

STORMWATER MANAGEMENT

Chapter 106

STORMWATER MANAGEMENT

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[HISTORY: Adopted by the Borough Council of the Borough of Youngwood 3-1-2004 by Ord. No. 481. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 52.
Sewers and sewage disposal — See Ch. 102.

ARTICLE I
General Provisions

§ 106-1. Short title.

This chapter shall be known and may be cited as the "Youngwood Stormwater Management Ordinance."

§ 106-2. Statement of findings.

The Youngwood Borough Council finds that:

- A. Stormwater runoff from lands modified by human activities threatens public health and safety by causing decreased infiltration of rainwater and increased runoff flows and velocities, which overtax the carrying capacity of existing streams and storm sewers and greatly increases the cost to the public to manage stormwater.
- B. Inadequate planning and management of stormwater runoff resulting from land development and redevelopment throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of streambeds and streambanks 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 program of stormwater management, including reasonable regulation of land development and redevelopment causing loss of natural infiltration, is fundamental to the public health, safety, welfare and the protection of the people of Youngwood and all the people of the commonwealth, their resources and the environment.
- D. Stormwater can be an important water resource by providing groundwater recharge for water supplies and

base flow of streams, which also protects and maintains surface water quality.

- E. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.
- F. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).
- G. Nonstormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the commonwealth by the Borough of Youngwood.

§ 106-3. Purpose.

The purpose of this chapter is to promote health, safety and welfare within the Borough of Youngwood and its watershed by minimizing the harms and maximizing the benefits described in § 106-2 of this chapter through provisions designed to:

- A. Manage stormwater runoff impacts at their source by regulating activities that cause the problems.
- B. Provide review procedures and performance standards for stormwater planning and management.
- C. Utilize and preserve the existing natural drainage systems as much as possible.
- D. Manage stormwater impacts close to the runoff source, which requires a minimum of structures and relies on natural processes.
- E. Focus on infiltration of stormwater to maintain groundwater recharge, to prevent degradation of surface and ground water quality and to otherwise protect water resources.

- F. Maintain existing flows and quality of streams and watercourses.
- G. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code § 93.4a to protect and maintain existing uses and maintain the level of water quality to support those uses in all streams and to protect and maintain water quality in special protection streams.
- H. Prevent scour and erosion of stream banks and streambeds.
- I. Provide for proper operations and maintenance of all permanent stormwater management BMPs that are implemented in the Borough of Youngwood.
- J. Provide a mechanism to identify controls necessary to meet the NPDES permit requirements.
- K. Implement an illegal discharge detection and elimination program to address nonstormwater discharges into the Borough of Youngwood's separate storm sewer system.

§ 106-4. Statutory authority.

The Borough of Youngwood is empowered to regulate land use activities that affect stormwater impacts by the authority of the Borough Code and the Municipalities Planning Code of the Commonwealth of Pennsylvania.

§ 106-5. Applicability.

- A. This chapter applies to any regulated earth disturbance activities within the Borough of Youngwood and all stormwater runoff entering into the borough's separate storm sewer system from lands within the boundaries of the Borough of Youngwood.
- B. Earth disturbance activities and associated stormwater management controls are also regulated under existing

state law and implementing regulations. This chapter shall operate in coordination with those parallel requirements; the requirements of this chapter being no less restrictive in meeting the purposes of this chapter than state law.

§ 106-6. Compatibility with other requirements.

- A. Approvals issued and actions taken under this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance. To the extent that this chapter imposes more rigorous or stringent requirements for stormwater management, the specific requirements contained in this chapter shall be followed.
- B. Nothing in this chapter shall be construed to affect any of the Borough of Youngwood's requirements regarding stormwater matters which do not conflict with the provisions of this chapter, such as local stormwater management design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.). Conflicting provisions in other municipal ordinances or regulations shall be construed to retain the requirements of this chapter addressing state water quality requirements.

**ARTICLE II
Words Defined**

§ 106-7. Definitions and word usage.

For the purposes of this chapter, 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 words “shall” and “must” are mandatory; the words “may” and “should” are permissive.
- D. Definitions.

ACCELERATED EROSION — The removal of the surface of the land through the combined action of human activities and the natural processes at a rate greater than would occur because of the natural process alone.

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

BMP (BEST MANAGEMENT PRACTICE) — Activities, facilities, designs, measures or procedures used to manage stormwater impacts from regulated earth disturbance activities, to meet state water quality requirements, to promote groundwater recharge and to otherwise meet the purposes of this chapter. BMPs include but are not limited to infiltration, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, forested buffers, sand filters and detention basins.

CONSERVATION DISTRICT — The Westmoreland County Conservation District.

DEP — The Pennsylvania Department of Environmental Protection.

DEVELOPER — A person who seeks to undertake any regulated earth disturbance activities at a project site in the Borough of Youngwood.

DEVELOPMENT — See “earth disturbance activity.” The term includes redevelopment.

DEVELOPMENT SITE — The specific tract of land where any earth disturbance activities in the municipality are planned, conducted or maintained.

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

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

EROSION AND SEDIMENT CONTROL PLAN — A plan for a project site which identifies BMPs to minimize accelerated erosion and sedimentation.

GROUNDWATER RECHARGE — Replenishment of existing natural underground water supplies.

IMPERVIOUS SURFACE — A surface that prevents the infiltration of water into the ground. Impervious surface includes, but is not limited to, any roof, parking or driveway areas and any new streets and sidewalks. Any surface areas designed to initially be gravel or crushed stone shall be assumed to be impervious surfaces.

MUNICIPALITY — The Borough of Youngwood, Westmoreland County, Pennsylvania.

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

OUTFALL — Point source as described in 40 CFR § 122.2 at the point where the municipality’s storm

sewer system discharges to surface waters of the commonwealth.

PERSON — An individual, partnership, public or private association or corporation or a governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

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 Pa. Code § 92.1.

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

REDEVELOPMENT — Earth disturbance activities on land which has previously been disturbed or developed.

REGULATED EARTH DISTURBANCE ACTIVITY — Earth disturbance activity one acre or more with a point source discharge to surface waters or the municipality's storm sewer system or five acres or more regardless of the planned runoff. This includes earth disturbance on any portion of, part or during any stage of a larger common plan of development. This only includes road maintenance activities involving 25 acres or more of earth disturbance.

ROAD MAINTENANCE — Earth disturbance activities within the existing road cross-section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches and other similar activities.

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.

STATE WATER QUALITY REQUIREMENTS — As defined under state regulations, protection of designated and existing uses (see 25 Pa. Code Chapters 93 and 96), including:

- A. Each stream segment in Pennsylvania has a designated use, such as “cold water fishery” or “potable water supply,” which are listed in Chapter 93. These uses must be protected and maintained under state regulations.
- B. “Existing uses” are those attained as of November 1975, regardless whether they have been designated in Chapter 93. Regulated earth disturbance activities must be designed to protect and maintain existing uses and maintain the level of water quality necessary to protect those uses in all streams and to protect and maintain water quality in special protection streams.
- C. Water quality involves the chemical, biological and physical characteristics of surface water bodies. After regulated earth disturbance activities are complete, these characteristics can be impacted by addition of pollutants such as sediment and changes in habitat through increased flow volumes and/or rates as a result of changes in land surface area from those activities. Therefore, permanent discharges to surface waters must be managed to protect the streambank, streambed and structural integrity of the waterway to prevent these impacts.

STORMWATER — The surface runoff generated by precipitation reaching the ground surface.

SURFACE 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 water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

WATERCOURSE — A channel or conveyance of surface water such as a stream or creek having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

WATERSHED — Region or area drained by a river, watercourse or other body of water, whether natural or artificial.

ARTICLE III

Stormwater Management for Water Quality

§ 106-8. General requirements for stormwater management.

- A. All regulated earth disturbance activities within the municipality shall be designed, implemented, operated and maintained to meet the purposes of this chapter through these two elements:
- (1) Erosion and sediment control during the earth disturbance activities (e.g., during construction); and
 - (2) Water quality protection measures after completion of earth disturbance activities (e.g., after construction), including operations and maintenance.
- B. No regulated earth disturbance activities within the municipality shall commence until the requirements of this chapter are met.
- C. Erosion and sediment control during regulated earth disturbance activities shall be addressed as required by § 106-10.
- D. Postconstruction water quality protection shall be addressed as required by § 106-11. Operations and maintenance of permanent stormwater BMPs shall be addressed as required by Article IV.

- E. All best management practices (BMPs) used to meet the requirements of this chapter shall conform to the state water quality requirements and any more stringent requirements as determined by the municipality.
- F. Techniques described in Appendix A (Low Impact Development Practices)¹ of this chapter are encouraged because they reduce the costs of complying with the requirements of this chapter and the state water quality requirements.

§ 106-9. Permit requirements by other government entities.

The following permit requirements may apply to certain regulated earth disturbance activities and must be met prior to commencement of regulated earth disturbance activities, as applicable:

- A. All regulated earth disturbance activities subject to permit requirements by DEP under regulations at 25 Pa. Code Chapter 102.
- B. Work within natural drainageways subject to permit by DEP under 25 Pa. Code Chapter 105.
- C. Any stormwater management facility that would be located in or adjacent to surface waters of the commonwealth, including wetlands, subject to permit by DEP under 25 Pa. Code Chapter 105.
- D. Any stormwater management facility that would be located on a state highway right-of-way or require access from a state highway shall be subject to approval by the Pennsylvania Department of Transportation (PENNDOT).
- E. Culverts, bridges, storm sewers or any other facilities which must pass or convey flows from the tributary area

¹ Editor's Note: Appendix A is included at the end of this chapter.

and any facility which may constitute a dam subject to permit by DEP under 25 Pa. Code Chapter 105.

§ 106-10. Erosion and sediment control during regulated earth disturbance activities.

- A. No regulated earth disturbance activities within the municipality shall commence until approval by the municipality of an erosion and sediment control plan for construction activities.
- B. DEP has regulations that require an erosion and sediment control plan for any earth disturbance activity of 5,000 square feet or more under 25 Pa. Code § 102.4(b).
- C. In addition, under 25 Pa. Code Chapter 92, a DEP NPDES construction activities permit is required for regulated earth disturbance activities.
- D. Evidence of any necessary permit(s) for regulated earth disturbance activities from the appropriate DEP regional office or County Conservation District must be provided to the municipality. The issuance of an NPDES construction permit [or permit coverage under the state-wide general permit (PAG-2)] satisfies the requirements of Subsection A.
- E. A copy of the erosion and sediment control plan and any required permit, as required by DEP regulations, shall be available at the project site at all times.

§ 106-11. Water quality requirements after regulated earth disturbance activities are complete.

- A. No regulated earth disturbance activities within the municipality shall commence until approval by the municipality of a plan which demonstrates compliance with state water quality requirements after construction is complete.

- B. The BMPs must be designed, implemented and maintained to meet state water quality requirements and any other more stringent requirements as determined by the municipality.
- C. To control postconstruction stormwater impacts from regulated earth disturbance activities, state water quality requirements can be met by BMPs, including site design, which provide for replication of preconstruction stormwater infiltration and runoff conditions so that postconstruction stormwater discharges do not degrade the physical, chemical or biological characteristics of the receiving waters. As described in the DEP Comprehensive Stormwater Management Policy (No. 392-0300-002, September 28, 2002), this may be achieved by the following:
- (1) Infiltration: replication of preconstruction stormwater infiltration conditions;
 - (2) Treatment: use of water quality treatment BMPs to ensure filtering out of the chemical and physical pollutants from the stormwater runoff; and
 - (3) Streambank and streambed protection: management of volume and rate of postconstruction stormwater discharges to prevent physical degradation of receiving waters (e.g., from scouring).
- D. DEP has regulations that require municipalities to ensure design, implementation and maintenance of best management practices (BMPs) that control runoff from new development and redevelopment after regulated earth disturbance activities are complete. These requirements include the need to implement postconstruction stormwater BMPs with assurance of long-term operations and maintenance of those BMPs.
- E. Evidence of any necessary permit(s) for regulated earth disturbance activities from the appropriate DEP regional office must be provided to the municipality. The issuance of an NPDES construction permit [or permit coverage

under the state wide general permit (PAG-2)] satisfies the requirements of Subsection A.

- F. BMP operations and maintenance requirements are described in Article IV of this chapter.

ARTICLE IV
**Stormwater BMP Operations and
Maintenance Plan Requirements**

§ 106-12. General requirements.

- A. No regulated earth disturbance activities within the municipality shall commence until approval by the municipality of BMP operations and maintenance plan which describes how the permanent (e.g., postconstruction) stormwater BMPs will be properly operated and maintained.
- B. The following items shall be included in the BMP operations and maintenance plan:
- (1) Map(s) of the project area, in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Westmoreland County, and shall be submitted on twenty-four-inch-by-thirty-six-inch or thirty-inch-by-forty-two-inch sheets. The contents of the maps(s) shall include, but not be limited to:
 - (a) Clear identification of the location and nature of permanent stormwater BMPs;
 - (b) The location of the project site relative to highways, municipal boundaries or other identifiable landmarks;
 - (c) Existing and final contours at intervals of two feet, or others as appropriate;
 - (d) Existing streams, lakes, ponds or other bodies of water within the project site area;

- (e) Other physical features, including flood hazard boundaries, sinkholes, streams, existing drainage courses and areas of natural vegetation to be preserved;
 - (f) The locations of all existing and proposed utilities, sanitary sewers and waterlines within 50 feet of property lines of the project site;
 - (g) Proposed final changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added;
 - (h) Proposed final structures, roads, paved areas and buildings; and
 - (i) A fifteen-foot-wide access easement around all stormwater BMPs that would provide ingress to and egress from a public right-of-way.
- (2) A description of how each permanent stormwater BMP will be operated and maintained and the identity of the person(s) responsible for operations and maintenance.
 - (3) The name of the project site, the name and address of the owner of the property and the name of the individual or firm preparing the plan.
 - (4) A statement, signed by the landowner, acknowledging that the stormwater BMPs are fixtures that can be altered or removed only after approval by the municipality.

§ 106-13. Responsibilities for operations and maintenance of BMPs.

- A. The BMP operations and maintenance plan for the project site shall establish responsibilities for the continuing operation and maintenance of all permanent stormwater BMPs, as follows:

- (1) If a plan includes structures or lots which are to be separately owned and in which streets, sewers and other public improvements are to be dedicated to the municipality, stormwater BMPs may also be dedicated to and maintained by the municipality.
- (2) If a plan includes operations and maintenance by a single ownership or if sewers and other public improvements are to be privately owned and maintained, then the operation and maintenance of stormwater BMPs shall be the responsibility of the owner or private management entity.

B. The municipality shall make the final determination on the continuing operations and maintenance responsibilities. The municipality reserves the right to accept or reject the operations and maintenance responsibility for any or all of the stormwater BMPs.

§ 106-14. Municipality review of BMP operations and maintenance plan.

- A. The municipality shall review the BMP operations and maintenance plan for consistency with the purposes and requirements of this chapter and any permits issued by DEP.
- B. The municipality shall notify the applicant in writing whether the BMP operations and maintenance plan is approved.
- C. The municipality may require an as-built survey of all stormwater BMPs and an explanation of any discrepancies with the operations and maintenance plan.

§ 106-15. Adherence to approved BMP operations and maintenance plan.

It shall be unlawful to alter or remove any permanent stormwater BMP required by an approved BMP operations and

maintenance plan or to allow the property to remain in a condition which does not conform to an approved BMP operations and maintenance plan unless an exception is granted in writing by the municipality.

§ 106-16. Operations and maintenance agreement for privately owned stormwater BMPs.

- A. The property owner shall sign an operations and maintenance agreement with the municipality covering all stormwater BMPs that are to be privately owned. The agreement shall be substantially the same as the agreement in Appendix B of this chapter.²
- B. Other items may be included in the agreement where determined necessary to guarantee the satisfactory operation and maintenance of all permanent stormwater BMPs. The agreement shall be subject to the review and approval of the municipality.

§ 106-17. Stormwater management easements.

- A. Stormwater management easements are required for all areas used for off-site stormwater control unless a waiver is granted by the Municipal Engineer.
- B. Stormwater management easements shall be provided by the property owner if necessary for access for inspections and maintenance or preservation of stormwater runoff conveyance, infiltration and detention areas and other BMPs by persons other than the property owner. The purpose of the easement shall be specified in any agreement under § 106-16.

² Editor's Note: Appendix B is included at the end of this chapter.

§ 106-18. Recording of approved BMP operations and maintenance plan and related agreements.

- A. The owner of any land upon which permanent BMPs will be placed, constructed or implemented, as described in the BMP operations and maintenance plan, shall record the following documents in the office of the Recorder of Deeds for Westmoreland County within 15 days of approval of the BMP operations plan by the municipality:
- (1) The operations and maintenance plan or a summary thereof;
 - (2) Operations and maintenance agreements under § 106-16; and
 - (3) Easements under § 106-17.
- B. The municipality may suspend or revoke any approvals granted for the project site upon discovery of the failure of the owner to comply with this section.

§ 106-19. Municipal Stormwater BMP Operation and Maintenance Fund.

- A. If stormwater BMPs are accepted by the municipality for dedication, the municipality may require persons installing stormwater BMPs to pay a specified amount to the Municipal Stormwater BMP Operation and Maintenance Fund to help defray costs of operations and maintenance activities. The amount may be determined as follows:
- (1) If the BMP is to be owned and maintained by the municipality, the amount shall cover the estimated costs for operations and maintenance for 10 years, as determined by the municipality.
 - (2) The amount shall then be converted to present worth of the annual series values.

- B. If a BMP is proposed that also serves as a recreation facility (e.g., ball field, lake), the municipality may adjust the amount due accordingly.

ARTICLE V
Inspections and Right of Entry

§ 106-20. Inspections.

- A. DEP or its designees (e.g., County Conservation Districts) normally ensure compliance with any permits issued, including those for stormwater management. In addition to DEP compliance programs, the municipality or its designee may inspect all phases of the construction, operations, maintenance and any other implementation of stormwater BMPs.
- B. During any stage of the regulated earth disturbance activities, if the municipality or its designee determines that any BMPs are not being implemented in accordance with this chapter, the municipality may suspend or revoke any existing permits or other approvals until the deficiencies are corrected.

§ 106-21. Right of entry.

- A. Upon presentation of proper credentials, duly authorized representatives of the municipality may enter at reasonable times upon any property within the municipality to inspect the implementation, condition, or operation and maintenance of the stormwater BMPs in regard to any aspect governed by this chapter.
- B. BMP owners and operators shall allow persons working on behalf of the municipality ready access to all parts of the premises for the purposes of determining compliance with this chapter.
- C. Persons working on behalf of the municipality shall have the right to temporarily locate on any BMP in the

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municipality such devices as are necessary to conduct monitoring and/or sampling of the discharges from such BMP.

- D. Unreasonable delays in allowing the municipality access to a BMP is a violation of this article.

ARTICLE VI
Fees and Expenses

§ 106-22. General.

The municipality may charge a reasonable fee for review of BMP operations and maintenance plans to defray review costs incurred by the municipality. The applicant shall pay all such fees.

§ 106-23. Expenses covered by fees.

The fees required by this chapter may cover:

- A. Administrative/clerical costs.
- B. The review of the BMP operations and maintenance plan by the Municipal Engineer.
- C. The site inspections, including, but not limited to, preconstruction meetings, inspections during construction of stormwater BMPs and final inspection upon completion of the stormwater BMPs.
- D. Any additional work required to monitor and enforce any provisions of this chapter, correct violations and assure proper completion of stipulated remedial actions.

ARTICLE VII
Prohibitions

§ 106-24. Prohibited discharges.

- A. No person in the municipality shall allow or cause to allow stormwater discharges into the municipality's separate storm sewer system which are not composed entirely of stormwater except as provided in Subsection B below and discharges allowed under a state or federal permit.
- B. Discharges which may be allowed, based on a finding by the municipality that the discharge(s) do not significantly contribute to pollution to surface waters of the commonwealth, are:
- (1) Discharges from fire-fighting activities.
 - (2) Potable water sources, including dechlorinated waterline and fire hydrant flushings.
 - (3) Irrigation drainage.
 - (4) Routine external building washdown (which does not use detergents or other compounds).
 - (5) Air-conditioning condensate.
 - (6) Water from individual residential car washing.
 - (7) Springs.
 - (8) Water from crawl space pumps.
 - (9) Uncontaminated water from foundation or from footing drains.
 - (10) Flows from riparian habitats and wetlands.
 - (11) Lawn watering.
 - (12) 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.

(13) Dechlorinated swimming pool discharges.

(14) Uncontaminated groundwater.

- C. In the event that the municipality determines that any of the discharges identified in Subsection B significantly contribute to pollution of waters of the commonwealth, or is so notified by DEP, the municipality will notify the responsible person to cease the discharge.
- D. Upon notice provided by the municipality under Subsection C, the discharger will have a reasonable time, as determined by the municipality, to cease the discharge consistent with the degree of pollution caused by the discharge.
- E. Nothing in this section shall affect a discharger's responsibilities under state law.

§ 106-25. Prohibited connections.

The following connections are prohibited, except as provided in § 106-24B above:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows any nonstormwater discharge, including sewage, process wastewater and wash water, to enter the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks; and
- B. Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system which has not been documented in plans, maps or equivalent records and approved by the municipality.

§ 106-26. Roof drains.

- A. Roof drains shall not be connected to streets, sanitary or storm sewers or roadside ditches, except as provided in § 106-26B.

- B. When it is more advantageous to connect directly to streets or storm sewers, connections of roof drains to streets or roadside ditches may be permitted by the municipality.
- C. Roof drains shall discharge to infiltration areas or vegetative BMPs to the maximum extent practicable.

§ 106-27. Alteration of BMPs.

- A. No person shall modify, remove, fill, landscape or alter any existing stormwater BMP unless it is part of an approved maintenance program without the written approval of the municipality.
- B. No person shall place any structure, fill, landscaping or vegetation into a stormwater BMP or within a drainage easement which would limit or alter the functioning of the BMP without the written approval of the municipality.

**ARTICLE VIII
Enforcement and Penalties**

§ 106-28. Public nuisance.

- A. The violation of any provision of this chapter is hereby deemed a public nuisance.
- B. Each day that a violation continues shall constitute a separate violation.

§ 106-29. Enforcement generally.

- A. Whenever the municipality finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the municipality may order compliance by written notice to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses and reporting;
 - (2) The elimination of prohibited connections or discharges;
 - (3) Cessation of any violating discharges, practices or operations;
 - (4) The 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;
 - (6) The implementation of stormwater BMPs; and
 - (7) Operation and maintenance of stormwater BMPs.
- B. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violations(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the municipality or designee, and the expense thereof shall be charged to the violator.
- C. Failure to comply within the time specified shall also subject such person to the penalty provisions of this chapter. 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.

§ 106-30. 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;

- (2) A violation of any provision of this chapter; or
 - (3) The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others.
- B. A suspended permit or approval shall be reinstated by the municipality when:
- (1) The Municipal Engineer or designee has inspected and approved the corrections to the stormwater BMPs or the elimination of the hazard or nuisance; and/or
 - (2) The municipality is satisfied that the violation of the chapter, law or rule and regulation has been corrected.
- C. A permit or approval which has been revoked by the municipality cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this chapter.

§ 106-31. Violations and penalties.

- A. Any person violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$300 for each violation, recoverable with costs, or imprisonment of not more than 30 days, or both. Each day that the violation continues shall be a separate offense.
- B. In addition, the municipality, through its Solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

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§ 106-32. Appeals.

Any person aggrieved by any action of the municipality or its designee relevant to the provisions of this chapter may appeal to the relevant judicial or administrative body according to law within the time period allowed.

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APPENDIX A

Low Impact Development Practices

Alternative Approach for Managing Stormwater Runoff

Natural hydrologic conditions may be altered radically by poorly planned development practices, such as introducing unneeded impervious surfaces, destroying existing drainage swales, constructing unnecessary storm sewers, and changing local topography. A traditional drainage approach of development has been to remove runoff from a site as quickly as possible and capture it in a detention basin. This approach leads ultimately to the degradation of water quality as well as expenditure of additional resources for detaining and managing concentrated runoff at some downstream location.

The recommended alternative approach is to promote practices that will minimize postdevelopment runoff rates and volumes which will minimize needs for artificial conveyance and storage facilities. To simulate predevelopment hydrologic conditions, forced infiltration is often necessary to offset the loss of infiltration by creation of impervious surfaces. The ability of the ground to infiltrate depends upon the soil types and its conditions.

Preserving natural hydrologic conditions requires careful alternative site design considerations. Site design practices include preserving natural drainage features, minimizing impervious surface area, reducing the hydraulic connectivity of impervious surfaces and protecting natural depression storage. A well-designed site will contain a mix of all those

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features. The following describes various techniques to achieve the alternative approach:

Preserving Natural Drainage Features. Protecting natural drainage features, particularly vegetated drainage swales and channels, is desirable because of their ability to infiltrate and attenuate flows and to filter pollutants. However, this objective is often not accomplished in land development. In fact, commonly held drainage philosophy encourages just the opposite pattern -- streets and adjacent storm sewers typically are located in the natural headwater valleys and swales, thereby replacing natural drainage functions with a completely impervious system. As a result, runoff and pollutants generated from impervious surfaces flow directly into storm sewers with no opportunity for attenuation, infiltration or filtration. Developments designed to fit site topography also minimizes the amount of grading on site.

Protecting Natural Depression Storage Areas. Depressional storage areas have no surface outlet or drain very slowly following a storm event. They can be commonly seen as ponded areas in farm fields during the wet season or after large runoff events. Traditional development practices eliminate these depressions by filling or draining, thereby obliterating their ability to reduce surface runoff volumes and trap pollutants. The volume and release-rate characteristics of depressions should be protected in the design of the development site. The depressions can be protected by simply avoiding the depression or by incorporating its storage as additional capacity in required detention facilities.

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Avoiding Introduction of Impervious Areas. Careful site planning should consider reducing impervious coverage to the maximum extent possible. Building footprints, sidewalks, driveways and other features producing impervious surfaces should be evaluated to minimize impacts on runoff.

Reducing the Hydraulic Connectivity of Impervious Surfaces. Impervious surfaces are significantly less of a problem if they are not directly connected to an impervious conveyance system (such as storm sewer). Two basic ways to reduce hydraulic connectivity are routing of roof runoff over lawns and reducing the use of storm sewers. Site grading should promote increasing travel time of stormwater runoff and should help reduce concentration of runoff to a single point in the development.

Routing Roof Runoff Over Lawns. Roof runoff can be easily routed over lawns in most site designs. The practice discourages direct connections of downspouts to storm sewers or parking lots. The practice also discourages sloping driveways and parking lots to the street. By routing roof drains and crowning the driveway to run off to the lawn, the lawn is essentially used as a filter strip.

Reducing the Use of Storm Sewers. By reducing use of storm sewers for draining streets, parking lots and backyards, the potential for accelerating runoff from the development can be greatly reduced. The practice requires greater use of swales and may not be practical for some development sites, especially if there are concerns for areas that do not drain in a "reasonable"

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time. The practice requires educating local citizens and public works officials, who expect runoff to disappear shortly after a rainfall event.

Reducing Street Widths. Street widths can be reduced by either eliminating on-street parking or by reducing roadway widths. Municipal planners and traffic designers should encourage narrower neighborhood streets which ultimately could lower maintenance.

Limiting Sidewalks to One Side of the Street. A sidewalk on one side of the street may suffice in low-traffic neighborhoods. The lost sidewalk could be replaced with bicycle/recreational trails that follow back-of-lot lines. Where appropriate, backyard trails should be constructed using pervious materials.

Using Permeable Paving Materials. These materials include permeable interlocking concrete paving blocks or porous bituminous concrete. Such materials should be considered as alternatives to conventional pavement surfaces, especially for low use surfaces such as driveways, overflow parking lots and emergency access roads.

Reducing Building Setbacks. Reducing building setbacks reduces driveway and entry walks and is most readily accomplished along low-traffic streets where traffic noise is not a problem.

Constructing Cluster Developments. Cluster developments can also reduce the amount of impervious area for a given number of lots. The biggest savings is in street length, which also will reduce costs of the

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development. Cluster development clusters the construction activity onto less sensitive areas without substantially affecting the gross density of development.

In summary, a careful consideration of the existing topography and implementation of a combination of the above mentioned techniques may avoid construction of costly stormwater control measures. Other benefits include reduced potential of downstream flooding, water quality degradation of receiving streams/water bodies and enhancement of aesthetics and reduction of development costs. Beneficial results include more stable baseflows in receiving streams, improved groundwater recharge, reduced flood flows, reduced pollutant loads and reduced costs for conveyance and storage.

STORMWATER MANAGEMENT

APPENDIX B

Stormwater Best Management Practices Operations and
Maintenance Agreement

This agreement, made and entered into this _____ day of _____, 200__, by _____ and _____ between _____, (hereinafter the "landowner"), and _____, _____ County, Pennsylvania, (hereinafter "municipality");

Witnesseth

Whereas, the landowner is the owner of certain real property as recorded by deed in the land records of _____ County, Pennsylvania, Deed Book _____ at Page _____, (hereinafter "property").

Whereas, the landowner is proceeding to build and develop the property; and

Whereas, the stormwater management BMP Operations and Maintenance Plan approved by the municipality (hereinafter referred to as the "plan") for the property identified herein, which is attached hereto as Appendix A and made part hereof, as approved by the municipality, provides for management of stormwater within the confines of the property through the use of best management practices ("BMPs"); and

Whereas, the municipality, and the landowner, his successors and assigns, agree that the health, safety and welfare of the residents of the municipality and the protection and maintenance of water quality require that on-site stormwater best management practices be constructed and maintained on the property; and

Whereas, for the purposes of this agreement, the following definitions shall apply:

BMP – BEST MANAGEMENT PRACTICE -- Activities, facilities, designs, measures or procedures used to manage stormwater impacts from land development, to protect and

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maintain water quality and groundwater recharge and to otherwise meet the purposes of the Municipal Stormwater Management Ordinance, including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffers, sand filters and detention basins.

INFILTRATION TRENCH – A BMP surface structure designed, constructed and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer.

SEEPAGE PIT – An underground BMP structure designed, constructed and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer.

RAIN GARDEN – A BMP overlain with appropriate mulch and suitable vegetation designed, constructed and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer; and

Whereas, the municipality requires, through the implementation of the plan, that stormwater management BMP's as required by said plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the landowner, his successors and assigns; and

Now, therefore, in consideration of the foregoing promises, the mutual covenants contained herein and the following terms and conditions, the parties hereto agree as follows:

1. The BMPs shall be constructed by the landowner in accordance with the plans and specifications identified in the plan.
2. The landowner shall operate and maintain the BMP(s) as shown on the plan in good working order acceptable to the municipality and in accordance with the specific maintenance requirements noted on the plan.

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3. The landowner hereby grants permission to the municipality, its authorized agents and employees to enter upon the property, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the municipality shall notify the landowner prior to entering the property.
4. In the event the landowner fails to operate and maintain the BMP(s) as shown on the plan in good working order acceptable to the municipality, the municipality or its representatives may enter upon the property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the municipality to erect any permanent structure on the land of the landowner. It is expressly understood and agreed that the municipality is under no obligation to maintain or repair said facilities, and in no event shall this agreement be construed to impose any such obligation on the municipality.
5. In the event the municipality, pursuant to this agreement, performs work of any nature or expends any funds in performance of said work for labor, use of equipment, supplies, materials and the like, the landowner shall reimburse the municipality for all expenses (direct and indirect) incurred within 10 days of receipt of invoice from the municipality.
6. The intent and purpose of this agreement is to ensure the proper maintenance of the on-site BMP(s) by the landowner; provided, however, that this agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.
7. The landowner, its executors, administrators, assigns and other successors in interests shall release the municipality's employees and designated representatives from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said employees

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and representatives from the construction, presence, existence or maintenance of the BMP(s) by the landowner or municipality. In the event that a claim is asserted against the municipality, its designated representatives or employees, the municipality shall promptly notify the landowner and the landowner shall defend, at his own expense, any suit based on the claim. If any judgment or claims against the municipality's employees or designated representatives shall be allowed, the landowner shall pay all costs and expenses regarding said judgment or claim.

- 8. The municipality shall inspect the BMP(s) at a minimum of once every three years to ensure their continued functioning.

This agreement shall be recorded at the office of the Recorder of Deeds of Westmoreland County, Pennsylvania, and shall constitute a covenant running with the property and/or equitable servitude and shall be binding on the landowner, his administrators, executors, assigns, heirs and any other successors in interests in perpetuity.

Attest:

Witness the following signatures and seals:

(Seal)
municipality:

For the

(Seal)

For the landowner:

STORMWATER MANAGEMENT

Attest:

(City, Borough,
Township)

County of _____, Pennsylvania

I, _____, a
Notary Public in and for the county and state aforesaid, whose commission
expires on the _____ day of _____, 20____, do hereby
certify that

whose name(s) is/are signed to the foregoing agreement bearing date of the
_____ day of _____, 20____,
has acknowledged the same before me in my said county and state.

Given under my hand this _____ day of _____,
20____.

Notary Public

(Seal)