

Chapter 182

STORMWATER MANAGEMENT

ARTICLE I General Provisions

- § 182-1. Short title.
- § 182-2. Statement of findings.
- § 182-3. Purpose.
- § 182-4. Statutory authority.
- § 182-5. Applicability.
- § 182-6. Compatibility with other requirements.
- § 182-7. Interpretation.
- § 182-8. Erroneous permit.
- § 182-9. Duty of persons engaged in development of land.
- § 182-10. Municipal liability disclaimer.

ARTICLE II Definitions

- § 182-11. Terms defined.

ARTICLE III Stormwater Management Standards

- § 182-12. General SWM site plan requirements.
- § 182-13. Exemptions.
- § 182-14. General design standards.
- § 182-15. Volume controls.
- § 182-16. Rate controls.
- § 182-17. Riparian buffers/riparian forest buffers.
- § 182-18. Prohibited discharges and connections.
- § 182-19. Roof drains, sump pumps and footer drains.
- § 182-20. Alteration of SWM BMPs.

ARTICLE IV Stormwater Management (SWM) Site Plan Requirements

- § 182-21. Plan submission.
- § 182-22. Plan requirements.
- § 182-23. Plan review and approval procedure.
- § 182-24. Revision of plans.
- § 182-25. Resubmission of disapproved SWM site plans.
- § 182-26. Authorization to construct; term of validity.
- § 182-27. Final inspection; completion certificate; as-built plans.

ARTICLE V Operation and Maintenance

- § 182-28. Determination of ownership and maintenance responsibility.
- § 182-29. Operation and maintenance agreements.
- § 182-30. Performance guarantee.

ARTICLE VI Fees and Expenses

- § 182-31. Fee schedule; applicant responsibility for payment.
- § 182-32. Expenses covered by fees.

ARTICLE VII Enforcement and Penalties

- § 182-33. Municipal inspection.
- § 182-34. Owner inspection.

**§ 182-35. Suspension or revocation of
SWM site plan approval.**

**ARTICLE VIII
Enactment**

§ 182-36. Enforcement.

§ 182-39. Effective date.

§ 182-37. Violations and penalties.

§ 182-38. Appeals.

[HISTORY: Adopted by the Borough Council of the Borough of McSherrystown 7-11-2012 by Ord. No. 2012-1.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Floodplain management — See Ch. 107.
Sewers — See Ch. 169.

Subdivision and land development — See Ch. 190.

**ARTICLE I
General Provisions**

§ 182-1. Short title.

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

§ 182-2. Statement of findings.

The governing body of McSherrystown Borough finds that:

- A. Stormwater is an important water resource which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- B. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtakes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood-control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.
- C. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of McSherrystown Borough, their resources, and the environment.

1. Editor's Note: This ordinance also repealed former Ch. 182, Stormwater Management, adopted 1-27-1993 by Ord. No. 1993-2 as Part 6, Ch. 1, Art. B, of the 1993 Code, as amended.

§ 182-3. Purpose.

The purpose of this chapter is to promote health, safety, and welfare within McSherrystown Borough and its watersheds by minimizing the harm and maximizing the benefits described in § 182-2 of this chapter, through provisions designed to:

- A. Meet 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.
- B. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source.
- D. Provide procedures and performance standards for stormwater planning and management.
- E. Maintain groundwater recharge to prevent degradation of surface water and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and streambeds.
- G. Provide proper operation and maintenance of all stormwater management best management practices that are implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements.

§ 182-4. Statutory authority.

The municipality is empowered to regulate land use activities that affect stormwater impacts by the authority of the Act of July 31, 1968, P.L. 805 (Act 247), 53 P.S. § 10101 et seq., as amended (Pennsylvania Municipalities Planning Code), and the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1 et seq., as amended, the "Storm Water Management Act."

§ 182-5. Applicability.

- A. All regulated activities, as defined in Article II, and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this chapter.
- B. Any submission that does not require a stormwater management plan at the time of subdivision or land development will still be required to address stormwater management at the time the individual lots are developed or construction commences, unless said subdivision proposes infrastructure features, such as a cul-de-sac street, for which stormwater management controls are ordinarily required.
- C. Development of the individual lots is subject to stormwater management as defined within the chapter.

§ 182-6. Compatibility with other requirements.

Approvals issued and actions taken under this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation, or ordinance. In the event of a conflict between this chapter and any other ordinance, the more restrictive ordinance shall apply.

§ 182-7. Interpretation.

Unless otherwise expressly stated, the succeeding shall, for the purposes of this chapter, be interpreted in the following manner:

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

§ 182-8. Erroneous permit.

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

§ 182-9. Duty of persons engaged in development of land.

Notwithstanding any provision(s) of this chapter, including exemptions, any landowner or any person engaged in 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 shall include actions as are required to manage the rate, volume, direction, and quality of resulting stormwater runoff in a manner which adequately protects health, property and water quality.

§ 182-10. Municipal liability disclaimer.

- A. Neither the granting of any approval under this chapter, nor the compliance with the provisions of this chapter, or with any condition imposed by a municipal official hereunder, shall relieve any person from any responsibility or damage to persons or

property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the municipality for damages to persons or property.

- B. The granting of a permit which includes any stormwater management facilities shall not constitute a representation, guarantee, or warranty of any kind by the municipality, or by an official or employee thereof, of the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result pursuant thereto.

ARTICLE II

Definitions

§ 182-11. Terms defined.

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

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

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, land clearing, plowing, disking, harrowing, planting, harvesting crops or the pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

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

BEST MANAGEMENT PRACTICE (BMP) — Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this chapter.

BEST MANAGEMENT PRACTICE, NONSTRUCTURAL — Operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff.

BEST MANAGEMENT PRACTICE, STRUCTURAL — Measures consisting of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands to small-scale underground treatment systems, infiltration facilities, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

BMP MANUAL — Pennsylvania Stormwater Best Management Practices Manual, Pennsylvania Department of Environmental Protection, December 2006 (Document No. 363-0300-002), as amended and updated.

CULVERT — A structure which carries surface water through an obstruction.

DAM — An impoundment structure regulated by the Pennsylvania DEP Chapter 105 regulations.

DEP — The Pennsylvania Department of Environmental Protection.

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

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

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

DISCONNECTED IMPERVIOUS AREA (DIA) — An impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration, and/or increased time of concentration.

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

DRAINAGE PLAN (also stormwater management plan) — The documentation of the stormwater management system, if any, to be used for a given project site.

EROSION AND SEDIMENTATION CONTROL PLAN (E&S PLAN) — A site-specific plan consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during and after earth disturbance activities.

E&S MANUAL — The Pennsylvania DEP Erosion and Sedimentation Control Manual, as amended and updated.

EARTH DISTURBANCE ACTIVITY — A construction or other human activity which disturbs the surface of the land, including land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy-use areas, timber harvesting activities, road maintenance activities, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

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

EVAPOTRANSPIRATION — The combined process of water surface evaporation, soil moisture evaporation, and plant transpiration.

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

FEMA — Federal Emergency Management Agency.

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

FOREST MANAGEMENT/TIMBER OPERATIONS — Planning and activities necessary for the management of forestland. These include conducting a timber inventory, preparation of a forest management plan, silvicultural treatment, developing or establishing a cutting budget, logging road design and construction, timber harvesting, site preparation, and reforestation.

HYDROLOGIC SOIL GROUP (HSG) — A group of soils having similar runoff potential under similar storm and cover conditions. HSGs range from A to D, with A soils being the most pervious and D soils being the least pervious.

IMPERVIOUS SURFACE (IMPERVIOUS AREA) — A surface that prevents the infiltration of water into the ground. Impervious surfaces and areas include but are not limited to roofs, additional indoor living spaces, patios and decks, garages, storage sheds and similar structures, streets, driveways, access drives, parking areas, and sidewalks. Any areas designed to be covered by loose surfacing materials such as gravel, stone and/or crushed stone and intended for storage of and/or travel by vehicles or pedestrians shall be considered impervious. Surfaces or areas designed, constructed and maintained to permit infiltration may be considered pervious.

INFILTRATION — Water flowing downward through the ground surface.

IN-KIND REPAIR/REPLACEMENT — Repair or replacement which uses the same or similar materials in the same location.

INVASIVE/EXOTIC PLANTS — Plant species on the "Invasive Exotic Plants in Pennsylvania List" published by the Pennsylvania Department of Conservation and Natural Resources, as amended.²

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

LAND DEVELOPMENT — Shall include any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or

2. Editor's Note: Information on invasive plants in Pennsylvania is on file in the Borough offices.

for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features.

B. A subdivision of land.

C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.³

LIMIT OF DISTURBANCE — A line provided on the E&S plan or SWM plan that indicates the total area to be disturbed over the life of the project.

LOADING RATIO — The ratio of impervious area draining to a stormwater management facility to the area of the stormwater management facility itself.

MUNICIPALITY — McSherrystown Borough, Adams County, Pennsylvania.

NOXIOUS PLANT — Those species as listed in the Pennsylvania Noxious Weed Control Law (3 P.S. §§ 255.1 through 255.11), as amended and/or recodified.

NPDES — National Pollution Discharge Elimination System, as authorized by the Clean Water Act (33 U.S.C. § 1251 et seq. [1972], as amended).

NPDES PERMIT — A permit required for stormwater discharges associated with construction activities, as required by the Clean Water Act (33 U.S.C. § 1251 et seq. [1972], as amended).

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

O&M — Operation and maintenance.

O&M PLAN — Operation and maintenance plan.

PCSM — Post-construction stormwater management.

PCSM PLAN — Post-construction stormwater management plan.

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

PENNSYLVANIA MUNICIPALITIES PLANNING CODE — Act of 1968, P.L. 805, No. 247, as reenacted and amended.⁴

PERVIOUS AREA — Any area not defined as impervious.

POINT SOURCE — Any discernible, confined, or discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, CAAP, CAFO, landfill leachate collection system, or vessel or other floating craft from which pollutants are or may be discharged.

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

4. Editor's Note: See 53 P.S. § 10101 et seq.

PROJECT SITE (SITE) — The specific area of land where any regulated activity in the municipality is planned for, conducted on, constructed, or maintained.

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

REDUCTION FACTOR — A form of safety factor that, when multiplied by the site-tested infiltration rate, is used to help determine the design infiltration rate for a stormwater management facility.

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

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.

RETENTION BASIN — An impoundment in which stormwater is stored and not released to surface waters of the commonwealth.

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

RIPARIAN FOREST BUFFER — A type of riparian buffer that consists of permanent vegetation that is predominantly native trees and shrubs along surface waters that is maintained in a natural state or sustainably managed to protect and enhance water quality, stabilize stream channels and banks, and separate land use activities from surface waters.

ROAD MAINTENANCE ACTIVITIES — See the definition as found in Title 25, Chapter 102.1.⁵

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

SAFETY FACTOR — An adjustment applied to a site-tested infiltration rate to ensure that the designed infiltration rate for a stormwater management facility is less than that shown under tested conditions.

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

SIMPLIFIED APPROACH (SA) — A process that property owners proposing certain types of projects may utilize to prepare a stormwater management plan without having to conduct the detailed technical analysis and design required for larger projects.

SPECIAL MANAGEMENT AREAS — Those areas outlined in Chapter 7 of the BMP Manual. Special management areas include brownfields, highways and roads, karst areas, mined lands, water supply well areas, surface water supplies and special protection waters.

5. Editor's Note: See 25 Pa. Code § 102.1.

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

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

STORMWATER — Drainage runoff from the surface of the land resulting from precipitation, snow melt 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. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration facilities.

STORMWATER MANAGEMENT PLAN (the County Plan) — The Adams County Stormwater Management Plan of January 26, 2012, which incorporates the requirements of the Act of October 4, 1978, P.L. 864 (Act 167), as amended, and known as the "Storm Water Management Act."

STORMWATER MANAGEMENT SITE PLAN (SWM site plan) — A plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the development site in accordance with this chapter.

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

SWALE — A low-lying stretch of land which gathers and/or carries surface water runoff.

SWM — Stormwater management.

USDA — United States Department of Agriculture.

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

WATERS OF 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 and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the commonwealth.

WETLAND — Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support,

a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

ARTICLE III
Stormwater Management Standards

§ 182-12. General SWM site plan requirements.

- A. For all regulated activities, unless preparation of an SWM site plan is specifically exempted in § 182-13:
- (1) Preparation and implementation of an approved SWM site plan is required.
 - (2) No regulated activities shall commence until the municipality issues written approval of an SWM site plan which demonstrates compliance with the requirements of this chapter.
- B. All SWM site plans for regulated activities shall include such measures as necessary to:
- (1) Protect health, safety, and property.
 - (2) Meet the water quality goals of this chapter, as stated in § 182-3, by including measures that:
 - (a) Minimize disturbance to floodplains, wetlands, wooded areas, and existing vegetation.
 - (b) Maintain or extend riparian buffers.
 - (c) Avoid erosive flow conditions in natural flow pathways.
 - (d) Minimize thermal impacts to waters of the commonwealth.
 - (e) Disconnect impervious surfaces by directing runoff to pervious areas.
 - (f) Minimize soil disturbance and compaction.
 - (3) Incorporate the techniques for low-impact development practices described in the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual).
- C. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without the written notification of the adjacent property owner(s) by the developer. Copies of all such notifications shall be included in the SWM site plan submission.
- D. For all regulated activities where erosion and sediment control is required in accordance with Title 25 of the Pennsylvania Code and the Clean Streams Law, the SWM site plan shall include the required erosion and sedimentation control measures. Necessary E&S BMPs shall be designed in accordance with the Erosion and Sediment Pollution Control Program Manual (E&S Manual) 2, No. 363-2134-008 (April 15, 2000), as amended and updated. Approval of the SWM site plan by McSherrystown Borough shall be

conditioned on the applicant obtaining erosion and sedimentation control approval from the appropriate agency(ies), when applicable.

- E. For all regulated activities where NPDES permitting is required in accordance with the Clean Water Act (33 U.S.C. § 1251 et seq. [1972], as amended), the SWM site plan shall include the information required in the applicant's NPDES permit application. Approval of the SWM site plan by McSherrystown Borough shall be conditioned on the applicant obtaining NPDES permit approval from the appropriate agency(ies), when applicable.
- F. For all regulated activities, implementation of the volume controls in § 182-15 is required.
- G. Special management areas. SWM site plans involving regulated activities within special management areas shall be prepared in a manner consistent with the guidance provided in Chapter 7 of the BMP Manual. The SWM site plan submission shall include design details for SWM BMPs within said special management area.
- H. An SWM site plan may propose that stormwater related to the proposed regulated activities be accommodated by existing stormwater management facilities on adjoining or nearby properties, provided that the SWM site plan documents the following:
 - (1) The use of the stormwater management facilities located on said adjoining or nearby property is approved in writing by the owner of the property.
 - (2) The stormwater management facilities located on said adjoining or nearby property are designed in a manner that can accommodate the stormwater management needs of the regulated activity in a manner consistent with all requirements of this chapter. The SWM site plan shall include all documentation necessary for McSherrystown Borough to confirm such compliance.
- I. The design storm volumes to be used in the analysis of peak rates of discharge shall be obtained from the Precipitation Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, as amended and updated, U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland. NOAA's Atlas 14 can be accessed at <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
- J. SWM site plans, once approved by McSherrystown Borough, shall remain on site throughout the duration of the regulated activity and be available for review as may be necessary by representatives of McSherrystown Borough.
- K. The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.
- L. McSherrystown Borough may, after consultation with DEP, approve measures for meeting the state water quality requirements other than those in this chapter, provided that they meet the minimum requirements of, and do not conflict with, state law, including, but not limited to, the Clean Streams Law. The municipality shall maintain a record of consultations with DEP pursuant to this subsection.

§ 182-13. Exemptions.

- A. A property owner or developer of any regulated activity that meets the following exemption criteria is, upon approval from McSherrystown Borough, exempt from the formal SWM plan submission requirements of this chapter as specified herein. However, the property owner or developer shall be subject to all other requirements of this chapter other than the formal SWM plan submission requirements for which an exemption or exemptions have been authorized. The criteria for exemption in this section apply to the total development proposed, including instances in which the development is proposed to take place in phases. The date of enactment of this chapter shall be the starting point from which future development and the respective exemption criteria shall be cumulatively considered and regulated.
- (1) Regulated activities that involve equal to or less than 1,000 square feet of impervious surface may be exempted from the peak rate control, volume control and the SWM site plan preparation and submission requirements of this chapter. The applicant shall complete Page 1 of the municipal stormwater management worksheet from the Stormwater Management Design Assistance Manual (see County Plan Appendix C) and file said worksheet with McSherrystown Borough.
 - (2) Regulated activities that involve greater than 1,000 square feet and equal to or less than 10,000 square feet of impervious area, and where all the proposed impervious area can be entirely disconnected, may be exempted from the peak rate control, volume control, and the SWM site plan preparation and submission requirements of this chapter. The applicant shall complete the stormwater management worksheets from the Stormwater Management Design Assistance Manual (see County Plan Appendix C) and file said worksheets with McSherrystown Borough.
 - (3) Regulated activities that involve greater than 1,000 square feet and equal to or less than 5,000 square feet of impervious area may be exempted from the peak rate control and volume control preparation and submission requirements of this chapter. A minor stormwater site plan, as detailed in the Stormwater Management Design Assistance Manual (see County Plan Appendix C), shall be submitted to McSherrystown Borough instead of the submission of a full SWM site plan in accordance with Article IV of this chapter.⁶
 - (4) Agricultural activities shall be exempt from the rate control, volume control and SWM site plan preparation and submission requirements of this chapter, provided that the agricultural activities are performed in accordance with the requirements of 25 Pa. Code Chapter 102. Further, such activities shall not be subject to the exemption approval process of § 182-13B of this chapter.
 - (5) Forest management and timber operations are exempted from the rate control, volume control and SWM site plan preparation and submission requirements of this chapter, provided that the forest management and timber operations are performed in accordance with the requirements of 25 Pa. Code Chapter 102.

6. Editor's Note: Appendix C, concerning the simplified approach, is on file in the Borough offices.

- (6) Regulated activities involving domestic gardening for single-family consumption shall be exempted from volume control, rate control, and SWM site plan preparation and submission requirements of this chapter and shall not be subject to the exemption approval process of § 182-13B of this chapter.
 - (7) In-kind repair, in-kind replacement, and maintenance of existing surfaces and structures shall be exempted from volume control, rate control, and SWM site plan preparation and submission requirements of this chapter and shall not be subject to the exemption approval process of § 182-13B of this chapter.
- B. Authorization of exemptions. McSherrystown Borough shall determine, in accordance with the following requirements and process, whether a proposed regulated activity may be exempted from any of the requirements of this chapter:
- (1) The property owner or developer proposing the regulated activity shall submit a written request for said proposed regulated activity to be exempted from allowable requirements of this chapter pursuant to Subsection A. The written request shall identify the project and shall indicate the specific exemption criteria, as listed in Subsection A, that apply to the project.
 - (2) Upon receipt of the exemption request form, the McSherrystown Borough Council or its designee shall either approve or deny the exemption request. If the exemption request is denied, the McSherrystown Borough Council or its designee shall direct the property owner or developer to submit the information required to demonstrate that the proposed regulated activity complies with the requirements of this chapter or meets the exemption criteria.
 - (3) Exemption request approval shall be at the discretion of McSherrystown Borough and shall be subject to the following:
 - (a) McSherrystown Borough may deny any exemption request or suspend or revoke any approved exemption request at any time for any project where McSherrystown Borough believes that the proposed regulated activity poses a threat to public health, safety, property, or the environment.
 - (b) Approval of an exemption request does not relieve the property owner or developer from other applicable requirements of this chapter or of other McSherrystown Borough ordinance or regulations.
 - (c) McSherrystown Borough reserves the right to deny an exemption request if a drainage problem is known or identified by McSherrystown Borough to exist or is expected to exist downstream from the proposed regulated activity.

§ 182-14. General design standards.

A. Impervious area.

- (1) The measurement of impervious areas shall include all of the impervious areas in the total proposed development, even if development is to take place in phases.

- (2) For development taking place in phases, the total proposed impervious area within the SWM site plan must be used in determining conformance with this chapter.
 - (3) For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this chapter, except that the volume controls in § 182-15 and the peak rate controls of § 182-16 do not need to be retrofitted to existing impervious areas that are not being altered by the proposed regulated activity.
- B. Normally dry, open-top storage facilities, designed as such, shall completely drain both the volume control and rate control capacities over a period of time not less than 24 hours and not more than 72 hours from the end of the design storm. However, any designed infiltration volume at such facilities is exempt from the minimum twenty-four-hour standard, i.e., may infiltrate in a shorter period of time, so long as none of the stormwater intended for infiltration is discharged into the surface waters of the commonwealth.
- C. Infiltration BMPs shall be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this chapter.

§ 182-15. Volume controls.

The low-impact development practices provided in the BMP Manual shall be utilized for all regulated activities. Water volume controls shall be implemented using the Design Storm Method in § 182-15A or the Simplified Method in § 182-15B. For regulated activity involving less than one acre of impervious coverage that does not require hydrologic routing to design the stormwater facilities, the applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology, and/or other factors. The Design Storm Method in § 152-15A shall be used for all regulated activity involving greater than one acre of impervious coverage.

- A. The Design Storm Method (CG-1 in the BMP Manual) may be used for any size of regulated activity. This method requires detailed modeling to achieve the following standards:
- (1) The post-development total runoff volume shall not increase for all storms equal to or less than the two-year twenty-four-hour duration precipitation.
 - (2) For modeling purposes:
 - (a) Existing (pre-development), nonforested, pervious areas must be considered meadow.
 - (b) Twenty percent of existing impervious area, when present, shall be considered meadow in the model for existing conditions.
- B. The Simplified Method (CG-2 in the BMP Manual) is independent of site conditions and may be used for projects involving regulated activities proposing equal to or less than

one acre of impervious coverage and that do not require design of stormwater storage facilities. When the Simplified Method is used to address stormwater management needs of new impervious surfaces, the following design standards shall be achieved:

- (1) Stormwater facilities shall capture at least the first two inches of runoff from all new impervious surfaces.
- (2) At least the first one inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow and shall not be released into the surface waters of the commonwealth. Removal options for the first one inch of runoff include, but are not necessarily limited to, reuse and infiltration.
- (3) Infiltration facilities shall be designed to accommodate infiltration of as much of the permanently removed runoff as site conditions will allow. If the soils within the project area do not allow for infiltration of the entire first one inch of runoff from new impervious surfaces, other forms of runoff volume control shall be used to achieve the required removal volume. Such measures may include, but are not limited to, vegetated roofs, bioretention, and capture-and-reuse systems. In addition, the infiltration alternative authorized in § 182-15C may be employed.
- (4) This method is exempt from the requirements of § 182-16, Rate controls.

C. Infiltration alternative. Where infiltration is not possible due to soil characteristics or is not desirable given other characteristics, water quality control may be proposed as an alternative to strict adherence to the volume control standards of § 182-15 of this chapter. Where water quality control is proposed, the following standards shall be achieved:

- (1) At a minimum, the following documentation shall be provided to justify the proposal to reduce the infiltration requirements:
 - (a) Description of and justification for field infiltration/permeability testing with respect to the type of test and test locations.
 - (b) An interpretive narrative describing existing soils of the site and their structure as these relate to the interaction between soils and water characteristics of the site. In addition to providing soil and soil profile descriptions, this narrative shall identify depth to seasonal water tables and depth to bedrock and provide a description of all subsurface elements (restrictive layers, geology, etc.) that influence the direction and rate of subsurface water movement.
 - (c) A qualitative assessment of the site's contribution to annual aquifer recharge shall be made, along with the identification of any restrictions or limitations associated with the use of designed infiltration facilities.
 - (d) The provided documentation must be signed and sealed by a professional engineer or geologist.
- (2) Water quality BMPs shall be implemented on all permanent stormwater discharges from the proposed project site to achieve pollutant removal efficiencies in accordance with Table 182-15.

Table 182-15. Required Pollutant Removal Efficiencies for Infiltration Alternatives

Pollutant Load	Units	Required Removal Efficiency (%)
Total suspended solids (TSS)	Pounds	85%
Total phosphorus (TP)	Pounds	85%
Total nitrate (NO ₃)	Pounds	50%

- (3) Design guidance from the most current version of the Pennsylvania Stormwater Best Management Practices Manual, or equivalent resource as precoordinated with McSherrystown Borough, shall be consulted when choosing design criteria for water quality BMPs.

§ 182-16. Rate controls.

- A. Post-development discharge rates shall not exceed the pre-development discharge rates for the one-, two-, five-, ten-, twenty-five-, fifty-, and one-hundred-year twenty-four-hour storms. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the pre-development analysis for one-, two-, five-, ten-, twenty-five-, fifty-, and one-hundred-year, twenty-four-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.
- B. For computation of pre-development peak discharge rates, 20% of existing impervious areas, when present, shall be considered meadow.

§ 182-17. Riparian buffers/riparian forest buffers.

Where an applicant proposes to utilize riparian buffers as the means to meet the requirements of this chapter, said riparian buffers shall be established and/or maintained in accordance with the BMP Manual or the publication Riparian Forest Buffer Guidance, published November 2010 by the Pennsylvania Department of Environmental Protection, and as may be amended or updated.

§ 182-18. Prohibited discharges and connections.

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the waters of the commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into surface waters of the commonwealth which are not composed entirely of stormwater, except as provided in Subsection C below and discharges allowed under a state or federal permit.

- C. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of the commonwealth:
- (1) Discharges from firefighting activities.
 - (2) Potable water sources, including water line flushing.
 - (3) Irrigation drainage.
 - (4) Air-conditioning condensate.
 - (5) Springs.
 - (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.
 - (15) Routine external building washdown (which does not use detergents or other compounds).
 - (16) Water discharged in well testing for potable water supplies.
- D. In the event that the municipality or DEP determines that any of the discharges identified in Subsection C significantly contribute to pollution of the waters of the commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge.

§ 182-19. Roof drains, sump pumps and footer drains.

Roof drains, sump pumps, and footer drains should discharge to infiltration or vegetative BMPs and, to the maximum extent practicable, satisfy the criteria for DIAs. Discharges of each should be conveyed in such a manner as not to cause water problems for adjoining property owners.

§ 182-20. Alteration of SWM BMPs.

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

ARTICLE IV**Stormwater Management (SWM) Site Plan Requirements****§ 182-21. Plan submission.**

- A. When a property owner or developer proposes a regulated activity, said property owner or developer shall submit an SWM site plan to demonstrate compliance with the stormwater management provisions of this chapter. Said submission shall be required by McSherrystown Borough unless said regulated activity is exempted from SWM site plan submission in accordance with the exemption criteria and exemption approval process established in § 182-13 of this chapter. Where McSherrystown Borough determines that the property owner or developer proposing the regulated activity is eligible to employ the process established in the Stormwater Management Design Assistance Manual (see Plan Appendix C) to address the stormwater management needs of a site, the submission of the required documentation from said manual shall substitute for the SWM site plan requirements of this article.
- B. Copies of the SWM site plan shall be distributed as follows:
 - (1) Two copies to the municipality.
 - (2) One copy to the McSherrystown Borough Engineer, when applicable.
 - (3) One copy to the Adams County Conservation District (if an NPDES permit is required).
 - (4) One copy to the Adams County Planning Commission (only if submitted as a component of a subdivision and land development plan in accordance with the McSherrystown Borough Subdivision and Land Development Ordinance).⁷
- C. Additional copies shall be submitted as requested by McSherrystown Borough.
- D. The property owner or developer shall submit a review fee in accordance with Article VI. Payment of the required fee shall be considered a component of the SWM site plan submission. The SWM site plan submission shall not be considered to be complete until such time that any required fee is paid.

§ 182-22. Plan requirements.

- A. The SWM site plan shall include the following information. Where the regulated activity for which an SWM site plan is being submitted is also subject to subdivision and/or land development plan review in accordance with the McSherrystown Borough Subdivision

7. Editor's Note: See Ch. 190, Subdivision and Land Development.

and Land Development Ordinance, the SWM site plan shall be submitted as a component of the subdivision or land development plan submission for the project and shall include the following information. Where the submission requirements of this section conflict with the submission requirements of the McSherrystown Borough Subdivision and Land Development Ordinance, the submission requirements of this chapter shall control.

- (1) The name of the development, the name and address of the owner of the property, and the name and address of the individual or firm preparing the SWM site plan. Also to be included are the name, address, signature and seal of any registered surveyor (attesting the accuracy of the boundary survey), professional engineer, landscape architect, or professional geologist (for geomorphological assessments) contributing to and/or responsible for any aspect of the SWM site plan.
- (2) A graphic and written plan scale of one inch equals no more than 50 feet. For parcels of 20 acres or more, the scale shall be one inch equals no more than 100 feet.
- (3) North point (arrow).
- (4) Existing and proposed land uses within the project boundary plus 25 feet outside the project boundary.
- (5) The location of existing and proposed utilities, stormwater facilities, sanitary sewers, and water lines within the project boundary and for the entire area within the first 25 feet beyond the project boundary.
- (6) Significant physical features and associated boundary limits, including flood hazard areas, sinkholes, existing drainage courses, and areas of natural vegetation.
- (7) Existing and proposed structures, buildings, streets, driveways, access drives, and parking areas.
- (8) The SWM site plan shall show the locations of existing and proposed on-lot wastewater facilities and water supply wells.
- (9) The location of the proposed regulated activity relative to streets, municipal boundaries, and other significant man-made features for the entire area within the first 25 feet beyond the project boundary.
- (10) A determination of site conditions in accordance with the BMP Manual. A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography, as well as for other environmentally sensitive areas, whether natural or man-made, including floodplains, streams, lakes, ponds, hydric soils, wetlands, brownfields, and wellhead protection zones.
- (11) Stormwater runoff design computations and documentation as specified in this chapter, or as otherwise necessary, to demonstrate compliance with the requirements of this chapter.
- (12) The overall stormwater management concept for the project, including any additional information required for a PCSM plan as applicable.

- (13) A hydrogeologic assessment of the effects of stormwater runoff on sinkholes, where present.
- (14) A description of permanent stormwater management techniques, including the construction specifications of the materials to be used for stormwater management facilities.
- (15) Plan and profile drawings of all SWM BMPs, including drainage structures, pipes, open channels, and swales.
- (16) Horizontal and vertical profiles of all open channels, including hydraulic capacity.
- (17) Proposed changes to the land surface and vegetative cover and the type and amount of existing and proposed impervious area.
- (18) Existing and final contours at intervals of two feet. In areas of slopes in excess of 15%, five-foot contour intervals may be used.
- (19) Drainage flow pathways.
- (20) The effect of the project in terms of runoff volumes, water quality, and peak flows on surrounding properties and aquatic features and on any existing stormwater conveyance system that may be affected by the project.
- (21) The effect of the proposed regulated activity in terms of runoff volumes and peak flows on adjacent properties and/or any existing municipal stormwater collection system that may receive runoff from the project site.
- (22) A map showing all existing man-made features beyond the subject parcel's boundary lines that may be affected by the proposed regulated activities.
- (23) Expected project time schedule.
- (24) An E&S plan, where applicable, as approved by the Adams County Conservation District.
- (25) An NPDES permit application, including PCSM plan, where applicable, as administratively reviewed and approved by the Adams County Conservation District.
- (26) The SWM site plan shall include an O&M plan for all existing and proposed physical stormwater management facilities. The plan shall address long-term ownership and maintenance responsibilities as well as schedules and estimated costs for maintenance activities. The O&M plan shall be prepared in accordance with the requirements of Article V of this chapter.
- (27) Provisions for permanent access or maintenance easements for all physical SWM BMPs, as necessary to implement the O&M plan.
- (28) A note on the SWM site plan indicating the location, and responsibility for maintenance, of SWM facilities and/or easements that would be located on

adjoining properties as a result of proposed regulated activities, and the location of such facilities and/or easements.

(29) The following signature block shall be provided:

_____, on this date, _____, has reviewed and hereby certifies that the SWM site plan meets all design standards and criteria of McSherrystown Borough Ordinance No. _____.

§ 182-23. Plan review and approval procedure.

- A. Preapplication meeting. Prior to proceeding with SWM site plan preparation and submission, the applicant is encouraged to request a preapplication meeting with McSherrystown Borough to discuss the plan concept and responsibility for submission of required documents and information. If the project requires an E&S plan or an NPDES permit, the applicant is encouraged to meet with a staff member of the Adams County Conservation District as well.
- B. SWM site plan review and approval procedure.
 - (1) If an SWM site plan is not submitted as a component of a subdivision and/or land development plan, the review of the SWM site plan, recommendations, approval, approval with conditions, or disapproval shall occur within 45 calendar days of submission to McSherrystown Borough. Where the applicant submits revisions to a previously submitted SWM site plan, either because the applicant has elected to revise the SWM site plan or as a result of a determination by McSherrystown Borough that a revision is necessary to meet the requirements of this chapter, this forty-five-day period shall be restarted. Should McSherrystown Borough fail to render a decision on the SWM site plan within this forty-five-day time period, the application shall be deemed approved. The review process shall include the following components.
 - (a) Upon receipt, the official accepting the SWM site plan shall forward a copy of the plan to the entities referenced in § 182-21B. The official accepting the SWM site plan shall also cause the application to be included on the agenda for the next available meeting of the McSherrystown Borough Planning Commission.
 - (b) The McSherrystown Borough Engineer shall review the SWM site plan for compliance with the requirements of this chapter and shall communicate his review to the McSherrystown Borough Planning Commission and the McSherrystown Borough Council.
 - (c) The McSherrystown Borough Planning Commission shall review the application and the review of the McSherrystown Borough Engineer at its next available meeting. The Planning Commission shall provide a recommendation regarding the SWM site plan in writing to the McSherrystown Borough Council.

- (d) The McSherrystown Borough Council shall consider the SWM site plan, the McSherrystown Borough Engineer's review and the recommendation of the McSherrystown Borough Planning Commission at its next available meeting. Following review of this information, the McSherrystown Borough Council shall approve, approve with conditions, or disapprove the SWM site plan.
 - (e) Decision notification procedure. In all cases, the decision of the McSherrystown Borough Council to approve, approve with conditions, or disapprove the SWM site plan shall be in writing and shall be delivered to the applicant no later than 15 days following the decision. If the SWM site plan is disapproved, the written decision of the McSherrystown Borough Council shall specify the defects in the application, shall describe the requirements which were not met and shall cite the provisions of the ordinance relied upon. If the SWM site plan is approved with conditions, the notification to the applicant shall state the acceptable conditions for approval and the time limit for satisfying such conditions.
- (2) If an SWM site plan is submitted as a component of a subdivision and/or land development plan, the SWM site plan shall be reviewed in accordance with the review process and time frame established in the McSherrystown Borough Subdivision and Land Development Ordinance and in accordance with Section 508 of the Pennsylvania Municipalities Planning Code.⁸
 - (3) NPDES permit technical coordination. Where the project for which an SWM site plan is submitted is subject to NPDES permitting, McSherrystown Borough shall notify the Adams County Conservation District when the applicant has achieved technical compliance with the requirements of this chapter. McSherrystown Borough may address this requirement through the completion of the technical review checklist for NPDES sites in Appendix D or comparable process as determined by McSherrystown Borough.⁹ Upon receipt of this notification, the Adams County Conservation District will acknowledge a general NPDES permit. In the case of an individual NPDES permit, the Adams County Conservation District will coordinate municipal reviews with the DEP Regional Office.
 - (4) NPDES permits and E&S plans. Where the project for which an SWM site plan is submitted is subject to NPDES permitting or the submission of an E&S Plan, or both, any final approval of the SWM site plan by McSherrystown Borough shall be conditioned on the applicant's receipt of the required NPDES permit or E&S plan approval, as appropriate.
 - (5) Decision notification procedure. In all cases, the decision of the McSherrystown Borough to approve, approve with conditions, or disapprove the SWM site plan shall be in writing and shall be delivered to the applicant no later than 15 calendar days following the decision. If the SWM site plan is disapproved, the written decision by the McSherrystown Borough Council shall specify the defects in the application, shall describe the requirements which were not met, and shall cite the

8. Editor's Note: See Ch. 190, Subdivision and Land Development, and 53 P.S. § 10508, respectively.

9. Editor's Note: A copy of said checklist is on file in the Borough offices.

provisions of the ordinance relied upon. If the SWM site plan is approved with conditions, the notification to the applicant shall state the acceptable conditions for approval and the time limit for satisfying such conditions. Should McSherrystown Borough fail to notify the applicant of the decision within this fifteen-calendar-day period, the application shall be deemed approved.

C. Waiver requests.

- (1) If an SWM site plan is not submitted as a component of a subdivision and/or land development plan, the McSherrystown Borough Council may accept a request for waiver of one or more of the requirements of this chapter. Any such waiver requests shall comply with the following requirements:
 - (a) The McSherrystown Borough Council may accept a request for waiver of the requirements of one or more provisions of this chapter if the literal enforcement will enact undue hardship because of peculiar conditions pertaining to the land in question, provided that McSherrystown Borough determines that such waiver will not be contrary to the public interest and that the purpose and intent of the chapter is observed.
 - (b) All requests for waivers from an applicant shall be in writing and shall accompany and be a part of the application for approval of an SWM site plan. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the ordinance involved, and the minimum waiver necessary to afford relief.
- (2) The McSherrystown Borough Council shall act to accept or reject requests for waivers within the context of its SWM site plan decisionmaking process established in § 182-23B(1) of this chapter. The decision of the McSherrystown Borough Council regarding acceptance of each request for waiver shall be incorporated into the written decision of the McSherrystown Borough Council for the overall SWM site plan as required in § 182-23B(3) of this chapter. The McSherrystown Borough Council shall keep a written record of all action on requests for waivers.
- (3) If an SWM site plan is submitted as a component of a subdivision and land development plan, requests for waiver to obtain relief from one or more of the requirements of this chapter shall be handled in accordance with the modification process established in the McSherrystown Borough Subdivision and Land Development Ordinance and Section 512.1 of the Pennsylvania Municipalities Planning Code.¹⁰
- (4) The final decision to approve or disapprove all accepted requests for waiver shall be made in accordance with § 182-12L.
- (5) In granting waivers, McSherrystown Borough Council may impose reasonable conditions at will, in its judgment, to secure substantially the objectives of the standards and requirements that are to be modified.

10. Editor's Note: See 53 P.S. § 10512.1.

§ 182-24. Revision of plans.

- A. SWM site plan not submitted as a component of a subdivision and/or land development plan. Revisions to a previously approved SWM site plan to incorporate a change in SWM BMPs or techniques, or the relocation or redesign of SWM BMPs, or different information about soil or other conditions from what was stated in the SWM site plan, shall be submitted by the applicant to McSherrystown Borough. McSherrystown Borough, at its sole discretion, may require a resubmission of the revised SWM site plan in accordance with this chapter, including applicable review fee. For NPDES permitted sites, any revised SWM site plan shall be resubmitted to the Adams County Conservation District for its review. In the case of an SWM site plan which contains minor deficiencies (such as a missing label, omission of a required note or minor construction detail). At its sole discretion, McSherrystown Borough may accept a resubmission of such SWM site plan without the requirement of a full review fee, or a lesser fee, as determined by McSherrystown Borough.
- B. SWM site plan submitted as a component of a subdivision and/or land development plan. A revision of an SWM site plan approved as a component of a subdivision and/or land development plan shall be treated as a revision of the subdivision and/or land development plan and shall be subject to the review process established in the McSherrystown Borough Subdivision and Land Development Ordinance.

§ 182-25. Resubmission of disapproved SWM site plans.

- A. SWM site plan not submitted as a component of a subdivision and/or land development plan. A previously disapproved SWM site plan may be resubmitted with the revisions addressing the defects of the original submission as listed in the McSherrystown Borough Subdivision and Land Development Ordinance. Decision notification provided in accordance with § 182-23B(1)(e). The resubmitted SWM site plan shall be reviewed and acted upon in accordance with § 182-23B(1) of this chapter. The applicable review fee must accompany the submission of a revised SWM site plan, unless such fee is waived by McSherrystown Borough.
- B. SWM site plan submitted as a component of a subdivision and/or land development plan. The resubmission of the SWM site plan originally submitted as a component of a subdivision and/or land development plan shall be treated as resubmission of said subdivision and/or land development plan and shall be subject to the review process established in the McSherrystown Borough Subdivision and Land Development Ordinance.

§ 182-26. Authorization to construct; term of validity.

- A. SWM site plans not submitted as a component of a subdivision and/or land development plan. McSherrystown Borough approval of an SWM site plan, when such plan is not submitted as a component of a subdivision and/or land development plan, authorizes the regulated activities contained in the SWM site plan for a maximum term of validity of five years following the date of approval. McSherrystown Borough may specify a term of validity shorter than five years in the decision notification for any specific SWM site

plan, particularly if the nature of the proposed SWM facilities requires more frequent maintenance and/or short-term replacement of certain components. Terms of validity shall commence on the date McSherrystown Borough signs the decision notification for an SWM site plan. If an approved SWM site plan is not completed according to § 182-27 within the term of validity, and if a request to extend the permit has not been submitted to McSherrystown Borough by the applicant, the permit terminates, and McSherrystown Borough may revoke any and all permits applicable to the project. SWM site plans for projects with expired permits may be resubmitted in accordance with § 182-25 of this chapter.

- B. SWM site plans submitted as a component of a subdivision and/or land development plan. McSherrystown Borough approval of an SWM site plan as a component of a subdivision and/or land development plan is subject to the term of validity as specified in the McSherrystown Borough Subdivision and Land Development Ordinance.

§ 182-27. Final inspection; completion certificate; as-built plans.

- A. The stormwater management facilities constructed in accordance with an SWM site plan not submitted as a component of a subdivision and/or land development plan shall be subject to the following process upon the completion of construction of said facilities.
- (1) The property owner or developer shall contact McSherrystown Borough within seven days of the completion of the construction process to schedule a final inspection. The final inspection shall be conducted by the McSherrystown Borough.
 - (2) The McSherrystown Borough may inspect the completed improvements to confirm consistency with the approved SWM site plan. Following the inspection, if any, the McSherrystown Borough may take one of the following two actions:
 - (a) Issue a completion certificate. A completion certificate may be issued when the McSherrystown Borough determines that the stormwater management facilities have been constructed in conformance with the approved SWM site plan.
 - (b) Issue correspondence regarding discrepancies. If McSherrystown Borough determines that the stormwater management facilities have not been constructed in accordance with the approved SWM site plan, McSherrystown Borough shall issue correspondence addressed to the property owner or developer summarizing the discrepancies from the approved SWM site plan. Such correspondence does not by itself constitute an extension of any applicable SWM permit.
 - (3) Upon receipt of correspondence summarizing discrepancies in the constructed stormwater facilities, the property owner or developer shall apply for permit extensions when necessary and take one of the following two actions:
 - (a) Reconstruct the required stormwater management facilities in a manner that complies with the approved SWM site plan. Upon completion of the

reconstruction work, the property owner or developer shall contact the municipality for a subsequent final inspection in accordance with the process established in § 182-27A(1).

- (b) Submit a revised SWM site plan in accordance with the process established in § 182-24A. The revised SWM site plan shall be consistent with the improvements as constructed. Upon receipt, McSherrystown Borough may review the revised SWM site plan in accordance with the review and approval process of § 182-23. If the revised SWM site plan is approved, McSherrystown Borough shall issue the completion certificate. If the revised SWM site plan fails to demonstrate that the constructed stormwater management facilities can comply with the requirements of this chapter, McSherrystown Borough may then require the property owner or developer to reconstruct the required stormwater facilities in accordance with the originally approved SWM site plan. If the revised SWM site plan is approved, McSherrystown Borough shall then issue the completion certificate.
- (4) Within 15 days of the completion certificate, the property owner or developer shall submit to McSherrystown Borough an as-built plan depicting the stormwater management facilities as constructed. If requested by the applicant, McSherrystown Borough may grant an extension of the deadline to submit as-built plans.
- B. The stormwater management facilities constructed in accordance with an SWM site plan submitted as a component of a subdivision and/or land development plan shall be subject to the completion of improvements requirements of the McSherrystown Borough Subdivision and Land Development Ordinance and Sections 509 through 511 of the Pennsylvania Municipalities Planning Code.¹¹

ARTICLE V

Operation and Maintenance

§ 182-28. Determination of ownership and maintenance responsibility.

- A. The McSherrystown Borough Council shall make the final determination on the continuing operation and maintenance responsibilities prior to final approval of the SWM site plan. The McSherrystown Borough Council may require a dedication of such facilities as part of the requirements for approval of the SWM site plan. McSherrystown Borough shall not be obligated to accept the facilities if offered for dedication. The McSherrystown Borough Council reserves the right to accept or reject the ownership, maintenance, and operating responsibility for any portion of the stormwater management facilities and controls.
- B. If the McSherrystown Borough Council accepts dedication of any or all stormwater management facilities associated with a project, McSherrystown Borough shall operate and maintain said facilities in accordance with the approved O&M plan.

11. Editor's Note: See Ch. 190, Subdivision and Land Development, and 53 P.S. §§ 10509 through 10511, respectively.

- C. If the McSherrystown Borough Council does not accept dedication of some or all of the stormwater management facilities associated with a project, the property owner shall sign an O&M agreement in accordance with § 182-29 of this chapter. The municipality shall not approve the SWM site plan before the owner signs the O&M agreement.

§ 182-29. Operation and maintenance agreements. ¹²

- A. Prior to final approval of the SWM site plan, the property owner shall sign and record an O&M agreement binding the property owner to conduct all maintenance activities identified in the approved O&M plan for all stormwater control facilities which are to be privately owned.
- (1) The property owner, heirs, successors and assigns shall maintain all facilities in accordance with the approved maintenance schedule in the O&M plan.
 - (2) The property owner shall provide to McSherrystown Borough easements to ensure access for periodic inspections and maintenance by McSherrystown Borough, as necessary.
 - (3) The property owner shall keep on file with McSherrystown Borough the name, address, and telephone number of the person or company responsible for maintenance activities. In the event of a change, new information shall be submitted by the property owner to McSherrystown Borough within 10 working days of the change.
 - (4) The O&M plan shall be recorded with the Adams County Recorder of Deeds.
- B. The owner is responsible for operation and maintenance of the SWM BMPs. If the owner fails to adhere to the O&M agreement or the O&M plan, McSherrystown Borough may perform the services required and charge the owner appropriate fees. Nonpayment of fees, costs and other expenses incurred in the performance of services required may result in a municipal lien against the property.

§ 182-30. Performance guarantee.

For SWM site plans submitted as a component of a subdivision and/or land development plan, the property owner or developer shall provide a financial guarantee to McSherrystown Borough for the timely installation and proper construction of all stormwater management controls as required by the approved SWM site plan and this chapter in accordance with the completion of improvements requirements of the McSherrystown Borough Subdivision and Land Development Ordinance and the provisions of Sections 509 through 511 of the Pennsylvania Municipalities Planning Code.¹³

12. Editor's Note: The O&M agreement form is on file in the Borough offices.

13. Editor's Note: See Ch. 190, Subdivision and Land Development, and 53 P.S. §§ 10509 through 10511, respectively.

ARTICLE VI
Fees and Expenses

§ 182-31. Fee schedule; applicant responsibility for payment.

- A. The McSherrystown Borough Council shall, by resolution, establish a fee schedule to defray costs incurred by McSherrystown Borough associated with the administration and enforcement of this chapter.
- B. The applicant shall be responsible for the payment of all fees, costs, and other expenses incurred in the submission, review, and decision on SWM site plans and/or other submissions pursuant to this chapter.

§ 182-32. Expenses covered by fees.

The fee(s) may include, but are not limited to, costs for the following:

- A. Administrative, clerical, and legal costs.
- B. Review of the SWM site plan and reports by McSherrystown Borough and representatives or counselors of the municipality.
- C. Attendance at meetings by McSherrystown Borough and representatives and counselors of the municipality, as may be necessary.
- D. Various inspections (such as during construction and after construction) by McSherrystown Borough or its representatives.
- E. Any additional work required to enforce any provision(s) regulated by this chapter, correct violations, and ensure proper completion of stipulated remedial actions.

ARTICLE VII
Enforcement and Penalties

§ 182-33. Municipal inspection.

- A. Upon presentation of proper credentials, McSherrystown Borough officials or their designee may enter at reasonable times upon any property within McSherrystown Borough to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this chapter.
- B. Inspections regarding compliance with the SWM site plan may be conducted by the municipality at any time when there may be a question of compliance with the approved SWM site plan or the approved O&M plan or when any condition exists that may threaten public health, safety, or welfare.

§ 182-34. Owner inspection.

SWM BMPs shall be inspected by the landowner, or landowner's designee (which shall include McSherrystown Borough where such facilities have been dedicated to McSherrystown Borough), or the owner's designee, according to the following list of minimum frequencies:

- A. Annually for the first five years.
- B. Once every three years thereafter.
- C. During or immediately after the cessation of a ten-year or greater storm, i.e., a storm of an estimated frequency of recurrence of 10 years or greater interval of time.
- D. At any other interval as may be specified in the approved O&M agreement.

§ 182-35. Suspension or revocation of SWM site plan approval.

- A. Any SWM site plan approval issued by McSherrystown Borough pursuant to this chapter may be suspended or revoked for any of the following reasons:
 - (1) Noncompliance with or failure to implement any provision of the approved SWM site plan or O&M plan.
 - (2) A violation of any provision of this chapter or any other applicable law, ordinance, rule, or regulation relating to the regulated activity.
 - (3) The creation of any condition or the conduct of any regulated activity which constitutes or creates a hazard, nuisance or pollution or endangers life or property.
- B. A suspended SWM site plan approval may be reinstated by the McSherrystown Borough Council when the following conditions are met:
 - (1) McSherrystown Borough officials or their designee(s) have inspected and approved the corrections to the violations that caused the suspension.
 - (2) The McSherrystown Borough Council is satisfied that the violation has been corrected.
- C. An SWM site plan approval that has been revoked by the McSherrystown Borough Council shall not be reinstated. The applicant may apply for a new SWM site plan approval under the provisions of this chapter.
- D. If a violation causes no immediate danger to life, public health, or property, the McSherrystown Borough Council may, at its sole discretion, provide a limited time period for the owner to correct the violation. In these cases, the McSherrystown Borough Council will provide the owner, or the owner's designee, with a written notice of the violation and the time period allowed for the owner to correct the violation. If the owner does not correct the violation within the allowed time period, the municipality may revoke or suspend any, or all, applicable approvals and permits pertaining to any provision of this chapter.

§ 182-36. Enforcement.

McSherrystown Borough may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter when McSherrystown Borough determines that a property owner or developer has initiated a regulated activity without receiving SWM site plan approval, that a property owner or developer has failed to comply with an approved SWM site plan or approved O&M plan, or that a property owner or developer has violated any other provision 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.

§ 182-37. Violations and penalties.

- A. Anyone violating the provisions of this chapter shall be guilty of a summary offense and, upon conviction, shall be subject to a fine of not more than \$500 for each violation, recoverable with costs. Each day that the violation continues shall be a separate offense, and penalties shall be cumulative.
- B. In addition, the municipality 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.

§ 182-38. Appeals.

- A. Any person aggrieved by any action of McSherrystown Borough, or its designee, relevant to the enforcement of the provisions of this chapter may appeal said action to the McSherrystown Borough Council within 30 days of that action.
- B. Any person aggrieved by any decision of the McSherrystown Borough Council regarding the appeal of any action of McSherrystown Borough, or its designee, may appeal the decision to the Adams County Court of Common Pleas within 30 days of the decision of the McSherrystown Borough Council.

ARTICLE VIII**Enactment****§ 182-39. Effective date.**

The McSherrystown Borough Stormwater Management Ordinance shall be effective on the first day of August 2012.

