

STORMWATER MANAGEMENT ORDINANCE

SECTION 1. PURPOSE

The purpose of this Ordinance is to enact rules, regulations and procedures to manage and control stormwater in geographic areas within the jurisdiction of the Borough of Somerset in a manner consistent with the Coxes Creek Watershed Act 167 Stormwater Management Plan as adopted by Somerset County, Pennsylvania.

Section 1.1: Findings

The **Borough of Somerset** finds that:

- A. Stormwater runoff from lands modified by human activities threatens public health and safety by causing decreased infiltration of rainwater and increased runoff flows and velocities, which overtax the carrying capacity of existing streams and storm sewers, causes property damage and risk to public safety, and greatly increases the cost to the public to manage stormwater.
- B. Inadequate planning and management of accelerated stormwater runoff resulting from land development and redevelopment throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream-beds and stream-banks thereby elevating sedimentation), destroying aquatic habitat and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals and pathogens. Groundwater resources are also impacted through loss of recharge.
- C. **The Borough of Somerset** is located in the **Coxes Creek Watershed(s)** and as such will endeavor to cooperate with other municipalities located in the watershed(s) to address issues of stormwater management, water quality, pollution and flooding.
- D. Non-stormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the Commonwealth in the **Borough of Somerset**.
- E. Stormwater can be an important water resource by providing groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- F. Public education on the control of pollution of stormwater is an essential component in successfully managing stormwater.
- G. A comprehensive program of stormwater management, including reasonable regulation of land development and redevelopment causing loss of natural infiltration, is fundamental to the public health, safety, welfare, and the protection of the people of the Municipality and all the people of the Commonwealth, their resources, and the environment.

- H. The use of open space conservation, green infrastructure, low impact development (LID), and riparian buffers 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, LID, and riparian buffers contribute to the restoration or maintenance of pre-development hydrology.
- I. Stormwater structures are considered vital infrastructure and can pose a significant hazard. Outlets and waterways which carry stormwater shall be maintained free of obstructions to allow for non-restricted flow of stormwater to avoid impoundment of water.
- J. Occupancy and modification of floodplains shall be avoided wherever there is a practicable alternative to reduce long and short-term adverse impacts in order to reduce the risk of flood loss, minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains.

Section 1.2: Purpose

The purpose of this Ordinance is to promote health, safety, and welfare within the Municipality and its watersheds by minimizing the harms and maximizing the benefits described in this Section of this Ordinance, through provisions designed to:

- A. Manage stormwater runoff impacts at their source by regulating activities that cause the problems, reduce runoff volumes and mimic natural hydrology.
- B. Maintain existing flows and quality of streams and watercourses.
- C. Prevent scour and erosion of streambanks and streambeds.
- D. Utilize and preserve the existing natural drainage systems as much as possible.
- E. Restore and preserve the natural and beneficial values served by streamside and waterbody floodplains.
- F. Focus on infiltration of stormwater, to maintain groundwater recharge, to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- G. Promote stormwater runoff prevention and emphasize infiltration and evapotranspiration through the protection and conservation of natural resource systems and the use of non-structural BMPs and other creative methods of improving water quality and managing stormwater runoff.
- H. Promote the use of green infrastructure in development and redevelopment where it can also improve stormwater management within the broader watershed in which the project is located.

- I. Meet legal water quality requirements under state law, including regulations at 25 Pa.Code, Chapter 93.4a, to protect and maintain “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.
- J. Provide review procedures and performance standards for stormwater planning and management.
- K. Provide for proper operations and maintenance of all permanent stormwater management BMPs that are implemented in the Municipality.
- L. Provide a mechanism to identify controls necessary to meet the NPDES permit requirements, and to encourage infrastructure improvements that lead to separation of storm sewer systems from sanitary sewer systems.

Section 1.3: Statutory Authority

- A. The Municipality is empowered to regulate land use activities that affect stormwater runoff by the authority of the Stormwater Management Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. Section 680.1, et seq., as amended, and the Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended.
- B. Act 167 requires a Municipality to “adopt or amend, and shall implement such ordinances and regulations, including zoning, subdivision and development, building code, and erosion and sedimentation ordinances, as are necessary to regulate development within the Municipality in a manner consistent with the applicable watershed stormwater plan and the provisions of this act”. The applicable watershed stormwater plan to **the Borough of Somerset** is the **Coxes Creek Act 167 Plan**.

Section 1.4: Applicability

- A. All regulated activities as defined by this ordinance are subject to regulation by this Ordinance.
- B. This Ordinance applies to any land development or regulated earth disturbance activities within the Municipality, and all stormwater runoff entering into the municipality's separate or combined storm sewer system from lands within the boundaries of the municipality.
- C. Earth disturbance activities and associated stormwater management controls are also regulated under existing State law and implementing regulations. This Ordinance shall operate in coordination with those parallel requirements; the requirements of this Ordinance shall be no less restrictive in meeting the purposes of this Ordinance than State law.

Section 1.5: Repealer

Any other ordinance provision(s) or regulation of the municipality inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

Section 1.6: Severability

If any word, phrase, section, sentence, clause or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, invalidity or illegality by a court of competent jurisdiction, shall not affect or impair any of the remaining words, phrases, sections, sentences, clauses or parts of this Ordinance. It is hereby declared to be the intent of the **Borough of Somerset** that this Ordinance would have been adopted had such unconstitutional, illegal or invalid word, phrase, section, sentence, clause or part thereof not been included herein.

Section 1.7: Compatibility with Other Requirements

- A. Approvals issued and actions taken under this Ordinance 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 Ordinance imposes more rigorous or stringent requirements for stormwater management, the specific requirements contained in this Ordinance shall be followed.
- B. Conflicting provisions in other municipality ordinances or regulations shall be construed to retain the requirements of this Ordinance addressing state water quality requirements.

Section 1.8: Erroneous Permit

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

Section 1.9 – Liability Disclaimer:

- A. Neither the granting of any approval under the stormwater management provisions of this Ordinance, nor the compliance with the provisions of this Ordinance, or with any condition imposed by any public body of the Municipality or by a **Borough of Somerset** official, employee or consultant hereunder, shall relieve any person from any responsibility for damage to person or property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the municipality for damages to persons or property.
- B. The granting of a permit which includes any stormwater management does not constitute a representation, guarantee or warranty of any kind by the municipality or by an official or employee thereof, of the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result pursuant thereto.

SECTION 2. DEFINITIONS

Unless specifically defined in this Section, all technical terms in this Ordinance shall be as defined in the provisions of Pa Code Title 25 Environmental Protection, Pennsylvania Department of

Environmental Protection (PADEP) Erosion and Sediment Pollution Control Program Manual (PADEP E & S Manual, Latest Ed.), and PADEP Best Management Practices Manual (PADEP BMP Manual, Latest Ed.).

The following definitions shall apply specifically to this Ordinance:

Alteration – As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another; the changing of surface conditions by causing the surface to be more or less impervious; or, earth disturbance.

Applicant – A landowner, developer or other person who has filed an application for approval of Drainage Plan under Section 5 of this Ordinance.

Building Permit – A permit or other approval issued by the Municipality for construction and/or earth disturbance.

Conservation District – The Somerset County Conservation District or any successor agency.

Coxes Creek Watershed – The geographic area bounded peripherally by water parting and draining to the main stem of Coxes Creek including subwatershed of Bromm Run, Dempsey Run, East Branch of Coxes Creek, Kimberly Run, Laurel Run, Parson Run, Rice Run, West Branch of Coxes Creek, and Wilson Creek. Refer to Exhibit A of this Ordinance for a map of the Coxes Creek Watershed.

Developer – A person or persons, partnership, association, corporation or other entity, or any responsible person therein or agent thereof, who or which undertakes the activities covered by this Ordinance.

Development Site / Project Site – The entire property(ies), tract(s), or parcel(s) on which the Land Development or Earth Disturbance activity is to take place.

Domestic Gardening and Landscaping – alteration, improvement, or modification for the purpose of planting or tending any non-invasive plant species for the purpose of consumption or beautification of land. Beautification of land may include flora and fauna, water features, and impervious surfaces. Impervious surfaces shall not exceed 500 SF of land coverage.

Existing Condition / Pre-Development Condition – The representative condition of a Project Site within five (5) years prior to the proposed land development.

Earth Disturbance - a construction or other human activity which disturbs the surface of the land including, but not limited to, clearing and grubbing, grading, excavations, embankmentsland development, building construction, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

Impervious Surface – A surface that prevents the percolation of water into the ground. An impervious surface includes, but is not limited to, any roof, parking or driveway areas, patios, and

any new streets and sidewalks. Any surface areas designed or installed initially as gravel or crushed stone shall be considered impervious surfaces.

Land Development – the alteration, improvement, modification, or re-development of land involving construction activities resulting in earth disturbance, grading, addition, removal or construction of impervious surfaces, and stormwater infrastructure.

Maintenance – activities that do not cause earth disturbance (such as pavement milling and overlay, full depth pavement replacement which does not remove or replace existing aggregate courses, seal coating, demolition which retains and does not disturb an existing impervious surface (i.e. floor slab), or rebuilding a structure on an existing foundation) which are completed to extend the life cycle of an existing land surface covering.

Municipality – The Borough of Somerset, Somerset County, Pennsylvania.

Person – An individual, partnership, association, corporation or other entity.

Post-Development Condition – The condition of a land development site after completion of construction established by the subdivision or land development plans and termination of requirements for implementation of the associated and approved Erosion and Sedimentation Plan.

Re-development – land development occurring on a project site which has previously been developed and/or exists as an impervious surface.

Regulated Impervious Area – The measured area of impervious surface required to be accounted for, considered, and used in the calculations for control and management of stormwater runoff.

Roadway Maintenance – earth disturbance within the existing limits or cross section of any public street or highway for the purpose of replacing the pavement structure and underlying infrastructure.

Small Project – Land Development that is limited to Regulated Impervious Area equal to or less than 10,000 S.F.

Somerset County Subdivision & Land Development Ordinance – The Ordinance as adopted by the Somerset County Commissioners on December 16, 1997 with an effective date of January 1, 1998, and any subsequent amendment or replacement thereof.

Stormwater Management Plan – The plan for managing stormwater runoff in accordance with the Coxes Creek Watershed Act 167 Stormwater Management Plan as adopted by Somerset County; and any subsequent amendment or replacement thereof, as required by the Act of October 4, 1978, P.L. 864, (Act 167), and known as the “Storm Water Management Act”.

Subdivision – The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other division of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, or transfer of ownership. The definition does not include any type of land alteration, development, improvement, or modification.

SECTION 3. APPLICABILITY

This Ordinance governs all Land Development within the Borough of Somerset.

SECTION 4. STORMWATER MANAGEMENT REQUIREMENTS

Section 4.1: General Requirements

- A. Stormwater runoff – Stormwater runoff must be managed in a manner which prevents injury to human health, the environment, safety, or other property. The measures and regulations contained in this Ordinance are intended to ensure that the maximum rate and volume of storm water runoff following Land Development is no greater than immediately prior thereto.
- B. Water Quality – Stormwater runoff must be managed in a manner that protects and complies with the Water Quality Requirements for waters of the Commonwealth.
- C. No Land Development or earth disturbance activity within the Municipality's corporate boundaries shall be done without a written permit or exemption from the Municipality.
- D. Stormwater runoff shall be managed consistent with this Ordinance, state and federal regulations even when the activity is exempt or if a problem arises with existing stormwater management infrastructure.
- E. All stormwater discharges shall be directed to or directly connected to a public stormwater collection or conveyance structure wherever feasible. Discharge of stormwater onto adjacent property shall be required to have energy dissipation features to protect the public interest, health, safety, and minimize erosion potential.

Section 4.2: Regulated Impervious Area

- A. All Land Development shall be required to control stormwater runoff related to the Regulated Impervious Area in a manner consistent with this Ordinance. The Stormwater Management Plan shall require the management of the increase, decrease, or alteration in stormwater runoff generated from additional, created, and re-developed impervious surfaces. The Regulated Impervious Area shall be used to determine the amount of stormwater runoff to be managed by this Ordinance. Regulated Impervious Area shall be calculated in accordance with Section 4.2.B.
- B. Regulated Impervious Area Calculation and Determination
 - a. All new Impervious Surface shall be considered Regulated Impervious Area.
 - b. All re-developed Impervious Surface shall be considered Regulated Impervious Area.
 - c. The total Regulated Impervious Area resulting from calculations and measurements under Section 4.2 shall be utilized in all applicable stormwater runoff calculations.

Section 4.3: Exemptions

A Stormwater Management Plan exemption does not relieve the Developer/Applicant from any other applicable ordinance, regulation, approval, or permit. The following activities do not require the prior submission of a Stormwater Management Plan to the Municipality:

- A. Subdivision
- B. Agricultural Activities completed in accordance with state applicable regulations.
- C. Forest management operations completed in accordance with applicable state regulations.
- D. Land Development activities with a Regulated Impervious Area of less than five hundred square feet (500 S.F.).
- E. Maintenance and Roadway Maintenance that does not increase Regulated Impervious Area.
- F. Domestic gardening and landscaping.
- G. Utility Construction that replaces the land cover type in-kind.
- H. Small Projects as defined in Section 2.
- I. Demolition which removes all existing impervious area and restores the area to grass or a pervious surface.

Section 4.4: Stormwater Management Requirements

- A. Land Development activities shall meet or exceed the following stormwater management requirements based on the measure of Regulated Impervious Area.
 - Regulated Impervious Area – 10,001 S.F. to 43,560 S.F. (1 Acre)
 - i. Rate
 - 1. Post -Development Rate shall equal Pre-Development Rate for the following design storms.
 - a. 2-year
 - b. 10-year
 - c. 25-year
 - ii. Volume
 - 1. Infiltrate or retain on-site 1” of stormwater runoff generated by or originating from the Regulated Impervious Area.
 - Regulated Impervious Area – Greater than 43,560 S.F. (1 Acre)
 - i. Rate
 - 1. Post -Development Rate shall equal Pre-Development Rate for the following design storms.
 - a. 2-year
 - b. 10-year
 - c. 25-year
 - d. 50-year
 - e. 100-year

ii. Volume

1. Provide volume control equal to the greater of the following two (2) volume calculations.
 - a. Infiltrate or retain on-site the net increase of stormwater runoff from the 2-year, 24-hour storm.
 - b. Infiltrate or retain on-site 1.5" of stormwater runoff generated by or originating from the Regulated Impervious Area.
- B. Management of stormwater shall be achieved through the use of Stormwater Best Management Practices (BMPs) as described in the PA Department of Environmental Protections' Best Management Practices Manual. Construction, materials, and design considerations described in the Manual shall be followed to the maximum extent practicable. Alternative methods of stormwater management will only be considered if it is demonstrated that BMPs cannot be followed.
- C. All facilities shall be designed to dewater or achieve full capacity within 72 hours of the end of any design storm.

Section 4.5: Small Project Requirements and Applications

- A. Small Projects shall be required to meet or exceed the provisions set forth in this Section, complete and submit to the Municipality the Small Project Application Form, pay the appropriate fees as noted in the Small Project Application Form, and contact the Municipality for inspection of any and all BMPs installed.
- B. Small Projects include any Land Development that involves Regulated Impervious Area equal to or greater than 500 S.F. and equal to or less than 10,000 S.F.
- C. Small Projects shall meet the following:
 - Provide BMPs to capture 1" of stormwater runoff generated by or originating from the Regulated Impervious Area.
 - Infiltrate or retain on-site 0.5" of stormwater runoff generated by or originating from the Regulated Impervious Area.
 - Connect or direct BMP discharge piping to public storm sewer system, when applicable or required by the Municipality.
- D. Small Projects Applicants shall submit two (2) counterparts of the completed Small Projects Application and appropriate fees to the Municipality. Approval of the Small Project will be evidenced by the Municipality's approval and countersigning of both counterparts of submitted applications. One (1) counterpart will remain on file at the Municipality office and the other will be returned to the Applicant.

- E. Small projects shall be required to execute the Operation & Maintenance Agreement and attach the sketch plan to the Agreement for recording purposes. Applicant will be required to coordinate the recording of the agreement and Plan at the Somerset County Recorder of Deeds Office. A copy of the recorded plan and agreement shall be furnished to the Borough once available.

Section 4.6: Groundwater

- A. All BMPs designs shall provide considerations for groundwater and shall demonstrate that infiltration or retention of stormwater runoff is feasible.

Section 4.7: Offsite Stormwater Management

- A. The Developer or Applicant may request the use of an alternative site(s) for meeting the requirements of the Ordinance. The Developer or Applicant should request approval from the Municipality to use off-site management prior to submitting a Stormwater Management Plan. The Developer or Applicant shall provide a brief description of the site and location for the proposed off-site management plan.
- B. The alternative site(s) shall be within the Coxes Creek Watershed and shall manage areas that will provide a benefit to the watershed by managing existing impervious area. This may be achieved through BMP retrofitting or installation of new BMPs. The Stormwater Management Plan for all off-site management shall provide Volume and Rate Control at least equal to what is required for control of the Project Site. The Stormwater Management Plan for all off-site management shall comply with all requirements of this Ordinance.
- C. Review of any Off-site management will be simultaneous to the review of the Project Site and no additional fees will be collected for a separate review.
- D. The Developer or Applicant may determine that management at the Project Site and Off-site management are not feasible or practicable. The Developer or Applicant must provide a written request to be exempt from constructing BMPs at the Project Site or Off-site to the Municipality. The Municipality will provide a written response to the Developer or Applicant which may or may not approve the exemption request. For all approved exemption requests, the Developer or Applicant shall be required to pay a fee to the Municipality in an agreed upon amount that is at least equal to the estimated construction cost of BMPs needed to meet the requirements of the Ordinance. The fees collect by the Municipality shall be utilized to construct BMPs on public property

to offset the negative stormwater impacts within the watershed that are created by the Developer or Applicant activity.

Section 4.8: Existing Stormwater Management

- A. The Developer or Applicant may request the use of and demonstrate the adequacy of existing stormwater management controls. The use of existing stormwater management facilities shall be permitted when rate and volume control consistent with this ordinance is provided for the total of all Regulated Impervious Area and all existing impervious area within the Development Site.

SECTION 5. STORMWATER MANAGEMENT PLAN REQUIREMENTS

Section 5.1: The Stormwater Management Plan shall be prepared, except for exempted activities, for all land development activities. The Drainage Plan shall be prepared under the supervision of, and certified by, a Professional Engineer, Surveyor, or Landscape Architect registered in the State of Pennsylvania.

Section 5.2: The Stormwater Management Plan shall include the following minimum requirements:

Plan drawings reflecting the proposed Land Development and Project Site.

- Plans, profiles, sections and details for all proposed stormwater infrastructure.
- Lot lines
- Existing Conditions and Proposed Conditions
 - i. Illustrate limits and provide surface area for impervious and non-impervious land cover.
 - ii. Illustrate topography and grading.
- Identify each point of stormwater runoff discharge to waterways and public facilities.
- Municipal Approval Signature Block provided on overall site plan or first plan sheet of site plans. The Municipal Approval Signature Block shall read as follows: "I am a duly authorized representative of the Municipality of the Borough of Somerset and have reviewed the Stormwater Management Plan for consistency with the Coxes Creek Watershed Stormwater Management

Ordinance of the Municipality of Somerset. Based on the Developer/Applicant information provided the Plan appears consistent with the Ordinance.”

- The Municipal Approval Signature Block shall include a line for signature and date.
- A. Stormwater runoff computations, computation summary table, descriptive narrative, and a copy of all referenced publications to demonstrate that the Land Development meets or exceeds the requirements of Section 4 of this Ordinance.
- B. Written plan for post-construction, long-term operation and maintenance of all permanent stormwater management facilities including designation of parties responsible for operation and maintenance activities, detailed descriptions of maintenance activities, and inspection frequency (minimum annual inspection shall be required).
- C. Operation and Maintenance Agreements shall be furnished by the Applicant for signature by the Borough. The Applicant will be required to coordinate the recording of the agreement and Plan at the Somerset County Recorder of Deeds Office. A copy of the recorded plan and agreement shall be furnished to the Borough once available.

Section 5.3: Submission & Review

- A. Land Development activities that also require building, zoning, or subdivision approval shall submit the Stormwater Management Plan simultaneously with all other required Municipal approval packages.
- B. Land Development activities which require planning approval shall be submitted to the Municipality fourteen (14) days prior to a regular meeting of the Planning Commission.
- C. Developer/Applicant shall be responsible for separately submitting and obtaining all other non-Municipality approvals and permits required for the Land Development and associated construction activities.
- D. Developer/Applicant must indicate if a Stormwater Management Consistency Letter is being sought for inclusion in other approval or permit packages.
- E. Municipality will provide written approval of the Stormwater Management Plan by issuance of any of the following:
- Building Permit
 - Stormwater Management Consistency Letter
- F. Submittal Package
- Two (2) copies of the Stormwater Management Plan.
 - One (1) electronic copy. Delivered on portable data storage device. All devices submitted to the Municipality will not be returned unless specifically requested.
 - Stormwater Management Plan Application
 - Fees
- G. Review

- The Municipality shall review the Stormwater Management Plan and provide a written response within thirty (30) calendar days from receipt of the Stormwater Management Plan.
- Each review of a Stormwater Management Plan which required revision or modification shall be reviewed and a written response will be provided within fifteen (15) calendar days from receipt of the revised or modified Stormwater Management Plan.
- The Operation and Maintenance Agreement shall be executed by the Municipality and Applicant once the Stormwater Management Plan has been deemed to be consistent with the Ordinance. A copy of the executed Operation and Maintenance Agreement shall be recorded at the Somerset County Recorder of Deeds Office.

SECTION 6. INSPECTIONS AND CONSTRUCTION COMPLETION

Section 6.1: The Applicant shall notify the Municipality two (2) business days prior to the commencement of any activity covered by this Ordinance so that appropriate inspections to insure compliance with this Ordinance can be made.

Section 6.2: The Applicant shall notify the Municipality of completion of construction of stormwater management facilities within thirty (30) calendar days of completion. The notice of completion shall include submittal of one (1) copy and one (1) electronic file of as-built documentation of constructed stormwater management facilities.

Section 6.3: As-built documentation shall include a revised Stormwater Management Plan, if applicable, meeting all requirements of this Ordinance with specific statement that the Stormwater Management Plan accurately represents the constructed facilities and shall be prepared under the supervision of and certified by a Registered Professional Engineer, Registered Landscape Architect, or Registered Surveyor.

SECTION 7. FEES

Section 7.1: Fees imposed under this Ordinance shall be established by Resolution of the Municipality from time to time hereafter.

Section 7.2: Municipality shall not issue approval of the Stormwater Management Plan until all applicable fees have been paid to the Municipality by the Developer or Applicant.

SECTION 8. FINANCIAL GUARANTEES

Section 8.1: Financial Guarantees shall only be required for Project Sites involving more than one (1) acre of Regulated Impervious Area.

Section 8.2: In order to ensure that any required stormwater management controls are properly installed the applicant shall provide a financial guarantee equaling 110% of the full estimated cost of construction of all Stormwater Management BMPS. The Applicant shall be required to provide a cost estimate of the stormwater improvements at the time of application. The financial guarantee will be in the form acceptable to the Municipality. The financial guarantee will be released after completion of the final construction inspection and receipt of the As-built documentation.

Section 8.3: The Applicant or Developer shall deposit with the Municipality a corporate bond, other financial security, lending institution letter of credit, escrow account in a lending institution, or other financial guarantee type in form and substance acceptable to the Municipality.

SECTION 9. ENFORCEMENT AND PENALTIES

Section 9.1: This section includes penalties for violations of this Ordinance.

- A. Duly authorized representatives of the Municipality have the right to enter private property at reasonable times to investigate any condition associated with this Ordinance.
- B. No BMP shall be altered or modified inconsistent with the approved plan without written approval from the Municipality.
- C. A copy of the as-built plan, verified by a Registered Professional, shall be recorded at the Somerset County Recorder of Deeds Office.
- D. Anyone violating the provisions of this Ordinance shall be guilty of a summary offense, and upon conviction shall be subject to a fine of not more than \$300.00 for each violation, recoverable with costs, or imprisonment of not more than 30 days, or both. Each day that the violation continues shall be a separate offense. In addition, the Municipality may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining order, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief. In addition, the Municipality may seek recovery of a civil penalty for violations of this Ordinance of \$300.00 for each violation. Each day that the violation continues shall be a basis for an additional civil penalty.

SECTION 10. EXHIBITS

1. Exhibit A - Stormwater Management Plan Application
2. Exhibit B – Operation and Maintenance Agreement
3. Exhibit C – Fee Schedule and Resolution
4. Exhibit D – Small Project Application
5. Exhibit E – Stormwater Management Requirements Determination

SECTION 11. EFFECTIVE DATE

This Ordinance shall be effective thirty (30) days following passage.

ENACTED AND ORDAINED this 26th day of APRIL, 2021, by the Council of the Borough of Somerset.

ATTEST:

BOROUGH OF SOMERSET

Michele A. Eans

Municipality Secretary

By Greg Miller
President of Council

APPROVED this 26th day of APRIL, 2021.

[Signature]

Mayor

Summary of Proposed Changes – 2021

Section 1. Purpose:

General Information – No effect on ordinance requirements or what developers must do to comply

Section 1.1 Findings – New Section

Section 1.2 Purpose – New Section

Section 1.3 Statutory Authority – New Section

Section 1.4 Applicability – New Section

Section 1.5 Repealer – New Section

Section 1.6 Severability – New Section

Section 1.7 Compatibility with Other Requirements – New Section

Section 1.8 Erroneous Permit – New Section

Section 1.9 Liability Disclaimer – New Section

Section 2. Definitions

1. Development Site/Project Site – revised definition to provide clarity
2. Earth Disturbance – added term to section. Previously the term was incorporated by reference and used the PA Code Title 25 definition. Removed “road maintenance” from the definition.
3. Maintenance – revised the definition. Added “full depth pavement replacement which does not remove or replace existing aggregate courses and demolition which retains and does not disturb an existing impervious surface”. These activities will be exempt from stormwater management.
4. Re-development – new term. Added to clarify references to re-development.

Section 4. Stormwater Management Requirements

1. Section 4.2.B – revised this section to require all projects that re-develop or add new impervious surface to be regulated, if not otherwise exempt. *Note – previous language was consistent with State guidance which required management of 20% or all existing impervious area.
1. Section 4.3 Exemptions
 - a. Added a new exemption - “Demolition which removes all existing impervious area and restores the area to grass or a pervious surface”. This is provided for clarity.

Section 5. Stormwater Management Plan Requirements

1. Added Section 5.2.C – this new section indicates when the developer is to submit the Operation and Maintenance Agreement. This is provided for clarity.

Review & Application Fees

1. Small Projects – the review fee is lowered from \$150 to \$75. This is based on Borough estimated costs to review Small Projects.