated Activities involving New Development and/or Redevelopment, to the maximum extent practicable and unless otherwise approved by the Municipal Engineer, the Post-construction one (1)-year, twenty-four (24)-hour storm flow shall be detained for a minimum of twenty-four (24) hours and a maximum not to exceed seventy-two (72) hours from a point in time when the maximum volume of water from the one (1)-year, twenty-four (24)-hour storm is stored in a proposed BMP (i.e., when the maximum water surface elevation is achieved in the facility). Release of water can begin at the start of the storm (i.e., the invert of the orifice is at the invert of the proposed BMP).
- C. For modeling purposes, the Predevelopment ground cover conditions shall be determined using the corresponding ground cover assumptions presented in **Section 309.D** of this Ordinance.
- D. The minimum orifice size in the outlet structure to the BMP shall be three (3) inches in diameter unless otherwise approved by the Municipal Engineer , and a trash rack shall be installed to prevent clogging. For Sites with small drainage areas contributing to the BMP that do not provide enough runoff volume to allow a twenty-four (24) hour attenuation with the three (3)-inch orifice, the calculations shall be submitted showing this condition.
- E. When the calculated orifice size is below three (3) inches, gravel filters (or other methods) are recommended to discharge low-flow rates subject to the Municipal Engineer's satisfaction. When filters are utilized, maintenance provisions shall be provided to ensure filters meet the design function.
- F. All proposed stormwater facilities shall make use of measures to extend the flow path and increase the travel time of flows in the facility.
- G. When a Regulated Activity contains or is divided by multiple drainage areas, the peak flow rate control shall be separately addressed for each drainage area.

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**Section 308. Stormwater Peak Rate Control Requirements**

The Applicant shall comply with the following peak flow rate control requirements for all Regulated Activities including those that involve New Development and Redevelopment.

*NOTE TO EDITOR: Municipality MUST include the following language at the end of the sentence above, along with the appropriate watershed(s) names if any portion of your Municipality lies within any of these watersheds (see also Note to Municipalities at the front of this Model Ordinance regarding required content for incorporating other Act 167 plans) –*

*“...that are NOT located in the Conestoga River, Chester Creek, Darby Creek, (East) Valley Creek, or Crum Creek watershed(s)*

- A. Post-construction peak flow rates from any Regulated Activity shall not exceed the Predevelopment peak flow rates as shown for each of the design storms specified in **Table 308.1**.

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**TABLE 308.1  
Peak Rate Control Standards**

**(Peak Flow Rate of the Post-Construction Design Storm Shall be Reduced to the Peak Flow Rate of the Corresponding Predevelopment Design Storm Shown in the Table)**

POST-CONSTRUCTION DESIGN STORM FREQUENCY (24-Hour Duration)	PREDEVELOPMENT DESIGN STORM	
	New Development Regulated Activities	Redevelopment Regulated Activities
2-Year	1-Year	2-Year
5-Year	2-Year [see NOTE TO EDITOR below]	5-Year
10-Year	2-Year [see NOTE TO EDITOR below]	10-Year
25-Year	25-Year	25-Year
50-Year	50-Year	50-Year
100-Year	100-Year	100-Year

**NOTE TO EDITOR:**

Municipality must choose ONE of the following options for column 2 (Predevelopment Design Storm for New Development), line 2 ( the 5-year Post-Construction Design Storm) for the 5-Year storm Post-Construction peak rate control standard in **Table 308.1**:

1. Insert “2-Year” – if the Municipality’s greatest concern is flooding from small storms; thus require the Post-Construction 5-year 24-hour storm peak rate to be reduced to the Predevelopment 2-year 24-hour storm peak rate; OR
2. Insert “5-Year” – if the Municipality’s greatest concern is instream erosion and sediment pollution; thus, require the Post-Construction 5-year 24-hour storm peak rate to be reduced to the Predevelopment 5-year 24-hour storm peak rate.

Municipality must choose ONE of the following options for column 2 (Predevelopment Design Storm for New Development), line 3 ( the 10-year Post-Construction Design Storm) for the 10-Year storm Post-Construction peak rate control standard in **Table 308.1**:

1. Insert “2-Year” – if the Municipality’s greatest concern is flooding from small storms; thus require the Post-Construction 10-year 24-hour storm peak rate to be reduced to the Predevelopment 2-year 24-hour storm peak rate; OR
2. Insert “10-Year” – if the Municipality’s greatest concern is instream erosion and sediment pollution; thus, require the Post-Construction 10-year 24-hour storm peak rate to be reduced to the Predevelopment 10-year 24-hour storm peak rate.

If **Table 308.1** is changed for either or both of the 5-year and/or 10-year storm events, make the corresponding change to **Subsection 301.1**.



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- B. For modeling purposes, the Predevelopment ground cover conditions shall be determined using the corresponding ground cover assumptions presented in **Subsection 309.D** of this Ordinance.
- C. For Regulated Activities involving only Redevelopment, no peak flow rate controls are required when and **only if** the total Proposed Impervious Surface area is at least twenty percent (20%) less than the total existing Impervious Surface area to be disturbed by the Regulated Activity. In all cases where this requirement is not met, the Redevelopment Regulated Activity shall achieve the peak flow rate controls presented in **Table 308.1**, using the Redevelopment Ground Cover Assumptions presented in **Subsection 309.D**.
- D. Only the area of the proposed Regulated Activity shall be subject to the peak flow rate control standards of this Ordinance. Undisturbed areas for which the discharge point has not changed are not subject to the peak flow rate control standards.
- E. Areas located outside of the Site (i.e., areas outside of the Regulated Activity) that drain through a proposed Site are not subject to peak flow rate control requirements. Drainage facilities located on the Site shall be designed to safely convey flows from outside of the Site through the Site.
- F. When a Regulated Activity contains or is divided by multiple drainage areas, the peak flow rate controls shall be separately addressed for each drainage area.
- G. The effect of structural and non-structural stormwater management practices implemented as part of the overall Site design may be taken into consideration when calculating total storage volume and peak flow rates.

*NOTE TO EDITOR: Municipality MUST include the following language here along with the appropriate watershed(s) names if any portion of your Municipality lies within any of these watersheds; and also insert here a corresponding table of required release rates, and include corresponding release rate map(s) in an appendix to this Ordinance. If this does NOT apply to your Municipality, delete the following language.*

- H. Regulated Activities located within the [**Conestoga River, Chester Creek, Darby Creek, (East) Valley Creek, or Crum Creek**] watershed(s) shall achieve the applicable peak flow release rate control requirements presented in the approved PA Act 167 Plan for that watershed and as presented in **Table [308.x]** below, and as presented in the (**watershed name**) Watershed Release Rate Map in **Appendix [XX]** of this Ordinance.

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**Section 309. Calculation Methodology**

- A. Stormwater runoff from all Regulated Activity Sites with a drainage area of greater than five (5) acres shall be calculated using a generally accepted calculation technique that is based on the NRCS Soil Cover Complex Method. Table 309.1 summarizes acceptable computation methods. The method selected for use shall be based on the individual limitations and suitability of each method for a particular Site. The use of the Rational Method to estimate peak discharges for drainage areas greater than five (5) acres shall be permitted only upon approval by the Municipal Engineer.

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**TABLE 309.1**

**ACCEPTABLE COMPUTATION METHODOLOGIES FOR  
SWM SITE PLAN**

<b>METHOD</b>	<b>DEVELOPED BY</b>	<b>APPLICABILITY</b>
TR-20 (or commercial computer package based on TR-20)	USDA NRCS	Applicable where use of full hydrology computer model is desirable or necessary.
TR-55 (or commercial computer package based on TR-55)	USDA NRCS	Applicable for land development plans where limitations described in TR-55 are met.
HEC-1/ HEC-HMS	US Army Corps of Engineers	Applicable where use of a full hydrologic computer model is desirable or necessary.
Rational Method (or commercial computer package based on Rational Method)	Emil Kuichling (1889)	For Sites up to five (5) acres, or as approved by the Municipality.
Other Methods	Varies	Other computation methodologies approved by the Municipality.

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- B. All calculations using the Soil Cover Complex Method shall use the appropriate design rainfall depths for the various return period storms consistent with this Ordinance. Rainfall depths used shall be obtained from NOAA Atlas 14 values consistent with a partial duration series. When stormwater calculations are performed for routing procedures or infiltration, water quality and runoff volume functions, the duration of rainfall shall be twenty-four (24) hours.
- C. All calculations using the Rational Method shall use rainfall intensities consistent with appropriate times-of-concentration (duration) and storm events with rainfall intensities obtained from NOAA Atlas 14 partial duration series estimates, or the latest version of the PennDOT Drainage Manual (PDM Publication 584). Times-of-concentration shall be calculated based on the methodology recommended in the respective model used. Times of concentration for channel and pipe flow shall be computed using Manning's equation.
- D. The Applicant shall utilize the following ground cover assumptions for all Predevelopment water quality and runoff volume, infiltration volume and peak flow rate calculations:
  - 1. For Regulated Activities involving New Development, the following ground cover assumptions shall be used:
    - a. For areas that are Woods (as defined in Article II of this Ordinance), Predevelopment calculations shall assume ground cover of "Woods in good condition".
    - b. For all other areas (including all Impervious Surfaces), Predevelopment calculations shall assume ground cover of "meadow".
  - 2. For Regulated Activities involving Redevelopment, the following ground cover assumptions shall be used:
    - a. For areas that are Woods (as defined in Article II of this Ordinance), Predevelopment calculations shall assume ground cover of "Woods in good condition".
    - b. For areas that are not Woods or not Impervious Surfaces, Predevelopment calculations shall assume ground cover of "meadow".
    - c. For areas that are Impervious Surfaces, Predevelopment calculations shall assume at least twenty percent (20%) of the existing Impervious Surface area to be disturbed as "meadow" ground cover.
  - 3. The Applicant shall determine which stormwater standards apply to the proposed Regulated Activity as follows:

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- a. Stormwater standards for New Development shall apply to all proposed Regulated Activities that involve only New Development activities as defined in this Ordinance.
- b. Stormwater standards for Redevelopment shall apply to all proposed Regulated Activities that involve only Redevelopment activities as defined in this Ordinance.
- c. At the discretion of the Municipal Engineer, Regulated Activities that involve a combination of both New Development and Redevelopment activities, as defined in this Ordinance, may either:
  - i. Apply the stormwater standards (Redevelopment or New Development) that are associated with the activity that involves the greatest amount of land area; or
  - ii. Apply the Redevelopment and New Development stormwater standards to the corresponding Redevelopment and New Development portions of the proposed Regulated Activity.
- E. Runoff curve numbers (CN) for both Predevelopment and proposed (Post-construction) conditions to be used in the Soil Cover Complex Method shall be obtained from **Table C-1** in **Appendix C** of this Ordinance.
- F. Runoff coefficients (C) for both Predevelopment and proposed (Post-construction) conditions for use in the Rational Method shall be obtained from **Table C-2** in **Appendix C** of this Ordinance.
- G. Weighted averaging of runoff coefficients shall not be used for manual computations or input data for water quality and runoff volume calculations.
- H. Hydraulic computations to determine the capacity of pipes, culverts, and storm sewers shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Design Series Number 5 (Publication No. FHWA-NHI-01-020 HDS No. 5). Hydraulic computations to determine the capacity of open channels shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Engineering Circular Number 15 (Publication No. FHWA-NHI-05-114 HEC 15). Values for Manning's roughness coefficient (n) shall be consistent with **Table C-3** in **Appendix C** of the Ordinance.
- I. Runoff calculations shall include the following assumptions:
  - 1. Average antecedent moisture conditions (for the Soil Cover Complex Method only for example, TR-55, TR-20).

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2. A type II distribution storm (for the Soil Cover Complex Method only for example, TR-55, TR-20).

**Section 310. Other Requirements**

- A. All wet basin designs shall incorporate biologic controls consistent with the West Nile Guidance found in **Appendix D**, PADEP document 363-0300-001 “Design Criteria – Wetlands Replacement/Monitoring,” or contact the Pennsylvania State Cooperative Wetland Center or the Penn State Cooperative Extension Office.
- B. Any stormwater basin required or regulated by this Ordinance designed to store runoff and requiring a berm or earthen embankment shall be designed to provide an emergency spillway to safely convey flow up to and including the one hundred (100)-year proposed conditions. The height of embankment shall provide a minimum **[Municipality to insert value here; recommended one (1.0) foot]** of Freeboard above the maximum pool elevation computed when the facility functions for the one hundred (100)-year proposed conditions inflow. Should any BMP require a dam safety permit under PA Chapter 105 regulations, the facility shall be designed in accordance with and meet the regulations of PA Chapter 105 concerning dam safety. PA Chapter 105 may require the safe conveyance of storms larger than one hundred (100)-year event.
- C. Any drainage Conveyance facility and/or channel not governed by PA Chapter 105 regulations shall be designed to convey, without damage to the drainage structure or roadway, runoff from the twenty-five (25)-year storm event. Larger storm events (fifty (50)-year and one hundred (100)-year storms) shall also be safely conveyed in the direction of natural flow without creating additional damage to any drainage structures, nearby structures, or roadways.

*NOTE TO EDITOR: If the Municipality chooses to incorporate “**Section 311**. Other Conveyance and System Design Standards”, and if those standards include a similar minimum conveyance standard, then the standards included in **Section 311** must be consistent with **Subsection 310.C** using whichever standard is more restrictive.*

- D. Conveyance facilities to or exiting from stormwater management facilities (i.e., detention basins) shall be designed to convey the design flow to or from the facility.
- E. Roadway crossings or structures located within designated floodplain areas shall be able to convey runoff from a 100-year design storm consistent with Federal Emergency Management Agency National Flood Insurance Program – Floodplain Management Requirements.

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- F. Any facility located within a PennDOT right-of-way shall meet PennDOT minimum design standards and permit submission requirements.
  
- G. Adequate erosion protection and energy dissipation shall be provided along all open channels and at all points of discharge. Design methods shall be consistent with the Federal Highway Administration Hydraulic Engineering Circular Number 11 (Publication No. FHWA-IP-89-016) and the PADEP Erosion and Sediment Pollution Control Program Manual (Publication No. 363-2134-008), or other design guidance acceptable to the Municipal Engineer.

**Section 311. Other Conveyance and System Design Standards**

*NOTE TO EDITOR: Include here either full set of design standards or include a cross-reference to other ordinance/codes where those design standards are codified by the Municipality that must be adhered to. If the Municipality does not have existing design standards, examples can be provided upon request. Content should include items such as dimensions, capacity, other specifications and requirements for features such as outlet structures; discharge points; inlets, manholes, swales, etc.*

## **ARTICLE IV – STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS**

### **Section 401. General Requirements**

For any Regulated Activity, unless exempt per the provisions of **Section 106**:

- A. Preparation and implementation of an approved SWM Site Plan is required.
- B. No Regulated Activity shall commence until the Municipality issues written approval of a SWM Site Plan, which demonstrates compliance with the requirements of this Ordinance and, if required, a letter of adequacy has been issued by the Conservation District for an Erosion and Sediment Control Plan.
- C. The preliminary or final approval of subdivision and/or land development plans, and the issuance of any building or occupancy permit shall not proceed until the Applicant has received written approval of a SWM Site Plan from the Municipality.
- D. The SWM Site Plan approved by the Municipality shall be on Site throughout the duration of the Regulated Activity.

### **Section 402. SWM Site Plan Contents**

The SWM Site Plan shall consist of a general description of the project including items described in **Section 304**, calculations, maps, and plans. A note on the maps shall refer to the associated computations and Erosion and Sediment Control Plan by title and date. The cover sheet of the computations and Erosion and Sediment Control Plan shall refer to the associated maps by title and date. All SWM Site Plan materials shall be submitted to the Municipality in a format that is clear, concise, legible, neat, and well organized; otherwise, the SWM Site Plan shall not be accepted for review and shall be returned to the Applicant.

The following items shall be included in the SWM Site Plan:

*NOTE TO EDITOR: Municipality may, at its option, include provisions in this Ordinance to reduce (but not eliminate) the required content of the SWM Site Plan, Operation and Maintenance (O&M) Plan and O&M Agreement for Regulated Activities with less than ten thousand (10,000) square feet of proposed Earth Disturbance AND less than two thousand (2,000) square feet of Proposed Impervious Surfaces. At a minimum, the reduced requirements for SWM Site Plan maps/plan sheets (**Subsection 402.B**) must include all items required for the reduced Operation & Maintenance Plan map/plan sheet (**Subsection 702.A**).*



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A. General

1. A general description of the proposed project;
2. A listing of all regulatory approvals required for the proposed project and the status of the review and approval process for each. Final approval or adequacy letters must be submitted to the Municipality prior to (or as a condition of) the Municipality's issuing final approval of the SWM Site Plan. Proof of application or documentation of required permit(s) or approvals for the programs listed below shall be part of the SWM Site Plan, if applicable:
  - a. NPDES Permit for Stormwater Discharges from Construction Activities;
  - b. PADEP permits as needed:
    - i. PADEP Joint Permit Application,
    - ii. Chapter 105 (Dam Safety and Waterway Management),
    - iii. Chapter 106 (Floodplain Management);
  - c. PennDOT Highway Occupancy Permit;
  - d. Erosion and Sediment Control Plan letter of adequacy; and
  - e. Any other permit under applicable state or federal regulations.
3. A statement, signed by the Applicant, acknowledging that any revision to the approved SWM Site Plan shall be submitted to and approved by the Municipality, and that a revised Erosion and Sediment Control Plan shall be submitted to, and approved by, the Conservation District or Municipality (as applicable) for a determination of adequacy prior to construction of the revised features.
4. The following signature block signed and sealed by the qualified Licensed Professional responsible for the preparation of the SWM Site Plan:

“I (name), on this date (date of signature), hereby certify that the SWM Site Plan meets all design standards and criteria of the [Municipality] Ordinance No. \_\_\_\_\_, *[followed by title of Ordinance]*.” *[Note: include signature, name, discipline of professional license, and license stamp or seal here]*

B. Maps or Plan Sheets

Map(s) or plan sheets of the Site shall be submitted on minimum twenty-four (24)-inch by thirty-six (36)-inch sheets and shall be prepared in a form that meets the

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requirements for recording at the Chester County Office of the Recorder of Deeds and the requirements of the Operation and Maintenance (O&M) Plan and O&M Agreement (Article VII). If the SALDO has additional or more stringent criteria than this Ordinance, then the SALDO criteria shall also apply. Unless otherwise approved by the Municipal Engineer, the contents of the maps or plan sheets shall include, but not be limited to:

1. A location map, with a scale of one (1) inch equals two thousand (2,000) feet or greater, showing the Site location relative to highways, municipal boundaries, or other identifiable landmarks.
2. The name of the project, tax parcel number(s), and the names, addresses and phone numbers of the owner of the property, the Applicant, and firm preparing the plan.
3. Signature and seal of the qualified Licensed Professional(s) responsible for preparation of the maps and plan sheets.
4. The date of SWM Site Plan submission and revision dates, as applicable.
5. A graphic and written scale of one (1) inch equals no more than fifty (50) feet; for tracts of twenty (20) acres or more, the scale shall be one (1) inch equals no more than one hundred (100) feet.
6. A north arrow.
7. Legal property boundaries, including:
  - a. The total project property boundary and size with distances marked to the nearest foot and bearings to the nearest degree.
  - b. Boundaries, size and description of purpose of all existing easements and deed-restricted areas of the project property, with distances marked to the nearest foot and bearings to the nearest degree.
8. Existing natural resources and natural or man-made hydrologic features that are located within the Site or receiving discharge from, or that may otherwise be impacted by, the proposed Regulated Activity, including but not limited to:
  - a. All existing natural resources, hydrologic features and drainage patterns including natural waterways, water bodies, wetlands, streams (intermittent and perennial), ponds, lakes, vernal pools, etc., natural infiltration areas and patterns, areas of significant natural evapotranspiration, and other water features and aquatic resources.

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- b. Any existing man-made drainage features, BMPs, Conveyances, facilities, open channels, swales, drainage patterns, or other flood, stormwater or drainage control features.
- c. For the Site, discharge points and locations of concentrated flows and their drainage areas.
- d. For named waters, show names and their watershed boundaries within the Site.
- e. Special management areas (as per **Subsection 301.O**).
- f. For the water bodies, streams and wetlands identified in **Subsection 402.B.8.a**, label or otherwise show the following attributes, if applicable:
  - i. The Designated Use as determined by PADEP;
  - ii. Impairments listed on the PADEP “Integrated List” (as updated) and the listed source and cause of impairment;
  - iii. Name, date, and target pollutant(s) for any approved Total Maximum Daily Load (TMDL); and
  - iv. Drainages to water supply reservoirs.
- g. Areas that are part of the Pennsylvania Natural Diversity Inventory (PNDI) (for Regulated Activities involving one (1) acre or more proposed Earth Disturbance).
- h. Woods, vegetated riparian buffers and other areas of natural vegetation.
- i. Topography using contours at intervals of two (2) feet. In areas of slopes greater than *fifteen (15)* [*or other at option of Municipality*] percent five (5)-foot contour intervals may be used.
- j. Areas classified by the Municipality as steep slopes.
- k. Soil names and boundaries, general type of soils with Hydrologic Soil Group noted, and in particular note areas most conducive to infiltration BMPs, such as groups A and B, etc., estimated permeabilities in inches per hour, and location and other results of all soil tests and borings.
- l. If present, areas with underlying carbonate geologic units, existing sinkholes, subsidence or other karst features, and any associated groundwater recharge areas with increased vulnerability to contamination.

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- m. Any contaminated surface or subsurface areas of the Site.
- n. Water supply wells –
  - i. Location of existing well(s) on the project property and delineation of the(ir) recharge area(s) (if known), or a fifty (50) foot diameter assumed recharge area;
  - ii. Location of existing well(s) within fifty (50) feet beyond the boundary of the project property boundary (if public water supply is proposed for the Regulated Activity); and
  - iii. Location of existing community (public) water supply wells and private wells (or properties supplied by individual wells) within one-quarter (1/4) mile of the project property boundary if community (public) supply water well(s) or ten (10) or more individual (private) water wells are proposed on the Site (may be shown on a separate plan sheet at a smaller scale).
- o. Current FEMA one hundred (100)-year floodplain boundaries, elevations, and Floodway boundaries for any Special Flood Hazard Areas on or within one hundred (100) feet of the property.

*NOTE TO EDITOR: Municipality may, at its option, include one, both or none of the following provisions:*

- 1. Include **Subsection 402.B.8.p.** if the Municipality has riparian buffer standards in this Ordinance or another ordinance. If none, then **Subsection 402.B.8.p.** should be deleted.
  - p. Boundaries of riparian buffer(s) as required by [**Section XXX or Municipal Ordinance # XX-X**].
- 2. Include **Subsection 402.B.8.q.** if the Municipality included the construction non-disturbance buffer requirement in **Section 301**. Otherwise, delete **Subsection 402.B.8.q.**
  - q. Boundaries of a fifty (50) foot construction non-disturbance buffer to protect streams (intermittent and perennial), wetlands and other water bodies during construction of the proposed Regulated Activity.

- 9. Location of the proposed Regulated Activity, limits of Earth Disturbance (Disturbed Area), and BMPs and Conveyances relative to the location of existing

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natural resources and hydrologic features and special management areas resulting from the Site design process of **Section 304**.

10. Description of existing and proposed ground cover and land use including the type and total area.
11. Existing and proposed man-made features including roads, paved areas, buildings, and other Impervious and Pervious Surfaces on the project property (or an appropriate portion of the property as determined in consultation with the Municipal Engineer) and within the proposed Disturbed Area, and including the type and total area of the following:
  - a. Existing Impervious Surfaces;
  - b. Existing Impervious Surfaces proposed to be replaced;
  - c. Existing Impervious Surfaces to be permanently removed and replaced with pervious ground cover;
  - d. New or additional Impervious Surfaces; and
  - e. Percent of the Site covered by Impervious Surfaces for both the existing and proposed Post-Construction conditions.
12. The total extent of the upstream area draining through the Site.
13. All BMPs, Conveyances and other stormwater management facilities shall be located on the plan sheets, including design drawings, profile drawings, construction details, materials to be used, description of function, etc.
  - a. Complete delineation of the flow paths used for calculating the time of concentration for the Predevelopment and Post-construction conditions shall be included.
14. The locations of all existing and proposed utilities, sanitary sewers, on-lot wastewater facilities (including subsurface tanks and leach fields), and water supply lines within the Site and within fifty (50) feet beyond the proposed limits of Earth Disturbance.
15. A grading plan, including all areas of proposed Earth Disturbance and the proposed Regulated Activity and delineating the boundary or limits of Earth Disturbance of the Site. The total Disturbed Area of the Site shall be noted in square feet and acres.

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16. Proposed final grade elevations and contours at intervals of two (2) feet. In areas of steep slopes (greater than *[fifteen (15) or other at option of Municipality]* percent), five (5)-foot contour intervals may be used
  
17. For each proposed BMP and Conveyance included in the SWM Site Plan (including any to be located on any property other than the property being developed by the Applicant), the following shall be included on the SWM Site Plan map or plan sheets:
  - a. Identification of the person responsible for ongoing inspections, operation, repair, and maintenance of the BMP or Conveyance after completion of construction.
  
  - b. Delineation of the land area, structures, Impervious Surfaces, and Conveyances draining to and from the BMP or Conveyance.
  
  - c. Easements, as per the requirements of **Article VII**, that shall include:
    - i. Boundaries labeled with distances shown in feet and bearings to the nearest degree;
  
    - ii. Notes or other documentation, as needed, to grant the Municipality the right of access to all BMPs and Conveyances for the purposes of inspection and enforcement of the requirements of this Ordinance, and any applicable O&M Plans and O&M Agreements;
  
    - iii. Notes or other documentation, as needed, to grant the Municipality the right of access to all roadways necessary to access all BMPs and Conveyances, where roadways are not to be dedicated to the Municipality;
  
    - iv. Notes or other documentation as needed to grant the owner of any BMP or Conveyance the right of access for the purpose of inspection, operation, maintenance, and repair of the BMP or Conveyance that is to be owned, operated and maintained by a person other than the Municipality, and other than the owner of the property on which the BMP or Conveyance is located;
  
    - v. A minimum *[twenty (20) or other at option of Municipality]*-foot wide perimeter (or other width as determined in consultation with the Municipal Engineer) around all BMPs and Conveyances;
  
    - vi. Sufficient vehicular ingress to and egress from a public right-of-way or roadway, as determined in consultation with the Municipal Engineer; and
  
    - vii. Accompanying notes or other documentation as needed, and in accordance with **Article VII** describing the type, purpose and total area of easements,

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who the easement is granted to, and the rights, duties and obligations of the parties with respect to every BMP or Conveyance.

- d. Boundaries of land areas (if any) for which deed restrictions are required for the purpose of protecting and prohibiting disturbance to a BMP or Conveyance, indicating the area to which the restriction applies with distances shown in feet and bearings to the nearest degree, and a written description of the type, purpose and nature of the restriction.
  - e. Other items that may be needed to comply with all other requirements of Article VII.
- C. A written description of the following information shall be included in the SWM Site Plan:
- 1. Existing features, conditions, natural resources, hydrologic features, and special management areas (as listed in Subsection 402.B.8).
  - 2. How the Site design achieves the requirements of Section 304, and if applicable, where they could not be achieved and why.
  - 3. The overall stormwater management design concept for the project and how the Site design achieves the requirements of Sections 301 through 311 of Article III.
  - 4. Proposed features and conditions, proposed erosion and sediment control features, proposed BMPs, Conveyances, and any other stormwater facilities,.
  - 5. A description of the effect of the project (in terms of flow alteration and runoff volumes, water quality and peak flows, etc.) on existing natural resources, hydrologic features and special management areas, adjacent and downgradient properties, and any existing municipal or other stormwater Conveyance system(s), that may be affected by or receive runoff from the Regulated Activity (whether located within or outside of the area of the Regulated Activity), and specifics of how erosion, water quality and flow impacts will be avoided or otherwise mitigated.
  - 6. Proposed non-point source pollution controls and justification and confirmation that the proposed project will not result in any increased pollutant loadings to any existing stream or stream impairment identified by PADEP, or to any receiving water body.
  - 7. Expected project time schedule.
  - 8. Description of construction stages or project phases, if so proposed.

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- D. A detailed Site evaluation conducted by a qualified Licensed Professional for projects proposed in areas of carbonate geology or karst topography, and other environmentally sensitive areas, such as contaminated sites and brownfields, as described in Subsections 301.N and 301.Q of this Ordinance.
- E. Stormwater runoff design computations and documentation, such as hydrologic, hydraulic, and structural computations, assumptions, BMP loading ratios, etc., consistent with the guidelines and criteria presented in the PA BMP Manual (as amended) or other guidance acceptable to the Municipal Engineer, and used in the design of the BMPs, Conveyances and other features proposed to be utilized for stormwater management, or as otherwise necessary to demonstrate that the requirements of this Ordinance have been met, specifically including the requirements in Sections 301 and 304 through 309.
- F. Inspections, Operation and Maintenance Requirements

The following documents shall be prepared and submitted to the Municipality for review and approval as part of the SWM Site Plan, in accordance with the requirements of Article VII, for each BMP and Conveyance included in the SWM Site Plan (including any to be located on any property other than the property being developed by the Applicant):

1. An O&M Plan;
  2. An O&M Agreement;
  3. Any easement agreements that are needed to insure access, inspection, maintenance, operation, repair and permanent protection of any permanent BMP(s) and Conveyances associated with the Regulated Activity;
  4. Any written deed, deed amendment or equivalent document (if needed) to be recorded against a subject property, as shown on the SWM Site Plan maps or plan sheets, or recorded plan sheets for the purpose of protecting and prohibiting disturbance to a BMP or Conveyance; and
  5. Written approval, easement agreements, or other documentation for discharges to adjacent or downgradient properties when required to comply with Subsection 301.G and Article VII of this Ordinance.
- G. An Erosion and Sediment Control Plan, where applicable, as prepared for and submitted to the Conservation District and/or Municipality. A letter of adequacy from the Conservation District, if applicable, must be submitted to the Municipality prior to (or as a condition of) the Municipality's final approval of the SWM Site Plan.
- H. A Highway Occupancy Permit from the Pennsylvania Department of Transportation (PennDOT) District Office must be submitted to the Municipality prior to (or as a



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condition of) the Municipality's final approval of the SWM Site Plan when utilization of a PennDOT storm drainage system is proposed.

**Section 403. SWM Site Plan Submission**

A complete SWM Site Plan that complies with all applicable provisions of Section 402 shall be submitted to the Municipality for review and approval, as follows:

- A. The SWM Site Plan shall be coordinated with the applicable state and federal permit process and the Municipal SALDO review process. All permit approvals or letters of adequacy not yet received by the Applicant at the time of submittal of the SWM Site Plan to the Municipality must be submitted to the Municipality prior to (or as a condition of) the Municipality's final approval of the SWM Site Plan.
- B. For projects that require SALDO approval, the SWM Site Plan shall be submitted by the Applicant as part of the preliminary plan submission where applicable for the Regulated Activity.
- C. For Regulated Activities that do not require SALDO approval, the SWM Site Plan shall be submitted by the Applicant for review in accordance with instructions from the Municipality.
- D. The number of copies of the SWM Site Plan to be submitted by the Applicant for review shall be in accordance with instructions from the Municipality.
- E. The corresponding review fee shall be submitted to the Municipality simultaneously with the SWM Site Plan, per the Municipality's fee schedule.
- F. Any submissions to the Municipality that are found to be incomplete shall not be accepted for review and shall be returned to the Applicant within *[Municipality to insert appropriate number of days XX\_days,]* with a notification in writing of the specific manner in which the submission is incomplete.
- G. Financial security, per the requirements of **Section 110**, shall be submitted to the Municipality prior to approval of the SWM Site Plan.

**Section 404. SWM Site Plan Review**

- A. The SWM Site Plan shall be submitted to the Municipality for review by the Municipal Engineer for consistency with this Ordinance and the respective PA Act 167 Stormwater Management Plan(s). The Municipal Engineer will review the SWM Site Plan for any subdivision or land development for compliance with this Ordinance and the Municipal SALDO provisions not otherwise superseded by this Ordinance.

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- B. If applicable, the Applicant shall have received a letter of adequacy from the Conservation District for the SWM Site Plan prior to (or as a condition of) final approval by the Municipality.
- C. The Municipal Engineer will notify the Applicant and the Municipality in writing, with a copy to the Building Permit Officer, within [*Municipality to insert number of days, e.g. forty-five (45)*] calendar days, whether the SWM Site Plan is consistent with the requirements of this Ordinance. If the SWM Site Plan involves a Subdivision and Land Development Plan, the notification shall occur within the time period allowed by the MPC (as amended). If a longer notification period is provided by other statute, regulation, or ordinance, the Applicant will be so notified by the Municipality.
1. If the Municipal Engineer determines that the SWM Site Plan is consistent with this Ordinance, the Municipal Engineer shall forward a letter of consistency to the Municipality, who shall then forward a copy to the Applicant.
  2. The Municipality may approve the SWM Site Plan with conditions reasonably defined to make the SWM Site Plan compliant with the terms of this Ordinance, and, if so, shall provide the conditions for approval in writing.
  3. If the Municipal Engineer determines that the SWM Site Plan is inconsistent or noncompliant with this Ordinance, the Municipal Engineer will forward a letter to the Municipality, with a copy to the Applicant citing the reason(s) and specific Ordinance sections for the inconsistency or noncompliance. Inconsistency or noncompliance may be due to inadequate information to make a reasonable judgment as to compliance with this Ordinance. Any SWM Site Plans that are inconsistent or noncompliant may be revised by the Applicant and resubmitted in accordance with **Section 406** when consistent with this Ordinance. Resubmission will commence a new municipal review and notification time period.
- D. For Regulated Activities that require an NPDES Permit Application, the Applicant shall forward a copy of the Municipal Engineer's letter stating that the SWM Site Plan is consistent with this Ordinance to the Conservation District. PADEP and the Conservation District may consider the Municipal Engineer's review comments in determining whether to issue a permit.
- E. The Municipality will not grant preliminary or final approval to any proposed subdivision, land development, or Regulated Activity specified in this Ordinance if the SWM Site Plan has been found by the Municipal Engineer to be inconsistent with this Ordinance.
- F. All required permits from PADEP shall be obtained and submitted to the Municipality prior to (or as a condition of) final approval of any proposed subdivision, land development, or other Regulated Activity by the Municipality.

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- G. No building permits for any Regulated Activity will be approved by the Municipality if the SWM Site Plan has been found to be inconsistent with this Ordinance, as determined by the Municipal Engineer. All required permits from PADEP shall be obtained prior to issuance of a building permit.
- H. The Municipality's approval of a SWM Site Plan shall be valid for a period not to exceed [*Municipality to insert number; inserting.g., five (5)*] years commencing on the date that the Municipality signs the approved SWM Site Plan. If stormwater management facilities included in the approved SWM Site Plan have not been constructed, or if constructed, As-Built Plans of these facilities have not been approved within this [*Municipality to insert same number as above; recommend inserting five (5)*] year time period, then the Applicant may seek reinstatement of approval of the expired SWM Site Plan. If the Municipality determines that the expired SWM Site Plan is consistent and compliant with current regulations and requirements, then the expired SWM Site Plan will be reinstated; otherwise, it will be rejected. The Applicant will be prohibited from conducting any Regulated Activity until a reinstated or newly approved SWM Site Plan is obtained in accordance with Section 406 of this Ordinance.
- I. All or portions of the final approved SWM Site Plan shall be recorded (as "record plans") per the instructions of the Municipality.
- J. Upon completion of construction, the Applicant shall be responsible for completing final As-Built Plans of all BMPs, Conveyances, or other stormwater management facilities included in the approved SWM Site Plan. The final As-Built Plans and an explanation of any discrepancies with the final approved SWM Site Plan design plans shall be prepared and submitted to the Municipality for final approval as per the requirements of Section 502 of this Ordinance.

**Section 405. Revision of SWM Site Plans**

- A. A submitted SWM Site Plan under review by the Municipality shall be revised and resubmitted for any of the following reasons:
1. A change in stormwater management BMPs, Conveyances, facilities or techniques;
  2. Relocation or redesign of stormwater management BMPs, Conveyances, or facilities; or
  3. Soil or other Site conditions are not as stated on the SWM Site Plan as determined by the Municipal Engineer, and the new conditions necessitate design changes.

The revised SWM Site Plan shall be resubmitted in accordance with Section 403 and subject to review as specified in Section 404 of this Ordinance.

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- B. A revision to an approved SWM Site Plan shall be submitted to the Municipality, accompanied by the applicable municipal review and inspection fee.
- C. A revision to a SWM Site Plan for which a formal action has not been taken by the Municipality shall be submitted to the Municipality accompanied by the applicable municipal review and inspection fee.

**Section 406. Resubmission of Inconsistent or Noncompliant SWM Site Plans**

Any SWM Site Plan deemed inconsistent or noncompliant may be revised and resubmitted with the revisions addressing the Municipal Engineer's concerns documented in writing. The submission shall be addressed to the Municipality in accordance with **Section 403** of this Ordinance, distributed accordingly, and be subject to review as specified in **Section 404** of this Ordinance. The applicable municipal review and inspection fee shall accompany a resubmission of a SWM Site Plan previously determined to be inconsistent or noncompliant.

**ARTICLE V – PERFORMANCE AND INSPECTION OF  
REGULATED ACTIVITIES, AND FINAL AS-BUILT PLANS**

**Section 501. Performance and Inspection of Regulated Activities**

- A. All Regulated Activities shall be conducted, operated and maintained in accordance with the requirements set forth in **Articles III, VII, and VIII** of this Ordinance. When a SWM Site Plan is required by this Ordinance, all Regulated Activities shall be performed in accordance with the requirements of the final approved SWM Site Plan.
- B. The Municipal Engineer or other municipal designee shall be provided access to the Site to inspect all phases of the erosion and sediment control measures and installation of the permanent BMPs and Conveyances at such times as deemed appropriate by the Municipal Engineer or other municipal designee.
- C. A set of design plans approved by the Municipality shall be on file and available for viewing at the Site throughout the duration of the construction activity. Periodic inspections may be made by the Municipal Engineer or other designee during construction.
- D. A final inspection of all constructed BMPs, Conveyances, or other stormwater facilities, and related improvements may be conducted by the Municipal Engineer or other designee to confirm compliance with this Ordinance and with the final approved SWM Site Plan prior to the issuance of any occupancy permit, use permit, or other form of final approval of the project by the Municipality.
- E. Upon completion of construction, every permanent stormwater BMP, Conveyance or other stormwater facility constructed or used as part of the Regulated Activity shall be operated, maintained and inspected by the Landowner, or other designated person, in accordance with the O&M Plan and O&M Agreement approved by the Municipality.
- F. The Municipality or its designee may periodically inspect any permanent stormwater BMP, Conveyance or facility for compliance with this Ordinance, an approved O&M Plan, or an approved O&M Agreement, per the provisions of **Article IX**. The Municipality may inspect at any time it has reason to believe a violation exists. The Municipality may pursue enforcement for violations consistent with the provisions of **Article IX**.

**Section 502. Final As-Built Plans**

- A. For Regulated Activities involving one (1) acre or more of Earth Disturbance, the Applicant shall provide to the Municipality final As-Built Plans (signed and sealed by

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a qualified Licensed Professional) of all BMPs, Conveyances, other stormwater facilities, and related improvements shown in the final approved SWM Site Plan.

*NOTES TO EDITOR:*

- 1) *Municipality may, at its option, delete the following phrase from the preceding paragraph so that Section 502.A applies to all Regulated Activities meeting the thresholds presented in Subsection 106.B. and Table 106.1:*

“For Regulated Activities involving one (1) acre or more of Earth Disturbance,”

- 2) *Municipality may, at its option, also include here requirements for final As-Built Plans for small projects that implement the Simplified Approach, if the Municipality has chosen to include the provisions for use of the Simplified Approach and Subsection 106.D.*

B. The final As-Built Plans shall include the following for all BMPs, Conveyances, other stormwater facilities and related improvements:

1. The location, elevations, dimensions, and as-built conditions of all BMPs, Conveyances, other stormwater facilities, and related improvements including topographic contours and all typical details for storm drainage and conveyance systems, stormwater management facilities and Impervious Surfaces (existing, proposed, or constructed) included in the approved SWM Site Plan; and
2. Explanation of any discrepancies or variations from the final approved SWM Site Plan, other related approved construction plans, calculations and specifications (and approved revisions thereto).

*NOTE TO EDITOR: Municipality may, at its option, include or delete Subsection 502.C.*

C. The final As-Built Plans shall include a certification of completion signed and sealed by a qualified Licensed Professional verifying that all permanent BMPs and Conveyances have been constructed according to the final approved SWM Site Plan and related approved construction plans, calculations and specifications.

*NOTE TO EDITOR: Municipality may, at its option, include or delete Subsection 502.D.*

D. All areas of the Regulated Activity draining to BMPs must be stabilized prior to submittal of the As-Built Plans.

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- E. After receipt of the As-Built Plans by the Municipality, the Municipality or its designee may review the As-Built Plans for consistency with this Ordinance, the final approved SWM Site Plan, other related approved construction plans, and subsequent approved revisions thereto, as well as actual conditions at the Site, and the Municipality may conduct a final inspection, as per **Subsection 501.D**.
- F. The As-Built Plans must be received, reviewed and determined to be acceptable by the Municipality prior to:

*NOTE TO EDITOR: Include any of the following (or others) that are applicable to your Municipality.*

- 1. Close out of the drainage permit or other close out of the project by the Municipality;
  - 2. Issuance of final occupancy permit(s), use permit or other approval to use or operate the constructed project;
  - 3. Release of the financial security or other performance guarantee; and
  - 4. Dedication of the stormwater facilities to the Municipality, or conveyance to a homeowners association, or other person responsible for operation, maintenance and repair.
- G. Final occupancy permit(s) or Use Permit or other final approval to use or operate the constructed improvement may not be issued by the Municipality until the final As-Built Plans have been accepted. The occupancy permit shall be required for each lot owner and/or Applicant for all Subdivisions and Land Developments in the Municipality.
  - H. Upon final acceptance of the final As-Built Plans by the Municipality, the Applicant shall review and, if required by the Municipality, revise and re-record the O&M Plan and the O&M Agreement to reflect the final as-built conditions and information for each permanent BMP or Conveyance, in accordance with the requirements of **Article VII**.
  - I. All or portions of the final As-Built Plans shall be recorded if required by the Municipality.

## **ARTICLE VI – FEES AND EXPENSES**

### **Section 601. Municipality SWM Site Plan Review and Inspection Fees**

Fees have been established by the Municipality as adopted by Resolution No. *[Municipality to insert number XXXX-XX]* or as otherwise allowed by law to defray plan review and construction inspection costs incurred by the Municipality. All fees listed in **Subsection 602.A** shall be paid by the Applicant at the time of SWM Site Plan submission.

*NOTES TO EDITOR:*

- 1) Amend the previous two sentences as needed to accurately reference if, and if so where, the Municipality has adopted a schedule of fees and if fees are collected upon receipt of application for approval or as part of the financial security for construction, etc.*
- 2) Municipality may, at its option, keep as is or amend the following sentence as needed to appropriately reference the relevant fee schedule, or insert the schedule of fees herein.*

A review and inspection fee schedule has been established by resolution of the municipal Governing Body based on the size of the Regulated Activity and based on the Municipality's costs for reviewing SWM Site Plans, O&M Plans and Agreements and As-Built Plans, and conducting inspections pursuant to **Section 501**. The Municipality shall periodically update the review and inspection fee schedule to ensure that review costs are adequately reimbursed.

### **Section 602. Expenses Covered by Fees**

A. The fees required of the Applicant by this Ordinance shall at a minimum cover:

1. Administrative costs;
2. The review of the SWM Site Plan by the Municipality and the Municipal and other municipal consultants;
3. Coordination and meetings with the Applicant;
4. The inspection of erosion and sediment control measures, BMPs, Conveyances and other related improvements during construction;



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5. Review of project communications, reports, and additional supporting information;
  6. Other Site inspections;
  7. The final inspection upon completion of the BMPs, Conveyances, and other stormwater management facilities and related improvements presented in the SWM Site Plan;
  8. Review of final As-Built Plan submission and revised calculations, and inspections as needed.
- B. The Applicant shall also reimburse all expenses incurred by the Municipality for any additional work or municipal consultant fees required to enforce any permit provisions regulated by this Ordinance, correct violations, and ensure proper completion of remedial actions.

**ARTICLE VII – OPERATION AND MAINTENANCE (O&M)  
RESPONSIBILITIES AND EASEMENTS**

*NOTE TO EDITOR: State laws and regulations, and State requirements for Act 167 plans, require that permanent protection and long-term O&M be provided for every permanent BMP and Conveyance associated with any Regulated Activity. Presented within this Article VII is a comprehensive framework of ordinance components designed to ensure effective implementation of permanent protection and long-term inspections, operation, maintenance, and repairs of every permanent BMP and Conveyance associated with a Regulated Activity for a wide variety of scenarios that are known to have occurred and which can be anticipated to occur in the future within Chester County.*

*Article VII therefore includes components that address:*

- *Content and municipal review/approval process for O&M Plans;*
- *Opportunity for the Municipality to require an offer of dedication of any BMP or Conveyance to the Municipality;*
- *Establishing the right for the Municipality to access every BMP/Conveyance for inspection and enforcement purposes;*
- *Establishing legally binding permanent protections of each BMP and Conveyance (to protect from unauthorized modifications or disturbance);*
- *Legal documentation (e.g., in the form of O&M agreements, easements, easement agreements, and deed restrictions) that may be needed to allocate the appropriate and necessary rights, duties and obligations of the Municipality, the owner of the BMP or Conveyance, and/or the owner of the parcel or property on which a BMP or Conveyance is located for long-term municipal inspections and enforcement, for long-term protection and O&M by the responsible person, and for drainage conveyed from one property to a BMP/Conveyance located on another property; and*
- *For each form of documentation, the minimum content needed, the submission process and chronology for municipal review/approval, document execution, and recording of the document(s) as a matter of public record.*

*In preparing the ordinance components included in Article VII, the following scenarios of land owners and BMP/Conveyance owners were considered:*

- *Municipality does not own the BMP/Conveyance, is not responsible for permanent protection or O&M of the BMP/Conveyance, and does not own the property on which the BMP/Conveyance is located, but requires the right to access every BMP/Conveyance for inspections and enforcement;*
- *Municipality owns the BMP/Conveyance and is responsible for permanent protection and O&M of the BMP/Conveyance, and owns the property on which the BMP/Conveyance is located;*

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- *Municipality owns the BMP/Conveyance and is responsible for permanent protection and O&M of the BMP/Conveyance, but another person (e.g., HOA or private Landowner) owns the property on which the BMP/Conveyance is located;*
- *HOA owns the BMP/Conveyance and is responsible for permanent protection and O&M of the BMP/Conveyance, and owns the property on which the BMP/Conveyance is located;*
- *HOA owns the BMP/Conveyance and is responsible for permanent protection and O&M of the BMP/Conveyance, but another person (e.g., private Landowner) owns the property on which the BMP/Conveyance is located;*
- *A private Landowner owns the BMP/Conveyance and is responsible for permanent protection and O&M of the BMP/Conveyance, and owns the property on which the BMP/Conveyance is located;*
- *A person owns the BMP/Conveyance and is responsible for its permanent protection and O&M, but does not own the land on which the BMP/Conveyance is located.*
- *A private Landowner owns the BMP/Conveyance and is responsible for permanent protection and O&M of the BMP/Conveyance, and owns the property on which the BMP/Conveyance is located, AND the BMP/Conveyance is designed to receive and provide stormwater management for drainage from one or more other private properties.*
- *A new or altered discharge from a Regulated Activity will drain onto a downgradient parcel (owned by another person) and requires installation of a BMP and/or Conveyance (to be owned and maintained by the person conducting the Regulated Activity or their successors) on the downgradient parcel (as also addressed by Subsection 301.G).*
- *A new or altered discharge from a Regulated Activity will drain onto a downgradient property (owned by another person) that does not require installation of any BMP or Conveyance, but does require a drainage easement (as also addressed by Subsection 301.G).*

*The Municipality should review the material presented herein and tailor this Article to address the needs and circumstances anticipated by the Municipality. Sections 701, 702, and 703, Subsection 704.A, and Section 705 must be included in the Municipality's ordinance; however the process and chronology for submittal, review, approval and recordation may be modified where needed to better suit the Municipality's anticipated circumstances. Subsections 704.B, 704.C, and 704.D may be included or modified at the Municipality's discretion.*

*Care should be taken to ensure that the final language used in the Municipality's ordinance is sufficient to support the Municipality's ability to implement the requirements of Article VII. Also, care should be taken to make any related changes necessary to other Articles, Sections or Subsections of the Municipality's ordinance to maintain consistency with final text included by the Municipality here (e.g., Subsection 301.G, Section 402, etc.).*

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**Section 701. General Requirements for Protection, Operation and Maintenance of Stormwater BMPs and Conveyances**

The following shall apply to all Regulated Activities in accordance with the requirements of the subsequent sections of this Article VII.

- A. Continuing operations and maintenance responsibilities of all permanent BMPs, Conveyances, or other stormwater management facilities shall be reviewed and approved by the Municipality along with the SWM Site Plan. The Municipality may require an offer of a dedication of such facilities as part of the requirements for approval of the SWM Site Plan. Such a requirement is not an indication that the Municipality will accept the facilities. The Municipality reserves the right to accept or reject the operations and maintenance responsibility for any portion of or all of the BMPs, Conveyances or other stormwater controls and facilities.
- B. An Operation and Maintenance (O&M) Plan shall be submitted to the Municipality for review and approval for all existing and proposed permanent BMPs and man-made Conveyances or other stormwater facilities identified in the SWM Site Plan. Multiple BMPs or Conveyances may be addressed by a combined O&M Plan where all such facilities are similar in O&M requirements and ownership.
- C. The O&M Plan(s) and O&M Agreement(s) shall name the person identified in the SWM Site Plan who shall be the owner of and be responsible for ongoing inspections, operation, repair, and maintenance of each BMP or Conveyance following completion of construction.
- D. For any BMP or man-made Conveyance (including any to be located on any property other than the property being developed by the Applicant) to be owned by a person other than the Municipality:
  - 1. An O&M Agreement shall be submitted to the Municipality for review and approval; and
  - 2. The O&M Plan shall be attached to, incorporated within, and recorded as a public record along with a fully executed O&M Agreement, all of which shall be recorded as a restrictive covenant that runs with the land and shall be binding upon the Landowner and any heirs, administrators, successors in interest or assigns of the Landowner.
- E. The following shall be provided for all BMPs and Conveyances (including any to be located on any property other than the property being developed by the Applicant) by an O&M or other agreement or by otherwise establishing covenants, easements, deed restrictions, or by dedication to the Municipality:

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1. Permanent protection of the BMP or Conveyance from disturbance or alteration;
  2. Right of entry and access for the Municipality for inspection and enforcement of this Ordinance and any applicable O&M Plan or O&M Agreement; and
  3. Right of entry and access for the person owning the BMP or Conveyance and responsible for fulfilling the O&M requirements when that person is not the Municipality and is different from the owner of the property on which the BMP or Conveyance is located (such as may be applicable for **Subsection 301.G** of this Ordinance).
- F. All O&M and other agreements, covenants, easements and deed restrictions shall:
1. Be submitted to the Municipality for review and approval;
  2. Be recorded as a public record, upon approval, against each parcel(s) which is part of the SWM Site Plan or otherwise contains any BMP or Conveyance comprising part of the Regulated Activity which is the subject of an O&M Agreement; and
  3. Run with the land and be binding upon the Landowner, its heirs, administrators, successors in interest, and assigns.
- G. The materials, documents and content required by this Article VII may be prepared in conjunction with and incorporated with similar materials, documents and content required for other permit or approval applications, such as those required by PADEP for the Post Construction Stormwater Management Plan.

*NOTE TO EDITOR: Municipality may, at its option, also include provisions in this Ordinance to reduce (but not eliminate) the required content of the SWM Site Plan, O&M Plan and O&M Agreement for Regulated Activities with less than ten thousand (10,000) square feet of proposed Earth Disturbance AND with less than two thousand (2,000) square feet of Proposed Impervious Surfaces. At a minimum, the reduced requirements for SWM Site Plan maps/plan sheets (**Subsection 402.B**) must include all items required by the Municipality for the reduced O&M Plan map/plan sheet (**Subsection 702.A**).*

**Section 702. Operation and Maintenance Plans**

The following items shall be included in the O&M Plan, unless otherwise approved by the Municipal Engineer:

- A. A plan sheet(s) or map(s) showing each BMP and man-made Conveyance and which shall include, but not be limited to:

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1. Property(ies) identification (name or address or lot number, etc.), property boundaries and tax parcel number of the land parcel on which the BMP or Conveyance is located.
2. Name, address, phone number, date prepared, signature and seal of the Licensed Professional responsible for preparation of the plan sheet or map.
3. Clear identification of the location, dimensions, and function of each BMP or Conveyance covered by the O&M Plan.
4. The location of each BMP and Conveyance relative to roadways, property boundaries, or other identifiable landmarks and existing natural drainage features such as streams, lakes, ponds, or other bodies of water within the immediate vicinity of, or receiving discharge from, the BMP or Conveyance.
5. Delineation of the land area, structures, Impervious Surfaces and Conveyances draining to and from the BMP.
6. Representative elevations and/or topographic contours at intervals of two (2) feet, or other as acceptable to the Municipal Engineer.
7. Other features including FEMA floodplain and floodway boundaries, sinkholes, etc. located within the immediate proximity of each BMP and Conveyance.
8. Locations of areas of vegetation to be managed or preserved that function as a BMP or Conveyance.
9. The locations of all surface and subsurface utilities, on-lot waste water facilities, sanitary sewers, and water lines within twenty (20) feet of each BMP or Conveyance.
10. The following as it pertains to any easements, covenants and deed restrictions established for each applicable BMP or Conveyance:
  - a. Boundaries delineated with bearings and distances shown that encompass the BMP or Conveyance and that includes a ***[twenty (20) or other to be inserted by Municipality]***-foot perimeter area surrounding these features and sufficient vehicular ingress to and egress from a public right-of-way and roadway;
  - b. Labels specifying the type and purpose of the easement, covenant, or deed restriction and who it benefits; and
  - c. Labels with reference to any corresponding easement agreement, covenant, deed restriction or other document to be recorded.

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11. The plan sheet or map shall be prepared at sufficient scale for municipal review, and ultimately for the use by the person responsible for operation and maintenance, and shall also be prepared at a legible scale that meets the requirements for recordation along with (and as an attachment to) the O&M Agreement and O&M Plan at the Chester County Office of the Recorder of Deeds.
  
- B. The following information shall be included in the O&M Plan and written in a manner consistent with the knowledge and understanding of an individual who will be responsible for the maintenance activities:
  1. The name and address of the following:
    - a. Property(ies) on which each BMP or Conveyance is located;
    - b. Owner of the property;
    - c. Owner of each stormwater BMP or Conveyance who is responsible for implementation of the O&M Plan;
    - d. Person responsible for maintaining adequate liability insurance and payment of taxes; and
    - e. Individual or firm preparing the O&M Plan.
  2. A description of each BMP and Conveyance and how the BMPs and Conveyances are intended to function.
  3. A description of actions necessary to operate, inspect, and maintain each BMP or Conveyance, including but not limited to:
    - a. Lawn care, vegetation maintenance, landscaping and planting;
    - b. Clean out of accumulated debris and sediment (including from grates, trash racks, inlets, etc.); and
    - c. Other anticipated periodic maintenance and repair.
  4. The following statement shall be included:

*“The Landowner acknowledges that, per the provisions of the Municipality’s Stormwater Management Ordinance, it is unlawful to modify, remove, fill, landscape, alter or impair the effectiveness of, or place any structure, other vegetation, yard waste, brush cuttings, or other waste or debris into any permanent stormwater management BMP or Conveyance described in this O&M Plan or*

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*to allow the BMP or Conveyance to exist in a condition which does not conform to this O&M Plan, without written approval from the Municipality.”*

5. Inspection and maintenance schedules.
  6. Explanation of the purpose and limitations of any easements, covenants, or deed restrictions associated with any BMP or Conveyance that are to be recorded against the property.
- C. A statement that no BMP or man-made Conveyance may be used by the owner or others for any purpose other than its intended stormwater control function, or, if approved by the Municipal Engineer, a statement of specific allowable uses of the BMP (i.e., recreational benefits that maybe associated with certain BMPs owned by a homeowners association, or allowable uses by an individual residential Landowner).
- D. A statement that establishes a reasonable time frame for remedy of deficiencies found by the owner during their inspections.
- E. Language needed to fulfill the requirements of Subsections 705.B, 705.C, and 705.D of this Ordinance.

**Section 703. Operation and Maintenance Agreements**

- A. An O&M Agreement shall be required for any BMP or man-made Conveyance to be owned by a person other than the Municipality, and the Agreement shall:
1. Shall be between the owner of the BMP or Conveyance and the Municipality, and shall be substantially the same as the O&M Agreement in Appendix E;
  2. Incorporate the approved O&M Plan(s) for all BMPs or Conveyances to be covered by the O&M Agreement;
  3. Set forth the rights, duties and obligations of the owner of the BMP or Conveyance and the Municipality, and be consistent with the approved O&M Plan(s);
  4. Be recorded as a deed restriction or restrictive covenant that runs with the land and shall be binding upon the Landowner, its heirs, administrators, successors in interest, and assigns.
  5. Be submitted to the Municipality for review prior to approval of the SWM Site Plan;



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6. Upon approval by the Municipality, be signed by the designated owner of the BMP or Conveyance and submitted to the Municipality; and
  7. Be fully executed and recorded at the Chester County Office of the Recorder of Deeds following municipal approval of the O&M Plan and prior to the start of construction.
- B. Other items or conditions may be required by the Municipality to be included in the O&M Agreement where determined necessary by the Municipality to guarantee the satisfactory operation and maintenance of all permanent BMPs and Conveyances.
- C. After approval of the final As-Built Plans per the requirements of **Article V**, the Applicant shall review and, if necessary and if required by the Municipality, revise and re-record the O&M Plan and O&M Agreement to reflect the final as-built conditions of each BMP and Conveyance if different from the information included in the original recorded documents.

**Section 704. Easements and Deed Restrictions**

- A. Easements shall be established in connection with any Regulated Activity for all permanent BMPs and Conveyances that will not be dedicated to or otherwise owned by the Municipality, (including any to be located on any property other than the property being developed by the Applicant), and shall:
1. Include all land area occupied by each BMP or Conveyance;
  2. Include a *[twenty (20) or other to be inserted by Municipality]* -foot wide perimeter (or other width as determined in consultation with the Municipal Engineer) surrounding the feature(s);
  3. Provide sufficient vehicular ingress and egress from a public right-of-way and roadway;
  4. Permanently protect every BMP and Conveyance from disturbance or alteration where not otherwise protected by a recorded O&M Agreement, covenant, deed restriction or other means;
  5. Grant the Municipality the right, but not the duty, to access every BMP and Conveyance from a public right-of-way or public roadway to conduct periodic inspections and to undertake other actions that may be necessary to enforce the requirements of this Ordinance, or of any applicable O&M Plan or O&M Agreement; where roadways will not be dedicated to the Municipality, the Municipality shall be granted access to the private roadways as necessary to access every BMP and Conveyance;

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6. Grant the owner of each BMP and Conveyance the right to access, inspect, operate, maintain, and repair the BMP or Conveyance when the feature is to be owned, operated and maintained by a person other than the Municipality and other than the owner of the parcel on which it is located;
  7. Be shown, with bearings and distances noted, on the SWM Site Plan map/plan sheets, O&M Plan map/plan sheets, final As-Built Plans, and be signed and sealed by a qualified Licensed Professional; and
  8. Include language legally sufficient to ensure that the easement shall run with the land and bind the Landowner granting the easement, its heirs, administrators, successors in interest and assigns, into perpetuity.
  9. Be recorded at the Chester County Office of the Recorder of Deeds following municipal approval and prior to the start of construction.
- B. For any BMP or Conveyance to be owned by a person other than the Municipality or the Landowner owning the parcel upon which a BMP or Conveyance is located, an easement agreement shall be prepared and executed between the Landowner and the owner of the BMP or Conveyance which shall:
1. Describe the ownership interests of all parties to the easement agreement, including the ownership of the BMP or Conveyance;
  2. Include a written legal (metes and bounds) description of the easement area, with reference to a recorded plan sheet showing the legal boundaries of the easement area (or an accompanying plan sheet/map), signed and sealed by a qualified Licensed Professional;
  3. Grant an easement from the Landowner to the owner of each BMP and Conveyance, establishing the right and obligation to occupy, access, inspect, operate, maintain, and repair the BMP or Conveyance;
  4. Include a description of the purpose of the easement and the responsibilities of the parties involved;
  5. Incorporate by reference or be recorded with, the corresponding O&M Plan and O&M Agreement;
  6. Restrict the Landowner's use of the easement area of the parcel on which the BMP or Conveyance is located, consistent with the rights granted to the owner of the BMP or Conveyance;
  7. Be submitted to the Municipality for review and approval prior to approval of the SWM Site Plan;

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8. Upon approval by the Municipality, be signed by the owner of the BMP(s) or Conveyance(s) and the Landowner and submitted to the Municipality;
  9. Include language legally sufficient to ensure that the easement will run with the land affected by the easement and that the easement agreement is binding upon the parties to the easement agreement, their heirs, administrators, successors in interest and assigns, into perpetuity;
  10. Contain additional provisions or information as required by the Municipality; and
  11. Be fully executed and recorded at the Chester County Office of the Recorder of Deeds against all parcels affected by the terms of the easement agreement, within [           ***Municipality to insert time frame***] days of the Municipality's approval of the corresponding O&M Plan.
- C. For any BMP or Conveyance which is designed to receive runoff from another parcel or parcels and which is owned by the Landowner of the parcel upon which the BMP or Conveyance is located, in addition to any easement or easement agreement required pursuant to Subsection 704 A. or B., an easement agreement shall be prepared and executed between the Landowner of the parcel or parcels draining to the BMP or Conveyance and the owner of the BMP or Conveyance. This easement agreement shall:
1. Describe the ownership interests of all parties to the easement agreement, including the ownership of all affected parcels and of the BMP or Conveyance;
  2. Provide for the grant of a drainage easement from the owner of the BMP or Conveyance to the Landowner of the parcel(s) draining to the BMP, which shall extend from the shared parcel boundary(ies) to the receiving BMP and shall include the connecting flow path(s) or Conveyance;
  3. Include a written legal (metes and bounds) description of the easement area, with reference to a recorded plan sheet showing the legal boundaries of the easement area (or an accompanying plan sheet/map), signed and sealed by a Licensed Professional.
  4. Incorporate by reference or be recorded with the corresponding O&M Plan and O&M Agreement;
  5. State that the purpose of the easement agreement is to ensure the continuous right of the discharging parcel to discharge onto the parcel containing the BMP and into the BMP or Conveyance;
  6. Restrict the BMP or Conveyance owner's use of the easement area of the parcel upon which the BMP or Conveyance is located, consistent with the purpose of the easement granted;

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7. Establish the duty and responsibility of the Landowner of the parcel or parcels draining to the BMP or Conveyance to maintain the existing drainages on the discharging parcel or parcels as designed and constructed to discharge to the receiving BMP;
  8. Include language legally sufficient to ensure that the easement will run with the land and will bind all parties to the easement agreement, their heirs, administrators, successors in interest and assigns, into perpetuity;
  9. Be submitted to the Municipality for review and approval prior to approval of the SWM Site Plan;
  10. Contain all additional provisions or information as the Municipality may require upon review; and
  11. Be executed by the parties to the easement agreement and recorded at the Chester County Recorder of Deeds Office against the draining parcel(s) and the parcel upon which the BMP or Conveyance is located within [       ***Municipality to insert time frame***] days of the Municipality's approval of the corresponding O&M Plan.
- D. For any area(s) shown on the SWM Site Plan maps/plan sheets or As-Built Plan sheets as requiring, or area(s) that is otherwise determined to require, deed restriction(s) for the purpose of protecting and prohibiting disturbance to a BMP or Conveyance, such deed restrictions will be incorporated into a written deed, restrictive covenant, or equivalent document. The deed or other document shall:
1. Include a clear and understandable description of the purpose, terms and conditions of the restricted use;
  2. Include the written legal description (metes and bounds description) of the area to which the restrictions apply that is consistent with the boundary shown on the O&M plan sheets and SWM Site Plan maps/plan sheets;
  3. Make reference to any corresponding O&M Plan(s) and O&M Agreement(s);
  4. Include language legally sufficient to ensure that the terms of the restriction run with the land and shall be binding upon the Landowner, its heirs, administrators, successors in interest, and assigns;
  5. Be submitted to the Municipality for review and approval prior to approval of the SWM Site Plan;
  6. Upon approval by the Municipality, be signed by the Landowner and owner of the BMP or Conveyance and submitted to the Municipality; and

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7. Be fully executed and recorded at the Chester County Office of the Recorder of Deeds within [\_\_\_\_\_ *Municipality to insert time frame*] days of the Municipality's approval of the O&M Plan.

**Section 705. Other Post-Construction Responsibilities**

- A. The provisions of **Section 804** of this Ordinance shall apply to any permanent BMP or Conveyance that is constructed as part of an approved SWM Site Plan or covered by an approved O&M Plan.
- B. Parties responsible for the operation and maintenance of a BMP or Conveyance shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least [\_\_\_\_\_ *Municipality to insert time frame here, e.g. ten (10)*] years. These records shall be submitted to the Municipality, if requested.
- C. Upon final inspection, the Municipality shall inform the parties responsible for the operation and maintenance whether the submission of annual inspection and maintenance reports will be required.
- D. The owner of each BMP and Conveyance shall keep on file with the Municipality the name, address, and telephone number of the person responsible for maintenance activities and implementation of the O&M Plan. In the event of a change, new information shall be submitted by the owner to the Municipality within [\_\_\_\_\_ *Municipality to insert time frame here, e.g., thirty (30)*] working days of the change.

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*NOTE TO EDITOR: The following Section 706 is optional and should be carefully reviewed by the Municipality's Solicitor prior to use – municipality enabling legislation may or may not be interpreted by the Municipality's solicitor to permit the provided for funding.*

**Section 706. Municipal Stormwater Control and BMP Operation and Maintenance Fund**

- A. Persons installing stormwater controls or BMPs shall be required to pay a specified amount to the Municipal Stormwater Control and BMP Operation and Maintenance Fund to help cover the costs of periodic inspections and maintenance expenses. The amount of the deposit shall be determined as follows:
1. If the BMP or Conveyance is to be privately owned and maintained, the deposit shall cover the cost of periodic inspections performed by the Municipality, as estimated by the Municipal Engineer, for a period of **[ten (10) or twenty-five (25)]** years. This is to be paid in a manner specified by the Municipality. After that period of time, inspections will be performed at the expense of the Municipality.
  2. If the BMP or Conveyance is to be owned and maintained by the Municipality, the deposit shall cover the estimated costs for maintenance and inspections for **[ten (10) or twenty-five (25)]** years. The Municipality will establish the estimated costs utilizing information submitted by the Applicant.
  3. The amount of the deposit to the fund shall be converted to present worth of the annual series values. The Municipality shall determine the present worth equivalents, which shall be subject to the approval of the Governing Body.
- B. If a BMP or Conveyance is proposed that also serves as a recreational facility (e.g., ball field or lake), the Municipality may reduce or waive the amount of the maintenance fund deposit based upon the value of the land for public recreational purpose.
- C. If at some future time, a BMP or Conveyance (whether publicly or privately owned) is eliminated due to the installation of storm sewers or other storage facility, the unused portion of the maintenance fund deposit will be applied to the cost of abandoning or demolishing the facility and connecting to the storm sewer system or other facility. Any amount of the deposit remaining after the costs of abandonment or demolition will be used for inspection, maintenance, and operation of the receiving stormwater management system.
- D. If a BMP or Conveyance is accepted by the Municipality for dedication, the Municipality may require persons installing the BMP or Conveyance to pay a specified amount to the Municipal Stormwater Control and BMP Operation and Maintenance Fund to help cover the costs of operations and maintenance activities. The amount may be determined as follows:

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1. The amount shall cover the estimated costs for operations and maintenance for [*ten (10) or twenty-five (25)*] years, as determined by the Municipality, and
  2. The amount shall then be converted to present worth of the annual series values.
- E. The Municipality may require Applicants to pay a fee to the Municipal Stormwater Control and BMP Operation and Maintenance Fund to cover:
1. Long-term maintenance of BMP(s) or Conveyance(s), and
  2. Stormwater-related problems which may arise from the land development and Earth Disturbance.

## **ARTICLE VIII – PROHIBITIONS**

*NOTE TO EDITOR: This Ordinance applies only to Regulated Activities involving New Development or Redevelopment. It is strongly recommended that municipalities adopt a separate ordinance with identical language that will cover all situations in the Municipality, including already constructed illicit connections, illicit dumping activities, etc. If your Municipality already has a separate Prohibitions ordinance, it is recommended that **Article VIII** be included in this Ordinance to address New Development and Redevelopment, and that the separate ordinance also be reviewed and revised as necessary to be consistent with the language herein to cover all other situations. Municipalities are strongly encouraged to develop and adopt a separate ordinance covering prohibited discharges from existing development. Municipalities with an MS4 permit should have this in place from previous permit requirements.*

### **Section 801. Prohibited Discharges**

- A. Any drain or Conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge including sewage, process wastewater, and wash water to enter the Municipality's separate storm sewer system or the Waters of the Commonwealth is prohibited.
  
- B. No person shall allow, or cause to allow, discharges into the Municipality's separate storm sewer system or the Waters of the Commonwealth that are not composed entirely of stormwater, except:
  - 1. As provided in **Subsection C** below; and
  - 2. Discharges allowed under a state or federal permit.
  
- C. The following discharges are authorized unless they are determined by the Municipality to be significant contributors to pollution to the Municipality's separate storm sewer system or to the Waters of the Commonwealth:
  - 1. Discharges from fire fighting activities;
  - 2. Potable water sources including water line and fire hydrant flushings;
  - 3. Irrigation drainage;
  - 4. Air conditioning condensate;
  - 5. Springs;



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6. Water from crawl space pumps;
  7. 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;
  8. Diverted stream flows;
  9. Flows from riparian habitats and wetlands;
  10. Uncontaminated water from foundations or from footing drains;
  11. Lawn watering;
  12. Dechlorinated swimming pool discharges;
  13. Uncontaminated groundwater;
  14. Water from individual residential car washing; and
  15. Routine external building washdown (which does not use detergents or other compounds).
- D. In the event that the Municipality determines that any of the discharges identified in **Section 801.C**, significantly contribute pollutants to the Municipality's separate storm sewer system or to the Waters of the Commonwealth, or is notified of such significant contribution of pollution by PADEP, the Municipality will notify the responsible person to cease the discharge.
- E. Upon notice provided by the Municipality under **Section 801.D**, the discharger shall, within a reasonable time period, as determined by the Municipality consistent with the degree of pollution caused by the discharge, cease the discharge.
- F. Nothing in this section shall affect a discharger's responsibilities under state law.

**Section 802. Prohibited Connections**

The following connections are prohibited, except as provided in **Section 801.C** above:

- A. Any drain or Conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge, including sewage, process wastewater, and wash water to enter a separate storm sewer system, and any connections to the separate storm sewer system from indoor drains and sinks.

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- B. Any drain or Conveyance connected from a commercial or industrial land use to a separate storm sewer system, which has not been documented in plans, maps, or equivalent records and approved by the Municipality.

**Section 803. Roof Drains and Sump Pumps**

- A. Roof drains and sump pump discharges shall not be connected to sanitary sewers.
- B. Roof drain, sump pump, foundation and footing drain discharges:
  - 1. To the maximum extent practicable, shall discharge to infiltration or vegetative BMPs, or to vegetated or other areas with adequate capacity.
  - 2. May be connected to streets, storm sewers, or roadside ditches only if determined necessary or acceptable by the Municipal Engineer.
  - 3. Shall be considered in stormwater management calculations to demonstrate that Conveyance and receiving facilities have adequate capacity.

**Section 804. Alteration of BMPs**

- A. No person shall modify, remove, fill, landscape, alter, or impair the effectiveness of any stormwater BMPs, Conveyances, facilities, areas or structures unless the activity is part of an approved maintenance program, without the written approval of the Municipality.
- B. No person shall place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into a BMP or Conveyance, or within a stormwater easement, that would limit or alter the functioning of the stormwater BMP or Conveyance, without the written approval of the Municipality.

## **ARTICLE IX – ENFORCEMENT AND PENALTIES**

### **Section 901. Public Nuisance**

- A. Any Regulated Activity conducted in the violation of any provision of this Ordinance is hereby deemed a public nuisance.
- B. Each day that a violation continues shall constitute a separate violation.
- C. A separate violation will be found to exist for each section of this Ordinance found to have been violated.
- D. To the extent that the Municipality does not enforce any provision of this Ordinance, such action or inaction shall not constitute a waiver by the Municipality of its rights of future enforcement hereunder.

### **Section 902. Right of Entry**

- A. Upon presentation of proper credentials, duly authorized officers or agents of the Municipality may enter at reasonable times upon any property within the Municipality to inspect the implementation, condition, or operation and maintenance of all erosion and sediment controls and permanent stormwater BMPs, Conveyances, or other stormwater facilities both during and after completion of a Regulated Activity, or for compliance with any requirement of this Ordinance.
- B. Persons working on behalf of the Municipality shall have the right to temporarily locate on or in any BMP, Conveyance or other stormwater facility in the Municipality such devices as are necessary to conduct monitoring and/or sampling of the discharges from such BMP or Conveyance, or other stormwater facilities.
- C. Failure of the Landowner or representative to grant access to the Municipality within [*Municipality to insert number, e.g., 24*] hours of notification, is a violation of this Ordinance.

### **Section 903. Enforcement**

- A. The Municipal Engineer or other designee is hereby authorized and directed to enforce all of the provisions of this Ordinance. The Municipal Governing Body may delegate enforcement duties, including the initial determination of Ordinance violation and service of notice, if notice is given, to such other officers or agents as the Municipality shall deem qualified for that purpose.

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- B. It shall be the responsibility of the Landowner of the real property on which any Regulated Activity is proposed to occur, is occurring, or has occurred to comply with the applicable terms and conditions of this Ordinance.
- C. All inspections for compliance with the approved SWM Site Plan shall be the responsibility of the Municipality or its designee.
- D. During any stage of the work of any Regulated Activity, if the Municipal Engineer or other designee determines that the erosion and sediment control measures, permanent BMPs, Conveyances or other stormwater facilities are not being installed or maintained in accordance with the approved SWM Site Plan, the Municipality may suspend or revoke any existing permits or other approvals until the deficiencies are corrected or until a revised SWM Site Plan is submitted and approved, if and as determined to be necessary by the Municipal Engineer or other designee.
- E. In the event that the Municipal Engineer or other designee finds that a person has violated a provision of this Ordinance, or fails to conform to the requirements of any permit or approval issued by the Municipality, or any O&M Plan or O&M Agreement approved by the Municipality, the Municipality may order compliance by written notice of the violation to the Landowner.
- F. Such notice may, without limitation, require the following remedies:
  - 1. Performance of monitoring, analyses, and reporting;
  - 2. Elimination of prohibited connections or discharges;
  - 3. Cessation of any violating discharges, practices, or operations;
  - 4. Abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - 5. Payment of a fine to cover administrative and remediation costs and/or forfeiture of financial security;
  - 6. Implementation of stormwater controls, BMPs, and Conveyances; and
  - 7. Operation, maintenance or repair of BMPs, Conveyances or other stormwater facilities.
- G. Such notice shall set forth the nature of the violation(s), citing to specific sections of this Ordinance which have not been met, and establish a time limit for commencement of correction and completion of correction of these violations(s). The notice shall provide for a right of the Landowner's appeal to the Municipal Governing Body in accordance with Section 906 of this Ordinance. Said notice shall further advise that, if applicable, should the violator fail to take the required action within the

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established deadline, possible sanctions, clearly described, may be imposed, or the work may be done by the Municipality or designee, and the expense thereof shall be charged to the violator.

- H. Failure to comply within the time specified in such notice shall also subject such person to the penalty provisions of this Ordinance. All such penalties shall be deemed cumulative and shall not prevent the Municipality from pursuing any and all other remedies available in law or equity.

**Section 904. Suspension and Revocation of Permits and Approvals**

- A. Any building, Land Development, or other permit or approval issued by the Municipality may be suspended or revoked by the Municipality for:
1. Noncompliance with or failure to implement any provision of the permit or approved SWM Site Plan or O&M Agreement;
  2. A violation of any provision of this Ordinance or any other law or regulation applicable to the Regulated Activity;
  3. The creation of any condition or the commission of any act during the Regulated Activity that constitutes or creates a hazard, nuisance, or pollution, or endangers the life, health, safety, or property of others; or
  4. Failure to correct a violation within the allowed time period allowed per notice given by the Municipality.
- B. Prior to revocation or suspension of a permit, unless there is immediate danger or threat of such danger to life, public health or property, at the request of the Applicant, the Municipality's Governing Body shall schedule a hearing on the violation and proposed revocation or suspension, pursuant to public notice. The expense of a hearing shall be the Applicant's responsibility.
- C. A suspended permit or approval may be reinstated by the Municipality when:
1. The Municipal Engineer or other designee has inspected and approved the corrections to the BMPs, Conveyances or other stormwater facilities, or the elimination of the hazard or nuisance; and
  2. The Municipality is satisfied that the violation has been corrected.
- D. A permit or approval that has been revoked by the Municipality cannot be reinstated. The Applicant may apply for a new permit or approval in accordance with this Ordinance.

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**Section 905. Penalties**

- A. Any person violating or permitting the violation of the provisions of this Ordinance shall be subject to a fine of not more than \$1,000 for each violation, recoverable with costs. The establishment of a violation for purposes of setting fines or penalties for such violation shall be in accordance with a citation to a magisterial district judge with jurisdiction and venue over the location of the violation and such an action will be subject to the procedures provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. A separate offense shall arise for each day or portion thereof a violation is found to exist and may be determined for each section of this Ordinance which is found to have been violated.
- B. In addition, the Municipality may, through its solicitor, institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other legal or equitable forms of remedy or relief. Such relief may include costs, fees, and charges, including the Municipality's attorney's fees (charged at the hourly rate approved by the Governing Body of the Municipality) and costs, as may be permitted by law.
- C. Notwithstanding any other provision of this Ordinance, the Municipality shall have the right at any or all times deemed necessary by the Municipal Engineer or designee to enter upon any property within the Municipality to inspect and, upon determination of a violation of this Ordinance, to correct the violation, with all expenses associated with correcting the violation to be charged to the property owner responsible for the violation.

**Section 906. Appeals**

- A. Any person aggrieved by any action of the Municipal Engineer or other designee relative to the provisions of this Ordinance may appeal to the Municipality's Governing Body within thirty (30) days of that action.
- B. Any person aggrieved by any decision of the Municipality's Governing Body relative to the provisions of this Ordinance may appeal to the County Court of Common Pleas in the County where the activity has taken place within thirty (30) days of the Municipality's decision.

**Section 907. Effective Date**

This Ordinance shall take effect on \_\_\_\_\_.