

Article VIII — Enforcement

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Article VIII — Enforcement

§ 25-801 Right-of-Entry.

(a) **In General.** Upon presentation of the proper credentials, duly authorized representatives of the Borough may enter at reasonable times upon any property within the Borough to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Chapter.

(b) **BMP Owners and Operators.** BMP owners and operators shall allow persons working on behalf of the Borough ready access to all parts of the premises for the purposes of determining compliance with this Chapter.

(c) **Temporary Devices.** Persons working on behalf of the Borough shall have the right to temporarily locate on any BMP in the Borough such devices as are necessary to conduct monitoring and/or sampling of the discharges from such BMPs.

(d) **Delays.** Unreasonable delays in allowing the Borough access to a BMP is a violation of this Chapter.

§ 25-801.1 Enforcement—In General.

(a) **Approved SWM Site Plan Required Before Undertaking Regulated Activity.** It shall be unlawful for a person to undertake any Regulated Activity except as provided in an approved SWM Site Plan, unless specifically exempted in § 25-104.1.

(b) **No Alteration of Installed SWM BMPs.** It shall be unlawful to violate § 25-754.

(c) **Responsibility for Inspections.** Inspections regarding compliance with the SWM Site Plan are a responsibility of the Borough.

§ 25-802 Notification of Violations.

(a) **Compliance Order.** Whenever the Borough finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the Borough 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.
- (7) Operation and maintenance of stormwater BMPs.

(b) **Content of Notice.** Such notification shall set forth the nature of the violation(s) and, if the violation(s) cause no immediate danger to life, public health, or property, establish a time limit(s) for correction of the violation(s). The notice may further advise that should the violator fail to take the required action within the established deadline, the work will be done by the Borough or its designee, and the expense thereof, together with all related lien and enforcement fees, charges, and expenses, shall be charged to the violator.

(c) **Failure to Cure in Timely Fashion.** Failure to comply with the notification within the time period(s) specified shall also subject such person to the penalty provisions of this Chapter and the revocation or suspension of any or all applicable approvals and permits pertaining to any provision of this Chapter. All such penalties shall be cumulative, they shall not prevent the Borough from pursuing any and all other remedies available at law or in equity, and the Borough may resort to one or more penalties and/or remedies concurrently or successively.

§ 25-803 Criminal Penalties.

Any person who shall violate this Chapter shall be subject to prosecution in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure, and upon conviction thereof, shall be sentenced to pay a criminal fine of One Thousand Dollars (\$1,000.00) for each violation, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and/or imprisonment for a period not exceeding thirty (30) days. Each day that a violation occurs or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Chapter shall constitute a separate offense. These penalties are imposed pursuant to Sections 3321 and 3323 of the Borough Code, 8 PA. CONS. STAT. §§ 3321, 3323.

§ 25-804 Civil Remedies; Public Nuisance.

The violation of any provision of this Chapter is hereby declared to be a public nuisance. Each day that a violation continues shall constitute a separate offense. The Borough may abate such nuisance, and the Borough Solicitor is hereby authorized to institute injunctive, mandamus, or any other appropriate actions or proceedings at law or in equity to restrain, prevent, or abate such violations, recover damages, and otherwise enforce this Chapter, each in accordance with the applicable provisions of Sections 15 and 16 of the Storm Water Management Act, 32 PA. STAT. ANN. §§ 680.15 and 680.16., Section 1202(4) of the Borough Code, 8 PA. CONS. STAT. § 1202(4), and/or Sections 511, 515.1, or 515.3 of the Municipalities Planning Code, 53 PA. STAT. ANN. §§ 10511, 10515.1, 10515.3, or other applicable authority. 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.

§ 25-805 Suspension and Revocation of Permits and Approvals.

(a) **Suspension or Revocation.** Any approval or permit issued by the Borough pursuant to this Chapter, and any building, land development, or other permit or approval issued by the Borough related thereto, may be suspended or revoked by the Borough for:

(1) Non-compliance with or failure to implement any provision of the approved SWM Site Plan, O&M Agreement, or permit.

(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 commission of any act during the Regulated Activity, which constitutes or creates a hazard, a nuisance, or pollution, or which endangers the life or property of others.

(b) **Reinstatement.** A suspended permit or approval may be reinstated by the Borough when:

(1) The Borough or its designee has inspected and approved the corrections to the violations that caused the suspension;

(2) The Borough is satisfied that the violation has been corrected; and

(3) Payment of all Borough fees, costs, and expenses related to or arising from the violation has been made.

(c) **Effect of Revocation.** A permit or approval which has been revoked by the Borough cannot be reinstated. The applicant may apply for a new permit(s) or approval(s). In the case of a new permit or approval under this Chapter, the applicant shall utilize the procedures set forth in this Chapter.

§ 25-806 Appeals.

Any person aggrieved by any action of the Borough or its designee relevant to the provisions of this Chapter may appeal using the appeal procedures established in Articles IX and X-A of the Pennsylvania Municipalities Planning Code, 53 PA. STAT. ANN. §§ 10901 *et seq.*, 11001-A *et seq.* Appeals from decisions of the Borough Council or Zoning Hearing Board may be taken to the Lehigh County Court of Common Pleas within thirty (30) days after the decision.