

Amended Bill No. 43, Ordinance No. 42, Session 2022

ARTICLE 935
General Provisions

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935.01 SHORT TITLE.

This Title Four of the Streets, Utilities and Public Services Code shall be known and may be cited as the "City of York Stormwater Management Ordinance."
(Ord. 32-2011. Passed 10-4-11.)

935.02 STATEMENT OF FINDINGS.

(a) Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases **runoff volumes**, flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases non-point source pollution of water resources.

(b) A comprehensive program of stormwater management (**SWM**), including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of the Commonwealth, their resources, and the environment.

(c) Stormwater is an important water resource, ~~which~~ **that** provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.

(d) The use of green infrastructure and low impact development (LID) are intended to address the root cause of water quality impairment by using systems and practices which use or mimic natural processes to: 1) infiltrate and recharge, 2) evapotranspire, and/or 3) harvest and use precipitation near where it falls to earth. Green infrastructure practices and LID contribute to the restoration or maintenance of pre-development hydrology.

~~(d)~~**(e)** Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES) program. (Ord. 32-2011. Passed 10-4-11.)

935.03 PURPOSE.

The purpose of this Ordinance is to promote health, safety, and welfare within the Municipality and its watershed(s) by minimizing the harm and maximizing the benefits described in Section 935.02, through provisions designed to:

- (a) Meet legal water quality requirements under state law, including regulations at 25 Pa. Code 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this Commonwealth.
- (b) Preserve the natural drainage systems as much as possible.
- (c) Manage stormwater runoff close to the source, **reduce runoff volumes and mimic predevelopment hydrology.**
- (d) Provide procedures and performance standards for stormwater planning and management.
- (e) Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- (f) Prevent scour and erosion of stream banks and stream beds.
- (g) Provide proper operation and maintenance of all SWM BMPs that are implemented within the municipality.
- (h) Provide standards to meet NPDES permit requirements. (Ord. 32-2011. Passed 10-4-11.)

935.04 STATUTORY AUTHORITY.

(a) Primary Authority: The Municipality is empowered to regulate land use activities that affect stormwater impacts by the authority of the Third Class City Code and the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. Section 680.1, et seq., as amended, the "Stormwater Management Act."

(b) Secondary Authority: The Municipality is also empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended.
(Ord. 32-2011. Passed 10-4-11.)

935.05 APPLICABILITY.

All regulated activities and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this article. Article 942, Detention and Elimination of Illicit Discharges to the Municipal Separate Storm Sewer System, shall be applicable to all water entering the storm drain system of the Municipality generated on any developed and undeveloped lands unless explicitly exempted by the Municipality. (Ord. 32-2011. Passed 10-4-11.)

935.06 REPEALER.

Any other ordinance provision or regulation of the Municipality inconsistent with any of the provisions of this Ordinance is hereby repealed to give this Ordinance full force and effect to the extent of the inconsistency only.
(Ord. 32-2011. Passed 10-4-11.)

935.07 SEVERABILITY.

In the event that a court of competent jurisdiction declares any section, clause or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining sections, clauses or provisions of this Ordinance.
(Ord. 32-2011. Passed 10-4-11.)

935.08 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS.

Permits and approvals issued pursuant to this Ordinance do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance. If more stringent requirements concerning regulation of stormwater or erosion and sedimentation control are contained in another code, rule, act or ordinance, the more stringent regulations shall apply
(Ord. 32-2011. Passed 10-4-11.)

935.09 INTERPRETATION.

Unless otherwise expressly stated, the succeeding shall, for the purposes of this Ordinance, be interpreted in the following manner:

- (a) Words used in the present tense also imply the future tense.
- (b) Words used in the singular imply the plural, and vice versa.
- (c) Words of masculine gender include feminine gender, and vice versa.
- (d) The words and abbreviation "includes," "including," "shall include," "such as," and "e.g." are not limited to the specific example(s) given but are intended to extend the word's or words' meaning(s) to all other instances of like kind and character.
- (e) The words "person", "applicant", or "developer" include, a partnership, corporation, or other legal entity, as well as an individual.
- (f) The words "shall", "required", or "must" are mandatory; the words "may" and "should" are permissive.

(Ord. 32-2011. Passed 10-4-11.)

935.10 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.
(Ord. 32-2011. Passed 10-4-11.)

935.11 WAIVERS.

(a) If the Municipality 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 Section 935.11, paragraphs (b) and (c).

(b) Waivers or modifications of the requirements of this Ordinance may be approved by the Municipality if enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that the modifications will not be contrary to the public interest and that the purpose of the Ordinance is preserved. Cost or financial burden shall not be considered a hardship. Modification may be considered if an alternative standard or approach will provide equal or better achievement of the purpose of the Ordinance. A request for modifications shall be in writing and accompany the Stormwater Management Site Plan submission. The request shall provide the facts on which the request is based, the provision(s) of the Ordinance involved and the proposed modification.

(c) No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one acre may be granted by the Municipality unless that action is approved in advance by the Department of Environmental Protection (DEP) or the York County Conservation District.