

Chapter 26

Stormwater

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Part 1**General Provisions****§26-101. Short Title.**

This Chapter shall be known and may be cited as the "Borough of Swissvale Stormwater Management Ordinance."

(*Ord. 04-02, 2/4/2004, §1.01*)

§26-102. Purpose.

The purpose of this Chapter is to:

- A. Promote health, safety, and welfare within the Borough.
- B. Regulate activities that alter the natural terrain and affect existing drainage.
- C. Control erosion and sedimentation of soils and preserve stream channels.
- D. Provide design, construction and maintenance criteria for permanent on-site stormwater management facilities necessary to control stormwater runoff, erosion and sedimentation.

(*Ord. 04-02, 2/4/2004, §1.02*)

§26-103. Statutory Authority.

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

(*Ord. 04-02, 2/4/2004, §1.03*)

§26-104. Applicability.

This Chapter applies to any regulated earth disturbance activities within the Borough, and all stormwater runoff entering into the Borough's separate storm sewer system from lands within the boundaries of the Borough.

(*Ord. 04-02, 2/4/2004, §1.04*)

§26-105. Compatibility with Other Requirements.

1. Approvals issued and actions taken under this Chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance. To the extent that this Chapter imposes more rigorous or stringent requirements for stormwater management, the specific requirements contained in this Chapter shall be followed.

2. Nothing in this Chapter shall be construed to affect any of the Borough's requirements regarding stormwater matters that do not conflict with this Chapter, such as local stormwater management design criteria (such as inlet spacing, inlet type, collection system design and details, and outlet structure design). Conflicting provisions in other municipal ordinances or regulations shall be construed to retain the requirements of this Chapter addressing State water quality requirements.

(Ord. 04-02, 2/4/2004, §1.07)

Part 2**Definitions****§26-201. Definitions.**

1. For the purposes of this Chapter, certain terms and words shall be interpreted as follows:

A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.

B. The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.

C. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.

2. *Specific Definitions.*

Accelerated erosion - the removal of the surface of the land through the combined action of human activities and the natural processes, at a rate greater than would occur because of the natural process alone.

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

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

Borough - Borough of Swissvale, Allegheny County, Pennsylvania.

Conservation District - the Allegheny County Conservation District.

DEP - the Pennsylvania Department of Environmental Protection.

Developer - a person that seeks to undertake any regulated earth disturbance activities at a project site in the Borough.

Development - see "earth disturbance activity." The term includes redevelopment.

Development site - the specific tract of land where any earth disturbance activities in the Borough are planned, conducted or maintained.

Earth disturbance activity - a construction or other human activity that disturbs the surface of the land, including, but not limited to, clearing and grubbing, grading, excavations, embankments, road maintenance, building construction and the moving, depositing, stockpiling, or storing of soil, rock or

earth materials.

Erosion - the process by which the surface of the land is worn away by water, wind, or chemical action.

Erosion and sediment control plan - a plan for a project site that identifies BMPs to minimize accelerated erosion and sedimentation.

Groundwater recharge - replenishment of existing natural underground water supplies.

Impervious surface - a surface that prevents the infiltration of water into the ground. Impervious surface includes, but is not limited to, any roof, parking or driveway area, and any new street or sidewalk.

NPDES - National Pollutant Discharge Elimination System, the Federal government's system for issuance of permits under the Clean Water Act, implementation of which has been delegated to DEP in Pennsylvania.

Outfall - "point source" as described in 40 CFR §122.2 at the point where the Borough's storm sewer system discharges to surface waters of the Commonwealth.

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

Point source - any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is discharged, as defined in State regulations at 25 Pa. Code §92.1.

Project site - the specific area of land where any regulated earth disturbance activities in the Borough are planned, conducted or maintained.

Redevelopment - earth disturbance activities on land that has previously been disturbed or developed.

Regulated earth disturbance activity - earth disturbance activity of one acre or more with a point source discharge to surface waters or to the Borough's storm sewer system, or of 5 acres or more regardless of the planned runoff. This includes earth disturbance on any portion of or during any stage of a larger, common plan of development. This only includes road maintenance activities involving 25 acres or more or earth disturbance.

Road maintenance - earth disturbance activities within the existing road cross-section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches.

Separate storm sewer system - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) primarily used for collecting and conveying stormwater runoff.

State water quality requirements - as defined under State regulations – protection of designated and existing uses (See 25 Pa.Code, Chapters 93 and 96) - including:

- (1) Each stream segment in Pennsylvania has a "designated use," such as "cold water fishery" or "potable water supply," which uses are listed in Chapter 93. These uses must be protected and maintained understate

regulations.

(2) "Existing uses" are those attained as of November 1975, regardless whether they have been designated in Chapter 93. Regulated earth disturbance activities must be designed to protect and maintain existing uses and maintain the level of water quality necessary to protect those uses in all streams, and to protect and maintain water quality in special protection streams.

(3) Water quality involves the chemical, biological and physical characteristics of surface water bodies. After regulated earth disturbance activities are complete, these characteristics can be affected by 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, streambed and structural integrity of the waterway, to prevent adverse effects.

Stormwater - the surface runoff generated by precipitation reaching the ground surface.

Surface waters of the Commonwealth - any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

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

Watershed - region or area drained by a river, watercourse or other body of water, whether natural or artificial.

(Ord. 04-02, 2/4/2004, Art. II; as amended by Ord. 05-02, 6/1/2005)

Part 3**Stormwater Management for Water Quality****§26-301. General Requirements for Stormwater Management.**

1. All regulated earth disturbance activities within the Borough shall be designed, implemented, operated and maintained to meet the purposes of this Chapter, through these two elements:

A. Erosion and sediment control during the earth disturbance activities (for example, during construction).

B. Water quality protection measures after completion of earth disturbance activities (for example, after construction), including operation and maintenance.

2. No regulated earth disturbance activities within the Borough shall commence until the requirements of this Chapter are met.

3. Erosion and sediment control during regulated earth disturbance activities shall comply with §26-303.

4. Post-construction water quality protection shall comply with §26-304. Operations and maintenance of permanent stormwater BMPs shall comply with Part 4.

5. All best management practices (BMPs) used to meet the requirements of this Chapter shall conform to the State water quality requirements.

6. Techniques described in Appendix A, "Low Impact Development," of this Chapter are encouraged, because they reduce the costs of complying with the requirements of this Chapter and the State water quality requirements.

(Ord. 04-02, 2/4/2004, §3.01)

§26-302. Permit Requirements by Other Government Entities.

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

A. All regulated earth disturbance activities subject to permit requirements by DEP under regulations at 25 Pa.Code, Chapter 102.

B. Work within natural drainageways subject to permit requirements by DEP under 25 Pa.Code, Chapter 105.

C. Any stormwater management facility that would be located in or adjacent to surface waters of the Commonwealth, including wetlands, subject to permit requirements by DEP under 25 Pa.Code, Chapter 105.

D. Any stormwater management facility that would be located on a State highway right-of-way, or require access from a state highway, shall be subject to approval by the Pennsylvania Department of Transportation (PENNDOT).

E. Culverts, bridges, storm sewers or any other facilities that must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit requirements by DEP under 25 Pa.Code, Chapter 105.

(Ord. 04-02, 2/4/2004, §3.02)

§26-303. Erosion and Sediment Control During Regulated Earth Disturbance Activities.

1. No regulated earth disturbance activities within the Borough shall commence until approval by the Borough of an erosion and sediment control plan for construction activities.

2. DEP regulations require an erosion and sediment control plan for any earth disturbance activity of 5,000 square feet or more, under 25 Pa. Code §102.4(b).

3. In addition, under 25 Pa. Code Chapter 92, a DEP "NPDES construction activities" permit is required for regulated earth disturbance activities.

4. Evidence of any necessary permit(s) for regulated earth disturbance activities from the appropriate DEP regional office or County Conservation District must be provided to the Borough. The issuance of an NPDES construction permit or permit coverage under the statewide general permit (PAG-2) shall satisfy the requirements of subsection .1.

5. A copy of the erosion and sediment control plan and any required permit, as required by DEP regulations, shall be available at the project site at all times.

(Ord. 04-02, 2/4/2004, §3.03)

§26-304. Water Quality Requirements After Regulated Earth Disturbance Activities Are Complete.

1. No regulated earth disturbance activities within the Borough shall commence until approval by the Borough of a plan that demonstrates that State water quality requirements will be satisfied after construction is complete.

2. The bmps must be designed, implemented and maintained to meet state water quality requirements.

3. To control post-construction stormwater impacts from regulated earth disturbance activities, State water quality requirements can be met by BMPs, including site design, which provide for replication of pre-construction stormwater infiltration and runoff conditions, so that post-construction stormwater discharges do not degrade the physical, chemical or biological characteristics of the receiving waters. As described in the DEP Comprehensive Stormwater Management Policy (#392-0300-002, September 28, 2002), this may be achieved by the following:

A. *Infiltration.* Replication of pre-construction stormwater infiltration conditions.

B. *Treatment.* Use of water quality treatment BMPs to filter chemical and physical pollutants from the stormwater runoff.

C. *Streambank and Streambed Protection.* Management of volume and rate of post-construction stormwater discharges to prevent physical degradation of receiving waters (e.g., from scouring).

4. DEP regulations require municipalities to ensure design, implementation and maintenance of best management practices ("BMPs") that control runoff from new development and redevelopment after regulated earth disturbance activities are

complete. These requirements include implementing post-construction stormwater BMPs to assure long-term operation and maintenance of those BMPs.

5. Evidence of any necessary permit(s) for Regulated Earth Disturbance activities from the appropriate DEP regional office must be provided to the Borough. The issuance of an NPDES construction permit or permit coverage under the statewide General Permit (PAG-2) satisfies the requirements of subsection .1.

6. BMP operations and maintenance requirements are described in Part 4 of this Chapter.

(Ord. 04-02, 2/4/2004, §3.04)

Part 4**Stormwater BMP Operations and Maintenance Plan Requirements****§26-401. General Requirements.**

1. No regulated earth disturbance activities within the Borough shall commence until approval by the Borough of BMP operations and maintenance plan which describes how the permanent (e.g., post-construction) stormwater BMPs will be properly operated and maintained.

2. The following items shall be included in the BMP operations and maintenance Plan:

A. Map(s) of the project area, in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Allegheny County, and submitted on 24-inch by 36-inch or 30-inch by 42-inch sheets. The contents of the maps(s) shall include, but not be limited to:

(1) Clear identification of the location and nature of permanent stormwater BMPs.

(2) The location of the project site relative to highways, municipal boundaries or other identifiable landmarks.

(3) Existing and final contours at intervals of 2 feet, or others as appropriate.

(4) Existing streams, lakes, ponds, or other bodies of water within the project site area.

(5) Other physical features including flood hazard boundaries, sinkholes, streams, existing drainage courses, and areas of natural vegetation to be preserved.

(6) The locations of all existing and proposed utilities, sanitary sewers, and water lines within 50 feet of property lines of the project site

(7) Proposed final changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added.

(8) Proposed final structures, roads, paved areas, and buildings.

(9) A 15-foot wide access easement around all stormwater BMPs that would provide ingress to and egress from a public right-of-way.

B. 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.

C. The name of the project site, the name and address of the owner of the property, and the name of the individual or firm preparing the plan.

D. A statement, signed by the landowner, acknowledging that the stormwater BMPs are fixtures that can be altered or removed only after approval by the Borough.

(Ord. 04-02, 2/4/2004, §4.01)

§26-402. Responsibilities for Operations and Maintenance of BMPs.

1. 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:

A. If a plan includes structures or lots that are to be separately owned and in which streets, sewers and other public improvements are to be dedicated to the Borough, stormwater BMPs may also be dedicated to and maintained by the Borough, subject to the Borough's approval.

B. If a plan includes operations and maintenance by a single owner, 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.

2. 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.

(Ord. 04-02, 2/4/2004, §4.02)

§26-403. Borough Review of BMP Operations and Maintenance Plan.

1. The Borough shall review the BMP operations and maintenance plan for consistency with the purposes and requirements of this ordinance, and any permits issued by DEP.

2. The Borough shall notify the applicant in writing whether the BMP operations and maintenance plan is approved.

3. The Borough may require an "as-built survey" of all stormwater BMPs and an explanation of any discrepancies with the operations and maintenance plan.

(Ord. 04-02, 2/4/2004, §4.03)

§26-404. Adherence to Approved BMP Operations and Maintenance Plan.

It shall be unlawful to alter or remove any permanent stormwater BMP required by an approved BMP operations and maintenance plan, or to allow the property to remain in a condition which does not conform to an approved BMP operations and maintenance plan, unless an exception is granted in writing by the Borough.

(Ord. 04-02, 2/4/2004, §4.04)

§26-405. Operations and Maintenance Agreement for Privately Owned Stormwater BMPs.

1. The property owner shall sign an operations and maintenance agreement with the Borough covering all stormwater BMPs that are to be privately owned. The agreement shall be substantially the same as the agreement in Appendix B of this Chapter.

2. Other items may be included in the agreement where necessary to guarantee the satisfactory operation and maintenance of all permanent stormwater BMPs. The agreement shall be subject to the review and approval of the Borough.

(Ord. 04-02, 2/4/2004, §4.05)

§26-406. Stormwater Management Easements.

1. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Borough Engineer.

2. Stormwater management easements shall be provided by the property owner if necessary for (1) access for inspections and maintenance, or (2) preservation of stormwater runoff conveyance, infiltration, and detention areas and other BMPs, by persons other than the property owner. The purpose of the easement shall be specified in any agreement under §26-405.

(Ord. 04-02, 2/4/2004, §4.06)

§26-407. Recording of Approved BMP Operations and Maintenance Plan and Related Agreements.

1. 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 Allegheny County, within 15 days of approval of the BMP operations plan by the Borough:

- A. The operations and maintenance plan, or a summary thereof.
- B. Operations and maintenance agreements under §26-405.
- C. Easements under §26-406.

2. The Borough may suspend or revoke any approvals granted for the project site upon discovery of the failure of the owner to comply with this Section.

(Ord. 04-02, 2/4/2004, §4.07)

§26-408. Borough Stormwater BMP Operation and Maintenance Fund.

1. If stormwater BMPs are accepted by the municipality for dedication, the Borough may require persons installing stormwater BMPs to pay a specified amount to the Borough stormwater BMP operation and maintenance fund, to help defray costs of operations and maintenance activities. The amount may be determined as follows:

- A. If the BMP is to be owned and maintained by the Borough, the amount shall cover the estimated costs for operations and maintenance for 10 years, as determined by the Borough.
- B. The amount shall then be converted to present worth of the annual series values.

2. If a BMP is proposed that also serves as a recreation facility (such as a ball field or lake), the Borough may adjust the amount due accordingly.

(Ord. 04-02, 2/4/2004, §4.08)

Part 5**Inspections and Right of Entry****§26-501. Inspections.**

1. DEP or its designee (such as County Conservation Districts) normally ensure compliance with any permits issued, including those for stormwater management. In addition, the Borough or its designee may inspect all phases of the construction, operations, maintenance and any other implementation of stormwater BMPs.

2. During any stage of the regulated earth disturbance activities, if the Borough or its designee determines that any BMPs are not being implemented in accordance with this Chapter, the Borough may suspend or revoke any existing permits or other approvals until the deficiencies are corrected.

(Ord. 04-02, 2/4/2004, §5.01)

§26-502. Right of Entry.

1. Upon presentation of 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 the stormwater BMPs in regard to any aspect governed by this Chapter.

2. BMP owners and operators shall allow persons working on behalf of the Borough ready access to all parts of the premises for the purposes of determining compliance with this Chapter.

3. Persons working on behalf of the Borough may temporarily place on any BMP in the Borough such devices as are necessary to conduct monitoring and/or sampling of the discharges from such BMP.

(Ord. 04-02, 2/4/2004, §5.02)

Part 6**Fees and Expenses****§26-601. General.**

The Borough may charge the applicant a reasonable fee for review of BMP operations and maintenance plans to defray review costs incurred by the Borough.

(*Ord. 04-02, 2/4/2004, §6.01*)

§26-602. Expenses Covered by Fees.

The fees required by this Chapter may cover:

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

(*Ord. 04-02, 2/4/2004, §6.02*)

Part 7**Prohibitions****§26-701. Prohibited Discharges.**

1. No person in the Borough shall allow, or cause to allow, stormwater discharges into the Borough's separate storm sewer system that are not composed entirely of stormwater, except (1) as provided in subsection .2 below, and (2) discharges allowed under a State or Federal permit.

2. Discharges that may be allowed, based on a finding by the Borough that the discharge(s) do not significantly contribute to pollution to surface waters of the Commonwealth, are:

- A. Discharges from fire fighting activities.
- B. Potable water sources including dechlorinated water line and fire hydrant flushings; Irrigation drainage.
- C. Routine external building washdown (without detergents or chemicals).
- D. Air conditioning condensate.
- E. Water from individual residential car washing.
- F. Springs.
- G. Water from crawl space pumps.
- H. Uncontaminated water from foundation or footing drains.
- I. Flows from riparian habitats and wetlands.
- J. Lawn watering.
- K. Pavement washwaters where spills or leaks of hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.
- L. Dechlorinated swimming pool discharges.
- M. Uncontaminated groundwater.

3. In the event that the Borough determines that any of the discharges identified in subsection .2 significantly contribute to pollution of waters of the Commonwealth, or is so notified by DEP, the Borough will notify the responsible person to cease the discharge.

4. Upon notice provided by the Borough under subsection .3, 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.

5. Nothing in this Section shall affect a discharger's responsibilities under State law.

(Ord. 04-02, 2/4/2004, §7.01)

§26-702. Prohibited Connections.

The following connections are prohibited, except as provided in §26-701.2 above:

A. 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.

B. Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system that has not been documented in plans, maps, or equivalent records and approved by the Borough.

(Ord. 04-02, 2/4/2004, §7.02)

§26-703. Roof Drains.

1. Roof drains shall not be connected to streets, sanitary or storm sewers or roadside ditches, except as provided in §26-703.2.

2. 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.

3. Roof drains shall discharge to infiltration areas or vegetative BMPs to the maximum extent practicable.

(Ord. 04-02, 2/4/2004, §7.03)

§26-704. Alteration of BMPs.

1. No person shall modify, remove, fill, landscape or alter any existing stormwater BMP, unless it is part of an approved maintenance program, without the written approval of the Borough.

2. No person shall place any structure, fill, landscaping or vegetation into a stormwater BMP or within a drainage easement, which would limit or alter the functioning of the BMP, without the written approval of the Borough.

(Ord. 04-02, 2/4/2004, §7.04)

Part 8**Enforcement and Penalties****§26-801. Public Nuisance.**

1. The violation of any provision of this ordinance is hereby deemed a public nuisance.

2. Each day that a violation continues shall constitute a separate violation.

(*Ord. 04-02, 2/4/2004, §8.01*)

§26-802. Enforcement Generally.

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

- A. The performance of monitoring, analyses, and reporting.
- B. The elimination of prohibited connections or discharges.
- C. Cessation of any violating discharges, practices, or operations.
- D. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
- E. Payment of a fine to cover administrative and remediation costs.
- F. The implementation of stormwater BMPs.
- G. Operation and maintenance of stormwater BMPs.

2. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violations(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the Borough or designee and the expense charged to the violator.

3. Failure to comply within the time specified shall also subject such person to the penalty provisions of this Chapter. All such penalties shall be cumulative and shall not prevent the Borough from pursuing any and all other remedies available at law or in equity.

(*Ord. 04-02, 2/4/2004, §8.02*)

§26-803. Suspension and Revocation of Permits and Approvals.

1. Any building, land development or other permit or approval issued by the Borough may be suspended or revoked by the Borough for:

- A. Non-compliance with or failure to implement any provision of the permit.
- B. A violation of any provision of this Chapter.
- C. The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others.

2. A suspended permit or approval shall be reinstated by the Borough when:

A. The Borough Engineer or designee has inspected and approved the corrections to the stormwater BMPs, or the elimination of the hazard or nuisance.

B. The Borough is satisfied that the violation of the ordinance, law, or rule and regulation has been corrected.

3. A permit or approval which has been revoked by the Borough cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this Chapter.

(*Ord. 04-02, 2/4/2004, §8.03*)

§26-804. Penalties.

1. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [*Ord. 05-02*]

2. In addition, the Borough, through its Solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Chapter.

(*Ord. 04-02, 2/4/2004, §8.04; as amended by Ord. 05-02, 6/1/2005*)

§26-805. Appeals.

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

(*Ord. 04-02, 2/4/2004, §8.05*)

Appendix A

Low Impact Development Practices Alternative Approach for Managing Stormwater Runoff

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

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

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

Preserving Natural Drainage Features. Protecting natural drainage features, particularly vegetated drainage swales and channels, is desirable because of their ability to infiltrate and attenuate flows and to filter pollutants. However, this objective is often not accomplished in land development. In fact, commonly held drainage philosophy encourages just the opposite pattern - streets and adjacent storm sewers typically are located in the natural headwater valleys and swales, thereby replacing natural drainage functions with a completely impervious system.

As a result, runoff and pollutants generated from impervious surfaces flow directly into storm sewers with no opportunity for attenuation, infiltration, or filtration. Developments designed to fit site topography also minimizes the amount of grading on site.

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

Avoiding Introduction of Impervious Areas. Careful site planning should consider reducing impervious coverage to the maximum extent possible. Building

footprints, sidewalks, driveways and other features producing impervious surfaces should be evaluated to minimize impacts on runoff.

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

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

Reducing the Use of Storm Sewers. By reducing use of storm sewers for draining streets, parking lots, and back yards, the potential for accelerating runoff from the development can be greatly reduced. The practice requires greater use of swales and may not be practical for some development sites, especially if there are concerns for areas that do not drain in a "reasonable" time. The practice requires educating local citizens and public works officials, who expect runoff to disappear shortly after a rainfall event.

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

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

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

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

Constructing Cluster Developments. Cluster developments can also reduce the amount of impervious area for a given number of lots. The biggest savings is in street length, which also will reduce costs of the development. Cluster development clusters the construction activity onto less-sensitive areas without substantially affecting the gross density of development.

In summary, a careful consideration of the existing topography and implementation of a combination of the above mentioned techniques may avoid construction of costly stormwater control measures. Other benefits include reduced potential of downstream flooding, water quality degradation of receiving streams/water bodies and enhancement of aesthetics and reduction of development costs. Beneficial results

include more stable baseflows in receiving streams, improved groundwater recharge, reduced flood flows, reduced pollutant loads, and reduced costs for conveyance and storage.

Appendix B

Stormwater Best Management Practices Operations and Maintenance Agreement

THIS AGREEMENT, made and entered into this _____ day of _____, 200__, by and between _____, (hereinafter the "Landowner"), and the Borough of Swissvale, Allegheny County, Pennsylvania, (hereinafter "Borough");

WITNESSETH

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

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

WHEREAS, the stormwater management BMP operations and maintenance plan approved by the Borough (the "Plan") for the property identified herein, 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 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 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 Municipal Stormwater Management Ordinance, including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffers, sand filters and detention basins.

Infiltration trench - a BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer.

Seepage pit - an underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer.

Rain garden - a BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer.

WHEREAS, the Borough requires, through the implementation of the Plan, that stormwater management BMPs as required by said Plan and the Borough's Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner, his successors and assigns. and

NOW, THEREFORE, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto

agree as follows:

1. The BMPs shall be constructed by the Landowner in accordance with the plans and specifications identified in the Plan.

2. The Landowner shall operate and maintain the BMPs as shown on the Plan in good working order acceptable to the Borough and in accordance with the specific maintenance requirements noted on the 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 BMPs 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 BMPs as shown on the Plan in good working order acceptable to the Borough, the Borough or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMPs. 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 10 days of receipt of invoice from the Borough.

6. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMPs by the Landowner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.

7. The Landowner, its executors, administrators, assigns, and other successors in interests, hereby release the Borough's employees and designated representatives from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the BMPs 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 own expense, any suit based on the claim. If any judgment or claims against the Borough's 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) at a minimum of once every 3 years to ensure their continued functioning.

This Agreement shall be recorded at the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, and shall constitute a covenant running with the Property and/or an equitable servitude, and shall be binding on the Landowner, his administrators, executors, assigns, heirs and any other successors in interests, in perpetuity.

ATTEST:

WITNESS the following signatures and seals:

(SEAL)

For the Borough:

(SEAL)

For the Landowner:

ATTEST:

Borough of Swissvale
County of Allegheny, Pennsylvania

I, _____ a Notary Public in and for the County and State aforesaid, whose commission expires on the _____ day of _____, 20__, do hereby certify that _____ whose name(s) is/are signed to the foregoing Agreement bearing date of the _____ day of _____, 20__, has acknowledged the same before me in my said County and State.

GIVEN UNDER MY HAND THIS _____ day of _____, 20__.

NOTARY PUBLIC (SEAL)

