
Chapter 25 — Stormwater Management

Article I — General Provisions

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Article I — General Provisions

§ 25-100 Short Title.

This Chapter shall be known and may be cited as the “Borough of Alburdis Stormwater Management Ordinance.”

§ 25-101 Statement of Findings.

The Borough Council of the Borough of Alburdis finds that:

(a) Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases runoff volumes, flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.

(b) A comprehensive program of stormwater management (SWM), including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare, and the protection of the people of the Borough of Alburdis and all the people of the Commonwealth, their resources, and the environment.

(c) Stormwater is an important water resource that provides groundwater recharge for water supplies and supports the base flow of streams.

(d) The use of green infrastructure and low impact development (LID) are intended to address the root cause of water quality impairment by using systems and practices which use or mimic natural processes to: (1) infiltrate and recharge, (2) evapotranspire, and/or (3) harvest and use precipitation near where it falls to earth. Green infrastructure practices and LID contribute to the restoration or maintenance of pre-development hydrology.

(e) Federal and state regulations require certain municipalities, including the Borough, to implement a program of stormwater controls, and obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES) program.

(f) Non-stormwater discharges to municipal separate storm sewer systems can contribute to pollution of the waters of the Commonwealth by the Borough.

§ 25-102 Purpose.

The purpose of this Chapter is to promote the public health, safety, and welfare within the Borough and the Little Lehigh Creek Watershed by minimizing the harms and maximizing the benefits described in § 25-101 by provisions designed to:

(a) Manage stormwater runoff close to the source, reduce runoff volumes, and mimic pre-development hydrology;

(b) Preserve natural drainage systems;

(c) Maintain groundwater recharge to prevent degradation of surface and ground water quality and to otherwise protect water resources;

(d) Maintain the existing flows and quality of streams and water courses in the Borough and the Commonwealth;

(e) Preserve and restore the flood carrying capacity of streams;

(f) Provide proper operation and maintenance of all stormwater best management practices (BMPs) that are implemented within the Borough;

(g) Provide procedures and performance standards for stormwater planning and management;

(h) [RESERVED]

(i) Meet legal water quality requirements under state law, including regulations at 25 PA. CODE Chapter 93 (relating to Water Quality Standards) to protect, maintain and restore the existing and designated uses of the waters of the Commonwealth of Pennsylvania;

(j) Prevent scour and erosion of stream banks and stream beds;

(k) Provide standards to meet NPDES permit requirements.

§ 25-103 Statutory Authority.

This Chapter is adopted under authority granted by the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, Pa. Laws 805, No. 247, as reenacted and amended, 53 PA. STAT. ANN. § 10101 *et seq.*, the Storm Water Management Act, Act of October 4, 1978, Pa. Laws 864, No. 167, as amended, 32 PA. STAT. ANN. § 680.1 *et seq.*, and the Borough Code, Act of April 18, 2014, Pa. Laws 432, No. 37, as amended, 8 PA. CONS. STAT. § 101 *et seq.*

§ 25-104 Applicability.

(a) **In General.** This Chapter shall apply to the entire Borough, since all of the Borough is located within the Little Lehigh Creek Watershed. Detailed maps of the entire Little Lehigh Creek Watershed are included in the Little Lehigh Creek Watershed Stormwater Management Plan, including Figure 2 and Plate I. A copy of the Alburtis portion of Plate I of the Stormwater Management Plan, at a reduced scale, is included as Appendix J 25-A for general reference.

(b) **Regulated Activities.** All Regulated Activities and all activities that may affect stormwater runoff, including land development and earth disturbance activities, are subject to regulation by this Chapter.

§ 25-104.1 Exemptions.

(a) **Small Area.** Any proposed Regulated Activity, except those described in subsection (d), which would result in cumulative earth disturbances less than one (1) acre *and* would create 10,000 square feet or less of additional cumulative impervious cover is exempt from the requirements in § 25-301.6 (relating to Volume Controls), § 25-302 (relating to Rate Controls), and Article IV (relating to Stormwater Management (SWM) Site Plan Requirements) of this Chapter. November 9, 1988 shall be the starting point from which to consider tracts as “parent tracts” in which future subdivisions and respective impervious area computations shall be cumulatively considered. For development taking place in stages, the entire development plan must be used in determining conformance with these criteria. Additional impervious cover shall include, but not be limited to, additional indoor living spaces, decks, patios, garages, driveways, storage sheds and similar structures, any roof, parking, or driveway areas, and any new streets and sidewalks constructed as part of or for the proposed Regulated Activity. Any additional areas proposed to initially be gravel, crushed stone, porous pavement, etc. shall be assumed to be impervious areas for purposes of exemption evaluation. All of the impervious cover added incrementally to a site above the initial 10,000 square feet shall be subject to the provisions of this Chapter. If a site has previously received an exemption and is proposing additional development such that the total impervious cover on the site exceeds 10,000 square feet, the total impervious cover on the site proposed since November 9, 1988 must meet the provisions of this Chapter.

(b) **Prior Drainage Plan Approval.** Any Regulated Activity for which a Drainage Plan was previously prepared as part of a subdivision or land development proposal that received preliminary plan approval from the Borough prior to April 27, 2005 is exempt from the SWM Site Plan preparation provisions of Article IV, except as cited in subsection (c), *provided* that the approved Drainage Plan included design of stormwater facilities to control runoff from the site currently

proposed for Regulated Activities consistent with ordinance provisions in effect at the time of approval and the approval has not lapsed under the Municipalities Planning Code. If significant revisions are made to the Drainage Plan after both the preliminary plan approval and April 27, 2005, preparation of a new SWM Site Plan, subject to the provisions of this Chapter, shall be required. Significant revisions would include a change in control methods or techniques, relocation or redesign of control measures or changes necessary because soil or other conditions are not as stated on the original Drainage Plan.

(b.1) Agricultural Activity. Agricultural activity is exempt from the requirements of Article IV (relating to Stormwater Management (SWM) Site Plan Requirements), *provided* the activities are performed according to the requirements of 25 PA. CODE Chapter 102 (relating to Erosion and Sediment Control).

(b.2) Forest Management and Timber Operations. Forest management and timber operations are exempt from the requirements of Article IV (relating to Stormwater Management (SWM) Site Plan Requirements), *provided* the activities are performed according to the requirements of 25 PA. CODE Chapter 102 (relating to Erosion and Sediment Control).

(c) General Limitations. The exemptions provided under this Section shall not relieve the applicant from implementing such measures as are necessary to protect health, safety, property, and State Water Quality Requirements. These measures include adequate and safe conveyance of stormwater on the site and as it leaves the site. These exemptions do not relieve the applicant from the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance.

(c.1) Specific Limitations. Exemptions from any provisions of this Chapter shall not relieve the applicant from the requirements in §§ 25-301(c) through (j).

(d) Exemptions Not Available for Certain Activities. No exemptions shall be provided for Regulated Activities which involve the diversion or piping of any natural or man-made stream channel or the installation of stormwater systems or appurtenances thereto.

(e) Municipal Discretion. The Borough may deny or revoke any exemption pursuant to this Section at any time for any project that the Borough believes may pose a threat to public health and safety or the environment.

§ 25-105 Repealer.

Any ordinance of the Borough inconsistent with any of the provisions of this Chapter is hereby repealed to the extent of the inconsistency only. This Section shall be effective as of the original passage of Ordinance 263, and as of the date of passage of this Chapter and each amendment to this Chapter.

§ 25-106 Severability.

Should any section or provision of this Chapter be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Chapter.

§ 25-107 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 applicable code, law, regulation, or ordinance.

§ 25-108 Duty of Persons Engaged in the Development of Land.

Notwithstanding any provision of this Chapter to the contrary, including waiver and exemption provisions, any landowner and 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 such actions as are required to manage the rate, volume, and direction of resulting stormwater runoff in a manner which otherwise adequately protects persons and property from possible injury.

§ 25-109 Erroneous Permit.

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

§ 25-110 Waivers.

(a) **In General.** If the Borough determines that any requirement under this Chapter cannot be achieved for a particular regulated activity, the Borough may, after an evaluation of alternatives, approve measures other than those in this Chapter, subject to subsections (b) and (c).

(b) **Undue Hardship.** Waivers or modifications of the requirements of this Chapter may be approved by the Borough if enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, *provided* that the modifications will not be contrary to the public interest and that the purpose of this Chapter is preserved. Cost or financial burden shall not be considered a hardship. Modification may be considered if an alternative standard or approach will provide equal or better achievement of the purpose of this Chapter. A request for modifications shall be in writing and accompany the Stormwater Management (SMW) Site Plan submission. The request shall provide the facts on which the request is based, the provision(s) of this Chapter involved, and the proposed modification.

(c) **Earth Disturbance Greater Than One Acre.** No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one (1) acre may be granted by the Borough unless that action is approved in advance by the Department of Environmental Protection (DEP) or, if delegated by DEP, the Lehigh County Conservation District.