

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 573

(Duly Adopted September 28, 2022)

AN ORDINANCE SUBSTANTIALLY AMENDING CHAPTER 25 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO STORMWATER MANAGEMENT) TO CONFORM TO THE UPDATED 2022 MODEL STORMWATER MANAGEMENT ORDINANCE DEVELOPED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION; INCLUDING ARTICLES TITLED GENERAL PROVISIONS, DEFINITIONS, STORMWATER MANAGEMENT STANDARDS, STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS, INSPECTIONS, FEES AND EXPENSES, OPERATION AND MAINTENANCE, PROHIBITIONS, ENFORCEMENT AND PENALTIES, AND REFERENCES.

WHEREAS, pursuant to the Pennsylvania Storm Water Management Act, Act of October 4, 1978, Pa. Laws 864, No. 167, as amended, 32 PA. STAT. ANN. § 680.1 *et seq.* (the “**Act**”), the Borough has adopted and amended, from time to time, such ordinances and regulations as are necessary to regulate development within the Borough in a manner consistent with the Act and the county’s applicable watershed stormwater plan (as approved by the Pennsylvania Department of Environmental Protection) including federal water quality requirements under the National Pollutant Discharge Elimination System (“**NPDES**”) Phase II regulations; and

WHEREAS, the Department of Environmental Protection revised its model stormwater ordinance in April of 2018 to satisfy both the Act’s requirements and the current requirements for small municipal separate storm sewer systems (MS4s) as implemented through NPDES permits, and has instructed municipalities to update their existing ordinances by September 30, 2022 to satisfy these requirements; and

WHEREAS, Borough Council desires to so amend its stormwater management ordinance (Chapter 25 of the Alburdis Codified Ordinances) as set forth below;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, as follows:

SECTION 1. Chapter 25 of the Codified Ordinances (relating to Stormwater Management) is amended by adding, amending, or deleting provisions as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

Chapter 25 — ~~Storm Water~~ Stormwater Management

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, ~~flow~~ flows and velocities, contributes to erosion and sedimentation, ~~changes the natural hydrologic patterns, destroys aquatic habitat, elevates aquatic pollutant concentrations and loadings,~~ 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, ~~and 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 ~~erosion~~ runoff, is fundamental to the public health, safety, and welfare, and the protection of the people of the Borough of Alburty and all the people of the Commonwealth, their resources, and the environment.

(c) Stormwater ~~can be~~ is an important water resource ~~by providing that provides~~ groundwater recharge for water supplies and ~~baseflow supports the base flow~~ of streams, ~~which also protects and maintains surface water quality.~~

(d) ~~Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.~~ 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.

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§ 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 ~~damages~~ harms and maximizing the benefits described in § 25-101 by provisions designed to:

(a) Manage stormwater runoff ~~impacts at their~~ close to the source, reduce runoff volumes, and mimic predevelopment hydrology ~~by regulating activities which cause such problems;~~

~~(b) Utilize and preserve~~ Preserve ~~the desirable existing~~ natural drainage systems;

~~(c) Encourage infiltration of stormwater, where appropriate, maintain~~ 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; ~~and~~

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

(g) Provide ~~review~~ procedures and performance standards for stormwater planning, ~~design,~~ and management;

~~(h) Manage stormwater impacts close to the runoff source which requires a minimum of structures and relies on natural processes;~~ [RESERVED]

(i) Meet legal water quality requirements under state law, including regulations at 25 PA. CODE Chapter 93.4a (relating to Water Quality Standards) to protect, ~~and maintain, and restore~~ “existing uses” and maintain the level of water quality to support those uses in all streams and to protect and maintain water quality in “special protection” streams the existing and designated uses of the waters of the Commonwealth of Pennsylvania;

* * *

§ 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 February 1, 1966, 1965 Pa. Laws 1656, No. 581, as amended, 53 PA. STAT. ANN. § 45101 et seq. 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 ¶ 25-A for general reference.

(b) **Regulated Activities.** ~~The following activities are defined as “Regulated Activities” and shall be regulated and governed~~ 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.

- ~~(1) Land development.~~
- ~~(2) Subdivision.~~
- ~~(3) Construction of new or additional impervious surfaces (driveways, parking lots, etc.).~~
- ~~(4) Construction of new buildings or additions to existing buildings.~~
- ~~(5) Diversion or piping of any natural or man-made stream channel.~~
- ~~(6) Installation of stormwater systems or appurtenances thereto.~~
- ~~(7) Regulated Earth Disturbance Activities.~~

§ 25-104.1 Exemptions.

(a) **~~Impervious Cover~~ Small Area.** Any proposed Regulated Activity, except those defined in ~~§ 25-104(b)(5) or § 25-104(b)(6)~~ 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 ~~Drainage Plan preparation provisions of this Chapter~~ 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 ~~Drainage~~ SWM Site Plan preparation provisions of this Chapter 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 ~~Drainage~~ 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 ~~defined in § 25-104(b)(5) or § 25-104(b)(6)~~ 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.

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§ 25-107 Compatibility with Other Ordinance Requirements.

Approvals issued ~~pursuant to~~ 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, ~~rule, act,~~ law, regulation, or ordinance.

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§ 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.

Article II — Definitions

§ 25-201 In General.

For purposes of this Chapter, the terms defined in the remaining sections of this Article shall have the meanings indicated, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning. These definitions do not necessarily reflect the definitions contained in pertinent statutes or regulations, and are intended for this Chapter only. In addition, certain terms and words used in this Chapter shall be interpreted as follows:

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§ 25-202.1 Agricultural Activity.

The term “Agricultural Activity” shall mean an activity 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 pasturing and raising of livestock, and installation of conservation

measures. Construction of new buildings or impervious area is not considered an Agricultural Activity.

§ 25-202.2 Applicant.

The term “Applicant” shall mean a landowner, developer, or other person who has filed an application to the Borough for approval to engage in any Regulated Activity at a project site in the Borough.

§ ~~25-202.1~~ 25-202.3 Best Management Practice (BMP).

The term “Best Management Practice” or “BMP” shall mean activities, facilities, ~~designs~~, measures, or procedures used to manage stormwater quantity and quality impacts from the Regulated Activities listed in § 25-~~104(b)~~, to meet State Water Quality Requirements, to promote groundwater recharge, and to otherwise meet the purposes of this Chapter. Stormwater BMPs are commonly grouped into one of two broad categories or measures, defined for purposes of this Chapter as:

(a) **Non-Structural BMPs.** Non-structural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff.

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

§ ~~25-202.2~~ 25-202.4 Best Management Practice Operations and Maintenance Plan (BMP Operations and Maintenance Plan).

The term “Best Management Practice Operations and Maintenance Plan” or “BMP Operations and Maintenance Plan” shall mean documentation, included as part of a ~~Drainage~~ an SWM Site Plan, detailing the proposed BMPs, how they will be operated and maintained, and who will be responsible.

§ ~~25-202.3~~ 25-202.5 Bioretention.

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§ ~~25-202.4~~ 25-202.6 Buffer.

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§ ~~25-202.5~~ 25-202.7 Capture/Reuse.

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§ ~~25-202.6~~ 25-202.8 Carbonate Bedrock.

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§ 25-205 Conservation District.

The term “Conservation District” shall mean the Lehigh County Conservation District, so long as it 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 (relating to Erosion and Sediment Control).

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§ 25-209 Design Storm.

The term “Design Storm” shall mean the ~~depth and time~~ magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (*e.g.*, ~~50-yr.~~ a 5-year storm) and duration (*e.g.*, ~~24-hour~~ 24 hours), and used in ~~computing the design and evaluation of~~ storm-water management ~~control~~ systems. See also “Return Period” at § 25-231.

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§ 25-210.1 Detention Volume.

The term “Detention Volume” shall mean the volume of runoff that is captured and released into the waters of the Commonwealth at a controlled rate.

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§ 25-212 Development Site (Site).

The term “Development Site” or “Site” shall mean the ~~specific tract of land for which a Regulated Activity is proposed.~~ See Project Site at § 25-226.5.

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§ 25-212.2 Disturbed Area.

The term “Disturbed Area” shall mean an unstabilized land area where an earth disturbance activity is occurring or has occurred.

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~~§ 25-214~~ Drainage Plan.

~~The term “Drainage Plan” shall mean the documentation of the proposed stormwater quantity and quality management controls to be used for a given Development Site, including a BMP Operations and Maintenance Plan, the contents of which are established in § 25-403.~~

~~§ 25-214.1~~ Earth Disturbance Activity.

The term “Earth Disturbance Activity” shall mean a construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing, grading, excavations, embankments, road maintenance, building construction, and the moving, depositing, stock-piling, or storing of soil, rock, or earth materials.

§ 25-215 Erosion.

The term “Erosion” shall mean ~~the removal of soil particles by the action of~~ natural process by which the surface of the land is worn away by water, wind, ice, or other geological agents or chemical action.

§ 25-215.0 Existing Condition.

The term “Existing Condition” shall mean the dominant land cover during the five (5) year period immediately preceding a proposed regulated activity.

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§ 25-215.3 Filter Strips.

The term “Filter Strips” shall mean Vegetated Buffers (*see* § 25-242.2 25-242.3).

§ 25-215.4 FEMA.

The term “FEMA” shall mean the Federal Emergency Management Agency.

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§ 25-216.1 Floodplain.

The term “Floodplain” shall mean 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. The term also includes areas that comprise Group 13 Soils, as listed in Appendix A of the Pennsylvania DEP Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by DEP).

§ 25-216.2 Floodway.

The term “Floodway” shall mean the channel of the watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the 100-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year floodway, it is assumed—absent evidence to the contrary—that the floodway extends from the stream to fifty (50) feet from the top of the bank of the stream.

§ 25-216.3 Forest Management/Timber Operations.

The terms “Forest Management” and/or “Timber Operations” shall mean planning and activities necessary for the management of forestland. These include conducting a timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

§ 25-216.4 Green Infrastructure.

The term “Green Infrastructure” shall mean systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse storm-water on the site where it is generated.

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§ 25-217.3 Hydrologic Soil Group (HSG).

The term “Hydrologic Soil Group” or “HSG” shall mean one of the four groups (A, B, C, and D) into which soils are classified by NRCS according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. The NRCS provides a list of most of the soils in the United States and their group classification. The soils in the area of the development site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D. See references 1 and 2 at § 25-901.

§ 25-218 Impervious Surface (Impervious ~~Cover~~ Area).

The term “Impervious Surface” or “Impervious ~~Cover~~ Area” shall mean a surface which prevents the ~~percolation~~ infiltration of water into the ground. Impervious surfaces (or areas) shall include, but not be limited to: roofs; additional indoor living spaces, patios, garages, storage sheds and similar structures; and any new streets or sidewalks. Decks, parking areas, and driveway areas are not counted as impervious areas if they do not prevent infiltration.

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§ 25-219.1 Karst.

The term “Karst” shall mean a type of topography or landscape characterized by surface depressions, sinkholes, ~~limestone towers and steep-sided hills,~~ rock pinnacles/uneven bedrock surface, underground drainage, and caves. Karst is ~~usually~~ formed on carbonate rocks, such as ~~limestones and dolomites~~ limestone or dolomite and sometimes gypsum.

§ 25-220 Land Development (Development).

The term “Land Development” or “Development” shall mean — any or all of the following:

(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 for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features; ~~or~~

(b) a any subdivision of land; ~~or~~

(c) development in accordance with section 503(1.1) of the Pennsylvania Municipalities Planning Code, 53 PA. STAT. ANN. § 10503(1.1) (relating to certain conversions of existing single-family dwellings, additions of an accessory building subordinate to an existing principal building, and additions or conversions of buildings or rides within an amusement park).

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§ 25-221.1 Low Impact Development (LID).

The term “Low Impact Development” or “LID” shall mean ~~a development approach that promotes practices that will minimize post-development runoff rates and volumes, thereby minimizing needs for artificial conveyance and storage facilities. Site design practices include preserving natural drainage features, minimizing impervious surface area, reducing the hydraulic connectivity of impervious surfaces, and protecting natural depression storage~~ site design approaches and small-scale stormwater management practices that promote the use of natural systems for infiltration, evapotranspiration, and reuse of rainwater. LID can be applied to new development, urban retrofits, and revitalization projects. LID utilizes design techniques that infiltrate, filter, evaporate, and store runoff close to its source. Rather than rely on costly large-scale conveyance and treatment systems, LID addresses stormwater through a variety of small, cost-effective landscape features located on-site.

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§ 25-226 Peak Discharge.

The term “Peak Discharge” shall mean the maximum rate of ~~flow of storm~~ stormwater runoff at a ~~given location and time resulting from a specified~~ specific storm event.

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§ 25-226.2 Pervious Area.

The term “Pervious Area” shall mean any area not defined as impervious. See § 25-218.

~~§ 25-226.2~~ 25-226.3 Point Source.

The term “Point Source” shall mean any discernable, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined in State regulations at 25 PA. CODE § 92a.1 (relating to NPDES Permitting, Monitoring and Compliance—Definitions).

~~§ 25-226.3~~ 25-226.4 Preliminary Site Investigation.

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§ 25-226.5 Project Site.

The term “Project Site” shall mean the specific area of land where any regulated activities in the Borough are planned, conducted, or maintained.

~~§ 25-226.4~~ 25-226.6 Public Water Supplier.

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~~§ 25-226.5~~ 25-226.7 Public Water System.

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~~§ 25-226.6~~ 25-226.8 Qualified Geotechnical Professional.

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§ 25-226.9 Qualified Professional.

The term “Qualified Professional” shall mean any person licensed by the Pennsylvania Department of State or otherwise qualified by law to perform the work required by this Chapter.

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§ 25-229 Regulated Activities.

The term “Regulated Activities” shall mean ~~actions or proposed actions which impact upon proper management of stormwater runoff and which are governed by this Chapter as specified in § 25-104(b)~~ any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff.

§ 25-229.1 Regulated Earth Disturbance Activities Activity.

The term “Regulated Earth Disturbance ~~Activities~~ Activity” shall mean ~~earth disturbance activity other than agricultural plowing or tilling of one (1) acre or more with a point source discharge to surface waters or to the Borough’s storm sewer system, or earth disturbance activity of five (5) acres or more regardless of the planned runoff. The term includes earth disturbance on any portion of, part, or during any stage of, a larger common plan of development.~~ an activity involving earth disturbance subject to regulation under 25 PA. CODE Chapter 92a (relating to National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance), 25 PA. CODE Chapter 102 (relating to Erosion and Sediment Control), or the Clean Streams Law, 35 PA. STAT. ANN. § 691.1 et seq.

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§ 25-230.1 Retention Volume/Removed Runoff.

The terms “Retention Volume” and/or “Removed Runoff” shall mean the volume of runoff that is captured and not released directly into the surface waters of this Commonwealth during or after a storm event.

§ 25-231 Return Period.

The term “Return Period” shall mean the average interval, in years, over which ~~an~~ a storm event of a given magnitude can be expected to ~~recur~~

occur one time. For example, the twenty-five (25) year return period rain-fall ~~or runoff event~~ would be expected to ~~recur~~ occur on the average once every twenty-five (25) years; or stated in another way, the probability of a twenty-five (25) year storm occurring in any one year is 0.04 (i.e., a 4% chance).

§ 25-231.1 Riparian Buffer.

The term “Riparian Buffer” shall mean a permanent area of trees and shrubs located adjacent to streams, lakes, ponds and wetlands.

§ 25-231.1 25-231.2 Road Maintenance.

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§ 25-232 Runoff.

The term “Runoff” shall mean ~~that~~ any part of precipitation ~~which~~ that flows over the land.

§ 25-232.1 Sediment.

The terms “Sediment” shall mean soils or other materials transported by surface water as a product of erosion.

§ 25-232.1 25-232.2 Sediment Trap / Catch Basin Sump.

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§ 25-234.3 State Water Quality Requirements.

The term “State Water Quality Requirements” shall mean the ~~water quality requirements established under State regulations for the protection~~

~~of designated and existing uses (see 25 PA. CODE Chapter 93 (relating to Water Quality Standards) and 25 PA. CODE Chapter 96 (relating to Water Quality Standards Implementation)), including, without limitation— regulatory requirements to protect, maintain, reclaim, and restore water quality under Title 25 of the Pennsylvania Code (relating to Environmental Protection) and the Clean Streams Law, 35 PA. STAT. ANN. § 691.1 et seq.~~

~~(a) Each stream segment in Pennsylvania has a “designated use,” such as “cold water fishes” or “potable water supply,” which are listed in 25 PA. CODE Chapter 93. These uses must be protected and maintained, under State regulations.~~

~~(b) “Existing uses” are those attained as of November 1975 or at any time on or after November 28, 1975, regardless of whether they have been designated in 25 PA. CODE Chapter 93. Regulated Earth Disturbance Activities must be designed to protect and maintain existing uses and maintain the level of water quality necessary to protect those uses in all streams, and to protect and maintain water quality in special protection streams.~~

~~(c) Water quality involves the chemical, biological, and physical characteristics of surface water bodies. After Regulated Earth Disturbance Activities are complete, these characteristics can be impacted by addition of pollutants, such as sediment, and changes in habitat through increased flow volumes and/or rates as a result of changes in land surface area from those activities. Therefore, permanent discharges to surface waters must be managed to protect the stream bank, stream bed, and structural integrity of the waterway, to prevent these impacts.~~

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§ 25-237.1 Stormwater.

The term “stormwater” shall mean ~~the surface runoff generated by precipitation reaching the ground surface~~ drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

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§ 25-237.3 Stormwater Management Facility.

The term “Stormwater Management Facility” shall mean 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.

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§ 25-238.1 Stormwater Management Site Plan (SWM Site Plan).

The term “Stormwater Management Site Plan” or “SWM Site Plan” shall mean the plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the development site in accordance with this Chapter.

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§ 25-241 Subdivision.

The term “Subdivision” shall ~~mean~~ have the same meaning as defined in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, Pa. Laws 805, No. 247, as reenacted and amended, at 53 PA. STAT. ANN. § 10107: the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, 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 into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

§ 25-241.1 Surface Waters of ~~the~~ this Commonwealth.

The term “Surface Waters of ~~the~~ this Commonwealth” shall mean any and all rivers, streams, creeks, rivulets, impoundments, ditches, water-courses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface water, or parts thereof, whether natural or artificial, within or on the boundaries of the Commonwealth of Pennsylvania.

§ 25-242 Swale.

The term “Swale” shall mean a low lying stretch of land which gathers or carries surface water runoff. *See also* § ~~25-242.4~~ 22-242.5 (relating to Vegetated Swales)

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§ 25-242.2 USDA.

The term “USDA” shall mean the United States Department of Agriculture.

§ ~~25-242.2~~ 25-242.3 Vegetated Buffers.

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§ ~~25-242.3~~ 25-242.4 Vegetated Roofs.

* * *

§ ~~25-242.4~~ 25-242.5 Vegetated Swales.

* * *

§ 25-242.5 25-242.6 Water Quality Inserts.

* * *

§ 25-242.6 25-242.7 Water Quality Volume (WQv).

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§ 25-243.1 Waters of this Commonwealth.

The term “Waters of this Commonwealth” shall mean any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the Commonwealth of Pennsylvania.

§ 25-243.1 25-243.2 Watershed.

The term “watershed” (except when presented in all capital letters) shall mean the ~~entire~~ region or area drained by a river, watercourse, or other body of water, ~~whether natural or artificial~~ surface water of this Commonwealth.

* * *

§ 25-246 Wetland.

The term “Wetland” shall mean areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

Article III — Stormwater Management Requirements Standards

§ 25-301 General Requirements.

(a) SWM Site Plan. For all Regulated Activities, unless preparation of an SWM Site Plan is specifically exempted in § 25-104.1:

(1) Preparation and implementation of an approved SWM Site Plan is required; and

(2) No Regulated Activities shall commence until the Borough issues written approval of an SWM Site Plan which demonstrates compliance with the requirements of this Chapter.

(b) Plans Available On Site. The SWM Site Plans approved by the Borough, in accordance with § 25-408, shall be on site throughout the duration of the Regulated Activity.

(c) Erosion and Sedimentation Control. For all Regulated Earth Disturbance Activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the Regulated Earth Disturbance Activities (e.g., during construction) to meet the purposes and requirements of this Chapter and to meet all requirements under Title 25 of the Pennsylvania Code (relating to Environmental Protection) and the Clean Streams Law, 35 PA. STAT. ANN. § 691.1 et seq. Various BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual (E&S Manual)*, No. 363-2134-008, as amended and updated. See reference 3 at § 25-901.

(d) Impervious Areas.

(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 stages.

(2) For development taking place in stages, the entire development 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 §25-301.6 and the peak rate controls of

§ 25-302 do not need to be retrofitted to existing impervious areas that are not being altered by the proposed Regulated Activity.

(e) **Flows Onto Adjacent Property.** Stormwater flows onto adjacent property shall not be created, increased, relocated, or otherwise altered without written notification to the adjacent property owner(s). Such stormwater flows shall be subject to the requirements of this Chapter.

(f) **Protection of the Public Interest.** All Regulated Activities shall include such measures as necessary to:

(1) Protect health, safety, and property.

(2) Meet the water quality goals of this Chapter by implementing measures to:

(A) Minimize disturbance to floodplains, wetlands, and wooded areas.

(B) Maintain or extend riparian buffers.

(C) Avoid erosive flow conditions in natural flow pathways.

(D) Minimize thermal impacts to waters of this Commonwealth.

(E) Disconnect impervious surfaces by directing runoff to pervious areas, wherever possible.

(3) Incorporate methods described in the *Pennsylvania Stormwater Best Management Practices Manual* (BMP Manual). See reference 4 at § 25-901. If methods other than green infrastructure and LID methods are proposed to achieve the volume and rate controls required under this Chapter, the SWM Site Plan must include a statement that the developer considered the use of LID and green infrastructure methods, and an explanation why the developer determined that such methods were not reasonable or practicable for the particular project.

(g) **Karst Areas.** The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.

(h) **Infiltration BMPs.** Infiltration BMPs should 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.

(i) **Time to Drain Storage Facilities.** Normally dry, open top, storage facilities should completely drain both the volume control and rate control capacities over a period of time not less than twenty-four (24) and not more than seventy-two (72) hours from the end of the design storm.

(j) **Design Storm Volumes.** The design storm volumes to be used in the analysis of peak rates of discharge should be obtained from the latest version of the Precipitation-Frequency Atlas of the United States, 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/>. See reference 5 at § 25-901.

(k) **Requirements for BMPs.** For all Regulated Activities, SWM BMPs shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this Chapter and to meet all requirements under Title 25 of the Pennsylvania Code (relating to Environmental Protection), the Clean Streams Law, 35 PA. STAT. ANN. § 691.1 *et seq.*, and 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.*

(l) **Types of BMPs; Standards.** Various BMPs and their design standards are listed in the BMP Manual. See reference 4 at § 25-901.

~~(a) **Regulated Activities.** All Regulated Activities in the Borough shall be subject to the stormwater management requirements of this Chapter.~~

~~(a-1)~~ (m) **Storm Drainage Systems Required.** Storm drainage systems shall be provided to permit unimpeded flow of natural watercourses except as modified by stormwater detention facilities, pipe systems, or open channels consistent with this Chapter.

~~(b)~~ (n) **Points of Concentrated Drainage Discharge.** The existing points of concentrated drainage discharge onto adjacent property shall not be altered without written approval of the affected property owner(s).

~~(e)~~ **(o) Areas of Existing Diffused Drainage Discharge.** Areas of existing diffused drainage discharge onto adjacent property shall be managed such that, at minimum, the peak diffused flow does not increase in the general direction of discharge, except as otherwise provided in this Chapter. If diffused flow is proposed to be concentrated and discharged onto adjacent property, the developer must document that there are adequate downstream conveyance facilities to safely transport the concentrated discharge to the point of pre-development flow concentration or to the stream reach, or otherwise prove that no harm will result from the concentrated discharge. Areas of existing diffused drainage discharge shall be subject to any applicable release rate criteria in the general direction of existing discharge whether they are proposed to be concentrated or maintained as diffused drainage areas.

~~(d)~~ **(p) Watercourses Which Traverse a Site.** Where a site is traversed by watercourses other than those for which a 100-year floodplain is defined by the Borough, drainage easements shall be provided conforming substantially with the line of such watercourses. The width of any easement shall be adequate to provide for unimpeded flow of storm runoff based on calculations made in conformance with § 25-304 for the 100-year return period runoff, and to provide a freeboard allowance of one-half (0.5) foot above the design water surface level. The terms of the easement shall prohibit excavation, the placing of fill or structures, and any alterations which may adversely affect the flow of stormwater within any portion of the easement. Also, periodic maintenance of the easement to ensure proper runoff conveyance shall be required. Watercourses for which the 100-year floodplain is formally defined are subject to the applicable Borough floodplain regulations (*see* Chapter 24 (relating to Floodplain Management)).

~~(e)~~ {RESERVED}

~~(f)~~ **(q) Construction of Open Channels.** When it can be shown that, due to topographic conditions, natural drainage swales on the site cannot adequately provide for drainage, open channels may be constructed conforming substantially to the line and grade of such natural drainage swales. Capacities of open channels shall be calculated using the Manning Equation:

~~(g)~~ **(r) Minimization of Erosion.** Post-construction BMPs shall be so designed, installed, operated, and maintained to meet the requirements of the Clean Streams Law, 35 PA. STAT. ANN. § 691.1 *et seq.*, and implementing regulations, including the established practices in 25 PA. CODE Chapter 102 (relating to Erosion and Sediment Control), and the specifications of this Chapter, so as to prevent accelerated erosion in watercourse channels and at all points of discharge.

~~(h) **Earth Disturbance Activities.** No Earth Disturbance Activities associated with any Regulated Activities shall commence until after the Borough approves a plan which demonstrates compliance with the requirements of this Chapter.~~

~~(i)~~ **(s) Low Impact Development Practices.** Techniques described in Appendix J 25-M (which is incorporated herein by reference) are encouraged because they reduce the costs of complying with the requirements of this Chapter and the State Water Quality Requirements.

~~(j)~~ **(t) Infiltration.** Infiltration for stormwater management is encouraged where soils and geology permit, consistent with the provisions of this Chapter, and, where appropriate, the Recommendation Chart for Infiltration Stormwater Management BMPs in Carbonate Bedrock set forth in Appendix J 25-H (which is incorporated herein by reference). Infiltration is encouraged for capturing and treating the Water Quality Volume (as calculated in § 25-301.3(c)), any part of the Water Quality Volume, or for otherwise meeting the purposes of this Chapter.

* * *

§ 25-301.2 Erosion and Sediment Control.

* * *

(b) NPDES Permit. A DEP NPDES Stormwater Discharges Associated with Construction Activities Permit is required for certain Regulated Earth Disturbance Activities under 25 PA. CODE Chapter 92a (relating to National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance).

* * *

§ 25-301.3 Post-Construction Water Quality Criteria.

(a) **Drainage SWM Site Plan.** No Regulated Earth Disturbance Activities within the Borough shall commence until after the Borough approves a ~~Drainage~~ an SWM Site Plan (*see* Article IV) which demonstrates compliance with this Chapter, unless the project qualifies for an exemption under § 25-104.1. DEP has determined that this Chapter meets State Water Quality Requirements as of January 19, 2005. Therefore, any approvals under this Chapter would satisfy the post-construction stormwater management requirements (as in effect on January 19, 2005) associated with an NPDES Permit for Stormwater Discharges Associated with Construction Activities.

(b) **Capture and Treatment Required.** The entire WQv for the site area of a Regulated Activity shall be captured and treated. However, if the project qualifies for an exemption under § 25-104.1 and DEP allows a waiver or modification of any or all of the requirements of this § 25-301.3 in that situation, then the Borough may so waive or modify those requirements as allowed by DEP.

* * *

§ 25-301.4 Alternative Water Quality Methods.

(a) **In General.** The Borough may, after consultation with DEP, approve alternative methods for meeting the State Water Quality Requirements other than those in ~~§ 25-301.3~~ this Chapter, *provided* they meet the minimum requirements of and do not conflict with State law, including but not limited to the Clean Streams Law, 35 PA. STAT. ANN. § 691.1 *et seq.* Any such methods shall be adopted by ordinance and added to this § 25-301.4.

* * *

§ 25-301.6 Volume Controls.

The green infrastructure and low impact development practices provided in the BMP Manual (see reference 4 at § 25-901) should be utilized for all Regulated Activities when reasonable and practicable. Water volume controls shall be implemented using the Design Storm Method in subsection (a) or the Simplified Method in subsection (b) below. For Regulated Activity areas equal or less than one acre that do not require hydrologic routing to design the stormwater facilities, this Chapter establishes no preference for either methodology; therefore, 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 other factors.

(a) **Design Storm Method.** The Design Storm Method (CG-1 in the BMP Manual, see reference 4 at § 25-901) is applicable to any size of Regulated Activity. This method requires detailed modeling based on site conditions.

(1) Do not increase the post-development total runoff volume for all storms equal to or less than the 2-year 24 hour duration precipitation.

(2) For modeling purposes:

(A) Existing (predevelopment) non-forested pervious areas must be considered meadow in good condition.

(B) Twenty percent (20%) of existing impervious area, when present, shall be considered meadow in good condition in the model for existing conditions.

(b) **Simplified Method.** The Simplified Method (CG-2 in the BMP Manual, see reference 4 at § 25-901) provided below is independent of site conditions and should be used if the Design Storm Method is not followed. This method is not applicable to Regulated Activities greater than one acre or for projects that require design of stormwater storage facilities. For new impervious surfaces:

(1) Stormwater facilities shall capture at least the first two
(2) inches of runoff from all new impervious surfaces.

(2) At least the first one (1) inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow, i.e., it shall not be released into the surface waters of this Commonwealth. Removal options include reuse, evaporation, transpiration, and infiltration.

(3) Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first one-half (0.5) inch of the permanently removed runoff should be infiltrated.

(4) This method is exempt from the requirements of § 25-302 (relating to Rate Controls).

§ 25-302 ~~Stormwater Management Districts.~~ Rate Controls.

(a) ~~Mapping of Stormwater Management Districts.~~ In General.
The entire Borough is covered by a release rate map from an approved Act 167 Stormwater Management Plan. For the 1-, 2-, 5-, 10-, 25-, 50-, and 100-year, 24-hour storm events, the post-development peak discharge rates will follow the applicable approved release rate maps. For any areas not shown on the release rate maps, the post-development discharge rates shall not exceed the pre-development discharge rates.

(a.1) Stormwater Management Districts. To implement the provisions of the Little Lehigh Creek Stormwater Management Plan, the Borough is hereby divided into Stormwater Management Districts consistent with the Little Lehigh Creek Release Rate Map presented in the Stormwater Management Plan. The boundaries of the Stormwater Management Districts are shown on Plate I of the Stormwater Management Plan, which is incorporated herein by reference. The Borough is encompassed by portions of subareas 25, 27, 112, 118, and 120 under the Stormwater Management Plan. A copy of the Alburtis portion of Plate I of the Stormwater Management Plan at a reduced scale, showing the subarea boundaries, is included as Appendix ¶ 25-A for general reference. See § 25-303(b) for the method of determining the exact location of the Stormwater Management District boundaries.

(b) ~~Description of Stormwater Management Districts~~ District Requirements. Two types of Stormwater Management Districts are provided under the Stormwater Management Plan, namely Conditional No Detention Districts and Dual Release Rate Districts, ~~as described below~~. There are only Dual Release Rate Districts within the Borough.

~~(1) Conditional No Detention Districts.~~ ~~Within these districts, the capacity of the “local” runoff conveyance facilities (as defined in § 25-221) must be calculated to determine if adequate capacity exists. For this determination, the developer must calculate peak flows assuming that the site is developed as proposed, and that the remainder of the local watershed is in the existing condition. The developer must also calculate peak flows assuming that the entire local watershed is developed per current zoning and that all new development would use the runoff controls specified by this Chapter. The larger of the two peak flows calculated will be used in determining if adequate capacity exists. If adequate capacity exists to safely transport runoff from the site to the main channel (as defined in § 25-222), these watershed areas may discharge post-development peak runoff without detention facilities. If the capacity calculations show that the “local” runoff conveyance facilities lack adequate capacity, the developer shall either use a 100% release rate control or provide increased capacity of downstream elements to convey increased peak flows consistent with § 25-303(n). Any capacity improvements must be designed to convey runoff from development of all areas tributary to the improvement consistent with the capacity criteria specified in § 25-303(e). By definition, a storm drainage problem area associated with the “local” runoff conveyance facilities indicates that adequate capacity does not exist.~~

~~(2) Dual Release Rate Districts.~~ Within these districts Dual Release Rate Districts, the 2-year post-development peak runoff must be controlled to thirty percent (30%) of the pre-development 2-year runoff peak. Further, the 10-year, 25-year, and 100-year post-development peak runoff must be controlled to the stated percentage of the pre-development peak as set forth below and on Plate I of the Storm Water Management Plan, which varies from 50% to 100% depending upon location in the watershed:

<u>Subarea</u>	<u>10/25/100 Year Release Rate</u>
25	50%
27	50%
112	80%
118	80%
120	60%

**§ 25-303 ~~Stormwater Management District~~ Rate Controls
Implementation Provisions.**

* * *

(a.1) Satisfaction of Release Rate Requirements. Any stormwater management controls required by this Chapter and subject to dual release rate criteria shall meet the applicable release rate criteria (*see* § 25-302(b)(2)) for each of the 2-, 10-, 25-, and 100-year return period runoff events, consistent with the calculation methodology specified in § 25-304.

(b) Determination of District Boundaries. The exact location of the Stormwater Management District boundaries as they apply to a given development site shall be determined by mapping the boundaries using the two-foot (2') topographic contours provided as part of the ~~Drainage~~ SWM Site Plan. The District boundaries as originally drawn coincide with topographic divides or, in certain instances, are drawn from the intersection of the watercourse and a physical feature such as the confluence with another watercourse or a potential flow obstruction (*e.g.*, road, culvert, bridge, etc.). The physical feature is the downstream limit of the subarea and the subarea boundary is drawn from that point up slope to each topographic divide along the path perpendicular to the contour lines.

* * *

(d) “No Harm” Water Quantity Option.

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(3) Submission. Any “no harm” justifications shall be submitted by the developer as part of the ~~Drainage~~ SWM Site Plan submission per Article IV.

* * *

§ 25-304 Calculation Methodology.

* * *

(e) Rainfall Calculations.

(1) Soil-Cover-Complex Method. Runoff calculations using the soil-cover-complex method shall use the NRCS Type II 24-hour rainfall distribution. (A graphic and tabular presentation of the NRCS Type II 24-hour rainfall distribution is reproduced in Appendix J 25-C, which is incorporated herein by reference.) The 24-hour rainfall depths for the various return periods, to be used consistent with this Chapter ~~may~~ shall be taken from NOAA Atlas 14, Volume 2, ~~or the PennDOT Intensity Duration Frequency Field Manual (May 1986) for Region 4 ("PDT-IDF").~~ The following values are taken from the PDT-IDF Field Manual:

<u>Return Period</u>	<u>24-Hour Rainfall Depth</u>
1-year	2.40 inches
2-year	3.00 inches
5-year	3.60 inches
10-year	4.56 inches
25-year	5.52 inches
50-year	6.48 inches
100-year	7.44 inches

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§ 25-305 Riparian Buffers.

(a) Riparian Buffer Easement. In order to protect and improve water quality, a Riparian Buffer Easement shall be created and recorded as part of any subdivision or land development that encompasses a Riparian Buffer, unless deemed unnecessary by the Borough.

(b) Width. Except as otherwise required by DEP's Chapter 102 regulations, 25 PA. CODE Ch. 102 (relating to Erosion and Sediment Control), the Riparian Buffer Easement shall be measured to be the greater of

the limit of the one hundred (100) year floodplain or a minimum of thirty-five (35) feet from the top of the streambank (on each side).

(c) Minimum Management Requirements for Riparian Buffers.

(1) Existing native vegetation shall be protected and maintained within the Riparian Buffer Easement.

(2) Whenever practicable, invasive vegetation shall be actively removed and the Riparian Buffer Easement shall be planted with native trees, shrubs and other vegetation to create a diverse native plant community appropriate to the intended ecological context of the site.

(d) Enforcement; Recording. The Riparian Buffer Easement shall be enforceable by the Borough and shall be recorded in the Lehigh County Recorder of Deeds Office, so that it shall run with the land and shall limit the use of the property located therein. The easement shall allow for the continued private ownership and shall count toward the minimum lot area a required by zoning, unless otherwise specified in Chapter 21 of the Alburdis Codified Ordinances (relating to Zoning).

(e) Uses Within the Easement. Any permitted use within the Riparian Buffer Easement shall be conducted in a manner that will maintain the extent of the existing one hundred (100) year floodplain, improve or maintain the stream stability, and preserve and protect the ecological function of the floodplain.

(f) Recreation Trails. The following conditions shall apply when public and/or private recreation trails are permitted within Riparian Buffers:

(1) Trails shall be for non-motorized use only.

(2) Trails shall be designed to have the least impact on native plant species and other sensitive environmental features.

(g) Sewage Issues. Septic drainfields and sewage disposal systems shall not be permitted within the Riparian Buffer Easement and shall comply with setback requirements established under 25 PA. CODE Chapter 73 (relating to Standards for Onlot Sewage Treatment Facilities).

Article IV — ~~Drainage~~ Stormwater Management (SWM) Site Plan
Requirements

§ 25-401 General Requirements.

For any of the Regulated Activities of this Chapter, prior to the final approval of subdivision and/or land development plans, or the issuance of any permit, or the commencement of any Regulated Earth Disturbance Activity the owner, subdivider, developer, or his agent shall submit a ~~Drainage~~ Stormwater Management (SWM) Site Plan and receive Borough approval of the ~~Drainage~~ Stormwater Management (SWM) Site Plan. The following matters shall be addressed with respect to the SWM Site Plan:

(a) **SALDO.** Appropriate sections from Alburdis Codified Ordinances Chapter 22 (relating to Subdivision and Land Development), and other applicable local ordinances, shall be followed in preparing the SWM Site Plans.

(b) **Compliance Required.** The Borough shall not approve any SWM Site Plan that is deficient in meeting the requirements of this Chapter. At its sole discretion and in accordance with this Article, when a SWM Site Plan is found to be deficient, the Borough may either disapprove the submission and require a resubmission, or in the case of minor deficiencies, the Borough may accept submission of modifications.

(c) **Access and Maintenance Easements.** Provisions for permanent access or maintenance easements for all physical SWM BMPs, such as ponds and infiltration structures, as necessary to implement the Operation and Maintenance (O&M) Plan discussed in § 25-403(h).

(d) **Borough Signature Block.** The following signature block shall be provided for the Borough: “On this ____ day of _____, 20____, the Alburdis Borough Engineer hereby certifies that, upon his/her review, the SWM Site Plan meets all design standards and criteria of Alburdis Codified Ordinances Chapter 25 (relating to Stormwater Management).”

(e) **Information and Documentation.** The SWM Site Plan shall provide the information and documentation described in § 25-403.

§ 25-402 Exemptions.

Exemptions from the ~~Drainage~~ Stormwater Management (SWM) Site Plan requirements are as specified in § 25-104.1.

§ 25-403 ~~Drainage~~ SWM Site Plan Contents.

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

(a) General.

- (1) General description of project.
- (2) General description of ~~proposed permanent stormwater controls~~ the overall stormwater management concept for the project.
- (3) The name and address of the project site, the name and address of the owner of the property, and the name of the individual or firm preparing the ~~Drainage~~ SWM Site Plan.

(4) Expected project time schedule.

(b) Maps. Map(s) of the project area showing:

* * *

- (14)** The location of all existing and proposed (A) on-lot wastewater facilities within one hundred (100) feet of the project, (B) public water supply wells within four hundred (400) feet of the project, and (C) all private water supply wells within one hundred (100) feet of the project.

(c) Stormwater Management Controls and BMPs.

- (1) All stormwater management controls and BMPs must be shown on a map and described, including:

(A) Plan and profile drawings, including drainage structures, pipes, open channels, and swales.

- (A.1)** Groundwater recharge methods such as seepage pits, beds, or trenches. When these structures are used, the locations of septic tank infiltration areas and wells must be shown.

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* * *

(5) If BMPs other than green infrastructure methods and low impact development (LID) practices are proposed to achieve the volume, rate and water quality controls under this Chapter, the developer must include a statement that he considered the use of LID and green infrastructure practices, and an explanation why he determined that such practices were not reasonable or practicable for the particular project.

(d) **Site Conditions.** A determination of site conditions in accordance with the BMP Manual. See reference 4 at § 25-901. A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography, and other environmentally sensitive areas, such as brownfields.

(e) **Runoff Calculations and Documentation.** Stormwater runoff design computations and documentation as specified in this Chapter, or as otherwise necessary to demonstrate that the maximum practicable measures have been taken to meet the requirements of this Chapter, including the recommendations and general requirements in § 25-301.

(f) **Erosion and Sediment Control Plan.** A soil erosion and sediment control plan, where applicable, as prepared for and submitted to the approval authority.

(g) **Effect of Project on Others.** 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.

~~(d)~~ **(h) Operation Operations and Maintenance Program Plan.** A description of how each permanent stormwater BMP will be operated and maintained and the identity of the person(s) responsible for operations and maintenance. An Operations and Maintenance (O&M) Plan for all existing and proposed physical stormwater management facilities. This plan shall address long-term ownership and responsibilities for O&M as well as schedules and costs for O&M activities.

§ 25-404 Plan Submission.

(a) ~~Subdivisions or Land Development.~~ For Regulated Activities specified in § 25-104(b)(1) or (2):

(1) ~~To the Borough.~~ Two (2) copies of the Drainage SWM Site Plan shall be submitted by the developer to the Zoning Officer ~~as part of the Preliminary Plan submission for the subdivision or land development.~~ One (1) copy shall be distributed to Council, and one (1) copy shall be distributed to the Borough Engineer. The Plan shall be submitted, as applicable, with a preliminary plan submission for a subdivision or land development, with a building permit application, or with a zoning permit application.

(2) ~~(b) To the Lehigh Valley Planning Commission.~~ Two At the same time, two (2) copies of the Drainage SWM Site Plan shall be submitted by the developer to the Lehigh Valley Planning Commission ~~as part of the a Preliminary Plan submission,~~ except for Drainage SWM Site Plans involving less than ten thousand (10,000) square feet of additional impervious cover. The Lehigh Valley Planning Commission will conduct an advisory review of the Drainage SWM Site Plan for consistency with the Stormwater Management Plan. The Lehigh Valley Planning Commission will provide written comments to the developer and the Borough, within a time frame consistent with established procedures under the Municipalities Planning Code, 53 PA. STAT. ANN. § 10101 *et seq.*, as to whether the Drainage SWM Site Plan has been found to be consistent with the Stormwater Management Plan. The Lehigh Valley Planning Commission will not review details of the Erosion and ~~Sedimentation~~ Sediment Control Plan or the BMP Operations and Maintenance Plan.

(b) ~~Impervious Surface, New Buildings, or Additions.~~ For Regulated Activities specified in § 25-104(b)(3) or (4), the Drainage Plan shall be submitted by the developer to the Borough Zoning Officer as part of the building permit application:

(c) ~~Storm Water Systems; Diversion or Piping of Stream Channel; Regulated Earth Disturbance Activities.~~ For Regulated Activities specified in § 25-104(b)(5), or (6), or (7): One (1) copy of the Drainage Plan shall be submitted by the developer to Where applicable, the Lehigh

Valley Planning Commission may review the SWM Site Plan for coordination with the DEP permit application process under Chapter 105 (relating to Dam Safety and Waterway Management), ~~or~~ Chapter 106 (relating to Flood Plain Management) of DEP's Regulations, 25 PA. CODE Ch. 105 & 106, and the NPDES regulations.

~~(d) **Earthmoving.** Earthmoving for all Regulated Activities under § 25-104 shall be conducted in accordance with the current federal and State regulations relative to the NPDES and DEP Chapter 102 regulations, 25 PA. CODE Ch. 102 (relating to Erosion and Sediment Control).~~

§ 25-405 Drainage SWM Site Plan Review.

(a) **By the Borough Engineer.** The Borough Engineer shall review the ~~Drainage~~ SWM Site Plan, including the BMP Operations and Maintenance Plan, for consistency with the provisions of this Chapter, the Stormwater Management Plan ~~as implemented by this Chapter~~, any permits issued by DEP, and with any additional storm drainage provisions contained in Chapter 22 (relating to Subdivision and Land Development) or Chapter 21 (relating to Zoning).

* * *

(b) **Effect on Subdivision/Land Development and Building Permit Applications.** The Borough shall not approve any related subdivision or land development (~~concerning Regulated Activities described in § 25-104(b)(1) or (2)~~) or building permit application (~~concerning Regulated Activities described in § 25-104(b)(3) or (4)~~) if the Drainage SWM Site Plan has been found to be inconsistent with this Chapter or the Stormwater Management Plan.

~~(c) **“As-Built” Survey.** The Borough requires an “As-Built Survey” of all stormwater BMPs and an explanation of any discrepancies with the Drainage Plan.~~

(c) **Time.** The Borough shall notify the applicant in writing within forty-five (45) days whether the SWM Site Plan is approved or disapproved. If the SWM Site Plan involves a Subdivision and Land Development Plan, the notification shall occur within the time period allowed by the

Municipalities Planning Code (90 days). If a longer notification period is provided by other statute, regulation, or ordinance, the applicant will be so notified by the Borough.

(d) **Green Infrastructure/LID Practices.** For any SWM Site Plan that proposes to use any BMPs other than green infrastructure and low impact development (LID) practices to achieve the volume and rate controls required under this Chapter, the Borough may require the use of such practices before approving the SWM Site Plan if it determines that such practices are reasonable, practicable, and desirable for the project.

(e) **Adverse Action.** If the Borough disapproves the SWM Site Plan, the Borough will state the reasons for the disapproval in writing. The Borough also may approve the SWM Site Plan with conditions and, if so, shall provide the acceptable conditions for approval in writing.

§ 25-406 Modification of Plans.

A modification to a submitted ~~Drainage~~ SWM Site Plan for a proposed development site which ~~that~~ involves a change in ~~control methods~~ SWM BMPs or techniques, or which involves the relocation or redesign of ~~control measures~~ SWM BMPs, or which ~~that~~ is necessary because soil or other conditions are not as stated on the ~~Drainage~~ SWM Site Plan, as determined by the Borough, shall require a resubmission of the modified ~~Drainage~~ SWM Site Plan consistent with § 25-404, subject to review per § 25-405 in accordance with this Article.

§ 25-407 ~~Hardship Waiver Procedure.~~

(a) **In General.** The Borough may hear requests for waivers from certain provisions of this Chapter where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The waiver request shall be in writing on an application form promulgated by the Borough and accompanied by the requisite fee based upon a fee schedule adopted by the Borough. A copy of the completed application form shall be provided to each of the following: Borough, Borough Engineer,

~~Borough Solicitor, and the Lehigh Valley Planning Commission. The application shall fully document the nature of the alleged hardship.~~

(b) Necessary Findings. ~~The Borough may grant a waiver under this Section provided that all of the following findings are made in a given case:~~

~~(1) That there are unique physical circumstances or conditions, including irregularity of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Chapter in the Stormwater Management District in which the property is located;~~

~~(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter, including the “no harm” provisions of § 25-303(l), and that the authorization of a waiver is therefore necessary to enable the reasonable use of the property;~~

~~(3) That such unnecessary hardship has not been created by the applicant;~~

~~(4) That the waiver, if authorized, will represent the minimum waiver that will afford relief and will represent the least modification possible of the regulation in issue; and~~

~~(5) That financial hardship is not the criteria for granting of the waiver.~~

(c) Conditions. ~~In granting any waiver under this Section, the Borough may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter. If a hardship waiver is granted under this Section, the applicant must still manage the quantity, velocity, direction, and quality of resulting storm runoff as is necessary to prevent injury to health, safety, or other property.~~

(d) Hearing Body.

~~(1) For Regulated Activities described in § 25-104(b)(1) or (2) (relating to subdivisions or land developments), Council shall hear requests~~

for and decide hardship waiver requests under this Section on behalf of the Borough.

~~(2) For Regulated Activities described in § 25-104(b) other than those for which Council has jurisdiction under paragraph (1) of this subsection (d), the Zoning Hearing Board shall hear requests for and decide hardship waiver requests under this Section on behalf of the Borough.~~

~~(e) **No Waiver of Water Quality Requirements.** The Borough shall not waive any of the water quality provisions of this Chapter.~~

§ 25-407 Resubmission of Disapproved SWM Site Plans.

A disapproved SWM Site Plan may be resubmitted, with the revisions addressing the Borough's concerns, to the Borough in accordance with this Article. The applicable review fee must accompany a resubmission of a disapproved SWM Site Plan.

§ 25-408 Authorization to Construct and Term of Validity.

The Borough's approval of an SWM Site Plan authorizes the Regulated Activities contained in the SWM Site Plan for a maximum term of validity of five (5) years following the date of approval. The Borough may specify a term of validity shorter than five (5) years in the approval for any specific SWM Site Plan. Terms of validity shall commence on the date the Borough signs the approval for an SWM Site Plan. If an approved SWM Site Plan is not completed according to § 25-409 within the term of validity, then the Borough may consider the SWM Site Plan disapproved and may revoke any and all permits. SWM Site Plans that are considered disapproved by the Borough shall be resubmitted in accordance with § 25-407.

§ 25-409 Completion.

(a) **As-Built Plans.** The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM Site Plan. The as-built plans and an explanation of any discrepancies with the construction plans shall be submitted to the Borough.

(b) **Certificate of Completion.** The as-built submission shall include a certification of completion signed by a qualified professional verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications. The latitude and longitude coordinates for all permanent SWM BMPs must also be submitted, at the central location of the BMPs. If any licensed qualified professionals contributed to the construction plans, then a licensed qualified professional must sign the completion certificate.

(c) **Final Inspection.** After receipt of the completion certification by the Borough, the Borough may conduct a final inspection.

Article V — Inspections

§ 25-501 ~~Schedule of Inspections~~ In General.

(a) ~~In-General~~ **Right to Inspect.** DEP or its designees (*e.g.*, Lehigh County Conservation District) normally ensure compliance with any permits issued, including those for stormwater management. In addition to DEP compliance programs, the Borough Engineer or his designee may ~~shall~~ inspect all phases of the construction, operations, maintenance, and any other implementation of stormwater BMPs.

* * *

Article VI — Fees and Expenses

§ 25-601 In General.

Council may, from time to time, by ordinance or resolution, establish a fee to defer the Borough's costs for ~~Drainage~~ SWM Site Plan review and processing (including the BMP Operations and Maintenance Plan). Until

further action by Council, the fee shall be equal to the amount described in § 25-602. The applicant shall deposit an estimate of the total fee, as approved by the Borough Engineer, at the time the ~~Drainage~~ SWM Site Plan is filed, and shall pay any additional billings in excess of the amount deposited within thirty (30) calendar days after the date of billing. No permits shall be issued if any outstanding billing remains unpaid, and any issued permit shall be revoked if an outstanding billing is not paid by its due date.

§ 25-602 Expenses Covered by Fees.

The fees required by this Chapter shall at a minimum cover:

- (a) The review of the ~~Drainage~~ SWM Site Plan (including the BMP Operations and Maintenance Plan) by the Borough Engineer.
- (b) ~~The site inspection~~ Inspections.
- (c) ~~The inspection of required controls and improvements during construction:~~ Attendance at meetings.
- (d) ~~The final inspection upon completion of the controls and improvements required in the plan:~~ Administrative and clerical costs.
- (e) Any additional work required to enforce any permit provisions regulated by this Chapter, correct violations, and assure the completion of stipulated remedial actions.
- (f) ~~Administrative and clerical costs~~.

Article VII — ~~Stormwater BMP Operations~~ Operation and Maintenance ~~Plan Requirements~~

§ 25-701 General Requirements.

(a) **Borough Determination.** The Borough shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM Site Plan. The Borough may require a dedication of

such facilities as part of the requirements for approval of the SWM Site Plan. Such a requirement is not an indication that the Borough will accept the facilities. The Borough reserves the right to accept or reject the ownership and operating responsibility for any portion of the stormwater management controls.

(b) **Enumeration and Recording of SWM BMPs.** Facilities, areas, or structures used as SWM BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or conservation easements that run with the land.

(c) **Commencement of Activities.** No Regulated Earth Disturbance Activities within the Borough shall commence until approval by the Borough of the BMP Operations and Maintenance Plan, which describes how the permanent (*i.e.*, post-construction) stormwater BMPs will be properly operated and maintained.

(d) **Enforcement Actions.** The Borough may take enforcement actions against an owner for any failure to satisfy the provisions of this Article.

~~§ 25-702 Responsibilities for Operations and Maintenance of BMPs.~~

~~(a) **In General.** The BMP Operations and Maintenance Plan for the project site shall establish responsibilities for the continuing operation and maintenance of all permanent stormwater BMPs, as follows:~~

~~(1) **Borough Ownership and Maintenance.** If a Plan includes structures or lots which are to be separately owned and in which streets, sewers, and/or other public improvements are to be dedicated to the Borough, stormwater BMPs may also be dedicated to and maintained by the Borough, if acceptable to the Borough.~~

~~(2) **Private Ownership and Maintenance.** If a Plan includes operations and maintenance by a single ownership or if sewers and other public improvements are to be privately owned and maintained, then the operation and maintenance of stormwater BMPs shall be the responsibility of the owner or private management entity.~~

~~(b) **Borough Discretion.** The Borough shall make the final determination on the continuing operations and maintenance responsibilities.~~

~~The Borough reserves the right to accept or reject the operations and maintenance responsibility for any or all of the stormwater BMPs in its complete discretion.~~

§ 25-702 Performance Guarantee.

For SWM Site Plans that involve subdivision and land development, the applicant shall provide a financial guarantee to the 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 provisions of Sections 509, 510, and 511 of the Pennsylvania Municipalities Planning Code, 53 PA. STAT. ANN. §§ 10509, 10510, 10511.

* * *

§ 25-704 Operations and Maintenance Agreement for Privately Owned Stormwater BMPs.

(a) **In General.** ~~The~~ Prior to final approval of the SWM Site Plan, the property owner shall sign an operations and maintenance (O&M) agreement with the Borough covering all stormwater BMPs and control facilities that are to be privately owned. The agreement shall include the terms of the format agreement set forth in Appendix J 25-N (which is incorporated herein by reference).

* * *

(c) **Compliance with Maintenance Schedule.** The owner, successor and assigns shall maintain all facilities in accordance with the approved maintenance schedule in the O&M Agreement.

(d) **Conservation Easements.** The owner shall convey to the Borough conservation easements to assure access for periodic inspections by the Borough and maintenance, as necessary.

(e) **Contact Information.** The owner shall keep on file with the 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 owner to the Borough within ten (10) working days of the change.

(f) **Owner Responsibility; Default.** The owner is responsible for operation and maintenance (O&M) of the SWM BMPs. If the owner fails to adhere to the O&M Agreement, the Borough may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

* * *

§ 25-706 Recording of Approved BMP Operations and Maintenance Plan and Related Agreements.

(a) **In General.** The owner of any land upon which permanent BMPs will be placed, constructed, or implemented, as described in the BMP Operations and Maintenance Plan, shall record the following documents in the Office of the Recorder of Deeds for Lehigh County within ninety (90) days after approval of the BMP Operations and Maintenance Plan by the Borough:

(1) The BMP Operations and Maintenance Plan, ~~or a summary thereof approved by the Borough~~ as a restrictive deed covenant that runs with the land;

* * *

* * *

* * *

§ 25-708 Ongoing Maintenance Inspections.

(a) **Inspection Frequencies.** The landowner or the owner's designee (including the Borough for dedicated and owned facilities) shall inspect SWM BMPs, facilities and/or structures installed under this Chapter

according to the following frequencies, at a minimum, to ensure the BMPs, facilities and/or structures continue to function as intended:

- (1) Annually for the first five (5) years.
- (2) Once every three (3) years thereafter.
- (3) During or immediately after the cessation of a ten (10) year or greater storm. See definitions at §§ 25-209 and 25-231.

(b) **Timing.** Inspections should be conducted during or immediately following precipitation events.

(c) **Inspection Reports.** A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable.

(d) **Submission to the Borough.** Inspection reports shall be submitted to the Borough within thirty (30) days following completion of the inspection.

Article VIIA — Prohibitions

§ 25-751 Prohibited Discharges.

(a) **Non-stormwater Discharges.** No person shall allow or cause to allow stormwater discharges into ~~the Borough's~~ a regulated small separate storm sewer system (MS4), ~~or discharges into waters of this Commonwealth,~~ which are not composed entirely of stormwater except as provided in subsection (b) or as allowed under a State or Federal permit.

(b) **Exceptions.** The following discharges are ~~allowed based on the Borough's finding that the discharge(s) do not significantly contribute pollution to surface~~ authorized unless they are determined to be significant

contributors to the pollution of a regulated small MS4 or the waters of the this Commonwealth (except as provided in subsections (c) and (d)):

- (1) Discharges or flows from fire fighting activities.
- (2) ~~Potable~~ Discharges from potable water sources, including ~~dechlorinated water line flushing~~ and fire hydrant ~~flushings~~ flushing, if such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC).
- (3) ~~Irrigation drainage~~ Non-contaminated irrigation water, water from lawn maintenance, and landscape drainage.
- (4) ~~Routine external building washdown which does not use detergents or other compounds~~ Non-contaminated hydrostatic test water discharges, if such discharges do not contain detectable concentrations of TRC.
- (5) ~~Air conditioning condensate~~ Non-contaminated HVAC condensation and water from geothermal systems.
- (6) ~~Water from individual residential car washing~~ Residential (i.e., not commercial) vehicle wash water where cleaning agents are not utilized.
- (7) ~~Springs~~ Diverted stream flows and springs.
- (8) ~~Water~~ Uncontaminated water from crawl space pumps.
- (9) Uncontaminated water from foundation ~~or from~~ and footing drains.
- (10) Flows from riparian habitats and wetlands.
- (11) ~~Lawn watering.~~
- (12) ~~Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.~~
- (13) ~~Dechlorinated swimming pool discharges.~~
- (14) ~~(11)~~ Uncontaminated pumped groundwater.

(c) **Determination of Significant Contribution to Pollution.** In the event the Borough or DEP determines that any of the discharges

identified in subsection (b) significantly contribute to ~~pollution of pollutants to a regulated small MS4 or to the~~ waters of the this Commonwealth, or is so notified by DEP, the Borough or DEP will notify the responsible person(s) to cease the discharge. Upon such notice, the discharger will have a reasonable time, as determined by the Borough, to cease the discharge consistent with the degree of pollution caused by the discharge.

* * *

§ 25-752 Prohibited Connections.

~~The following connections are prohibited, except~~ Except as provided in § 25-751(b):

(a) **Non-Stormwater Discharges.** Any drain or conveyance, whether on the surface or subsurface, which allows any non-stormwater discharge, including sewage, process wastewater, and wash water, to enter ~~the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks~~ a regulated small municipal separate storm sewer system (MS4) or to enter the surface waters of this Commonwealth is prohibited.

(b) **Undocumented Commercial or Industrial Land Uses.** Any drain or conveyance connected from a commercial or industrial land use to ~~the separate storm sewer system~~ a regulated small municipal separate storm sewer system (MS4) or which discharges to enter the surface waters of this Commonwealth, and which has not been documented in plans, maps, or equivalent records, and approved by the Borough, is prohibited.

§ 25-753 Roof Drains and Sump Pumps.

(a) **~~In General.~~** ~~Roof drains shall not be connected to streets, sanitary or storm sewers, or roadside ditches, except as provided in subsection (b).~~

(b) **~~Exception.~~** ~~When it is more advantageous to connect directly to streets or storm sewers, connections of roof drains to streets or roadside ditches may be permitted by the Borough.~~

(e) ~~Discharge to Infiltration or Vegetative BMPs.~~ Roof drains and sump pumps shall discharge to infiltration areas or vegetative BMPs ~~to the maximum extent practicable wherever feasible. When that is not feasible, the Borough may permit roof drains or sump pumps to be connected to streets, storm sewers, or roadside ditches.~~

§ 25-754 Alteration of SWM BMPs.

(a) No person shall modify, remove, fill, landscape, or alter any ~~existing stormwater BMP~~ SWM BMPs, facilities, areas, or structures that were installed as a requirement of this Chapter without the written approval of the Borough, ~~unless it is part of an approved maintenance program.~~

* * *

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 ~~implementation, condition, or operation and maintenance of stormwater BMPs, or to investigate or ascertain the condition of the subject property~~ stormwater structures and facilities in regard to any aspect regulated by 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.

* * *

(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. ~~The enforcement action shall be brought before a magisterial district judge or, where applicable under Borough Code § 3321(5) 3321(4), 53 PA. STAT. ANN. § 48321(5), the Lehigh County Court of Common Pleas.~~ These penalties are imposed pursuant to Sections 3321 and 3323 of the Borough Code, ~~53 PA. STAT. ANN. §§ 48321 and 48323~~ 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, ~~and~~ 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(5)~~ 1202(4) of the Borough Code, 53 PA. STAT. ANN. § 46205(5) 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 ~~construction or development~~ 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 ~~shall not~~ may be reinstated by the Borough ~~until~~ when:

(1) The Borough or its designee has inspected and approved the corrections to the ~~stormwater BMPs or the elimination of the hazard or nuisance~~ violations that caused the suspension;

(2) The Borough is satisfied that the violation ~~of the ordinance, law, rule, regulation, and/or permit~~ has been corrected; and

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

* * *

§ 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.

Article IX — References

§ 25-901 List of References.

1. U.S. Department of Agriculture, National Resources Conservation Service (NRCS). National Engineering Handbook. Part 630: Hydrology, 1969-2001. Originally published as the National Engineering Handbook, Section 4: Hydrology. Available from the NRCS online at: <http://www.nrcs.usda.gov/>.
2. U.S. Department of Agriculture, Natural Resources Conservation Service. 1986. Technical Release 55: Urban Hydrology for Small Watersheds, 2nd Edition. Washington, D.C.
3. Pennsylvania Department of Environmental Protection. No. 363-0300-002 (December 2006), as amended and updated. Pennsylvania Stormwater Best Management Practices Manual. Harrisburg, PA.
4. Pennsylvania Department of Environmental Protection. No. 363-2134-008 (March 31, 2012), as amended and updated. Erosion and Sediment Pollution Control Program Manual. Harrisburg, PA.
5. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service, Hydrometeorological Design Studies Center. 2004-2006. Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, Silver Spring, Maryland. Internet address: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.

SECTION 2. Chapter 25 of the Codified Ordinances (relating to Storm Water Management) is amended by revising Appendix **§ 25-N** as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining)

:

§ 25-N Stormwater Best Management Practices Operations and Maintenance Agreement (Format).

THIS AGREEMENT, is made and entered into this _____ day of _____, 20____, by and between _____, (the “**Landowner**”), and the Borough of Alburtis, Lehigh County, Pennsylvania (the “**Borough**”).

WHEREAS, the Landowner is the owner of certain real property as recorded by deed in the land records of Lehigh County, Pennsylvania, at document number _____ {or Deed Book Volume ____, page ____} (the “**Property**”); and

WHEREAS, the Landowner is proceeding to build and develop the Property; and

WHEREAS, the stormwater management (SWM) BMP Operations and Maintenance Plan approved by the Borough (the “**O&M Plan**”) for the Property, which is attached hereto as **Appendix A** and made part hereof, as approved by the Borough, provides for management of stormwater within the confines of the Property through the use of Best Management Practices (BMP’s); and

WHEREAS, the Borough, and the Landowner, his {her/their/its} successors and assigns, agree that the health, safety, and welfare of the residents of the Borough and the protection and maintenance of water quality require that on-site ~~stormwater Best Management Practices~~ SWM BMPs be constructed and maintained on the Property; and

~~**WHEREAS**, for the purposes of this agreement, the following definitions shall apply:~~

- ~~• **BMP** – “Best Management Practice;” activities, facilities, designs, measures or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and groundwater recharge and to otherwise meet the purposes of the Borough’s Stormwater Management Ordinance (Chapter 25 of the Alburdis Codified Ordinances), including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffers, sand filters and detention basins.~~
- ~~• **Infiltration Trench** – A BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer;~~

- ~~Seepage Pit – An underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer;~~
- ~~Rain Garden – A BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer; and~~

WHEREAS, the Borough requires, through the implementation of the SWM Site Plan, that ~~stormwater management~~ SWM BMPs as required by said Plan and the Borough's Stormwater Management Ordinance (Chapter 25 of the Alburdis Codified Ordinances) be constructed and adequately operated and maintained by the Landowner, his successors and assigns;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows, intending to be legally bound:

1. The BMPs shall be constructed by the Landowner in accordance with the plans and specifications identified in the SWM Site Plan.
2. The Landowner shall operate and maintain the BMP(s) as shown on the SWM Site Plan in good working order acceptable to the Borough and in accordance with the specific maintenance requirements noted on the approved O&M Plan.
3. The Landowner hereby grants permission to the Borough, its authorized agents and employees, to enter upon the Property, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the Borough shall notify the Landowner prior to entering the Property.
4. In the event the Landowner fails to operate and maintain the BMP(s) ~~as shown on the Plan in good working order acceptable to the Borough~~ per paragraph 2, the Borough or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the Borough to erect any permanent structure on the land of the Landowner. It is expressly understood and agreed that the Borough is under no

obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Borough.

5. In the event the Borough, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Borough for all expenses (direct and indirect) incurred within ten (10) days of receipt of invoice from the Borough, and if not timely paid, Landlord agrees that the Borough may file a municipal lien against the Property for one hundred ten percent (110%) of the invoice amount, plus statutorily allowed fees, expenses, and costs.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMP(s) by the Landowner; *provided*, however, that this Agreement shall not be deemed to create ~~or effect~~ any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.
7. The Landowner, his/her/its executors, administrators, assigns, and other successors in interests, hereby release and hold harmless the Borough and its employees and designated representatives from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said Borough, employees, and representatives from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or Borough. In the event that a claim is asserted against the Borough, its designated representatives or employees, the Borough shall promptly notify the Landowner, and the Landowner shall defend, at his/her/its own expense, any suit based on the claim. If any judgment or claims against the Borough or its employees or designated representatives shall be allowed, the Landowner shall pay all costs and expenses regarding said judgment or claim.
8. The Borough shall inspect the BMP(s) ~~as necessary~~ at a minimum of once every three (3) years to ensure their continued functioning.
9. This Agreement shall be recorded at the Office of the Recorder of Deeds of Lehigh County, Pennsylvania, and shall constitute a

covenant running with the Property and/or equitable servitude, and shall be binding on the Landowner, his/her/its administrators, executors, assigns, heirs and any other successors in interests, in perpetuity.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

{Signatures, Attestations, Seals}

{Notarizations sufficient to permit recording of the Agreement}

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburtis, this 28th day of September, 2022, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

Ronald J. DeIaco, President

Attest:

Sharon Trexler, Borough Manager

AND NOW, this 28th day of September, 2022, the above Ordinance is hereby **APPROVED**.

Kathleen Palmer, Mayor