

**FRANCONIA TOWNSHIP**

ORDINANCE # 418-23

**NOW THEREFORE IT IS HEREBY ENACTED AND ORDAINED** by the Franconia Township Board of Supervisors that the Franconia Township Ordinance shall be amended as follows:

**SECTION 1. Amendment of Section 145-5.B. [Definitions and Word Usage]**

The definition of “Impervious Surface” contained in Chapter 145 [Zoning], Article II [Definitions], Section 145-5.B [Definitions and Word Usage] is hereby amended and restated in its entirety. As Amended, the definition of Impervious Surface is:

**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, any new streets and sidewalks, decks, patios, and pool surfaces (including water, decking, and equipment pad) unless otherwise determined by the Township Engineer. Any surface areas designed to initially be gravel or crushed stone shall be considered impervious surfaces. In addition, other areas determined by the Township Engineer to be impervious within the meaning of this definition shall be classified as impervious surface. The runoff curve number for stormwater management calculations may be based on actual surfaces.

**SECTION 2. Amendment of Section 145-174.C.9 [Natural Resource Performance Standards/Riparian Buffer Regulations]**

Chapter 145 [Zoning], Article XXVI [Natural Resource Performance Standards], Section 145-174.C.9 [Natural Resource Protection Standards/Riparian Buffer Regulations] of the Franconia Township Code is hereby amended and restated in its entirety. As Amended, Section 145-174.C.9 shall read as follows:

**§145-174. Natural Resource Performance Standards.**

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C. The development of land on which there are areas having natural resources shall be governed by the following regulations:

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(9) Riparian buffer regulations. The riparian buffer shall include only the portion of land sloping towards the surface water bodies being protected and shall extend either 35 feet from each side of the watercourse, lake, or pond, at bankfull flow edge, or the extent of the 100-year floodplain, whichever is greater, or as otherwise required by Chapter 102. If a minimum of 35 feet cannot be provided as a buffer along the watercourse due to existing features or other impact, additional buffer width shall be provided elsewhere on site or within the Township to the satisfaction of the Township Engineer to provide an equivalent buffer area with a priority to establish a continuous buffer versus a fragmented buffer. This requirement shall not apply to land sloping away from the watercourse. No land disturbance shall be permitted within any riparian buffer except as permitted below. The buffer area will consist of two distinct protection zones.

(a) Zone 1. This buffer area will begin at the edge of the lake, pond or watercourse and occupy a margin of land with a minimum width of 15 feet measured horizontally on a line perpendicular to the edge of water at bankfull flow or level. Open space uses that are primarily passive in nature may be permitted in Zone 1, including:

[1] Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, constructed wetlands, passive areas for public or private parklands and reforestation.

[2] Customary agricultural practices in accordance with a soil conservation plan approved by the County Conservation District and a nutrient management plan in accordance with state requirements, if applicable.

[3] Regulated activities permitted by the commonwealth and Township for watercourse/stream or wetland crossing or other encroachment (i.e., farm vehicle and livestock, recreational trails, roads, sewer or water lines, and utility transmission lines), provided that approval is obtained from the Army Corps of Engineers and/or Pennsylvania Department of Environmental Protection and any disturbance is offset by riparian corridor improvements as approved by the Township.

[4] Vegetation management in accordance with an approved landscape or open space management plan.

[5] Streambank stabilization and/or restoration.

[6] Runoff to be buffered or filtered by Zone 1 will be limited to sheet flow or subsurface flow only. Concentrated flows must be converted to sheet flow or subsurface flows prior to entering Zone 1 for proposed stormwater management facilities.

[7] Minimum Management Requirements for Riparian Buffers:

1. Existing native vegetation shall be protected and maintained within an easement.
2. Whenever practicable invasive vegetation shall be actively removed, and the easement area shall be planted with native trees, shrubs and other vegetation to create a diverse native plant community appropriate to the intended ecological context of the site.

(b) Zone 2. This buffer zone will begin at the outer edge of Zone 1 and shall occupy a minimum width of 20 feet. Where the width of the 100-year floodplain extends greater than 35 feet from the edge of water at bankfull flow or level, Zone 1 shall remain a minimum of 15 feet, and Zone 2 shall extend from the outer edge of Zone 1 to the outer edge of the 100-year floodplain. Additional buffer width shall also be provided based on existing conditions as required by the Township Engineer. Uses permitted in this buffer area include open space uses that are primarily passive in nature, including:

[1] Wildlife sanctuaries, nature preserves, forest preserves, constructed wetlands, and passive areas for public or private parklands, recreational trails and reforestation.

[2] Customary agricultural practices in accordance with a soil conservation plan approved by the County Conservation District.

[3] Regulated activities permitted by the commonwealth and Township for watercourse/stream or wetland crossing or other encroachment (i.e., farm vehicle and livestock, recreational trails, driveways, roads, sewer or water lines and utility transmission lines), provided that any disturbance is

offset by riparian corridor improvements as approved by the Township.

[4] Recreational activities or uses, such as playing fields or golf courses, with no impervious surfaces installed within the zone.

[5] Minimum Management Requirements for Riparian Buffers:

1. Existing native vegetation shall be protected and maintained within an easement.
2. Whenever practicable invasive vegetation shall be actively removed, and the easement area shall be planted with native trees, shrubs and other vegetation to create a diverse native plant community appropriate to the intended ecological context of the site.

(c) Prohibited uses. Any use or activity not authorized in Subsection C(9)(a) or (b) above shall be prohibited within the riparian buffer. The following activities and facilities are specifically prohibited:

[1] Soil erosion and sedimentation. All developments shall protect lakes, ponds and watercourses from sedimentation damage and shall control erosion in accordance with the Clean Streams Law, P.L. 1987, as amended.

[2] Clear-cutting of trees and other vegetation.

[3] Selective cutting of trees and/or the clearing of other vegetation, except where authorized by Subsection C(9)(a) or (b) above, or where removal is necessary as a means to eliminate dead, diseased, hazardous, or invasive trees. Removal is subject to prior review and approval of the Township Engineer and revegetation by native plants that are most suited to the riparian corridor.

[4] Storage of any hazardous or noxious materials.

[5] Roads, access drives, parking area or driveways and corridor crossings, except as permitted by the Pennsylvania Department of Environmental Protection and the Township.

[6] Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the County Conservation District.

[7] Outdoor storage.

[8] Any type of permanent structure, including fences, except structures needed for a use permitted herein.

[9] Sod farming.

[10] Topsoil removal, unless approved by the Township Engineer.

[11] Subsurface and elevated sewage disposal areas and other wastewater disposal systems.

[12] Stormwater basins, including any berms or outfall facilities.

(d) Maintenance and monitoring plans shall be prepared for each buffer, which will state the required annual maintenance duties for each zone, including, but not limited to, the critical period during establishment of the buffer (typically the first three to five years, or as determined by the Township Engineer).

(e) Revegetation of riparian area. In cases where a major subdivision or land development is proposed, replanting of the riparian buffer shall be required where there is little or no existing streamside vegetation. Native vegetation approved by the Township must be used in replanting. These layers include herbaceous plants that serve as ground cover, understory shrubs, and trees that form an overhead canopy. The revegetation plan shall be prepared by a qualified professional, who has specific experience in the delineation of riparian buffer areas, and shall comply with the following minimum requirements, unless modified by the Board of Supervisors upon recommendation of the Planning Commission:

[1] Trees and shrubs. These planting layers include trees that form an overhead canopy and understory shrubs beginning at the top of the streambank and occupy a strip with a fixed width of 35 feet and shall be chosen from the Township's Recommended Plant Material List or Pennsylvania Stormwater BMP Manual. The density of plantings shall be in accordance with the planting plan guidelines of the Pennsylvania Stormwater BMP Manual. This area shall be reviewed and approved by the Township Engineer for erosion, bank stabilization/stream restoration and removal of dead, diseased, hazardous or invasive vegetation prior to revegetating.

[2] Ground cover. Ground cover shall consist of perennial grasses and forbs extending a recommended minimum width of 20 feet from the edge of Zone 2, where possible. Appropriate ground cover includes native material, exclusive of noxious weeds, as defined by the Pennsylvania State Department of Agriculture. This planted area shall be designated on the plan as a "no-mow zone" or "limited-mow zone" and shall be left as natural cover, except in accordance with the maintenance and monitoring plan.

[3] Exceptions. These planting requirements shall not apply to existing farm fields located within the riparian buffer or the farmland tract areas if farming operations are to be continued and the required state nutrient management plan is met.

[4] Establishing continuous riparian forest buffers should be given a higher priority than establishing larger but fragmented buffers.

f. The following conditions shall apply when public and/or private recreation trails are permitted within Riparian Buffers:

[1] Trails shall be for non-motorized use only, excluding Township maintenance vehicles.

[2] Trails shall be designed to have the least impact on native plant species and other sensitive environmental features.

g. Septic drainfields and sewage disposal systems shall not be permitted within the easement and shall comply with setback requirements established under 25 Pa. Code Chapter 73.

### **SECTION 3. Amendment of Section 122-5 [Definitions and Word Usage]**

The following definitions contained in Chapter 122 [Subdivision and Land Development], Article I [General Provisions], Section 122-5 [Definitions and Word Usage] are hereby added, deleted, or amended and restated in their entirety, as stated below:

- **Amend “EXISTING CONDITIONS” as follows:**

**EXISTING CONDITIONS.** The initial condition of a project site prior to the proposed alteration. If the initial condition of the site is undeveloped land, the land use shall be considered as "meadow" unless the natural land cover is proven to generate lower curve numbers or Rational "C" value, such as forested lands. The dominant land cover during the 5-year period immediately preceding a proposed regulated activity.

- **Add “FEMA” as follows:**

**FEMA** – Federal Emergency Management Agency.

- **Amend “FLOOD PRONE AREA” to retitle the definition to “FLOODPLAIN” which shall be defined as follows:**

**FLOODPLAIN.** Any land area susceptible to inundation by water from any natural source or delineated by applicable FEMA maps and studies as being a special flood hazard area. Also includes areas that comprise Group 13 Soils, as listed in Appendix A of the Pennsylvania DEP Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by DEP).

- **Add “GREEN INFRASTRUCTURE” as follows:**

**GREEN INFRASTRUCTURE** – Systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated.

- **Amend “HYDROLOGIC SOIL GROUP” as follows:**

**HYDROLOGIC SOIL GROUP (HSG)** Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs (A, B, C, and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The NRCS defines the four groups and provides a list of most of the soils in the United States and their

group classification. The soils in the area of the development site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D (NRCS1,2).

- **Amend “IMPERVIOUS SURFACE” as follows:**

**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, any new streets and sidewalks, decks, patios, and pool surfaces (including water, decking, and equipment pad) unless otherwise determined by the Township Engineer. Any surface areas designed to initially be gravel or crushed stone shall be considered impervious surfaces. In addition, other areas determined by the Township Engineer to be impervious within the meaning of this definition shall be classified as impervious surface. The runoff curve number for stormwater management calculations, however, may be based on actual surfaces.

- **Amend “LOW-IMPACT DEVELOPMENT (LID) PRACTICES” as follows:**

**LOW-IMPACT DEVELOPMENT (LID) PRACTICES** Site design approaches and small-scale stormwater management practices that promote the use of natural systems for infiltration, evapotranspiration, and reuse of rainwater. LID can be applied to new development, urban retrofits, and revitalization projects. LID utilizes design techniques that infiltrate, filter, evaporate, and store runoff close to its source. Rather than rely on costly large-scale conveyance and treatment systems, LID addresses stormwater through a variety of small, cost-effective landscape features located on-site.

- **Amend “NRCS” as follows:**

**NRCS** USDA Natural Resource Conservation Service (previously SCS (Soil Conservation Service)).

- **Amend “PERVIOUS SURFACE” as follows:**

**PERVIOUS SURFACE** Any area not defined as impervious.

- **Add “QUALIFIED PROFESSIONAL” as follows:**

**QUALIFIED PROFESSIONAL** Any person licensed by the Pennsylvania Department of State or otherwise qualified by law to perform the work required by this Ordinance.

- **Amend “REGULATED EARTH DISTURBANCE ACTIVITY” as follows:**



**REGULATED EARTH DISTURBANCE ACTIVITY** Any earth disturbance activity subject to regulation under 25 Pa. Code 92, 25 Pa. Code 102, or the Clean Stream Law,

- Amend “**RETURN PERIOD**” as follows:

**RETURN PERIOD** The average interval, in years, within which a storm event of a given magnitude can be expected to recur. For example, the twenty-five-year return period rainfall would be expected to recur on the average of once every 25 years; or stated in another way, the probability of a 25-year storm occurring in any one year is 0.04 (i.e., a 4% chance).

- Amend “**RIPARIAN BUFFER**” as follows:

**RIPARIAN BUFFER** The area of land immediately adjacent to any stream, lake, pond, or wetland, intended to be permanently vegetated, measured perpendicular to and horizontally from the edge of waterbody or top-of-bank on both sides of a stream. (See "top-of-bank.")

- Amend “**RUNOFF**” as follows:

**RUNOFF** Any part of precipitation that flows over the land.

- Amend “**STATE WATER QUALITY REQUIREMENTS**” as follows:

**STATE WATER QUALITY REQUIREMENTS.** The regulatory requirements to protect, maintain, reclaim, and restore water quality under Title 25 of the Pennsylvania Code and the Clean Streams Law.

- Amend “**STORMWATER**” as follows:

**STORMWATER** The surface or drainage runoff generated by precipitation reaching the surface of the land or snow or ice melt.

- Add “**STORMWATER MANAGEMENT SITE PLAN (SWM SITE PLAN)**” as follows:

**STORMWATER MANAGEMENT SITE PLAN (SWM SITE PLAN)** The plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the development site in accordance with this Ordinance. Stormwater Management Site Plan will be designated as SWM Site Plan throughout this Ordinance.

- Amend “**SUBDIVISION**” as follows:

**SUBDIVISION** As defined in The Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247.

- **Add “USDA” as follows:**

**USDA** - United States Department of Agriculture.

**SECTION 4. Amendment of Section 122-75 [Stormwater and Watershed Management/Statement of Findings]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-75 [Statement of Findings] of the Franconia Township Code is hereby amended to add a new subsection “H” as follows:

**Article X Stormwater and Watershed Management**

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**§ 122-75. Statement of findings.** The Board of Supervisors of Franconia Township finds that:

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H. 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.

**SECTION 5. Amendment of Section 122-77 [Stormwater and Watershed Management/Statutory Authority]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-77 [Statutory Authority] of the Franconia Township Code is hereby amended and restated in its entirety as follows:

**§ 122-77. Statutory Authority.** The Township is empowered to regulate land use activities that affect stormwater impacts by the authority of the Pennsylvania Municipalities Planning Code, as amended, and/or 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.

**SECTION 6. Amendment of Section 122-78 [Stormwater and Watershed Management/Applicability]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-78 [Applicability] of the Franconia Township Code is hereby amended to add Subsections 122-78.1 through 122-78.4 as follows:

**§122-78.1 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.

**§122-78.2 Severability.** In the event that a court of competent jurisdiction declares any section or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

**§122-78.3 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.

**§122-78.4. 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 78.4, 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 delegated county conservation district.

**SECTION 7. Amendment of Section 122-79 [Stormwater and Watershed Management/Exemptions]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-79 [Exceptions] of the Franconia Township Code is hereby amended to amend and restate Subsections 122-79.A(2)-(4) in their entirety and to add a new Subsection 122-79.G as follows:

**§122-79. Exemptions**

A. The following land use activities are exempt from the SWM plan submission requirements of this article:

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(2) Agriculture when operated in accordance with a conservation plan, nutrient management plan or erosion and sedimentation control plan approved by the County Conservation District, including activities such as growing crops, rotating crops, tilling of soil and grazing animals and provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102. Installation of new or expansion of existing farmsteads, animal housing, waste storage and production areas having impervious surfaces that result in a net increase in earth disturbance of greater than 5,000 square feet shall be subject to the provisions of this article.

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(3) Forest management and timber operations which are following the Department of Environmental Protection's management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry," or other requirements that are outlined in 25 Pa. Code Chapter 102, and are operating under an approved E&S plan, although such operations must comply with stream buffer requirements.

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(4) Any residential regulated earth disturbance activity that meets the following exemption criteria is exempt from the Water Quantity (Peak Rate), Quality (Groundwater Recharge, Volume), and Plan requirements of this Chapter, subject to the approval of the Township Engineer. This exemption does not relieve the applicant from implementing such measures as are necessary to protect health, safety, and property.

(a) Exemption is cumulative such that once the exemption amount is exceeded, all previously exempted impervious areas must be managed. If prior to this Ordinance being adopted, the site received an exemption from stormwater management, but the cumulative net increase in impervious since August 8, 2014, has exceeded 5,000 SF, then the project shall not be exempt again under the above criteria. Stormwater management shall be installed to meet the requirements of this chapter.

(b) Any area where existing impervious surface is removed shall be scarified, over excavated a minimum of 12 inches, restored with amended or other approved soils and topped with at least 6 inches of topsoil uniformly redistributed.

Stormwater Management Exemption Criteria

Total Parcel Size	Net Increase in Impervious Area
0-25,000 sf	1,000 SF
>25,000 sf-1 ac	2,500 SF
>1 ac-2 ac	4,000 SF
>2 ac	5,000 SF

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G. The Municipality may deny or revoke any exemption pursuant to this Section at any time for any project that the Municipality believes may pose a threat to public health and safety or the environment.

**SECTION 8. Amendment of Section 122-81 [Stormwater and Watershed Management/General Requirements for Stormwater and Watershed Management]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-81 [General Requirements for Stormwater and Watershed Management] of the Franconia Township Code is hereby amended to amend and restate Subsections 122-81.B, 122-81.C, and 122-81.E in their entirety and to add new subsections 122-81.I through P as follows:

**§122-81. General requirements for stormwater and watershed management.**

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B. No regulated earth disturbance or stormwater discharge activities within the Township shall commence until the Township issues written approval of a SWM Site Plan which demonstrates compliance with the requirements of this Article, and all applicable Township and state permits issued.

C. For all regulated earth disturbance activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the regulated earth disturbance activities (e.g., during construction) to meet the purposes and requirements of this Article §122-83 and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law. Various BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual (E&S Manual<sup>3</sup>)*, No. 363-2134-008, as amended and updated.

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E. The municipality may, after consultation with DEP, approve measures for meeting the state water quality requirements other than those in this Ordinance, provided that they meet the minimum requirements of, and do not conflict with, state law including, but not limited to, the Clean Streams Law. All best management practices (BMPs) used to meet the requirements of this article shall conform to the state water quality requirements and such more stringent requirements as may be determined by the Township or DEP-approved Act 167 plans.

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#### I. Impervious areas

1. The measurement of impervious areas shall include all of the impervious areas in the total proposed development even if development is to take place in stages.

2. For development taking place in stages, the entire development plan must be used in determining conformance with this Ordinance.

3. For residential developments involving a subdivision and land development creating a net increase of 2 or more new single-family dwelling units, the stormwater management facilities shall be designed for the proposed impervious area plus 25% of the proposed impervious area per lot, without the future impervious exceeding the maximum permitted impervious area as permitted by the Township's Zoning Ordinance. If this requirement prevents the application from meeting the stormwater exemption criteria, stormwater management shall be required. The purpose is to have stormwater facilities installed with new development to offset any potential impact to downstream neighbors.

4. For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this Ordinance; except that the requirements in Sections §122-83 through 87 do not need to be retrofitted to existing impervious areas that are not being altered by the proposed regulated activity.

J. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without written notification to the adjacent property owner(s). Such stormwater flows shall be subject to the requirements of this Ordinance.

K. The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.

L. Infiltration BMPs should be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this Ordinance.

M. Normally dry, open top, storage facilities should completely drain both the volume control and rate control capacities over a period of time not less than 24 and not more than 72 hours from the end of the design storm, unless otherwise approved by the Township Engineer.

N. The design storm volumes to be used in the analysis of peak rates of discharge should be obtained from the latest version of the Precipitation-Frequency Atlas of the United States, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland. NOAA's Atlas 145 can be accessed at: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.

O. For all regulated activities, SWM BMPs shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this Ordinance and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law, and the Storm Water Management Act.

P. Various BMPs and their design standards are listed in the BMP Manual.

**SECTION 9. Amendment of Section 122-84 [Stormwater and Watershed Management/Water quality requirements and stormwater volume control after land development and/or regulated earth disturbance are complete]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-84 [Water quality requirements and stormwater volume control after

land development and/or regulated earth disturbance are complete] of the Franconia Township Code is hereby amended to amend to retitle the section to “Water Quality Volume Controls, to amend and restate Subsections 122-84.A and 122-84.G, in their entirety and to add new subsections 122-84.B.1 as follows:

**§122-84. Water Quality Volume Controls**

A. The green infrastructure and low impact development practices provided in the BMP Manual shall be utilized for all regulated activities wherever possible. Water volume controls shall be implemented using the *Design Storm Method* in Subsection F or the *Simplified Method* in Subsection G below. For regulated activity areas equal or less than one acre that do not require hydrologic routing to design the stormwater facilities, this Article establishes no preference for either methodology; therefore, the applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology and other factors. All regulated activities shall include such measures as necessary to:

- (1) Protect health, safety, and property.
- (2) Meet the water quality goals of this Ordinance by implementing measures to:
  - a. Minimize disturbance to floodplains, wetlands, and wooded areas.
  - b. Create, maintain or extend riparian buffers.
  - c. Avoid erosive flow conditions in natural flow pathways.
  - d. Minimize thermal impacts to waters of this Commonwealth.
  - e. Disconnect impervious surfaces by directing runoff to pervious areas, wherever possible, consistent with other provisions of this Code.
- (3) Incorporate methods described in the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual). If methods other than green infrastructure and LID methods are proposed to achieve the volume and rate controls required under this Ordinance, the SWM Site Plan must include a detailed justification demonstrating that the use of LID and green infrastructure is not practicable.

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B.1. For modeling purposes:

- a. Existing (predevelopment) non-forested pervious areas must be considered meadow in good condition.



- b. 20% of existing impervious area, when present, shall be considered meadow in good condition in the model for existing conditions.

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G. Simplified method (regulated activities less than or equal to one acre).

- (1) Stormwater facilities shall capture the runoff volume from at least the first two inches of runoff from all new impervious surfaces.

Volume (cubic feet) = (two inches runoff/12 inches) \* impervious surface (square feet)

- (2) At least the first inch of runoff volume from the new impervious surfaces shall be permanently removed from the runoff flow, i.e., it shall not be released into the surface waters of the commonwealth. The calculated volume shall be either reused, evapotranspired or infiltrated through structural or nonstructural means.

Volume (cubic feet) = (one inch runoff/12 inches) \* impervious surface (square feet)

- (3) Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff, however, in all cases at least the first 1/2 inch of the permanently removed runoff should be infiltrated.

- (4) This method is exempt from the requirements of Sections 85-87, Water Quantity Rate Controls.

**SECTION 10. Amendment of Section 122-85 [Stormwater and Watershed Management/Water quantity infiltration requirements after land development and regulated earth disturbance activities are complete]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-85 [Water quantity infiltration requirements after land development and regulated earth disturbance activities are complete] of the Franconia Township Code is hereby amended to amend and restate Subsection 122-85.B(5) in its entirety as follows:

**§122-85. Water quantity infiltration requirements after land development and regulated earth disturbance activities are complete.**

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B.

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(5) If on-lot infiltration structures are proposed by the applicant's design professional, it must be demonstrated to the municipality that the soils are conducive to infiltrate on the lots identified based on field-determined capacity at the level of the proposed infiltration surface and based on the safety factor of 50%. All open-air infiltration facilities shall be designed to completely infiltrate runoff volume within three days (72 hours) from the start of the design storm.

**SECTION 11. Deletion of Section 122-86 [Stormwater and Watershed Management/Water quantity requirements after land development and regulated earth disturbance activities are complete for streambank protection]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-86 [Stormwater and Watershed Management/Water quantity requirements after land development and regulated earth disturbance activities are complete for streambank protection] of the Franconia Township Code is hereby deleted in its entirety and RESERVED for future use.

**SECTION 12. Amendment of Section 122-87 [Stormwater and Watershed Management/Additional water quantity requirements after land development and regulated earth disturbance activities are complete]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-87 [Additional water quantity requirements after land development and regulated earth disturbance activities are complete] of the Franconia Township Code is hereby amended to amend and restate Subsection 122-87.A in its entirety as follows:

**§122-87. Additional water quantity requirements after land development and regulated earth disturbance activities are complete.**

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A. The East Branch Perkiomen Creek watershed has been divided into stormwater management districts as shown on the Watershed Map in Appendix 1. Proposed post-construction conditions peak rates of runoff from any regulated activity shall meet the peak release rates of runoff prior to development for the design storms specified below. These

are in addition to the requirements for water quality (§ 122-84), and groundwater recharge (§ 122-85)

<b>District</b>	<b>Design Storm Proposed conditions</b>	<b>Design Storm Existing conditions</b>
A	2-year	1-year
	5-year	5-year
	10-year	10-year
	25-year	25-year
	50-year	50-year
	100-year	100-year
	B	2-year
5-year		2-year
10-year		5-year
25-year		10-year
50-year		25-year
100-year		50-year
C-1	2-year	1-year
	5-year	2-year
	10-year	10-year
	25-year	25-year
C-2	2-year	1-year
	5-year	2-year
	10-year	5-year
	25-year	10-year
	50-year	25-year
	100-year	50-year

**SECTION 13. Amendment of Section 122-89 [Stormwater and Watershed Management/ Responsibilities for operations and maintenance of BMPs]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-89 [Responsibilities for operations and maintenance of BMPs] of the Franconia Township Code is hereby amended to amend and restate Subsection 122-89.A in its entirety and to add new subsections 122-89.C through 122-89.E as follows:

**§122-89. Responsibilities for operations and maintenance of BMPs.**

- A. The drainage plan for the development site shall contain an operation and maintenance plan prepared by the applicant and approved by the Township Engineer. The operation and maintenance plan shall outline required routine maintenance actions and schedules necessary to insure proper operation of the facility(ies). The Municipality shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM Site Plan. The municipality may require a dedication of such facilities as part of the requirements for approval of the SWM Site Plan. Such a requirement is not an indication that the municipality will accept the facilities. The municipality reserves the right to accept or reject the ownership and operating responsibility for any portion of the stormwater management controls.

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- C. Facilities, areas, or structures used as SWM BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or conservation easements that run with the land.
- D. The O&M Plan shall be recorded as a restrictive deed covenant that runs with the land.
- E. The Township may take enforcement actions against an owner for any failure to satisfy the provisions of this Article.

**SECTION 14. Amendment of Section 122-90 [Stormwater and Watershed Management/Township review of BMP operations and maintenance plan]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-90 [Township review of BMP operations and maintenance plan] of the Franconia Township Code is hereby amended to amend and restate that section in its entirety as follows:

**§122-90 Township review of BMP operations and maintenance plan.**

- A. The Township shall review the BMP operations and maintenance plan for consistency with the purposes and requirements of this article and any permits issued by DEP.
- B. The Township shall notify the applicant in writing whether the BMP operations and maintenance plan is approved or disapproved within 90 days with reasons for any disapproval in writing. The Township may also approve the Plan with conditions and, if so, shall provide the acceptable conditions for approval in writing.

- C. The applicant/developer will provide an "as-built survey" of all stormwater BMPs within the Township's Survey Control System Datum and an explanation of any discrepancies with the design and/or operations and maintenance plan.
- D. The Township, upon recommendation of the Township Engineer, shall make the final determination on the continuing maintenance responsibilities prior to final approval of the drainage plan. The municipality reserves the right to accept the ownership and operating responsibility for any or all of the stormwater management controls.
- E. For any SWM Site Plan that proposes to use any BMPs other than green infrastructure and LID practices to achieve the volume and rate controls required under this Ordinance, the Municipality will not approve the SWM Site Plan unless it determines that green infrastructure and LID practices are not practicable.
- F. A modification to a submitted SWM Site Plan that involves a change in SWM BMPs or techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM Site Plan as determined by the Municipality shall require a resubmission of the modified SWM Site Plan in accordance with this Article.
- G. A disapproved SWM Site Plan may be resubmitted, with the revisions addressing the Municipality's concerns, to the Municipality in accordance with this Article. The applicable review fee must accompany a resubmission of a disapproved SWM Site Plan.
- H. The Township's approval of an SWM Site Plan authorizes the regulated activities contained in the SWM Site Plan for a maximum term of validity of 5 years following the date of approval. The Township may specify a term of validity shorter than 5 years in the approval for any specific SWM Site Plan. Terms of validity shall commence on the date the Township signs the approval for an SWM Site Plan. If an approved SWM Site Plan is not completed according to Section 95 within the term of validity, then the Township may consider the SWM Site Plan disapproved and may revoke any and all permits.

**SECTION 15. Amendment of Section 122-91 [Stormwater and Watershed Management/Adherence to approved BMP operations and maintenance plan]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-91 [Adherence to approved BMP operations and maintenance plan] of

the Franconia Township Code is hereby amended to amend and restated subsection 122-91.B in its entirety as follows:

**§122-91. Adherence to approved BMP operations and maintenance plan.**

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B. Stormwater management (SWM) best management practices (BMPs) should be inspected for proper operation by the landowner, or the owner's designee (including the municipality for dedicated and owned facilities), according to the following list of minimum frequencies and during or immediately following precipitation events:

- (1) Annually for the first five years;
- (2) Once every three years thereafter;
- (3) During or immediately after the cessation of a ten-year or greater storm; and/or
- (4) As specified in the operations and maintenance (O&M) agreement. Written reports should be filed with the Township in a designated format suitable for Township compliance with NPDES MS4 permit reports to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable. Inspection reports shall be submitted to the Municipality within 30 days following completion of the inspection.

**SECTION 16. Amendment of Section 122-95 [Stormwater and Watershed Management/As-Built Plans, Complete Certificate, and Inspections]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-95 [As-Built Plans, Completion Certificate, and Inspections] of the Franconia Township Code is hereby amended to retitle that section, and to amend and restate that section in its entirety as follows:

**§122-95. As-Built Plans, Completion Certificate, and Inspections.**

- A. The municipality shall inspect all phases of the installation of the best management practices (BMPs) and/or stormwater management (SWM) facilities as deemed appropriate by the municipality, the Montgomery County Conservation District and in conformance with DEP Chapter 102.

- B. During any stage of the work, if the municipality determines that the BMPs and/or stormwater management facilities are not being installed in accordance with the approved SWM site plan, the municipality may revoke or suspend any existing permits or other approvals and issue a cease and desist order until a revised SWM site plan is submitted and approved, as specified in this article and until the deficiencies are corrected.
- C. After receipt of the completion certification by the Municipality, a final inspection of all BMPs and/or stormwater management facilities may be conducted by the municipality to confirm compliance with the approved SWM site plan prior to the issuance of any occupancy permit.
- D. The applicant and/or developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM site plan. The as-built plans and an explanation of any discrepancies shall be submitted to the Township for acknowledgment in conformance with the Township NPDES MS4 permit recording requirements.
- E. The as-built submission shall include a certification of completion signed by a qualified professional verifying that all SWM BMPs have been constructed according to the approved plans and specifications. The latitude and longitude coordinates for all permanent SWM BMPs must also be submitted, at the central location of the BMPs. If any qualified professionals contributed to the construction plans, they must sign and seal the completion certificate.
- F. DEP or its designees (e.g., County Conservation Districts) ensure compliance with any Chapter 102 permits issued, including those for stormwater and watershed management. In addition to DEP compliance programs, the Township or its designee may inspect all phases of the construction, operations, maintenance and any other implementation of stormwater BMPs as required by Franconia Township NPDES MS4 permit.

**SECTION 17.           Amendment of Section 122-97 [Stormwater and Watershed Management/Fees]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-97 [Fees] of the Franconia Township Code is hereby amended to retitle that section, and to amend and restate that section in its entirety as follows:

**§122-97 Fees and Performance Guarantee.**

- A. The Township may charge a reasonable fee for review of stormwater and watershed management site plans, stormwater management facilities, BMP operations and maintenance plans, administrative/clerical processing, attendance at meetings, inspections, etc. as may be allowed under this article to defray review costs incurred by the Township. The applicant shall pay all such fees.
- B. For SWM Site Plans that involve subdivision and land development, the applicant shall provide a financial guarantee to the Municipality for the timely installation and proper construction of all stormwater management controls as required by the approved SWM Site Plan and this Ordinance in accordance with the provisions of Sections 509, 510, and 511 of the Pennsylvania Municipalities Planning Code.

**SECTION 18. Amendment of Section 122-99 [Stormwater and Watershed Management/Prohibited discharges]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-99 [Prohibited discharges] of the Franconia Township Code is hereby amended to amend and restated subsection 122-99.B in its entirety as follows:

**§122-99. Prohibited discharges.**

B. Discharges which may be allowed, based on a finding by the Township that the discharge(s) do not significantly contribute to pollution to surface waters of the commonwealth, are:

- (1) Discharges or flows from firefighting activities;
- (2) Uncontaminated pumped groundwater, water from foundation or from footing drains or crawl space pumps;
- (3) Potable water sources including dechlorinated waterlines and fire hydrant flushings (if such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC));
- (4) Diverted stream flows and springs;
- (5) Non-contaminated lawn watering, water from lawn maintenance, irrigation water, landscape drainage and flows from riparian habitats and wetlands;
- (6) Non-contaminated HVAC condensation, and water from geothermal systems; and



(7) Water from individual residential (i.e. not commercial) vehicle wash water where cleaning agents are not utilized.

**SECTION 19. Amendment of Section 122-104 [Stormwater and Watershed Management/Enforcement generally]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-104 [Enforcement Generally] of the Franconia Township Code is hereby amended to amend and restate Subsection 122-104.B in its entirety and to add new subsections 122-104.D through 122-104.F as follows:

**§122-104. Enforcement generally.**

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B. Such notification shall set forth the nature of the violation(s) and if a violation causes no immediate danger to life, public health, or property, at its sole discretion, the Township may establish a limited time limit for correction of said violation(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the Township or designee and the expense thereof shall be charged to the violator.

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D. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM Site Plan, unless specifically exempted in Section §122-79.

E. It shall be unlawful to violate Section §122-102 of this Ordinance.

F. Inspections regarding compliance with the SWM Site Plan are a responsibility of the Municipality.

**SECTION 20. Amendment of Section 122-106 [Stormwater and Watershed Management/Violations and Penalties]**

Chapter 122 [Subdivision and Land Development], Article X [Stormwater and Watershed Management], Section 122-106 [Violations and Penalties.] of the Franconia Township Code is hereby amended to amend and restate that section in its entirety as follows:

**§122.106. Violations and penalties.**

A. Any person violating the provisions of this article shall be guilty of a summary offense and, upon conviction, shall be subject to a fine of not more than \$600 for each violation, recoverable with costs, or imprisonment of not more than 10 days, or both. Each day that the violation continues shall be a separate offense and penalties shall be cumulative.

B. In addition, the Township, through its Solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this article. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

**SECTION 21.      Severability.**

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision herein shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of the Court shall not effect or impair the remaining sections, sentences, clauses, parts or provisions of the Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted as if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION 22.      Disclaimer.**

Nothing in this Ordinance shall be construed to effect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued, or any cause or causes of action existing under the ordinances of the Township of Franconia prior to enactment of this Ordinance.

**SECTION 23.      Effective Date.**

This Ordinance shall become effective five (5) days after enactment.

**DULY ENACTED AND ORDAINED** this 20<sup>th</sup> day of March, 2023, by the Board of Supervisors of Franconia Township, Montgomery County, Pennsylvania, in lawful session duly assembled.

FRANCONIA TOWNSHIP  
BOARD OF SUPERVISORS



A handwritten signature in blue ink, appearing to read "Grey R. Godshall", is written above a horizontal line.

GREY R. GODSHALL, *Chairman*

(Township Seal)

Attest: A handwritten signature in black ink, appearing to read "Jon Hammer", is written above a horizontal line.

JON HAMMER, *Secretary*

**APPENDIX 1 TO § 122-87.A**



## Management Districts

East Branch Perkiomen Creek Watershed  
Bucks County, PA

ACT 167  
Stormwater Management Plan  
Phase II

## Appendix

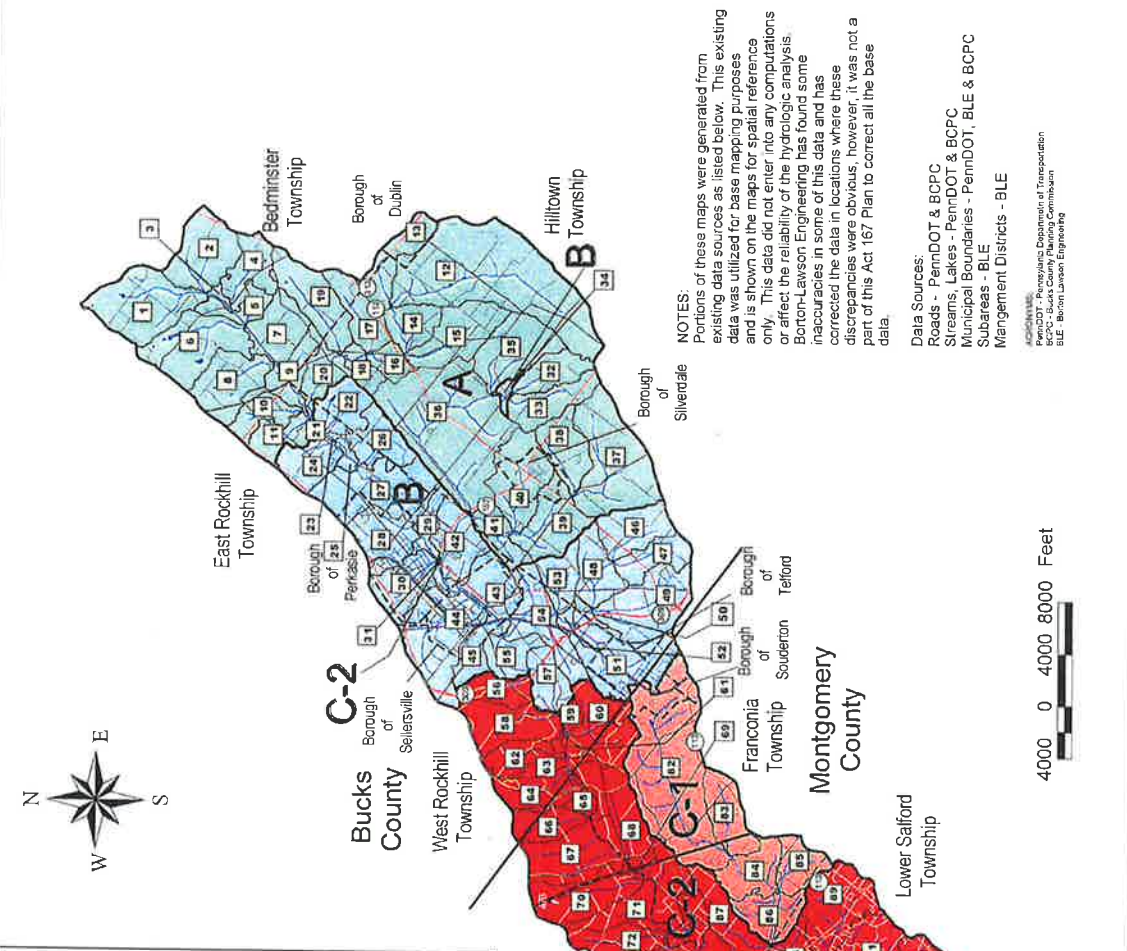
### Map Legend

- Watershed Boundary
- County Boundary
- Municipal Boundaries
- Streams
- Water Bodies
- Interstate Roads
- PA, Traffic Routes
- State Routes
- Local Roads
- Subarea

**Prepared For:**  
Bucks County Planning Commission  
The Almshouse  
Neshaminy Manor Center  
Doylestown, PA 18901



Prepared By: RSW  
Project Number: 99650.00  
Checked By: DML



**NOTES:**  
Portions of these maps were generated from existing data sources as listed below. This existing data was utilized for base mapping purposes and is shown on the maps for spatial reference only. This data did not enter into any computations or affect the reliability of the hydrologic analysis. Borton-Lawson Engineering has found some inaccuracies in some of this data and has corrected the data in locations where these discrepancies were obvious; however, it was not a part of this Act 167 Plan to correct all the base data.

**Data Sources:**  
Roads - PennDOT & BCPC  
Streams, Lakes - PennDOT & BCPC  
Municipal Boundaries - PennDOT, BLE & BCPC  
Subareas - BLE  
Management Districts - BLE

**ACKNOWLEDGEMENT:**  
Perkiomen Department of Transportation  
Borough of Sellersville  
Borough of Telford  
BLE - Borton-Lawson Engineering

Management District Legend	
Design Storm Precipitation Conditions	Existing Conditions
A	1-Year 5-Year 10-Year 25-Year 100-Year
B	1-Year 2-Year 5-Year 10-Year 25-Year 100-Year
C-1	1-Year 2-Year 5-Year 10-Year 25-Year
C-2	1-Year 2-Year

\* If storms greater than the 2 - year storm cannot be conveyed to a stream C-1 watercourse in a safe manner (Ordinance Sections 305 A, F, G), then District C-1 requirements shall apply.

In addition to the ordinance criteria above, water quality (Section 303) the ground water recharge (Section 304), and streambank erosion (Section 305) shall also apply.