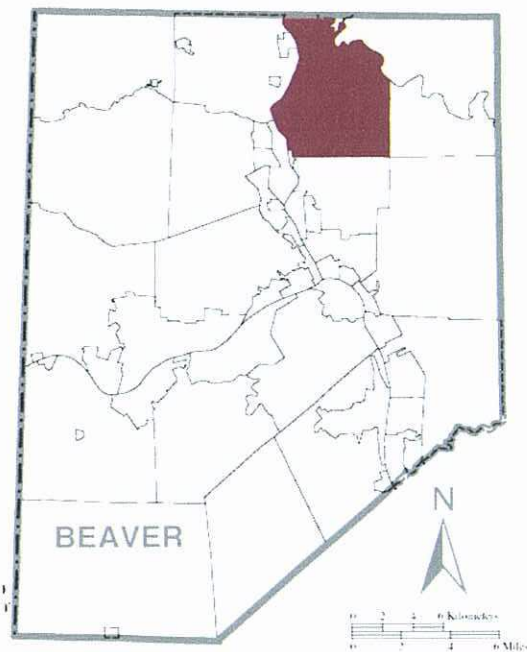


North Sewickley Township Beaver County, PA

Chapter 9 Grading, Excavating and Stormwater Management



CODIFICATION OF ORDINANCES

CHAPTER 9

Grading, Excavating and Stormwater Management

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CHAPTER 9

GRADING, EXCAVATING AND STORMWATER MANAGEMENT

History: Ordinance No. 111, October 14, 2003.

<i>Stormwater Management</i>	
<p style="text-align: center;"><i>General Provisions</i></p> <p>§ 9-101 Title</p> <p>§ 9-102 Purpose and Legislative Intent</p> <p>§ 9-103 Adoption, Authority, Applicability</p> <p>§ 9-104 Municipal Liability</p> <p>§ 9-105 Right-of-Entry</p> <p style="text-align: center;"><i>Plan Requirements</i></p> <p>§ 9-201 General Requirements</p> <p>§ 9-202 Design Storms</p> <p>§ 9-203 Calculation of Runoff</p> <p>§ 9-204 Detention Facilities</p> <p>§ 9-205 Exemptions</p>	<p style="text-align: center;"><i>Application Procedure and Requirements</i></p> <p>§ 9-301 Application Procedures</p> <p>§ 9-302 Application Requirements</p> <p>§ 9-303 Waiver and Appeal Procedure</p> <p>§ 9-304 Expiration of a SWM Permit</p> <p>§ 9-305 Financial Security</p> <p>§ 9-306 Liability Insurance</p> <p>§ 9-307 As-Built Drawings</p> <p>§ 9-308 Inspection During Construction</p> <p style="text-align: center;"><i>Maintenance of SWM Facilities and BMP Facilities</i></p> <p>§ 9-401 Maintenance of SWM Facilities and BMP Facilities</p> <p>§ 9-402 Performance SWM Facilities</p> <p style="text-align: center;"><i>Administration</i></p> <p>§ 9-501 Remedies</p> <p>§ 9-502 Penalties</p> <p>§ 9-503 Appeals</p>

STORMWATER MANAGEMENT

PART 1

General Provisions

§9-101 TITLE

This Part shall be known as the North Sewickley Township Stormwater Management Ordinance.

§9-102 PURPOSE AND LEGISLATIVE INTENT

The purpose of this Part is to:

- A. In the enactment of this Part, it is the legislative intent of the Board of Supervisors to implement the policies set forth in various statutes of the Commonwealth and Federal governments, including, but not limited to the Pennsylvania Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. Section 691.1 et seq., the Pennsylvania Scenic Rivers Act, Act of December 5, 1972, P.L. 1277, No. 283, 32 P.S. Section 820.21 et seq., and the Federal Water Pollution Control Act, commonly known as the Clean Water Act, 33 U.S.C. Section 1251 et seq.
- B. The purposes of this Part are to promote the general health, safety, and welfare of the community, regulate the modification of the natural terrain and alterations of existing drainage from land disturbances, new subdivision, and new land developments in order to control erosion and sedimentation of soils and preserve stream channels and water quality, and provide design, construction and maintenance, and storm drainage facilities for

controlling stormwater erosion and sedimentation and maintaining the quality of the watersheds within the Township.

§9-103 ADOPTION, AUTHORITY, APPLICABILITY

The Board of Supervisors of the Township of North Sewickley, pursuant to the Pennsylvania Stormwater Management Act, Act no. 167 of October 4, 1978 (P.L. 864) and the Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), reenacted and amended November 9, 1995 (P.L. 350, No. 60), as amended, hereby enacts and ordains this Chapter as the North Sewickley Township Stormwater Ordinance. This Chapter shall apply to all land disturbance activities as defined in Section 9-____ of this Chapter.

§9-104 MUNICIPAL LIABILITY

The degree of stormwater management sought by the provisions of this Chapter is considered reasonable for regulatory purposes. The issuance of permits by the Township of North Sewickley, its officers or employees shall not be deemed to relieve the developer of responsibility, if any such responsibility exists, to those adversely affected by the drainage of water. Further, the Township through the issuance of a permit assumes no responsibility to either the developer or the adjoining property owner affected by the drainage of water.

§9-105 RIGHT OF ENTRY

Upon presentation of proper credentials, duly authorized representatives of the Township of North Sewickley may enter at reasonable times upon any property within the Township to investigate or ascertain the condition of the subject property in regard to any aspect regulated by this Chapter. The landowner shall grant to the Township, or its agents access to the site of the work at all times, while under construction, for the purpose of inspecting the work.

PART 2

Plan Requirements

§9-201 GENERAL REQUIREMENTS

- A. These guidelines are intended to clarify and expand on Township regulations such as the Subdivision and Land Development Ordinance.¹ Stormwater management design shall, in general, conform with recognized stormwater control procedures and manuals. Examples of such manuals are U.S. Department of Agriculture, Soil Conservation Service, TR-55, Urban Hydrology for Small Watersheds, and the Pennsylvania Department of Transportation (PaDOT) Design Manual, Part 2, Highway Design. Other such manuals are the Pennsylvania State University Manuals, the Penn State Urban Hydrology Model and Small Watershed Interactive Rational Management Model and Detention Pond Routing Model.
- B. Stormwater runoff from a site shall be directly into an existing stream or storm sewer system, or if it flows onto the adjoining properties, it must be in a manner similar to the same characteristics of the pre-development flow.
- C. Stormwater management plans shall comply with the latest revision of such Commonwealth requirements as the Pennsylvania Stormwater Management Act.
- D. All stormwater management plans shall be designed by and bear the name, seal and address of the registered professional engineer, registered professional land surveyor or registered professional architect preparing the plan.
- E. Where Commonwealth highways are involved in stormwater design, PaDOT approval shall be required and proof of the same shall be submitted to the Planning Commission.
- F. Whenever development or construction concentrates the natural flow of surface water, rights-of-way for such flow must be provided to the Township before the storm sewers are taken over by the Township. Where such flows do not flow into an existing stream and is directed in such a way as to affect adjoining properties or where it is piped onto or over adjoining properties, written permission, a release of damages, and a right-of-way must be obtained from the adjoining property owners before the plans are approved by the Township. Approval of plans by the Township does not authorize or permit any drainage onto adjoining properties without the above-written approvals.

§9-202 DESIGN STORMS

- A. Storm sewer piping systems shall be designed to accommodate the 25-year frequency.
- B. The Township reserves the right to increase the required design storm when it feels there is a greater possibility of storm damage due to specific site conditions, especially for off-water flowing through the site.
- C. The stormwater management plan shall provide storm drainage systems that shall, in general, control the rates of storm runoff so that the rate of runoff after development shall not be greater than before development.
 - (1) The stormwater management plan shall be designed to assure that the 2-, 10-, 25-, 50- and 100-year post-development flow is equal to or less than the pre-development flow.
 - (2) All detention facilities shall be designed with an overflow or spillway system which is capable of passing the 100-year post-development flow.

¹ Chapter 22.

- (3) Stormwater flowing through the site from adjoining property shall not be contained in the retention facilities but shall be passed through in as natural a condition as possible.

§9-203 CALCULATION OF RUNOFF

The methods of computing the peak discharge and runoff shall be:

The United States Department of Agriculture, Soil Conservation Services, Technical Release No. 55, Urban Hydrology for Small Watershed. Runoff shall be based on the 24-hour storm. Inches of rainfall shall be determined by using Rainfall Duration Frequency Tables for Pennsylvania.

The rational method: $Q=CIA$. In general, the rational method shall only be used for drainage areas under $\frac{1}{2}$ square mile. Design procedures shall follow PaDOT Design Manual Part 2 Guidelines, except the time of concentration approach shall be used where the time of concentration exceeds five (5) minutes. A five (5) minute storm duration shall be used if the time of concentrations is less than five (5) minutes.

The latest revision of the PaDOT Design Manual Guidelines may be used to determine peak flow and runoff from drainage areas between one and one-half ($1\frac{1}{2}$) square miles and one hundred and fifty (150) square miles.

The use of the desktop methods not contained or referenced in this guidelines and computer models for estimating site hydrology will be accepted on a case-by-case basis. All submissions must be clear and adequately illustrated with factors, coefficients and other components clearly referenced. Input data and results from computer models must be summarized or listed for review.

The latest revision of the Erosion and Sediment Pollution Control Program Manual by the Bureau of Soil and Water Conservation shall be used to design erosion and sediment controls.

All open channels and drainage swales shall be protected by either rip rap or seeding.

All stormwater drainage and facility plans shall be accompanied by hydrologic and hydraulic calculations. Such plans shall indicate the type, size, grades and elevations of all stormwater systems. Calculations shall indicate the peak flow, velocities of flow and capacities of structures and facilities. Runoff calculations shall also include both the pre-development and post-development flows to be used to design retention facilities.

Calculations and plans must contain sufficient information, explanation and detail to make them easy to follow.

Capacities of storm sewers and open swales or ditches shall be computed using the Manning Equation.

The Township may require an engineering analysis of existing downstream facilities to determine the adequacy of these facilities to handle the flow.

Storm drainage facilities shall, in general, be designed using structures as detailed in PaDOT, Standards for Roadway Construction, Publication No. 72, latest revision.

All culvert pipes shall have concrete or precast concrete endwalls, headwalls or inlet boxes at the inlets and outlets and change in direction.

Additional engineering analysis may be required by the Township Engineer, who has final recommendation to Township Planning Commission and Supervisors.

§9-204 DETENTION FACILITIES

- A. Detention facilities with earth embankments shall have a minimum top width of ten feet (10') and minimum side slopes of four to one (4:1). Where possible, side slopes no less than four to one (4:1) should be used to ease maintenance and mowing.
- B. All detention facilities shall have outlet control structures capable of controlling the 2-, 10-, 25-, 50-, and 100-year storms at pre-development flows.
- C. All detention facilities shall have overflow structures capable of passing the 100-year post-development storm.

- D. Detention ponds or open facilities shall have a minimum free board of one foot (1').
- E. Engineering calculations shall include as a minimum the following:
 - (1) Storage/elevation table:
 - (a) Provide a contour map and calculations or other data to substantiate the storage/elevation table.
 - (b) Provide a stage discharge table for the detention facility.
- F. Detention facilities plans shall be accompanied by an ownership and maintenance programs that sets forth the ownership and maintenance responsibilities for the facility. Said program shall be filed with the plan. No stagnate water should remain beyond dewater calculation.

§9-205 EXEMPTIONS

The following activities are specifically exempt from the plan requirements of this Ordinance.

- A. Use of land for gardening and landscaping of the property, when performed as an accessory use to the primary use of the property and when it involves less than one thousand (1,000) square feet of land disturbance.
 - (1) Agricultural plowing and tilling shall be exempt from the requirements of this Chapter when operated in accordance with approved conservation and erosion control practices.
 - (2) Agricultural buildings, except intensive agricultural production facilities, shall be exempt from the requirements of this Chapter when the property is operated in accordance with a current conservation plan or erosion control plan. If there is not a current conservation plan or erosion control plan for the property, applicant shall have the option to comply with the requirements of this Chapter or to have a conservation plan or erosion control plan and implementation schedule prepared, which said plan and schedule shall be approved by the Beaver County Conservation District.
- B. Any proposed regulated activity that would create five thousand (5,000) square feet or less of additional impervious cover would be exempt from meeting the provisions of this Chapter. For development taking place in stages, the entire development plan must be used in determining conformance with this criteria. Additional impervious cover shall include, but not be limited to, any roof, parking or driveway areas and any new streets and sidewalks constructed as a part of or for the proposed regulated activity. Any areas that may be designed to initially be semi-pervious (e.g., gravel, crushed stone, etc.) shall be considered impervious areas for the purpose4s of waiver evaluation.

PART 3

Application Procedure and Requirements

§9-301 APPLICATION PROCEDURES

An application for a Stormwater Management Permit may be submitted to the Planning Commission on any business day. In the event that a question arises as to whether a proposed activity requires a Stormwater Management Permit, the landowner or developer may request that the Planning Commission determine whether the proposed activity constitutes a land disturbance activity, and if so, whether such activity is exempted from obtaining a permit under Section 9-205 of this Chapter. The landowner or developer shall furnish the Planning Commission with such information as the Planning Commission may deem necessary to determine whether the proposed activity constitutes a land disturbance activity. A decision of the Planning Commission may be appealed to the Board of Supervisors in accordance with Section 9-307 herein.

- A. The Planning Commission may review the application with the Township Engineer, Township Solicitor, the Beaver County Conservation District, and other municipal officials in order to determine approval, conditional approval, or disapproval of the application.
- B. The Planning Commission shall, within ninety (90) days from the Township receipt of an application which is presented at a regularly published public meeting, issue an approval, conditional approval, or disapproval of the application and transmit the decision in writing to the applicant.
- C. Failure of the Township to render a decision and communicate it as prescribed above shall be deemed an approval unless the time period is extended by the applicant.
- D. A notice of disapproval shall cite the reasons for disapproval.

§9-302 APPLICATION REQUIREMENTS

An application for a Stormwater Management Permit shall include the following items:

- A. One (1) completed copy of the Application for a Stormwater Management Permit.
- B. Three (3) copies of the Stormwater Management Plan prepared in accordance with Part 2 of this Chapter.
- C. Permit fee in the amount specified in the fee schedule as established by resolution or ordinance of the Board of Supervisors of the Township of North Sewickley.
- D. Performance bond, when applicable, in accordance with Section 9-305 of this Ordinance.
- E. Liability insurance, when applicable, in accordance with Section 9-306 of this Ordinance.
- F. A Stormwater Management Agreement and Declaration of Easement, when applicable, in accordance with the provisions of Section 9-401 B.

§9-303 WAIVER AND APPEAL PROCEDURE

- A. The provisions of this Chapter are intended as minimum standards for the protection of the public health, safety, and welfare. The Board of Supervisors of the Township of North Sewickley may grant a waiver from literal compliance with mandatory provisions of the Chapter if the applicant can demonstrate either that compliance would cause undue hardship as it applies to a particular property or that an alternative proposal will allow for equal or better results.
 - (1) The provisions of this Chapter shall not apply to subdivisions of three (3) or fewer lots or to lots in subdivisions containing five (5) or more acres.

- (2) Additionally, the Board of Supervisors of the Township of North Sewickley may hear and decide appeals where it is alleged that the Planning Commission has failed to follow prescribed procedures or has misinterpreted or misapplied any provisions of this Chapter.
 - (3) The approval of the waiver or appeal shall not have the effect of making null and void the intent and purpose of this Chapter. In the approval of a waiver or appeal, the Board of Supervisors of the Township of North Sewickley may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Chapter.
- B. Application Procedures (Waiver-Appeal):** All requests for waivers or appeals shall be processed in accordance with the following:
- (1) A request for a waiver or appeal shall be submitted to the Planning Commission. The request shall be made in writing and identify the specific section of the Chapter or decision which is requested for waiver or appeal, the proposed alternative to the requirement, when applicable, and justifications for an approval of the waiver or appeal.
 - (2) The Planning Commission shall schedule the request for consideration by the Board of Supervisors of the Township of North Sewickley at a public meeting within forty-five (45) days of receipt, and provide adequate notice to the applicant and any other involved parties of the meeting at which consideration of the request is scheduled.
 - (3) The Board of Supervisors of the Township of North Sewickley shall, following the consideration of the request, take such public action as it shall deem advisable and notify all parties involved of the action. Such notice shall cite the findings and reasons for the deposition of the waiver or appeal. Failure of the Board of Supervisors to render a decision and communicate it as prescribed above shall be deemed an approval unless the time period is extended by the applicant.

§9-304 EXPIRATION OF A STORMWATER MANAGEMENT PERMIT

- A. All Stormwater Management Permits shall expire twelve (12) months, or a maximum of sixty (60) months when issued in conjunction with approval of a Subdivision and Land Development Plan, from the date of issuance unless an extension of time is approved. An extension of an unexpired Stormwater Management Permit shall be issued by the Planning Commission following the submission of a written request if, in the opinion of the Planning Commission, the subject property or affected surrounding area has not been altered in a manner which requires alteration to the Stormwater Management Plan.
- B. The refusal of an extension of time shall cite the reasons for such refusal. A Stormwater Management Permit shall not expire while a request for an extension is pending.

§9-305 FINANCIAL SECURITY

- A. The Township of North Sewickley shall, prior to issuing a Stormwater Management Permit, require financial security to be posted for the stormwater detention and/or retention basin and other drainage facilities which may adversely affect adjacent properties, streets, or other public improvements in accordance with provisions outlined by Section 9-305B of this Chapter.
- B. When required, the developer shall deposit with the Township a letter of credit, or other financial security authorized by the Pennsylvania Municipalities Planning Code and acceptable to the Board of Supervisors, in an amount equal to one hundred and ten percent (110%) of the estimated cost of the required improvements at a time ninety (90) days following the date scheduled for completion of the respective improvements by the developer.

- C. For major earth disturbance activities, the amount of financial security required by the Township shall be based upon an estimate of the cost of the improvements, submitted by the developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the developer and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in the Commonwealth and chosen mutually by the Township and the developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the developer.
- D. For minor earth disturbance activities, the amount of financial security required by the Township may be based on a bona fide bid from a reputable contractor. If the developer and the Township are unable to agree on the estimate, then a second bona fide bid from a reputable contractor shall be obtained at the developer's expense, and the amount of financial security shall be the greater of the two (2) bids.
- E. Annually, the Township may adjust the amount of required financial security by redetermining the estimated cost for completion of the uncompleted improvements as of the expiration of the ninetieth (90th) day after either the date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Township may require the developer to post additional security in order to insure that the financial security equals one hundred and ten percent (110%) of the estimated cost of the Township completing the improvements at a time ninety (90) days following the date scheduled for completion or alternatively reduce the required security so that it equals such amount. Any additional security shall be posted by the developer within thirty (30) days after being notified of the same.
- F. As the work of installing the required improvements proceeds, the party posting the financial security may request the Township to release or authorize the release from time to time, such portions of the financial security necessary for the payment to the contractor or contractors performing the work. Any such request shall be in writing addressed to the Board of Supervisors, and the Board of Supervisors shall request the Township Engineer to certify, in writing, to the Board of Supervisors that such portion of the work has been completed in accordance with the approved application. Upon such certification, the Board of Supervisors shall authorize release from the required financial security of an amount as estimated by the Township Engineer as representing the value of the work completed. The value of the work completed shall be determined by subtracting one hundred and ten percent (110%) of the estimated cost of the completion of the remaining uncompleted work from the total amount of security deposited.
- G. When the developer has completed all of the improvements as shown on the approved application, the developer shall notify the Board of Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid improvements, enclosing therewith certification by the engineer responsible for the design of the improvements that they have been installed as designed, and shall send copies of the notice and certification to the Township Engineer. The Board of Supervisors shall direct and authorize the Township Engineer to inspect all of the aforesaid improvements. The Township Engineer shall thereupon file a report, in writing, with the Board of Supervisors and shall promptly mail a copy of the same to the developer. The report shall be made and mailed within thirty (30) days after receipt by the Township Engineer of the aforesaid authorization from the Board of Supervisors. Said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements of any portion thereof shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement of reasons for such nonapproval or rejection. The Board of

Supervisors shall notify the developer of the Engineer's report, in writing, of its action with relation thereto.

- H. If any portion of the said improvements shall not be approved or shall be rejected by the Board of Supervisors, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
- I. Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise any determination of the Board of Supervisors or the Township Engineer.

§9-306 LIABILITY INSURANCE

If, in the opinion of the Board of Supervisors based upon a report of the Township Engineer, the nature of the work is such that it may create a hazard to human life, or endanger adjoining property or streets, then the Board of Supervisors shall, before issuing the permit, require that the applicant file a certificate of insurance showing that there exists insurance against claims for damage, including damage to the Township of North Sewickley, by surface water flow which has been altered on the site. The liability insurance shall be to the amount prescribed by the Township in accordance with the nature of risks involved and include the Township as an additional insured. Such insurance shall be written by a company licensed to do business in the Commonwealth.

§9-307 AS-BUILT DRAWINGS

- A. At the completion of the project, and as a prerequisite for the release of the Financial Security, the developer or his representative shall provide a certificate of completion from an engineer, surveyor, or other qualified person verifying that all permanent facilities have been constructed according to the plans and specifications and approved revisions thereto. Certification shall be provided on a set of record drawings.
- B. After receipt of the as-built drawing certification of completion, a final inspection shall be conducted by the Township Engineer or other person designated by the Township to certify compliance with this Chapter.

§9-308 INSPECTION DURING CONSTRUCTION

- A. The Township shall inspect the improvements during construction. The developer shall pay the cost of any such inspection in accordance with the provisions of Article V of the Pennsylvania Municipalities Planning Code, as amended. The developer shall provide at least twenty-four (24) hours notice prior to the start of construction of any improvements that are subject to inspection. All inspections of completed items shall be requested, in writing, at least forty-eight (48) hours in advance of the inspection time and date.
- B. It is generally required that the following phases of site construction have mandatory inspection. This general list may be supplemented by the Township when the site requires special construction procedures. The inspection schedule must be recorded with the final plan.
- C. General Site Construction:
 - (1) Upon completion of preliminary site preparation, including stripping of vegetation, stockpiling of topsoil and construction of temporary erosion and sedimentation control devices.
 - (2) Upon completion of rough grading, but prior to placing topsoil, permanent drainage, or other site development improvements and ground covers.
 - (3) During the construction of permanent stormwater management facilities.
 - (4) Upon the final completion of permanent stormwater management facilities, including the establishment of ground covers and plants.

- (5) After review of the as-built drawings, required by Section 9-508, but prior to final release of the financial guarantee for completion of final grading or other site restoration work.
- D. In addition to the above outlined observations, additional observations will be made at the request of the developer for reduction of financial securities. Random observations should be made at the frequency desired by the Township. At the time of any of the above listed observations, all ongoing construction (i.e. storm drainage, sanitary sewer, water, erosion control, etc.) should also be checked for compliance with the approved plans and the findings reported.

PART 4

Maintenance of Stormwater Management Facilities and BMP Facilities

§9-401 MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES AND BMP FACILITIES

Maintenance is an essential part of the successful functioning of a stormwater management system.

- A. Maintenance during development of a project shall be the responsibility of the developer and/or landowner and shall include, but not be limited to:
- (1) Removal of silt from sediment traps when thirty-five percent (35%) and sediment basins when twenty-eight percent (28%) of capacity is filled with silt.
 - (2) Periodic maintenance of temporary control facilities such as replacement of straw bale dikes, straw filters, silt fence, or similar measures.
 - (3) Establishment or reestablishment of vegetation by seeding and mulching or sodding of scoured areas or areas where vegetation has not successfully been established.
 - (4) Installation of necessary controls to correct unforeseen problems caused by storm events within design frequencies.
 - (5) The contractor or developer shall be responsible for removal of all temporary measures and installation of permanent measures upon completion of the project.
- B. **Maintenance of Project After Physical Completion:**
- (1) It is the purpose of this Chapter that the Township shall not become responsible for maintenance and supervision of developed areas. Such responsibility falls upon the party responsible for land development who shall remain personally responsible for those areas of the development which are subject to the requirements of this Chapter. This responsibility may be retained or assigned to third persons as is deemed most acceptable to the party responsible for land development. In the event that any portion of land development would, but for the existence of areas requiring maintenance subject to this Ordinance, be dedicated to the Township, the contractor or developer may make application to the Township for acceptance by the Township of such portions of the land development. In the event that the Township, by formal action, accepts such portions of land development, maintenance and responsibility for such portions shall fall upon the Township.
 - (2) It is the intent of this Chapter that the purposes of this Chapter shall be carried out through the exercise of responsibility by private parties, and therefore it is anticipated that control plans shall be developed with the view toward projects which can effectively be contained within the tracts to be owned and maintained by private parties. To foster this purpose, with respect to portions of parts of a project as shown on a plan of a developer or contractor, which portions will not otherwise become part of Township property, such portions shall become the responsibility of the individual property owners on which property such portions of a project lie including, but not limited to, retention ponds, detention ponds, sediment basins, energy dissipaters, or grassed waterways. Persons including contractors and developers conveying property of a development to another party, which property contains any portions of a stormwater management plan, after that plan has been established, shall include a specific deed reference to such grantee's responsibility for the maintenance and care of the portions of such project as are included within said grantee's conveyed property. The deed reference to such portions shall be in the form of a deed restriction imposing responsibilities upon said property owner for the maintenance of the portions of the project within the boundary lines of said property as may be necessary for proper maintenance of the project in

accordance with the terms of this Chapter. Such maintenance shall include the following:

- (a) Liming and fertilizing vegetated channels and other areas according to the specifications in the "Penn State Agronomy Guide."
 - (b) Reestablishment of vegetation by seeding and mulching or sodding of scoured areas or areas where vegetation has not been successfully established.
 - (c) Mowing as necessary to maintain adequate strands of grass and to control weeds. Chemical weed control may be used if Commonwealth and local regulations are met.
 - (d) Removal of silt from all permanent structures which trap silt or sediment in order to keep the material from building up in grass waterways thus reducing their capacity.
 - (e) Regular inspection of the areas in question to assure proper maintenance and care.
 - (f) Removal of silt from all permanent drainage structures, in particular BMP's, in order to maintain the design storage volumes. Regular programs shall be established and maintained.
- C. In order to provide additional notification to successive property owners of the requirements to maintain stormwater management facilities, the developer shall enter into a Stormwater Management Agreement and Declaration of Easement with the Township, in a form acceptable to the Township Solicitor, which shall be recorded in the Office of the Recorder of Deeds in and for Beaver County. The Stormwater Management Agreement and Declaration of Easement shall be recorded prior to the issuance of a Stormwater Management Permit.
- D. The deed restrictions hereinabove mentioned shall also include notice that in the event the individual property owners should fail to comply with the terms of this Chapter for the maintenance and care of the land in question, the Township of North Sewickley shall have the authority to carry out those duties hereby imposed upon individual property owners. The Township may, after giving notice to an individual property owner that he is not properly maintaining the areas subject to this Chapter, and by making demand that such compliance shall be made within thirty (30) days, enter upon said private property and take such actions as may be required to bring the area into compliance with this Chapter. The Township shall further have the right to file a municipal lien against such property for the cost of maintenance work carried out under this Section. The Township shall in addition to the filing of a municipal lien have any other remedies provided by law against any property owner who should fail to comply with the terms of this Chapter.
- E. Stormwater management facilities existing on the effective date of this Chapter on individual lots, which have not been accepted by the Township or for which maintenance responsibility has not been assumed by a private entity such as a homeowners' association, shall be maintained by the individual property owners. Such maintenance shall include at a minimum those items set forth in Subsection B above. If the Township determines at any time that any permanent stormwater management facility has been eliminated, altered, blocked through the erection of structures or the deposit of materials, or improperly maintained, the Township may determine that such condition constitutes a nuisance and shall notify the property owner of corrective measures which are required and provide for a reasonable period of time, not to exceed thirty (30) days, within which the landowner shall take such corrective action, the Township may either perform the work or contract for the performance of the work and bill the property owner for the cost of the work plus a penalty of ten percent (10%) of the cost of the work. If such bill is not paid by the property owner within thirty (30) days, the Township may file a municipal claim against the property upon which the work was performed in accordance with applicable laws.

- F. Where the Board of Supervisors accepts dedication of all or some of the required stormwater management facilities following completion, the Board of Supervisors may require the posting of financial security to secure structural integrity of said facilities as well as the functioning of said facilities in accordance with the design and specifications as depicted on the approved stormwater management plan for a term not to exceed eighteen (18) months from the date of acceptance of dedication. Said financial security shall be the same type as required with regard to installation of such facilities, and the amount of the financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said facilities.

§9-402 PERMANENCE OF STORMWATER MANAGEMENT FACILITIES

No person shall modify, remove, fill, landscape or alter stormwater management facilities and/or BMP facilities which may have been installed on a property unless a Stormwater Management Permit has been obtained to permit such modification, removal, filling, landscaping or alteration. No person shall place any structure, fill, landscaping or vegetation into a stormwater management facility, a BMP facility or within a drainage easement which will limit or alter the functioning of the facility or easement in any manner.

PART 5

Administration

§9-501 REMEDIES

Any person, partnership, or corporation engaged in a land disturbance activity, as defined in this Chapter, shall implement such measures consistent with the Stormwater Management Permit and this Chapter. Any land disturbance activity conducted in violation of this Chapter or the Stormwater Management Permit is hereby declared a public nuisance.

In the event of a violation, the Township of North Sewickley may initiate the following actions:

- A. **Suspension of a Stormwater Management Permit:** Any permit issued under this Chapter may be suspended by the Planning Commission based upon:
 - (1) The noncompliance with or failure to implement any provision of the Stormwater Management Plan; or
 - (2) A violation of any provision of this Chapter relating to the project; or
 - (3) The creation of any condition or the commission of any act during construction which constitutes or creates a hazard or nuisance or which endangers the life or property of others.
- B. Under the suspension of a permit, only such work as the Planning Commission so authorized may proceed. This work shall be limited to that which is necessary to correct the violation. A suspended permit shall be reinstated by the Planning Commission when:
 - (1) The Planning Commission and/or Township Engineer have inspected and approved the corrections to the Stormwater Management Facilities or the elimination of the hazard or nuisance; and
 - (2) The Planning Commission and the Township Engineer are satisfied that the violation of the Chapter has been corrected.
- C. **Revocation of a Stormwater Management Permit:** Based upon a report from the Township Engineer that the existing site condition or further construction is likely to endanger property or create hazardous conditions, the Planning Commission may:
 - (1) Revoke a permit.
 - (2) Require protective measures to be taken and assign a reasonable time period for the necessary action.
 - (3) Authorize protective measures to be done and lien all cost of the work against the property on which work is required.

A permit which has been revoked cannot be reinstated. The applicant may apply for a new permit in accordance with the processing procedures in Part 3.
- D. **Civil Remedies:** Suits to restrain, prevent, or abate a violation of this Chapter may be instituted in equity or at law by the Township of North Sewickley. Such proceedings in equity or law may be initiated before any court of competent jurisdiction. In cases of emergency where, in the opinion of the court, the circumstances of the case require immediate abatement of the unlawful conduct, the court may, in its decree, fix a reasonable time during which the person responsible for the unlawful conduct shall correct or abate the same. The expense of such proceedings shall be recoverable from the violator in such manner as may now or hereafter be provided by law.
- E. **Notification of Suspension or Revocation of a Stormwater Management Permit:** In the event of a suspension or revocation of a Stormwater Management Permit, the designated

agent for the Township shall provide written notification, by certified mail, of the violation to the landowner at the landowner's last known address. Such notification shall:

- (1) Cite the specific violation, describe the requirements which have not been met, and cite the provisions of the Chapter relied upon.
- (2) Identify the specific protective measures to be taken.
- (3) Assign a reasonable time period necessary for action or, in the case of revocation, identify if the Township has authorized protective measures to be performed at cost to the landowner.
- (4) Identify the right of the landowner to request a hearing before the Board of Supervisors of the Township of North Sewickley if aggrieved by the suspension or revocation.

§9-502 PENALTIES

- A. Any person who shall violate any of the provisions of this Chapter, or who shall fail to comply with any written notice from North Sewickley Township which describes a condition of noncompliance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation unless the District Justice determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of determination of a violation of the District Justice, and thereafter each day that a violation continues shall constitute a separate violation.
- B. In addition, the Township may institute injunctive, mandamus, or any other appropriate action or proceeding of law or in equity for the enforcement of this Chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, writs of mandamus, or other appropriate forms of remedy or relief.

§9-503 APPEALS

Any person aggrieved by an action of the Township Engineer or the Planning Commission in the administration of this Chapter may appeal such determination by filing an appeal, in writing, within ten (10) days after such determination to the Board of Supervisors, pursuant to Section 307 herein and the Local Agency Law, 2 Pa. C.S., Section 551 et. seq. The Board of Supervisors shall conduct such appeal in accordance with the requirements of the Local Agency Law, and any appeal from the determination of the Board of Supervisors shall be made in accordance with the Local Agency Law and other applicable Pennsylvania statutes.