

Ordinance NO. 1379

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 2. DEFINITIONS

Unless specifically defined in this Section 2, 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 limits of earth disturbance for any land development.

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.

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, seal coating, 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.

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.

Section 4.2: Regulated Impervious Area

- A. All Land Development shall be required to control stormwater runoff in a manner consistent with this Ordinance. The Stormwater Management Plan shall require the management of the increase in stormwater runoff generated from additional, created, and existing 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. Twenty percent (20%) of the total existing Impervious Surface shall be considered Regulated Impervious Area.
 - c. Land Development that proposes to reduce the amount of existing Impervious Surface shall be required to consider twenty percent (20%) of the total resultant (net) Impervious Surface area (existing and/or proposed) as Regulated Impervious Area.
 - d. The 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.

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.

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.

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 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 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).

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 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 25th day of March, 2019, by the Council of the Borough of Somerset.

ATTEST:

BOROUGH OF SOMERSET

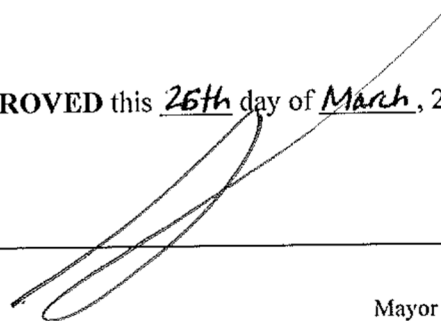


Municipality Secretary

By 

President of Council

APPROVED this 26th day of March, 2019.



Mayor