

CITY OF WILKES-BARRE
PENNSYLVANIA



CITY COUNCIL AGENDA

CITY COUNCIL

OCTOBER 13, 2022

PLEDGE OF ALLEGIANCE

ROLL CALL

RESOLUTION

CONSENT AGENDA (RESOLUTIONS)

CONSENT AGENDA (ORDINANCES)

PRESENTATIONS BY COUNCIL MEMBERS

PUBLIC DISCUSSION

ADJOURNMENT

CITY COUNCIL
OCTOBER 13, 2022

RESOLUTION

Authorizing the proper city officials to take any and all necessary actions related to entering an agreement with Highmark to provide health insurance services to the City of Wilkes-Barre for calendar year 2023 for a contract price of \$7,808,919.68.

CONSENT AGENDA (RESOLUTIONS)

Authorizing the proper city officials to take all necessary actions related to the sale of a vacant lot located at 110-112 Prospect Street (PIN's: I9NE1-010-015 and I9NE1-010-015A) to Milagros Corporan for a purchase price of \$1,900.00.

Authorizing the proper city officials to hire Borton-Lawson to provide engineering services for the Downtown Wilkes-Barre Streetscape Project for a contract price of \$49,065.00.

Authorizing the proper city officials to sign all necessary documents related to awarding the contract to the lowest responsible bidder, Richard Mellow Corporation and Delta Electrical Systems, Inc. as the second lowest bidder for the City of Wilkes-Barre Street Light Maintenance. Contract to start as of January 1, 2023.

Authorizing the proper city officials to sign all necessary documents related to awarding the contract to the most qualified service, Richard Mellow Corporation, for the Traffic Signalization Maintenance. Contract to start as of January 1, 2023.

Authorizing the proper city officials to sign all necessary documents related to awarding the contract to the most qualified service for the Ground Maintenance Services under the solicitation for the City of Wilkes-Barre Landscape and Ground Maintenance Services. Contract to start as of January 1, 2023.

Authorizing the proper city officials to take all necessary actions related to the donation of a 2006 KME Fire Engine (VIN: 1K9AF42847N058209) to the Irem Shriners.

Designating the city Operations Director (or other designee appointed by the Mayor) as the authorized signatory for execution of documents, notices, contracts, and management projects through PennDOT's Reimbursement Agreement System (RAS).

CITY COUNCIL
OCTOBER 13, 2022
CONSENT AGENDA (RESOLUTIONS)

Authorizing the proper city officials to prepare and submit the necessary grant application along with any or all other project documents, related to the Pennsylvania Department of Education's Keystone Grant Program for the Osterhout Library's Roof, Windows and Flooring Improvement project, if the application is approved.

MINUTES

Of the Board of Revision of Taxes and Appeals of September 6, 2022.

Of the Regular Session of City Council of September 8, 2022.

Of the City Planning Commission of August 17, 2022.

Of the Zoning Hearing Board of August 17, 2022.

Of the Wyoming Valley Sanitary Authority of July 26, 2022.

CONSENT AGENDA (ORDINANCES)

FILE OF COUNCIL NO. 9 OF 2022 – AN ORDINANCE ADDING CHAPTER 34 TO THE CITY OF WILKES-BARRE CODE OF ORDINANCES ENTITLED "STORMWATER MANAGEMENT". (SECOND AND FINAL READING)

FILE OF COUNCIL NO. 10 OF 2022 - AN ORDINANCE AMENDING CHAPTER 30 BY REPEALING SEC. 30-18 OF THE WILKES-BARRE CITY CODE OF ORDINANCES ENTITLED "TAPPAGE FEES." (FIRST READING)

FILE OF COUNCIL NO. 11 OF 2022 – AN ORDINANCE OF THE CITY OF WILKES-BARRE, PENNSYLVANIA AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF WILKES-BARRE, ENTITLED "FIRE PREVENTION AND PROTECTION" BY REPEALING ARTICLE V. ENTITLED "CONSUMER FIREWORKS" AND REPLACING IT WITH A NEW ARTICLE V. ENTITLED "CONSUMER FIREWORKS." (FIRST READING)



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS the City issued a Request for Proposals ("RFP") for health insurance services for calendar year 2023.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are here by authorized to take any and all necessary actions related entering an agreement with Highmark to provide health insurance services to the City of Wilkes-Barre for calendar year 2023 for a contract price of \$7,808,919.68.

Submitted by _____

ROLL CALL



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

RESOLVED, that the proper city officials are hereby authorized to take any and all necessary actions related to the sale of a vacant lot located at 110-112 Prospect Street (PIN's: I9NE1-010-015 and I9NE1-010-015A) to Milagros Corporan for a purchase price of \$1,900.00.

Submitted by _____

ROLL CALL



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

RESOLVED, that the proper city officials are hereby authorized to hire Borton-Lawson to provide engineering services for the Downtown Wilkes-Barre Streetscape Project for a contract price of \$49,065.00.

Submitted by _____

ROLL CALL



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS, the City of Wilkes-Barre advertised for proposals for ***The City of Wilkes-Barre Street Light Maintenance*** for street light maintenance within the boundaries of the City of Wilkes Barre on August 22, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wilkes-Barre that the proper City officials are hereby authorized to sign any and all necessary documents related to awarding the contract to the lowest responsible bidder, ***Richard Mellow Corporation*** and ***Delta Electrical Systems, Inc.*** as the second lowest bidder for the ***City of Wilkes-Barre Street Light Maintenance***. Contract to start as of January 1, 2023.

Submitted by _____

ROLL CALL



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS the City of Wilkes-Barre advertised for proposals for **Traffic Signalization Maintenance** for traffic signals within the boundaries of the City of Wilkes Barre on August 22, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wilkes-Barre that the proper City officials are hereby authorized to sign any and all necessary documents related to awarding the contract to the most qualified service, ***Richard Mellow Corporation***, for the ***Traffic Signalization Maintenance***. *Contract to start as of January 1, 2023.*

Submitted by _____

ROLL CALL



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS the City of Wilkes-Barre advertised for proposals for ***Ground Maintenance Services under the solicitation for The City of Wilkes-Barre Landscape and Ground Maintenance Services*** within the boundaries of the City of Wilkes Barre on August 22, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wilkes-Barre that the proper City officials are hereby authorized to sign any and all necessary documents related to awarding the contract to the most qualified service for the ***Ground Maintenance Services under the solicitation for The City of Wilkes-Barre Landscape and Ground Maintenance Services***.
Contract to start as of January 1, 2023.

Submitted by _____

ROLL CALL



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS, the City is the owner of a 2006 KME Fire Engine with a broken fire pump;
and

WHEREAS, due to the age of the vehicle and the repairs needed, it is cost prohibitive for the City to repair the Fire Engine; and

WHEREAS, the administration wishes to donate the fire engine to the Irem Shriners so it can be used for its philanthropy efforts, parades, and children's events.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to take any and all necessary actions related to the donation of a 2006 KME Fire Engine (VIN: 1K9AF42847N058209) to the Irem Shriners.

Submitted by _____

ROLL CALL



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILKES-BARRE DESIGNATING THE CITY OPERATIONS DIRECTOR (OR OTHER DESIGNEE APPOINTED BY THE MAYOR) AS THE AUTHORIZED SIGNATORY FOR EXECUTION OF DOCUMENTS, NOTICES, CONTRACTS AND MANAGEMENT PROJECTS THROUGH PENNDOT'S REIMBURSEMENT AGREEMENT SYSTEM (RAS).

WHEREAS, the Pennsylvania Department of Transportation (PennDOT) has implemented and requires the use of its Reimbursement Agreement System (RAS) via the Electronic Contract Management System (ECMS) for all agreements; and

WHEREAS, the City of Wilkes-Barre currently is party to such agreements and anticipates continued participation in such agreements as owner of bridges throughout Wilkes-Barre; and

WHEREAS, all statements of interest, bids, notifications, awards, contracts, and agreements to be entered and authorized electronically in RAS via ECMS require with no signature but only an electronic acknowledgement of acceptance; and

WHEREAS, there will be no physical agreements and documents presented before the City Council for execution; and

WHEREAS, all notifications, selections, awards, agreements, and contract executions requiring approval by City Council will be presented as a Resolution to be approved during a regular public meeting; and

WHEREAS, any and all requirements of the City Charter or Administrative Code relating to City Council's role in City contracts will be met; and

WHEREAS, City Council desires to authorize the City Operations Director (or other designee appointed by the Mayor) to give all necessary approvals required by the City;

Submitted by _____

ROLL CALL

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wilkes-Barre as follows:

Upon approval by the City Council of the City of Wilkes-Barre of any action or expenditure pertaining to the management of Wilkes-Barre City's bridges, the City Operations Director (or other designee appointed by the Mayor) is authorized to approve, as the City's agent, any and all notices, awards, and contracts the City must undertake as owner of City bridges through PennDOT's RAS system via PennDOT's ECMS system. The City Clerk is hereby authorized to attest to the signature of the person authorized to give approval on behalf of the City.



Resolution No. _____

Wilkes-Barre, PA _____

BE IT RESOLVED by the City Council of the City of Wilkes-Barre:

WHEREAS, the City of Wilkes-Barre is desirous of sponsoring a grant in the amount of \$157,500.00 from the Pennsylvania Department of Education's Keystone Grant Program to assist the Osterhout Free Library with facility upgrades such as roofing system repairs, energy efficient windows and new flooring to improve conditions for both the library users and the book collection, as well as greatly enhance the energy efficiency of the facility; AND

WHEREAS, the Osterhout Free Library's existing roofing system, windows and flooring have exceeded their useful lifespan and need to be replaced. The Library will realize energy savings, and the ability to provide better maintenance of their facility; AND

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Wilkes-Barre that the actions of the proper City officials in preparing and submitting the necessary grant application to the Pennsylvania Department of Education's Keystone Grant Program for the Osterhout Free Library's Roof, Windows and Flooring Improvement project be, and hereby are ratified; AND

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to enter into the appropriate agreement with the Pennsylvania Department of Education's Keystone Grant Program, along with any or all other project documents, related to the Osterhout Free Library's Roof, Windows and Flooring Improvement project, if the application is approved.

Submitted by _____

ROLL CALL

FILE OF COUNCIL

NO. 9 of 2022

Presented in City Council September 8, 2022.

AN ORDINANCE

ADDING CHAPTER 34 TO THE CITY OF WILKES-BARRE CODE OF ORDINANCES ENTITLED "STORMWATER MANAGEMENT."

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF WILKES-BARRE HEREBY ADDS CHAPTER 34 TO THE CODE OF ORDINANCES OF THE CITY OF WILKES-BARRE ENTITLED "STORMWATER MANAGEMENT."

CHAPTER 34. STORMWATER MANAGEMENT

ARTICLE I. GENERAL PROVISIONS

Sec. 101. Short Title.

This Ordinance shall be known and may be cited as the "City of Wilkes-Barre" Stormwater Management Ordinance.

Sec. 102. Statement of Findings.

The governing body of the municipality finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases runoff volumes, flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.
- B. A comprehensive program of stormwater management (SWM), including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of the Commonwealth, their resources, and the environment.
- C. Stormwater is an important water resource that provides groundwater recharge for water supplies and supports the base flow of streams.

- D. The use of green infrastructure and low impact development (LID) are intended to address the root cause of water quality impairment by using systems and practices which use or mimic natural processes to: 1) infiltrate and recharge, 2) evapotranspire, and/or 3) harvest and use precipitation near where it falls to earth. Green infrastructure practices and LID contribute to the restoration or maintenance of pre-development hydrology.
- E. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES) program.

Sec. 103. Purpose.

The purpose of this Ordinance is to promote health, safety, and welfare within the municipality and its watershed by minimizing the harms and maximizing the benefits described in Section 102 of this Ordinance, through provisions designed to:

- A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this Commonwealth.
- B. Preserve natural drainage systems.
- C. Manage stormwater runoff close to the source, reduce runoff volumes and mimic predevelopment hydrology.
- D. Provide procedures and performance standards for stormwater planning and management.
- E. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and streambeds.
- G. Provide proper operation and maintenance of all stormwater best management practices (BMPs) that are implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements.

Sec. 104. Statutory Authority.

The municipality is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended, 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.

Sec. 105. Applicability.

All regulated activities and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this Ordinance.

Sec. 106. Compatibility with Other Requirements.

Approvals issued and actions taken under this Ordinance do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation, or ordinance.

Sec. 107. 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.

Sec. 108. 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 110, 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 this 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 this 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.

ARTICLE II. DEFINITIONS

For the purposes of this Ordinance, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense, the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word “includes” or “including” shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The words “shall” and “must” are mandatory, the words “may” and “should” are permissive.

These definitions do not necessarily reflect the definitions contained in pertinent regulations or statutes and are intended for this Ordinance only.

Agricultural Activity – Activities associated with agriculture such as agricultural cultivation, agricultural operation, and animal heavy use areas. This includes the work of producing crops including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops or pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

Applicant – A landowner, developer, or other person who has filed an application to the municipality for approval to engage in any regulated activity at a project site in the municipality.

Best Management Plan (BMP) – 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.

Conservation District – A conservation district, as defined in Section 3(c) of the Conservation District Law (3 P.S. Section 851 ©) that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the regulations promulgated under 25 Pa. Code 102.

Design Storm – The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a 5-year storm) and duration (e.g., 24 hours) used in the design and evaluation of stormwater management systems. Also see Return Period.

Detention Volume – The volume of runoff that is captured and released into the waters of the Commonwealth at a controlled rate.

DEP – The Pennsylvania Department of Environmental Protection.

Development Site (Site) – See Project Site.

Disturbed Area – An unstabilized land area where an earth disturbance activity is occurring or has occurred.

Earth Disturbance Activity – A construction or other human activity which disturbs the surface of the land, including, but not limited to: clearing and grubbing; grading; excavations; embankments; road maintenance; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

Erosion – The natural process by which the surface of the land is worn away by water, wind, or chemical action.

Existing Condition – The dominant land cover during the 5-year period immediately preceding a proposed regulated activity.

FEMA – Federal Emergency Management Agency.

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).

Floodway – The channel of the watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the 100-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year floodway, it is assumed – absent evidence to the contrary – that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

Forest Management/Timber Operations – Planning and activities necessary for the management of forestland. These include conducting a timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

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

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 (NRCS – 1.2).

Impervious Surface (Impervious Area) – A surface that prevents the infiltration of water into the ground. Impervious surfaces (or areas) shall include, but not be limited to: roofs; additional indoor living spaces, patios, garages, storage sheds and similar structures; and any new streets or sidewalks. Decks, parking areas, and driveway areas are not counted as impervious areas if they do not prevent infiltration.

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.

Land development (Development) – Inclusive of any or all of the following meanings: (i) the improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving (a) a group of two or more buildings, or (b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, condominiums, building groups, or other features; (ii) any subdivision of land; (iii) development in accordance with Section 503 (1.1) of the PA Municipalities Code.

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.

Municipality – City of Wilkes-Barre, Luzerne County, Pennsylvania.

NRCS – USDA Natural Resources Conservation Service (previously SCS).

Peak Discharge – The maximum rate of stormwater runoff from a specific storm event.

Pervious Area – Any area not defined as impervious.

Project Site – The specific area of land where any regulated activities in the municipality are planned, conducted, or maintained.

Qualified Professional – Any person licensed by the Pennsylvania Department of State or otherwise qualified by law to perform the work required by this Ordinance.

Regulated Activities – Any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff.

Regulated Earth Disturbance Activity – Activity involving earth disturbance subject to regulation under 25 Pa. Code 92, 25 Pa Code 102, or the Clean Streams Law.

Retention Volume/Removed Runoff – The volume of runoff that is captured and not released directly into the surface waters of this Commonwealth during or after a storm event.

Return Period -The average interval, in years, within which a storm event of a given magnitude can be expected to occur one time. For example, the 25-year return period rainfall would be expected to occur on average 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).

Riparian Buffer – A permanent area of trees and shrubs located adjacent to streams, lakes, ponds, and wetlands.

Runoff – Any part of precipitation that flows over the lands.

Sediment – Soils or other materials transported by surface water as a product of erosion.

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.

Stormwater – Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

Stormwater Management Facility – Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff. Typical stormwater management facilities include but are not limited to:

detention and retention basins; open channels; storm sewers; pipes; and infiltration facilities.

Stormwater Management 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.

Subdivision – As defined in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L., 805, No. 247.

USDA – United States Department of Agriculture.

Waters of this Commonwealth – Any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed waters, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

Watershed – Region or area drained by a river, watercourse, or other surface water of this Commonwealth.

Wetland – Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

ARTICLE III. STORMWATER MANAGEMENT STANDARDS

Sec. 301. General Requirements.

- A. For all regulated activities, unless preparation of an SWM Site Plan is specifically exempted in Section 302:
 - 1. Preparation and implementation of an approved SWM Site Plan is required.
 - 2. No regulated activities shall commence until the municipality issues written approval of an SWM Site Plan, which demonstrates compliance with the requirements of this Ordinance.
- B. SWM Site Plans approved by the municipality, in accordance with Section 406, shall be on site throughout the duration of the regulated activity.
- C. 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.

D. 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 Ordinance 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), No. 363-2134-008, as amended and updated.

E. 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 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 volume controls in Section 303 and the peak rate controls of Section 304 do not need to be retrofitted to existing impervious areas that are not being altered by the proposed regulated activity.

F. 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.

G. 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. 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.
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.

- H. The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.
- I. 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.
- J. 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.
- K. 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 14 can be accessed at: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.

- L. 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.
- M. Various BMPs and their design standards are listed in the BMP Manual.

Sec. 302. Exemptions.

- A. Regulated activities that result in cumulative earth disturbances less than (Enter no more than one acre. A more restrictive area may be entered.) are exempt from the requirements in Section 303, Section 304, and Article IV of this Ordinance.
- B. Agricultural activity is exempt from the SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102.
- C. Forest management and timber operations are exempt from the SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102.

- D. Exemptions from any provisions of this Ordinance shall not relieve the applicant from the requirements in Sections 301.D. through K.
- E. 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.

Sec. 303. Volume Controls.

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 A or the Simplified Method in Subsection B below. For regulated activity area equal or less than one acre that do not require hydrologic routing to design the stormwater facilities, this Ordinance 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.

- A. The *Design Storm Method* (CG-1 in the BMP Manual) is applicable to any size or regulated activity. This method requires detailed modeling based on site conditions.
 - 1. Do not increase the post-development total runoff volume for all storms equal to or less than the 2-year 24-hour duration precipitation.
 - 2. For modeling purposes:
 - a. Existing (predevelopment) non-forested pervious area must be considered meadow in good condition.
 - b. (Enter a percentage no less than 20%, up to 100%) of existing impervious area when present, shall be considered meadow in good condition in the model for existing conditions.
- B. The *Simplified Method* (CG-2 in the BMP Manual) provided below is independent of site conditions and should be used if the Design Storm Method is not followed. This method is not applicable to regulated activities greater than one acre or for projects that require design of stormwater storage facilities. For new impervious surfaces:
 - 1. Stormwater facilities shall capture at least the first two (2) inches of runoff from all new impervious surfaces.
 - 2. At least the first one inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow, i.e., it shall not be

released into the surface waters of this Commonwealth. Removal options include reuse, evaporation, transpiration, and infiltration.

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 0.5 inch of the permanently removed runoff should be infiltrated.
4. This method is exempt from the requirements of Section 304. Rate Controls.

Sec. 304. Rate Controls.

- A. For areas not covered by a release rate map from an approved Act 167 Stormwater Management Plan:

Post-development discharge rates shall not exceed the pre-development discharge rates for the 1-, 2-, 5-, 10-, 25-, 50-, and 100-year, 24-hour storm events. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the pre-development analysis for 1-, 2-, 5-, 10-, 25-, 50-, and 100-year, 24-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.

- B. For areas covered by a release rate map from an approved Act 167 Stormwater Management Plan:

For the 1-, 2-, 5-, 10-, 25-, 50-, and 100-year, 24-hour storm events, the post-development peak discharge rates will follow the applicable approved release rate maps. For any areas not shown on the release rate maps, the post-development discharge rates shall not exceed the pre-development discharge rates.

Sec. 305. 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, 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 appropriate 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 required by Zoning, unless otherwise specified in the municipal 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 drain fields 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.

ARTICLE IV. STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS

Sec. 401. Plan Requirements.

The following items shall be included in the SWM Site Plan:

- A. Appropriate sections from the municipal's Subdivision and Land Development Ordinance, and other applicable local ordinances, shall be followed in preparing the SWM Site Plans. In instances where the Municipality lacks Subdivision and Land Development regulations, the content of SWM Site Plans shall follow the county's Subdivision and Land Development Ordinance.
- B. The Municipality shall not approve any SWM Site Plan that is deficient in meeting the requirements of this Ordinance. At its sole discretion and in accordance with this Article, when a SWM Site Plan is found to be deficient,

the municipality may either disapprove the submission and require a resubmission, or in the case of minor deficiencies, the Municipality may accept submission of modifications.

C. Provisions for permanent access or maintenance easements for all physical SWM BMPs, such as ponds and infiltration structures, as necessary to implement the Operation and Maintenance (O & M) Plan discussed in paragraph E.9 below.

D. The following signature block for the municipality.

“(Municipal official or designee), on this date (Signature date), has reviewed and hereby certifies that the SWM Site Plan meets all design standards and criteria of the Municipal Ordinance No. (number assigned to ordinance).”

E. The SWM Site Plan shall provide the following information:

1. The overall stormwater management concept for the project.
2. A determination of the site conditions in accordance with the BMP Manual. A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography, and other environmentally sensitive areas, such as brownfields.
3. Stormwater runoff design computations and documentation as specified in this Ordinance, or as otherwise necessary to demonstrate that the maximum practicable measures have been taken to meet the requirements of this Ordinance, including the recommendations and general requirements in Section 301.
4. Expected project time schedule.
5. A soil erosion and sediment control plan, where applicable, as prepared for and submitted to the approval authority.
6. The effect of the project (in terms of runoff volumes, water quality, and peak flows) on surrounding properties and aquatic features and on any existing stormwater conveyance system that may be affected by the project.
7. Plan and profile drawings of all SWM BMPs, including drainage structures, pipes, open channels, and swales.
8. SWM Site Plan shall show the locations of existing and proposed on-lot wastewater facilities and water supply wells.

9. The SWM Site Plan shall include an O&M Plan for all existing and proposed physical stormwater management facilities. This plan shall address long-term ownership and responsibilities for O&M as well as schedules and costs for O&M activities.
10. A justification must be included in the SWM Site Plan if BMPs other than green infrastructure methods and LID practices are proposed to achieve the volume, rate, and water quality controls under this Ordinance.

Sec. 402. Plan Submission.

Five copies of the SWM Site Plan shall be submitted as follows:

1. Two (2) copies to the municipality.
2. One (1) copy to the municipal engineer or other municipal designee (when applicable).
3. One (1) copy to the County Conservation District.
4. One (1) copy to the City and/or County Planning Commission/Office.

Section 403. Plan Review.

- A. SWM Site Plans shall be reviewed by the municipality for consistency with the provisions of this Ordinance.
- B. The Municipality shall 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 and Land Development Plan, the notification shall occur within the time period allowed by the Municipalities Planning Code (90 days). If a longer notification period is provided by other statute, regulation, or ordinance, the applicant will be so notified by the municipality.
- C. 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.
- D. If the municipality disapproves the SWM Site Plan, the Municipality will state the reasons for the disapproval in writing. The Municipality also may approve the SWM Site Plan with conditions and, if so, shall provide the acceptable conditions for approval in writing.

Sec. 404. Modification of Plans.

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.

Sec. 405. Resubmission of Disapproved SWM Site Plans.

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.

Sec. 406. Authorization to Construct and Term of Validity.

The Municipality's approval of a 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 Municipality 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 Municipality signs the approval for a SWM Site Plan. If an approved SWM Site Plan is not completed according to Section 407 within the term of validity, then the Municipality may consider the SWM Site Plan disapproved and may revoke any and all permits. SWM Site Plans that are considered disapproved by the Municipality shall be resubmitted in accordance with Section 405 of this Ordinance.

Sec. 407. As-built Plans, Completion Certificate, and Final Inspection.

- A. The 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 with the construction plans shall be submitted by the Municipality.
- B. The as-built submission shall include a certification of completion signed by a qualified professional verifying that all permanent 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 licensed qualified professionals contributed to the construction plans, then a licensed qualified professional must sign the completion certificate.
- C. After receipt of the completion certification by the Municipality, the Municipality may conduct a final inspection.

ARTICLE V. OPERATION AND MAINTENANCE

Sec. 501. Responsibilities of Developers and Landowners.

- A. 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.
- B. 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.
- C. The O&M Plan shall be recorded as a restrictive deed covenant that runs with the land.
- D. The Municipality may take enforcement actions against an owner for any failure to satisfy the provisions of this Article.

Sec. 502. Operation and Maintenance Agreements.

- A. Prior to final approval of the SWM Site Plan, the property owner shall sign and record an Operation and Maintenance (O&M) Agreement (see Appendix A) covering all stormwater control facilities which are to be privately owned.
 - 1. The owner, successor and assigns shall maintain all facilities in accordance with the approved maintenance schedule in the O&M Agreement.
 - 2. The owner shall convey to the Municipality conservation easements to assure access for periodic inspections by the Municipality and maintenance, as necessary.
 - 3. The owner shall keep on file with the Municipality the name, address, and telephone number of the person or company responsible for maintenance activities; in the event of a change, new information shall be submitted by the owner to the Municipality within ten (10) working days of the change.
- B. The owner is responsible for operation and maintenance (O&M) of the SWM BMPs. If the owner fails to adhere to the O&M Agreement, the Municipality may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

Sec. 503. Performance Guarantee.

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.

ARTICLE VI. FEES AND EXPENSES

Sec. 601. General.

The Municipality may include all costs incurred in the review fee charged to an applicant.

The review fee may include, but not be limited to, costs for the following:

- A. Administrative processing.
- B. Review of the SWM Site Plan.
- C. Attendance at meetings.
- D. Inspections.

ARTICLE VII. PROHIBITIONS

Sec. 701. Prohibited Discharges and Connections.

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge including sewage, process wastewater, and wash water to enter a regulated small MS4 or to enter the surface waters of this Commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into a regulated small MS4, or discharges into waters of this Commonwealth, which are not composed entirely of stormwater, except (1) as provided in paragraph C below and (2) discharges authorized under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution a regulated small MS4 or to the waters of this Commonwealth:
 - 1. Discharges or flows from firefighting activities.

2. Discharges from potable water sources including water line flushing and fire hydrant flushing, if such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC).
3. Non-contaminated irrigation water, water from lawn maintenance, landscape drainage and flows from riparian habitats and wetlands.
4. Diverted stream flows and springs.
5. Non-contaminated pumped ground water and water from foundation and footing drains and crawl space pumps.
6. Non-contaminated HVAC condensation and water from geothermal systems.
7. Residential (i.e., not commercial) vehicle wash water where cleaning agents are not utilized.
8. Non-contaminated hydrostatic test water discharges, if such discharges do not contain detectable concentrations of TRC.

D. In the event that the municipality or DEP determines that any of the discharges identified in Subsection C significantly contribute pollutants to a regulated small MS4 or to the waters of this Commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge.

Sec. 702. Roof Drains and Sump Pumps.

Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs wherever feasible.

Sec. 703. Alteration of SWM BMPs.

No person shall modify, remove, fill, landscape, or alter any SWM BMPs, facilities, areas, or structures that were installed as a requirement of this Ordinance without the written approval of the Municipality.

ARTICLE VIII. ENFORCEMENT AND PENALTIES

Sec. 801. Right-of-Entry.

Upon presentation of proper credentials, the municipality or its designated agent may enter at reasonable times upon any property within the municipality to inspect the condition of the stormwater and facilities in regard to any aspect regulated by this Ordinance.

Sec. 802. 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 five (5) years.
2. Once every three (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.

Sec. 803. Enforcement.

- A. 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 302.
- B. It shall be unlawful to violate Section 703 of this Ordinance.
- C. Inspections regarding compliance with the SWM Site Plan are a responsibility of the Municipality.

Sec. 804. Suspension and Revocation.

- A. Any approval or permit issued by the Municipality pursuant to this Ordinance may be suspended or revoked for:
 1. Non-compliance with or failure to implement any provision of the approved SWM Site Plan or O&M Agreement.
 2. A violation of any provision of this Ordinance or any other applicable law, ordinance, rule, or regulation relating to the Regulated Activity.
 3. The creation of any condition of the commission of any act during the Regulated Activity which constitutes or creates a hazard, nuisance, pollution, or endangers the life or property of others.

- B. A suspended approval may be reinstated by the Municipality when:
1. The Municipality has inspected and approved the corrections to the violations that caused the suspension.
 2. The Municipality is satisfied that the violation has been corrected.
- C. An approval that has been revoked by the Municipality cannot be reinstated. The applicant may apply for a new approval under the provisions of this Ordinance.
- D. If a violation causes no immediate danger to life, public health, or property, at its sole discretion, the municipality may provide a limited time period for the owner to correct the violation. In these cases, the Municipality will provide the owner, or the owner's designee, with a written notice of the violation and the time period allowed for the owner to correct the violation. If the owner does not correct the violation within the allowed time period, the municipality may revoke or suspend any, or all, applicable approvals and permits pertaining to any provision of this Ordinance.

Sec. 805. Penalties.

- A. *First Offense.* Anyone violating the provisions of this Ordinance as a first offense shall be guilty of a summary offense and, upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500.00) for each violation, recoverable with costs. Each day that the violation continues shall be a separate offense and penalties shall be cumulative. In default of the payment of such fine, such person shall be imprisoned in the county jail for a period not to exceed ninety (90) days.
- B. *Subsequent Offenses.* Anyone committing a second or subsequent violation of this Ordinance shall be guilty of a summary offense and, upon conviction, shall be subject to a fine of not more than one thousand dollars (\$1,00.00) for each violation, recoverable with costs. Each day that the violation continues shall be a separate offense and penalties shall be cumulative. In default of the payment of such fine, such person shall be imprisoned in the county jail for a period not to exceed ninety (90) days.
- C. In addition, the municipality may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court or competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

Sec. 806. Appeals.

- A. Any person aggrieved by any action of the Municipality or its designee, relevant to the provisions of this Ordinance, may appeal to the Municipality within 30 days of that action.
- B. Any person aggrieved by any decision of the Municipality, relevant to the provisions of this Ordinance, may appeal to the Luzerne County Court of Common Pleas within 30 days of the Municipality's decision.

SEVERABILITY.

The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Wilkes-Barre that this ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included.

REPEALER.

All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. All ordinances not specifically amended hereby remain in full force and effect.

Passed finally by the Council of the City of Wilkes-Barre on _____

October 13, 2022.

This ordinance shall become effective ten (10) days after final passage by the Council of the City of Wilkes-Barre.

Attest:

Cathy Payne, City Clerk

FILE OF COUNCIL

Presented in City Council on October 13, 2022

No. _____ of 2022

AN ORDINANCE AMENDING CHAPTER 30 BY REPEALING SEC. 30-17 OF THE WILKES-BARRE CITY CODE OF ORDINANCES ENTITLED "TAPPAGE FEES."

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF WILKES-BARRE THAT CHAPTER 30 ENTITLED "UTILITIES" IS HEREBY AMENDED AS FOLLOWS:

CHAPTER 30. UTILITIES

ARTICLE II. SEWERS

Sec. 30-17. Tappage fees. REPEALED.

SEVERABILITY.

The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Wilkes-Barre that this ordinance would have been adopted had such unconstitutional, illegal, or invalid part not been included.

REPEALER.

All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. All ordinances not specifically amended hereby remain in full force and effect.

Passes finally by the Council of the City of Wilkes-Barre on _____

_____.

This ordinance shall become effective ten (10) days after final passage by the Council of the City of Wilkes-Barre.

Attest:

Cathy Payne, City Clerk

FILE OF COUNCIL

NO. _____ of 2022

Presented in City Council on October 13, 2022

AN ORDINANCE

**OF THE CITY OF WILKES-BARRE, PENNSYLVANIA AMENDING
CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF WILKES-
BARRE ENTITLED "FIRE PREVENTION AND PROTECTION"
BY REPEALING ARTICLE V. ENTITLED "CONSUMER FIREWORKS" AND
REPLACING IT WITH A NEW ARTICLE V. ENTITLED "CONSUMER
FIREWORKS."**

WHEREAS, Act 74 of 2022, House Bill 2157, P.N. 3332 was adopted by the General Assembly on July 6, 2022, was signed by the Governor on July 11, 2022, amends Title 3 Pa.C.S. Chapter 11 (hereafter, "Fireworks Law" or "Law"), and became effective on September 9, 2022;

WHEREAS, the Fireworks Law authorizes Pennsylvania municipalities to prohibit or restrict certain uses of Consumer Fireworks as defined in the Law; and

WHEREAS, the City of Wilkes-Barre has determined that the authority provided by the Fireworks Law should be exercised in the interests of public safety; and

WHEREAS, the City of Wilkes-Barre desires to regulate use of Consumer Fireworks within the City of Wilkes-Barre.

NOW, THEREFORE, IT IS HEREBY ORDAINED and enacted by the City Council of the City of Wilkes-Barre, as follows:

CHAPTER 10 FIRE PREVENTION AND PROTECTION

ARTICLE V. CONSUMER FIRE WORKS

Sec. 10-56. Definitions.

For purposes of this Ordinance, the definitions of "Consumer Fireworks" and "Display Fireworks" shall be that set forth in Section 1 of the Fireworks Law, and any successor legislation. As set forth therein, the term "Consumer Fireworks" shall not include devices such as "ground and hand-held sparkling devices," "novelties" or "toy caps."

Sec. 10-57. Consumer Fireworks.

In accordance with Section 1104(b) of the Fireworks Law, a person may not intentionally use consumer fireworks:

- (1) On private property or on public property, including, but not limited to, streets, parking lots, sidewalks, city parks, and public buildings without the express permission of the owner or entity that controls the property.
- (2) Within, directed at or directed from a vehicle or building.
- (3) Directed at another person.
- (4) While the person is under the influence of alcohol, a controlled substance, or another drug.
- (5) Within 150 feet of a building or vehicle, whether or not the user of the consumer fireworks owns the building or vehicle.

Sec. 10-58. Copies.

Certified copies of this Ordinance shall be provided to all Magisterial District Court Judges within the City of Wilkes-Barre, posted on the City of Wilkes-Barre's website, and made available to the public at the Office of the City Clerk.

Sec. 10-59. Sale of Consumer Fireworks.

Nothing in this Ordinance governs the sale of Consumer Fireworks for the period of one year from the effective date of the Fireworks Law in accordance with Section 1106(a)(2) of the Law.

Sec. 10-66. Penalties.

In accordance with the provisions of Section 1114(1) of the Law, any person using Consumer Fireworks in violation of the provisions of this Ordinance, for the first offense commits a summary offense, and upon conviction shall, in addition or any other penalty authorized by law, be punishable by a fine of not more than Five hundred (\$500.00) dollars. A subsequent offense under this Ordinance committed within three (3) years of a prior conviction shall constitute a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable of a fine of not more than One thousand (\$1,000.00) dollars.

Any person selling Consumer Fireworks in violation of the Law is punishable in accordance with Section 1114(2) be punishable by a fine of not less than Ten thousand (\$10,000.00) dollars.

SEVERABILITY.

The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal, or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Wilkes-Barre that this ordinance would have been adopted had such unconstitutional, illegal, or invalid part not been included.

REPEALER.

All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. All ordinances not specifically amended hereby remain in full force and effect.

Passed finally by the Council of the City of Wilkes-Barre on _____
_____, 2022.

This ordinance shall become effective ten (10) days after final adoption by Wilkes-Barre City Council.

Attest:

Cathy Payne, City Clerk