

**TOWNSHIP OF UPPER SALFORD, MONTGOMERY COUNTY,
PENNSYLVANIA**

ORDINANCE 2023-2

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF
UPPER SALFORD BY REVISING AND AMENDING CHAPTER 18,
PART 1, STORMWATER MANAGEMENT**

WHEREAS, the Commonwealth of Pennsylvania has issued regulations requiring the revision of ordinances relating to Stormwater Management regulation;

WHEREAS, the Board of Supervisors is desirous of revising Chapter 18, Sewers and Sewage Disposal to revise Chapter 18, Part 1, Stormwater Management consistent with the regulations issued by the Commonwealth of Pennsylvania, Department of Environmental Protection.

NOW THEREFORE, the Board of Supervisors of the Township of Upper Salford, hereby enacts and ordains as follows:

**SECTION 1. AMENDMENT OF CHAPTER 18, PART 1,
STORMWATER MANAGEMENT**

A. The Table of Contents shall be amended to add new subsections as noted herein.

B. Section 18-101, is amended to add a new subsection G to provide: G. 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.

C. A new Section 18-105.1 Erroneous Permit, is added to provide: §18-105.1, 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.

D. A new Section 18-105.2, Waivers, shall be added to provide:

§18-105.2. 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 §18-105.2.B & 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 Montgomery County Conservation District.

E. Section 18-107 Definitions, is amended to revise and/or add the following definitions:

9. BMP (BEST MANAGEMENT PRACTICE) Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this Ordinance. Stormwater BMPs are commonly grouped into one of two broad categories or measures: "structural" or "non-structural." In this Ordinance, non-structural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff, whereas structural BMPs or measures are those that consist of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

21.1. **DETENTION VOLUME** The volume of runoff that is captured and released into the Waters of the Commonwealth at a controlled rate.

30. **DRAINAGE PLAN** The documentation of the stormwater management system, to be used for a given development site, the contents of which are established in Section 403. Drainage plans are also referred to as SWM Site Plan in this ordinance.

38. **EXISTING CONDITIONS.** The dominant land cover during the 5-year period immediately preceding a proposed regulated activity. 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 values.

38.1 **FEMA** Federal Emergency Management Agency.

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

58.1. **KARST** A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage, and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.”

61.1 **LOW IMPACT DEVELOPMENT (LID)** 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.

63.1 **MUNICIPALITY** Upper Salford Township, Montgomery County, Pennsylvania.

76.1 **PERVIOUS AREA** Any area not defined as impervious.

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

91.1 **RETENTION VOLUME/REMOVED RUNOFF** The volume of runoff that is captured and not released directly into the surface Waters of the Commonwealth during or after a storm event.

92.1 RIPARIAN BUFFER A permanent area of trees and shrubs located adjacent to streams, lakes, ponds and wetlands.

123.1 USDA United States Department of Agriculture.

F. Section 110.B. is amended to add subsection 17 to provide: 17. Presence of karst formations.

G. Section 18-111 A. commencing with the text "A. The general process for designing the infiltration BMP shall be:" is renumbered as Section 18-11.B. Subsections B., C., and D., following, shall be renumbered as Subsections C., D., and E., respectively.

H. Section 18-111.B. is amended to add a new subsection 6. The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.

I. A new Section 18-116.1 is added to provide as follows: §18-116.1
Riparian Buffers

- A. In order to protect and improve water quality, a Riparian Buffer Easement shall be created and recorded as part of any subdivision or land development that encompasses a Riparian Buffer.
- B. Except as required by Chapter 102 or the Township Zoning Ordinance, the Riparian Buffer Easement shall be measured to be the greater of the limit of the 100 year floodplain or a minimum of 35 feet from the top of the streambank (on each side).
- C. Minimum Management Requirements for Riparian Buffers.
 - (1) Existing native vegetation shall be protected and maintained within the Riparian Buffer Easement.
 - (2) Whenever practicable invasive vegetation shall be actively removed and the Riparian Buffer Easement 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.
- D. The Riparian Buffer Easement shall be enforceable by the municipality and shall be recorded in the Montgomery County Recorder of Deeds Office, so that it shall run with the land and shall limit the use of the property located therein. The easement shall allow for the continued private ownership and shall count toward the minimum lot area as required by Zoning, unless otherwise specified in the Township Zoning Ordinance.
- E. Any permitted use within the Riparian Buffer Easement shall be conducted in a manner that will maintain the extent of the existing 100-

year floodplain, improve or maintain the stream stability, and preserve and protect the ecological function of the floodplain.

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.
- (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 Riparian Buffer Easement and shall comply with setback requirements established under 25 Pa. Code Chapter 73.

J. Section 18-120.A. is amended to add a new subsection 6, to state 6. Incorporate methods described in the *Pennsylvania Stormwater Best Management Practices Manual* (BMP Manual). The green infrastructure and low impact development practices provided in the BMP Manual shall be utilized for all regulated activities wherever possible.

K. Sections 18-120.B.23 and 18-122.A, are amended to replace the reference to Act 112 with Act 167.

L. Section 18-120.B. is amended to add a new subsection 24 to state 24. The following signature block shall be provided for the Township: _____, on this date _____, has reviewed and hereby certifies that the SWM Site Plan meets all design standards and criteria of the Upper Salford Township Stormwater Management Ordinance.

M. Section 18-120.C.3, is amended to provide, A geologic assessment of the effects of runoff on karst formations and sinkholes as specified in this Ordinance.

N. Section 18-121.A is amended to provide, The SWM Site Plan shall be submitted by the applicant as part of a subdivision or land development plan submission as required by the SALDO or for those regulated activities not part of a subdivision or land development plan submission.

O. Section 18-121.B, is amended to provide, B. A minimum of three (3) copies of the SWM Site Plan shall be submitted based on the distribution provided by this ordinance. Additional copies may be required as indicated in this ordinance.

P. Section 18-121.C, is amended to provide, C. Distribution of the SWM Site Plan shall be as follows:

1. Two (2) copies to Upper Salford Township accompanied by the requisite Township application forms, review fee/deposit as adopted by resolution.
2. One (1) copy to the Township Engineer.
3. One (1) copy to the Township Zoning Officer (if requested)
4. One (1) copy to the Montgomery County Conservation District (if applicable)
5. One (1) copy to the Montgomery County Planning Commission (if applicable)

Q. Section 18-122. is amended to add a new subsection B.1. to provide: B-1. The Township shall review and notify the applicant in writing within 45 days whether the SWM Site Plan is approved or disapproved. If the SWM Site Plan involves a subdivision or land development Plan, the notification shall occur within the time period allowed by the Municipalities Planning Code (90 days).

R. A new Section 18-135.1 is added to provide: §18-135.1, INSPECTION The landowner or the owner's designee (including the Municipality for dedicated and owned facilities) shall inspect SWM BMPs, facilities and/or structures installed under this Ordinance according to the following frequencies, at a minimum, to ensure the BMPs, facilities and/or structures continue to function as intended:

1. Annually for the first 5 years.
2. Once every 3 years thereafter.
3. During or immediately after the cessation of a 10-year or greater storm.

Inspections should be conducted during or immediately following precipitation events. A written inspection report shall be created 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.

S. Section 18-136.D.1, is amended as follows: Any approval or permit issued under this ordinance may be suspended or revoked by the Township for:

T. Section 18-136 is amended to add a new subsection F. to provide: F. Inspections regarding compliance with the SWM Site Plan are a responsibility of the Township. The Township is authorized to establish such fees as necessary to cover the expense of all inspections required by this Chapter 18

Part 1, Stormwater Management, as may be set from time to time by resolution. The failure of any property owner of any approved stormwater facility as designated on the SWM Site Plan to pay such fees shall constitute a violation of Chapter 18, Part 1, and subject to such penalties as set forth in §18-142 of Chapter 18, Part 1.

SECTION 2. 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.

SECTION 3. 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.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its approval, as provided by law.

ORDAINED AND ENACTED this 9th day of May, 2023.

BOARD OF SUPERVISORS
TOWNSHIP OF UPPER SALFORD

BY: Kevin O'Donnell
KEVIN C. O'DONNELL, CHAIRMAN

BY: Theodore F. Poatsy, Jr.
THEODORE F. POATSY, JR., MEMBER

BY: Richard E. Sacks
RICHARD E. SACKS, MEMBER

(TOWNSHIP SEAL)

ATTEST: QBSH
SECRETARY