

# Westmoreland County's new Model Stormwater Management Ordinance

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# Stormwater Management Ordinance

- Required by PA Act 167 of 1978, the Stormwater Management Act
- County must create and adopt a stormwater plan
- Municipalities must adopt the stormwater ordinance

# Source of the new SWM Ordinance

- DEP's model ordinance 2022
- Other DEP model ordinances
- Allegheny County's Act 167 Plan & Ordinance
- Salisbury Township, Lancaster County
- Input from WCD Technical Advisory Committee
- Input from Atty. Les Mlakar and Atty. John Campfield

# Certain New Definitions

- ***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 areas, and any new streets and sidewalks. Any surface areas designed to initially be gravel or crushed stone shall be assumed to be impervious surfaces, unless demonstrated otherwise in an approved stormwater management plan. Any surface, gravel or otherwise used for permanent or temporary storage of vehicles, containers, solar arrays or other similar items shall be considered impervious or at a minimum the total impervious surface of the combined footprint of the vehicles, containers, solar arrays and other similar items based on a reasonable assumption of capacity at that site.
- ***Regulated development activity*** – Any earth disturbance activities or any activities that involve the change of land cover, alteration or development of land in a manner that may affect stormwater runoff as listed in the Regulated Development Activity table. This includes earth disturbance on any portion of, part, or during any stage of, a larger common plan of development. With regard to road maintenance activities the term only includes activities involving [1 acre] or more of earth disturbance. Refer to the Regulated Development Activity Table in Article III of this ordinance.
- ***Small project*** – Regulated development activities that, measured on a cumulative basis from 5 years prior to the application, create additional impervious areas of more than [1,000] square feet and less than [3,000] square feet or involve earth disturbance activity of an area less than [5,000] square feet and do not involve the alteration of stormwater facilities or water courses.
- ***Stormwater Management Performance District*** – an area designated by the Watershed Stormwater Performance District Map which includes standards for stormwater rate, volume and water quality. Refer to Appendix A.

# Stormwater Performance Districts

- Establish standards for design professionals
- Release Rate, Water Quality Standards
- For purposes of stormwater management, the [Municipality] is located in the following [ **Creek / River** ] Watershed(s), which includes the Stormwater Management Performance District(s) shown on the map entitled “\_\_\_\_\_”. The location and boundaries of the watershed(s) and performance district(s) are shown on a map entitled “\_\_\_\_\_”, which is hereby adopted as a portion of the Ordinance. For areas not covered by a stormwater performance district, the release rate shall be [“\_\_”%] of the pre-development peak flow as set by the municipality. For more information refer to [www.westmorelandstormwater.org](http://www.westmorelandstormwater.org) .

# Regulated Development Activity Table

## WHICH PROJECTS REQUIRE STORMWATER MANAGEMENT?

SWM Plan Requirement	New Impervious Area for New and Redevelopment	Disturbed Area*	Next Steps
Exempt	0	Less than 1 acre	Comply with Exemption section of this ordinance
No-Harm	Up to [1,000] sf for urban [3,000] square feet for suburban/rural areas	Less than [3,000] sf urban [5,000] square feet for suburban / rural areas	Comply with No-Harm section of this ordinance
Waiver / Modification / Demonstrated Equivalency	Less than 1 acre, subject to municipal approval	Less than 1 acre	Comply with Waiver / Modification / Demonstrated Equivalency section of this ordinance
Small Project (per definition), refer to Appendix C	[1,000] [3,000] square feet to [10,000] square feet	[3,000] [5,000] square feet to [20,000] square feet	Submit Small Project Site Plan complete with all attachments
Stormwater Management Plan meeting the Ordinance requirements	Greater than [10,000] square feet if Exempt and Small Project criteria are not met, or if improvements do not meet No-Harm criteria	Greater than [20,000] square feet	Consult a qualified professional

# Flexible Approach to BMP's

- SOME regulated activities are specifically **exempt** from the Stormwater Management Plan preparation and submission requirements articulated in this Ordinance.
- Applicants may request approval of a **'no-harm option'** regarding stormwater management for their project.
- If the [Municipality], in conjunction with the municipality engineer, WCD, DEP as applicable, determines that any requirement under this Ordinance cannot be achieved for a particular regulated activity, the municipality may, after an evaluation of alternatives, approve measures other than those in this Ordinance, subject to this Section paragraphs B, C and D. The request for a **waiver, modification, or demonstrated equivalency** shall originate with the Landowner, shall be in writing.

# Acceptable Computation Methodology

METHOD:

DEVELOPED BY : APPLICABILITY:

Win TR-20 (or commercial computer package based on TR-20)	USDA NRCS	Applicable where use of full hydrologic computer model is desirable or necessary.
Win TR-55 (or commercial computer package based on TR-55 ie. VT/PSUHM)	USDA NRCS	Applicable for land development plans within limitations described in TR-55
HEC-1, HEC-HMS	US Army Corps of Engineers	Applicable where use of full hydrologic computer model is desirable or necessary.
PennDOT 584 (based on rational method)	PennDOT	Applicable under standards established by PennDOT
EFH2	USDA NRCS	Applicable in agricultural areas subject to the program limits.
SWMM	EPA	Applicable in urban and suburban areas subject to limits established by EPA
PA DEP BMP Manual 2006	PA DEP	Applicable under standards established by PA DEP
Other Methods	Varies	Other methodologies approved by the municipality



# Relationship with Chapter 102, 105, etc.

**Goal—to achieve a ‘unified’ site design approach AND Prevent unpleasant surprises**

- No regulated development activities within the [Municipality] shall commence until approval by the [Municipality] and the Westmoreland County Conservation District of an erosion and sediment control plan for construction activities.
- Any earth disturbance activity of 5,000 square feet or more requires an erosion and sedimentation control plan under 25 Pa.Code §102.4(b). Refer to the PA DEP Erosion and Sediment Pollution Control Manual 2012 or most recent version.
- No regulated development activities which require Chapter 105 (Water Obstructions and Encroachment) permit from either PA DEP or Westmoreland Conservation District shall commence until all permits have received PA DEP or WCD approval, and municipal approval.

# Small Project SWM approach

- Sites disturbing less than [requirement set by municipality]
- A Small Project Stormwater Management Plan must be submitted to the [Municipality] and the Conservation District and shall consist of the following items and related support material needed to determine compliance with Sections 307 to 311 of this ordinance. The applicant can also use protocols listed in Appendix C.
  - Narrative
  - Stormwater Management Plan
  - Small Project Stormwater Management Worksheet;
  - Signed [acknowledgement] [agreement]
  - Erosion and Sediment Control Plan

# Financial, Maintenance Guarantees

- A completion guarantee or financial security in the form of a bond, cash deposit, cashier's check or other negotiable securities acceptable to the municipality shall provide for, and secure to the municipality, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.
- Prior to acceptance of any improvements or facilities, the applicant shall provide financial security to secure the structural integrity and functioning of the improvements.

# Statutory Authority

- 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.]
- The [Municipality] is also empowered to regulate land use activities that affect stormwater runoff by the authority of
  - [other [municipal code] or empowerment] or
  - [Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended]

# Penalties and appeals

- Any person aggrieved by a decision of the Municipality or any of its authorized persons or agencies, may appeal in writing said decision to the [governing body] within thirty (30) days of any decision. Any appeal must be filed with the [governing body].
- The appellant shall pay to the Municipality at the time of filing the appeal, any and all fees and charges as set forth in a Resolution of the Municipality.