

CHAPTER 26

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Part 1

Water System

§101. Short Title. This Part shall be known as and may be cited as the "Water System Regulation Ordinance" of the Borough of Emmaus. (Ord. 474, 4/19/1971, §1)

§102. Purpose. This Part provides for the fixing of rates and charges pertaining to water service in the Borough of Emmaus and its environs; fixes the responsibility for the payment of charges for the consumption of water and related services, and provides for the collection of same; adopts rules and regulations for water service throughout the water system of the Borough of Emmaus; and prescribes penalties for violations. (Ord. 474, 4/19/1971, §2)

§103. "Water System" Defined. The term "water system" as used herein means the wells, pumping stations, reservoirs, filter plant, treatment equipment, and distribution lines, together with all related equipment, which serve the inhabitants of the Borough of Emmaus and certain of its environs and which are owned by the Borough of Emmaus. (Ord. 474, 4/19/1971, §3)

§104. Water Connections Required. All owners of property abutting any street or alley, in which there is a water main or in which a water main may be constructed, shall make connection at their own expense to such water line for the purpose of conducting water to such property. Any such property owner shall be given at least forty-five (45) days notice of the requirement for connection of his property to the Borough water system. Upon failure of such owner to make such connection, the Borough may make the same, and collect the cost thereof from the owner by a municipal claim or by an action of assumpsit. (Ord. 474, 4/19/1971, §4)

§105. Rates and Charges.

1. The Borough Council shall from time to time fix the rates to be charged for water furnished to individuals, co-partnerships, associations or corporations within the Borough of Emmaus. The Borough Council shall also set rates, subject to such approval as may be required from the Public Utilities Commission or other applicable regulatory body of the Commonwealth, for water furnished to individuals, co-partnerships, associations, or corporations lying outside the limits of the Borough of Emmaus but served by the Water System of the Borough of Emmaus.

2. The Borough Council may from time to time fix the charges for a tapping or service connection fee which shall be assessed against the property owner whenever such owner connects said property with a water main constructed or owned by the Borough of Emmaus.

3. The Borough Council may from time to time set the amount of a fee for a permit which shall be required prior to connecting to the Borough Water System or for a permit which shall be required due to any change in occupancy of a property.

4. The whole cost, or any part of the cost, of construction of new water mains or extension of existing water mains, whether such mains be located within or without the limits of the Borough, and serving the properties abutting thereon, may be assessed by the Borough Council, against the properties abutting along the line thereof, by the front foot rule. Such assessments may be collected as other municipal claims are now by law collectible.

5. The Borough Council may from time to time determine the amount of a service charge which shall be made for turning on water when water has been shut off at the request of the owner or for non-payment of charges or for violation of rules and regulations, providing there is a serviceable curb box and stop in front of the premises.

Where there is no serviceable curb stop and box the property owner shall pay all costs connected with shutting off and turning on the water.

6. The Borough Council or other authorized Borough official may assess charges against property owners for special services rendered, for damage to Borough owned equipment or any other lawful activity, and such charges must be paid by said property owner. Upon failure of the property owner to pay such charges within a reasonable time after presentation of same, the water service may be turned off, or the claim may be collected in such manner as other municipal claims are now by law collected.

7. Fire hydrants located outside of the Borough of Emmaus shall be subject to an annual service charge of an amount which shall be determined by Borough Council.

8. The minimum fee included in the rates shall be chargeable when water service is available, whether or not any water has been consumed during the billing period.

9. Rate Schedule - Effective June 1, 1980, the following rates will be charged for metered water rental residents of the Borough of Emmaus.

<u>Quantity</u>	<u>Per Quarter</u>
First 3,000 gallons-incl.	in Minimum Charge
Next 7,000 gallons	-\$1.00 per 1,000 gallons
Next 40,000 gallons	-\$0.85 per 1,000 gallons
Next 150,000 gallons	-\$0.70 per 1,000 gallons
Next 250,000 gallons	-\$0.55 per 1,000 gallons
Next 550,000 gallons	-\$0.48 per 1,000 gallons
Over 1,000,000 gallons	-\$0.38 per 1,000 gallons

Minimum Rates Per Quarter

5/8" - 3/4"	Meter	\$ 6.00
1" - 1 1/2"	Meter	\$ 15.00
2"	Meter	\$ 30.00
3"	Meter	\$ 75.00
4"	Meter	\$120.00
6"	Meter	\$180.00

The above rates include lateral maintenance to curb stop.

(Ord. 474, 4/19/1971, §5; as amended by Ord. 675, 11/17/1986)

§106. Billing.

1. All bills for water consumed will be rendered quarterly. The water consumed shall be determined by meter registration or by estimated bills. All water consumed shall be determined by meter registration unless the meter has been found to be registering inaccurately or has failed to register, in which case a bill will be rendered based on previous average consumption for a similar period when the meter was in order, giving proper consideration to any change in facilities or practices that may have occurred, or by such other fair and reasonable method as shall be based on the best information available.

2. In cases of excessive meter registration, no adjustment will be made of bills rendered prior to the billing period in which complaint was made or of bills of a previous consumer, whether tenant or owner.

3. Bills are due and payable upon presentation. The net bill will be allowed for a period of thirty (30) days after which the gross bill shall become due. The gross bill is the net bill plus a ten percent (10%) penalty.

4. Water service may be discontinued to any consumer who allows a bill for water to remain unpaid for longer than three and one-half (3½) months following the "gross due" date. In the event that water service is discontinued due to non-payment of bills all delinquent and current bills, plus such additional service charge as may be determined by Borough Council, must be paid before water service will be resumed.

5. At the option of the Borough unpaid bills for water service may be collected in such manner as other municipal claims are collectible.

6. Failure to receive a bill shall not exempt any consumer from his obligation to pay. The presentation of a bill to the customer is only a matter of accommodation and not a waiver of this rule.

7. Metered water consumers may take the water allowed by their minimum quarterly rate at any time during the quarterly billing period but failure to use their full allowance in any one billing period shall not entitle them to any rebate or allowance to use an excess in any other quarterly billing period.

8. When the premises are vacated, the consumer must give notice at the office of the Borough of Emmaus Water Department so that the water may be turned off, and he will be responsible for all charges for water service until such notice is given.

9. Any consumer upon receipt of a bill, having reason to doubt its accuracy, shall bring or mail said bill, within ten (10) days to the Borough Water Office in Borough Hall, and such bill shall be promptly investigated by proper personnel.

(Ord. 474, 4/19/1971, §6)

§107. Application for Service.

1. Any property owner desiring the introduction of a service line or lines from the Borough of Emmaus mains into his premises, must first make a written application on the form furnished by the Borough of Emmaus, at least one week before service is required, stating the street and house

number or location, the name of the owner and tenant, the purpose for which service will be used, the exact time when the trench from curb to the property and his service will be ready for making the connection and shall guarantee that such service will be used continuously for at least one year.

Whenever a service line is laid in contemplation of the erection of a building on the premises in question, and said line is not attached for the period of one year immediately following the granting of a permit, the Borough shall have the right to disconnect the water at the main and charge the owner for the cost of such service.

The application must be signed by the owner of the premises, or his duly authorized agent.

2. Any property owner desiring a supply of water must make a written application on the form furnished by the Borough of Emmaus, at least three (3) days before service is required, which must be properly approved by Borough Council or its duly authorized representative before the water will be turned on.

3. Application for a supply of water may be received from a tenant under the condition that the owner sign an agreement of guaranty that the tenant will pay for all water metered to the premises when due and payable.

4. In making application for a supply of water, each consumer contracts and agrees to be bound by this Part; by Borough of Emmaus Rules and Regulations for Water service, adopted December 29, 1958, as amended; and such other rules and regulations as may be promulgated.

5. A new application must be made on any change in occupancy of property, as described in any application, and the Borough may discontinue the water supply until such new application has been made, approved, and the required permit granted.

6. Where special service charges are fixed or cost of service of any kind is estimated, payment must be made at the time application is submitted and before the service is granted.

7. The Borough may refuse to serve an applicant if it does not have adequate facilities to render the service desired; if the service is of such character that is likely to result in unfavorable service to other customers; if the applicant's installation of piping is regarded as hazardous or of such character that satisfactory service cannot be given; or for other just cause.

(Ord. 474, 4/19/1971, §7)

§108. Separate Service Lines Required.

1. Each separate "consumer" shall be supplied through a separate service line.

2. For the purposes of this Part a "consumer" shall be the owner or tenant contracting for a supply of water to a property in the following classifications:

A. A building under one roof and occupied as one business or residence.

B. A combination of buildings in one common enclosure occupied by one family or business.

C. One side of a double house having a solid vertical partition wall.

D. One side or part of a house occupied by one family even though the closet and/or other fixtures be used in common.

E. A building of more than one apartment and using in common, one hall and one entrance.

F. A building having a number of apartments and/or offices and/or businesses using in common one hall or one or more means of entrance.

3. No owner or tenant of any premises supplied with water by the Borough will be allowed to supply other persons or families or other premises, except by written permit authorized by the Borough Council of the Borough of Emmaus. Consumers who violate this rule may have their water shut off after a notice of twenty-four (24) hours, and it may remain so until the Borough is satisfied that the rules and regulations will be observed.

4. In the event that authorization has been granted by the Borough for more than one customer to be supplied through a single service, any violation of the rules of the Borough by either or any of said consumers shall be deemed a violation as to all and the Borough may take such action as could be taken against a single consumer, except that such action shall not be taken until the innocent consumer who is not in violation of the Borough's rules has been given reasonable opportunity to attach his pipes to a separately controlled service connection.

(Ord. 474, 4/19/1971, §8)

§109. Service Lines to Curb.

1. Upon approval of application for a new service connection, the Borough will require the applicant to pay the current established fee. After proper payment the Borough will tap the main, insert corporation stop, install service line from main to curb and install curb stop and box; all of which shall remain the property of the Borough.

2. The Borough will be responsible for the maintenance and repair of the service line from the main to and including the curb stop and box.

3. Service lines will not be installed when the service line passes over or through premises which at the time may be the property of persons other than the owner of the premises to be supplied, unless the owner of the premises supplied assumes all liability and furnishes a right-of-way agreement in form satisfactory to Council or its duly authorized representative.

(Ord. 474, 4/19/1971, §9)

§110. Service Lines, Curb to Premises.

1. The service line beyond the curb stop shall be installed and maintained by and at the expense of the consumer. All leaks between curb box and meter must be repaired promptly by the property owner. The portion of the service line installed by the consumer shall not be less in size and quality than the service line in the street laid by the Borough, shall be laid not less than three feet six inches (3'6") below the surface, and shall not be covered until the tap on the main is made and service line tested. If any defects in workmanship or material are found, the service shall not be turned on until such defects are remedied. All plumbing connections should be able to withstand a pressure of at least one hundred fifty (150) pounds per square inch.

2. No service line shall be laid in the same trench with a sewer or gas service connection.

3. Plumber installation of meter horn shall be made at the time the final plumbing is completed, or where water is to be used for other than building purposes.

4. The service line from the curb to the premises shall be kept in good condition by the consumer under penalty of discontinuance of service by the Borough.

5. The Borough reserves the right to inspect the plumbing on any premises, and, if it shall be found not in conformity with the rules of the Borough, to refuse water service until the objectionable or improper work is corrected.

6. All abandoned service pipes shall be immediately detached from the main pipe by the property owner, at his own expense, and he shall be liable for all damages that may arise by reason of any abandoned service pipe remaining attached to the water main in front of his property, or wherever the same may be.

(Ord. 474, 4/19/1971, §10)

§111. Meters.

1. The Borough through its Water Department will determine the location for all meters.

2. If it is determined that the meter is to be placed within the building, the consumer will provide free of charge and expense to the Borough a readily accessible place in the cellar or basement near the entrance of service pipes, with a stop at the inlet side of the meter and a stop on the house side of the meter, both stops to be of a disc valve type acceptable to the Borough Water Department. If it is decided that the meter is to be placed outside the building, it must be placed in an approved meter box furnished by the Borough at the expense of the consumer and must have suitable disc type valve stops approved by the Borough.

3. The Borough shall determine the size of meter to be installed, but in no case shall the meter be more than one commercial size below the size of the service line. A five-eighths inch (5/8") meter shall be the smallest meter to be installed on a service line for domestic use.

4. The Borough will furnish meters and connections. The meter and connections shall remain the property of the Borough, and access to same for reading of the meter, inspection, testing, repairs, etc., must be permitted at all reasonable times by the consumer.

5. The consumer must, at all times, properly protect the meter from injury by frost, hot water or any other cause, and will be held responsible for repairs to meter made necessary due to negligence of said consumer. The consumer shall be responsible for and shall reimburse the Borough for all damages due to freezing, hot water or external causes.

6. In no case or under no circumstances shall any consumer or other persons interfere with the water meter or the dials thereof.

(Ord. 474, 4/19/1971, §11)

§112. Fire Hydrants.

1. All fire hydrants shall be furnished, installed and maintained by the Borough Water Department.

2. No person, other than a member of the Fire Department of the Borough of Emmaus or other cooperating public fire company in active performance of duty, shall, without a permit from the Borough of Emmaus, use, open or otherwise interfere with any fire hydrant in the Emmaus Water System.

3. The Borough of Emmaus may, under extraordinary circumstances, grant a permit for the use of water from a fire hydrant. Such permit must be obtained from the Borough Manager and must have the prior approval of the Water Committee of the Borough Council. Any such use must conform in all respects with the rules and regulations for such use as established by the Emmaus Borough Council and/or the Borough Water Department.

4. No fire hydrant shall be used for other than fire-fighting purposes during freezing weather.

5. No person shall obstruct the access to any fire hydrant by placing or permitting any post, tree, shrub, rocks, debris, building material or other obstruction to remain within the following specified distances of the front, sides and rear of the hydrant: the unobstructed distance on sidewalk shall not be less than four feet (4') on each side and to the rear of the center of the hydrant except where hydrants are placed on streets having sidewalks less than five feet (5') in width where the clear distance to the rear will be correspondingly limited.

The unobstructed distance on roadway in front of fire hydrant shall be not less than twelve feet (12') on each side of the center of the hydrant, which clear width shall extend to the unobstructed portion of the roadway.

Property owners shall, within five (5) days after receiving notice so to do, remove any obstacle in violation of this regulation.

6. Where damage to a fire hydrant or other property is done by any person having a permit to take water from said hydrant, the holder of the permit shall pay such damages and all costs and expenses as may be incurred by reason thereof, to the Borough Treasurer on demand. Where damage to a fire hydrant or other property is done by a person not having a permit, he

shall be subject to pay for all damages, costs and expenses incurred by reason thereof, and shall, in addition be subject to the penalties hereinafter provided for violation of this Part.

(Ord. 474, 4/19/1971, §12; as amended by Ord. 675, 11/17/1986)

§113. Accuracy Tests.

1. At the written request of an owner or a consumer, the Borough will make a test of the accuracy of the meter supplying his premises, and, if desired, in his presence or that of his authorized representatives.

2. A deposit will be required before the meter is tested, which sum will be returned if the meter is found to be registering more than three percent (3%) against the consumer on a flow equal to one-eighth (1/8) of the diameter of the service; otherwise, the deposit will be retained by the Borough to cover the cost of the test.

3. The Borough reserves the right to test at any reasonable time any meter deemed necessary.

(Ord. 474, 4/19/1971, §13; as amended by Ord. 675, 11/17/1986)

§114. Leaks, Defective Plumbing or Waste.

1. The Borough shall not be liable for any damage resulting from leaks, broken pipes, or from any other cause, occurring to or within any house or building, and it is expressly agreed that no claims shall be made against the Borough for damage caused by the bursting or breaking of any main or service pipe or of any attachment thereto.

2. All water passing through a meter shall be charged for at the regular rate, and no allowance will be made for excessive consumption due to leaks or waste.

3. Requirement to repair service line leaks.

A. All leaks in water service lines occurring between the curb box and the customer meter shall be repaired promptly by the property owner at his expense. [Ord. 715]

B. Borough Council, or its duly authorized representative, shall notify a property owner in writing when Borough Council detects such a leak. Within three days of receiving said notification, property owner shall have the leak repaired by a plumber licensed to do plumbing work in Emmaus. [Ord. 715]

C. In the event that the property owner does not have the leak repaired within three (3) days, Borough Council, or its duly authorized representative, may shut off the water to the leaking service line and assess the property owner such charges as may be determined by Borough Council for the resumption of service. [Ord. 715]

D. Borough Council, or its duly authorized representative, shall have the right to turn off the water to a leaking service without prior notice to the property owner in case of an emergency where, in the judgment of the Borough, delay could cause serious loss of water or damage to any property, or the Borough Water System. [Ord. 715]

(Ord. 474, 4/19/1971, §14; as amended by Ord. 715, 5/15/1989, §I)

§115. Opening, Closing or Interfering with Valves and Stopcocks. No person, except an employee of the Emmaus Water Department or other duly authorized person, shall open, close or in any way interfere with any valve or stopcock in the Emmaus Water System. (Ord. 474, 4/19/1971, §15)

§116. Connections or Outlets Between Main and Meter Not Permitted. No connections or outlet will be permitted on the service pipe or pipes, supplying any premises, between the street main and the meter. All water used must pass through the meter. (Ord. 474, 4/19/1971, §16)

§117. Turning Off Water.

1. The Borough Council or its duly authorized representative reserves the right at all times, after due notice, to shut off the water for non-payment of water bills, or for neglect or refusal to comply with these rules and regulations, and to assess such charges as may be determined by Borough Council for the resumption of service.

2. Service under an application may be discontinued for any of the following reasons:

A. Misrepresentation in application as to property or fixtures to be supplied or the use to be made of the water supply.

B. Use of water for any property or purposes other than described in the application.

C. Waste of water through improper or imperfect pipes, fixtures or otherwise.

D. Failure to maintain in good order, connection, service lines or fixtures beyond the curb and owned by the applicant.

E. Molesting any service pipe, meter, curb stop or seal or any appurtenance of the Water System of the Borough of Emmaus.

F. Vacancy of the premises.

G. Violation of any rules of the Borough of Emmaus.

H. Failure to make payments of any charges against the property.

I. Refusal of access to property for purpose of inspecting, reading, caring for or removing meters.

3. The Borough Council, or its duly authorized representative, shall have the right to turn off the water without notice in case of breakdowns or for other unavoidable causes, or for the purpose of making necessary repairs, connections, etc. Reasonable notice will be given when practicable. In no case shall the Borough be liable for any damage or inconvenience suffered therefrom.

4. If a property owner or landlord either fails to pay water/sewer bills for residence or instructs the utility company to shut off the service, property owner or landlord and tenant must be notified by the utility company. The utility company will then explain the rights and duties related to continuing service.

A. The utility company cannot terminate the service:

- On a Friday, Saturday, Sunday, holiday or the day before a holiday
- For nonpayment of bills more than four (4) years old
- For nonpayment of bills for either merchandise or service work
- For nonpayment of bills in someone else's name, unless they are found responsible by a court or the PUC
- For nonpayment of an estimated bill unless they deny the utility company access to your meter.

B. The utility company must follow these steps before shutting off service:

- At least three days before service is shut off, the utility company must attempt to contact them in person. If the company cannot reach them by phone or in person, it must notify a third party if they have designated one, notify a community interest group or the PUC.
- At the time of shut off, the utility company must contact a responsible adult at their residence. If no adult is home, the termination will be postponed for 48 hours and a notice will be left at the residence stating this.

C. If service is shut off, the utility company must provide a final informational notice to the property owner or landlord and tenant.

(Ord. 474, 4/19/1971, §17; as amended by Ord. 675, 11/17/1986)

§118. Supply of Water.

1. The Borough of Emmaus shall not be liable for a deficiency or failure in the supply when occasioned by shutting off water to make repairs or connections or from any failure throughout the water system.

2. The Borough Council, or its duly authorized representative, reserves the right to restrict the supply of water as circumstances may require regardless of use for which intended, in case of scarcity, or whenever the public welfare may require it, and to provide for the distribution of the available supply in such manner as may be determined to be in the public welfare.

3. The use of water for sprinkling purposes shall at all times be subject to the express condition that the Council may, at any time, when in its opinion the condition of the public water supply demands it, limit the time each day during which hose may be used for sprinkling purposes, or the said Council may forbid the use of water for sprinkling purposes for any period deemed necessary.

4. The Borough of Emmaus shall not be liable for any claim or damage arising from a shortage of water, the breaking of machinery or facilities, or any cause beyond its control.

5. It shall be expressly understood and agreed by and between the Borough and parties receiving water service for private fire control or sprinkler systems that the Borough does not assume any liability as insurers of property or person, and that the agreement does not contemplate any special service, pressure, capacity or facility, other than the ordinary or the changing conditions of the Borough as the same exists from day to day, and that the Borough hereby declares, and it is agreed to by the consumer, that the Borough shall be free and exempt from any and all claims or injuries to persons or property, or any other person or property, by reason of fire, water, failure to supply water, pressure or capacity.

(Ord. 474, 4/19/1971, §18)

§119. Cancellation of Contracts. All contracts for water shall continue in force from quarter to quarter, but either party may cancel contract by giving ten (10) days' written notice that the contract shall terminate at a certain future time. (Ord. 474, 4/19/1971, §19)

§120. Cross Connections. No connections shall be made between pipes or containers carrying water supplied by the Borough and pipes or containers carrying water from any other source unless the proposed cross-connection has been approved by the Borough Council of the Borough of Emmaus and State Department of Health. (Ord. 474, 4/19/1971, §20)

§121. Changing of Rules and Regulations. The Borough Council reserves the right to change or amend, from time to time, the rules and regulations for the use of water. (Ord. 474, 4/19/1971, §21)

§122. Penalties. Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 1 continues shall constitute as separate offense. (Ord. 474, 4/19/1971, §22; as amended by Ord. 675, 11/17/1986)

§123. Line Extension Regulations.

1. Definitions.

ANNUAL LINE EXTENSION COSTS - the sum of a company's additional annual operating and maintenance costs, debt costs and depreciation charges associated with the construction, operation and maintenance of the line extension.

ANNUAL REVENUE (for line extension purposes) - the company's expected additional annual revenue from the line extension based on the company's currently effective tariff rates and on the average annual usage of customers similar in nature and size to the bona fide service applicant.

BONA FIDE SERVICE APPLICANT (for line extension purposes) - a person or entity applying for water service to an existing or proposed structure within the utility's certificated service territory for which a valid occupancy or building permit has been issued if the structure

is either a primary residence of the applicant or a place of business. An applicant shall not be deemed a bona fide service applicant if:

(1) Applicant is requesting water service to a building lot, subdivision or a secondary residence.

(2) The request for service is part of a plan for the development of a residential dwelling or subdivision.

(3) The applicant is requesting special utility service.

COMPANY SERVICE LINE - the water line from the distribution facilities of the company which connects to the customer service line at the hypothetical or actual line or the actual property line, including the control valve and valve box. The control valve and valve box determine the terminal point for the company's responsibility for the street service connection.

CUSTOMER - a person or entity who is an owner or occupant and who contracts with the company for water service.

CUSTOMER SERVICE LINE - the water line extending from the curb, property line or utility connection to a point of consumption.

DEBT COSTS - the company's additional annual cost of debt associated with financing the line extension investment based on the current debt ratio and weighted long term debt cost rate for that utility or that of a comparable jurisdictional water utility.

DEPRECIATION CHARGES - the utility's additional annual depreciation charges associated with the specific line extension investment to be made based on the current depreciation accrual rates for that company or that of a comparable jurisdictional water company.

LINE EXTENSION (for line extension purposes) - an addition to the company's main line which is necessary to serve the premises of a customer.

OPERATING AND MAINTENANCE COSTS (for line extension purposes) - the utility's average annual operating and maintenance costs associated with serving an additional customer, including customer accounting, billing, collections, water purchased, power purchased, chemicals and other variable costs based on the current total company level of such costs, as well as costs particular to the specific needs of that customer, such as line flushing.

PUBLIC UTILITY - persons or corporations owning or operating equipment or facilities in this Commonwealth for diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

SHORT-TERM SUPPLY SHORTAGE - an emergency which causes the total water supply of a company to be inadequate to meet maximum system demand.

SPECIAL UTILITY SERVICE - residential or business service which exceeds that required for ordinary residential purposes. See additional clarification in the main extension portion of this tariff.

2. Line Extensions. Whenever a developer, owner or occupant of a property within the service territory of the company requests the company to extend service to such property, the company will extend service under the following conditions:

A. Requests by Bona Fide Service Applicant. Each company shall file with the Commission, as part of its tariff, a rule setting forth the conditions under which facilities will be extended to supply service to an applicant within its service area. Upon request by a bona fide service applicant, a utility shall construct line extensions within its franchised territory consistent with the following directives:

(1) Line extensions to bona fide service applicants shall be funded without customer advance where the annual revenue from the line extension will equal or exceed the company's annual line extension costs.

(2) If the annual revenue from the line extension will not equal or exceed the company's annual line extension costs, a bona fide service applicant may be required to provide a customer advance to the utility's cost of construction for the line extension. The utility's investment for the line extension shall be the portion of the total construction costs which generate annual line extension costs equal to annual revenue from the line extension. The customer advance amount shall be determined by subtracting the utility's investment for the line extension from the total construction costs.

(3) The company's investment for the line extension shall be based on the following formula, where X equals the utility's investment attributed to each bona fide applicant:

$X = [AR - OM] \text{ divided by } [I + D]; \text{ and,}$

AR = the company's annual revenue

OM = the company's operating and maintenance costs

I = the company's current debt ratio multiplied by the company's weighted long-term debt cost rate

D = the company's current depreciation accrual rate

B. Customer Advance Financing, Refunds and Facilities on Private Property.

(1) For Use by Companies with Gross Annual Receipts of Ten (10) Million Dollars or More. When a customer advance is required from a bona fide service applicant for service and the bona fide applicant is unable to advance the entire amount due, the company shall either:

(a) Allow the applicant to pay the advance plus the financing costs equal to the company's weight cost of long term debt, over a period of not less than three (3) years.

(b) Provide information to the bona fide service applicant on financial institutions that may offer financing to the applicant for the main extension.

(2) When a customer advance is required of a service applicant and an additional customer or customers attach service lines to the line extension within ten (10) years, the utility shall refund a portion of the advance to the customer. Deposits made for additional facilities other than the line extension, such as booster pumps, storage tanks and the like, are contributions in aid of construction and need not be refunded.

(3) The company will refund to the applicant, during a period of ten (10) years from the date of the extension deposit, a per-customer amount for each additional bona fide service applicant from whom a street service connection shall be directly attached to such main extension as distinguished from extensions or branches thereof. Provided, however, that the total amount refunded shall not exceed the original deposit without interest, and provided that all or any part the deposit not refunded within said ten (10) year period shall become the property of the company and shall be treated as contributions in aid of construction for ratemaking purposes. The per customer refund amount shall equal the utility's investment attributed to each bona fide applicant as calculated in the formula contained in this tariff.

(4) A utility shall require a customer to pay, in advance, a reasonable charge for service lines and equipment installed on private property for the exclusive use of the customer.

(5) Special utility service shall mean residential or business service which exceeds that required for ordinary residential purposes. Subsection (G)(1)(a) through (c) of this tariff does not apply to special utility service. By way of illustration and not limitation, special utility service shall include: the installation of facilities such as oversized mains, booster pumps and storage tanks as necessary to provide adequate flows or to meet specific pressure criteria, or service to large water consuming commercial and industrial facilities. An otherwise bona fide applicant requesting service which includes a "special utility service" component is entitled to bona fide applicant status, including the corresponding company contribution towards the costs to the line extension which do not meet the special utility service criteria.

C. Requirement for Extension Deposit Agreement. Where extension of facilities is not fully funded by the company pursuant to Rule A of this Section, the execution by the applicant of an extension deposit agreement for customer contribution or advance shall be a condition of extending the facilities. Upon notice that the company is prepared and able to go forward with the work, the applicant will deposit with the company the amount specified in the extension deposit agreement.

D. Size of Line. The company shall have the exclusive right to determine the type and size of lines to be installed and the other

facilities required to render adequate service. However, where the company decides to install a pipe larger than necessary to render extension of adequate service to the applicant, estimated or actual cost figures in the extension deposit agreement shall include only the material and installation cost for a pipe the size of which is necessary to provide adequate service to the applicant. Any incremental costs of a larger pipe will be the responsibility of the company. All estimated or actual cost figures referred to in the extension deposit agreement shall include a reasonable allowance for overhead costs and taxes as appropriate. The minimum pipe size for main extensions will be six (6) inches pursuant to Commission regulation at 52 Pa.Code §65.17(b).

E. Length of Extension. In determining the necessary length of an extension, the terminal point of such extension shall be at that point in the curb line, which is equidistant from the side property lines of the last lot for which water service is requested. A company service connection will be provided only for customer service lines that extend at right angles from the curb line in a straight line to the premises to be served.

F. Cost True-up. At the conclusion of the line extension project there shall be a reconciliation of the actual costs incurred to the amount of extension deposit that has been paid by the customer. If the actual cost exceeds the deposit, the applicant shall be responsible for payment to the company of the difference. If the deposit exceeds the actual cost, the company shall refund the difference.

(Ord. 474, 4/19/1971; as added by Ord. 889, 7/19/1999)

Part 2

Water Conservation

§201. General Provisions. If the Borough experiences a short term supply shortage, the Borough may request general conservation of inside water uses and may impose mandatory conservation measures to reduce or eliminate nonessential uses of water. (Ord. 880, 3/1/1999, §201)

§202. Voluntary Conservation. The Borough shall first request voluntary curtailment of all nonessential uses of water. (Ord. 880, 3/1/1999, §202)

§203. Mandatory Conservation. If voluntary cooperation does not achieve satisfactory results, mandatory compliance may be imposed by the Borough Council either independently or in compliance with a directive or order of the Governor of Pennsylvania. If any customer refuses to comply with such mandatory measures the Borough may, after proper notice and explanation, either adjust the outside water valve connection in a manner which will restrict water flow up to one-half (1/2), or otherwise restrict flow such as by the insertion of a plug device. If customer compliance is still not achieved, complete service termination may be imposed by an administrative law judge or other presiding officer following an expedited hearing. (Ord. 880, 3/1/1999, §203)

§204. Nonessential Uses of Water. Nonessential uses of water shall follow the same guidelines as those set forth in 4 Pa. Code, Chapter 119:

A. Definitions. The following words and terms, when used in this Part and any enforcement proceeding sought by the Borough, shall have the following meanings, unless the context clearly indicates otherwise:

Aesthetic Uses - the use of water for ornamental or decorative purposes, such as fountains, reflecting pools and waterfalls.

Any Water - any type of water, including fresh water, brackish water, waste water or reclaimed waste water.

Arboretum - a place where trees, shrubs and plants are cultivated for scientific and educational purposes.

Brackish water - water containing more than 1,000 parts per million of dissolved salts.

Commission - the Delaware River Basin Commission, created by the Delaware River Basin Compact (32 P.S. §§815.101-815.106).

Council - the Pennsylvania Emergency Management Council created by 35 Pa.C.S. §§7101-7707 (relating to emergency management services).

Department - the Department of Environmental Protection of the Commonwealth. [Ord. 940]

Fresh Water - water withdrawn from a surface water or groundwater source, or from a public water supply system located within this Commonwealth, which has not been previously used, other than brackish water and water from a nonpotable source. The term does not include water collected directly from precipitation in rain barrels or cisterns.

Mobile Equipment - a public, private or commercial automobile, truck, bus, trailer, railroad car, camper, boat or another type of similar equipment.

Nurseries - facilities which are used to grow or keep plants, trees, shrubs, vines, bulbs, cuttings, flowering annual plants, aquatic plants, seeds or tubers for propagation, distribution or sale.

PEMA - the Pennsylvania Emergency Management Agency of the Commonwealth created by 35 Pa.C.S. §§7101-7707.

Public Water Supply Agency - a person, partnership, association, corporation, municipality or municipal authority, district or other entity supplying or authorized to supply water to the public.

Reclaimed Water - waste water which has been treated to allow reuse.

Waste Water - water which has been previously used for industrial, municipal, domestic or other purpose, and has not been returned to the surface water or groundwater source.

Water from a Nonpotable Source - water from a surface water or groundwater source which the Department determines is not used for public or private drinking water supply, and is not capable of being rendered suitable for drinking water supply by standard and economically feasible methods of treatment.

Water User - an individual, partnership, association, company, corporation, municipality, municipal authority, political subdivision or an agency of Federal, State, county or municipal government. The term includes the officers, employees and agents of a partnership, association, company, corporation, municipality, municipal authority, political subdivision or an agency of Federal, State, county or municipal government.

B. Purpose. This Part restricts nonessential water uses in response to a state of drought and water shortage emergency that has been declared by the Governor within specified areas of this

Commonwealth to conserve water, to balance demand with limited available supplies and to assure that sufficient water is available to serve essential health, safety and economic needs. This Part also restricts nonessential water uses where the Borough Council has declared a water emergency due to a local lack of nonpotable water or equipment failure or other emergency.

C. Scope. This Part applies to all water uses within areas of this Commonwealth which are included in the Governor's proclamation or executive order that declares a state of drought or water shortage emergency, and also those uses so specified in any declaration of local water emergency declared by the Borough Council of the Borough of Emmaus.

D. Prohibition of Nonessential Water Uses. Whenever the Governor declares by proclamation or executive order a state of drought or water shortage emergency in an area of this Commonwealth, or the Emmaus Borough Council declares a water emergency on a local level, the following water uses shall be deemed nonessential and are prohibited within areas that have been declared to be in a state of drought or water shortage emergency.

(1) The use of water for watering of lawns, except: (a) Water may be applied to grass areas as part of a sewage or storm water treatment system utilizing spray irrigation. (b) Water may be applied at the minimum rate necessary to maintain grass tennis courts. (c) Water may be used at the minimum rate necessary to establish and maintain newly seeded and sodded grass areas when applied between the hours of 5 p.m. to 9 a.m. by means of a bucket, can or hand-held hose equipped with an automatic shut-off nozzle. Sprinklers may not be used for this purpose. (d) Water may be used at the minimum rate necessary to establish and maintain newly seeded or sodded nonresidential grass areas exceeding 10,000 square feet when applied between the hours of 5 p.m. and 9 a.m., by any means designed and operated to assure effective conservation of the water. (v) Water may be used by a professional landscaper at the minimum rate necessary on newly seeded and sodded grass areas greater than 10,000 square feet during regular working hours by any means designed and operated to assure effective conservation of the water.

(2) The use of fresh water for irrigation and watering of outdoor gardens, landscaped areas, trees, shrubs and other outdoor plants except that fresh water may be: (a) Used for agricultural irrigation for the production of food and fiber, the maintenance of livestock and poultry or the production of nursery stock. (b) Applied by means of a hand-held hose equipped with an automatic shut-off nozzle, when applied between the hours of 5 p.m. and 9 a.m. (c) Applied by means of a hand-held container or hand-held hose equipped with an automatic shut-off nozzle at the minimum rate necessary to establish and maintain newly planted gardens, trees, shrubs or other outdoor plants. Sources of water, other than fresh water, shall be used where available. (d) Used by commercial nurseries at the minimum rate necessary to maintain stock, only to the extent that sources of water other than fresh water adequate to

supply needs are not available or feasible to use. (e) Used by arboretums and public gardens of National, State or regional significance at the minimum rate necessary to preserve specimens, to the extent that sources of water other than fresh water adequate to supply needs are not available or feasible to use. (f) Used at the minimum rate necessary to implement revegetation following earthmoving, where revegetation is required under an approved erosion and sedimentation control plan adopted under State law or regulation, to the extent that sources of water, other than fresh water, adequate to supply needs are not available or feasible to use. Revegetation use shall comply with applicable best conservation management practices for revegetation prescribed by the Department and County Conservation Districts.

(3) The use of fresh water for watering a portion of golf courses, except that fresh water may be used: (a) To water tees and greens during the hours of 5 p.m. and 9 a.m. (b) To syringe heat sensitive grasses during daytime stress periods at the minimum rate necessary. (c) As part of a necessary overseeding or resodding operation during the months of August, September and October at the minimum rate necessary.

(4) The use of water for washing paved surfaces, such as streets, roads, sidewalks, driveways, garages, parking areas, tennis courts and patios, except water may be used: (a) For prewashing in preparation of asphalt street or driveway recoating and sealing. (b) At the minimum rate necessary for the maintenance of tennis courts composed of clay or similar materials by means or a hand-held hose equipped with an automatic shut-off nozzle. (c) At the minimum rate necessary for sanitation of the premises of eating and drinking places.

(5) The use of water for ornamental purposes, including fountains, artificial waterfalls and reflecting pools.

(6) The use of water for washing or cleaning of mobile equipment, including automobiles, trucks trailers and boats, except that: (a) An individual may wash personally owned or leased vehicles by buckets only. (b) Water may be used by commercial car washes at the minimum rate necessary to ensure an effective wash. (c) Water may be used for cleaning of construction, emergency, public transportation or government vehicles if necessary to preserve the proper functioning and safe operation of the vehicle. (d) Water may be used for the cleaning of new and used cars which are part of a dealer's sales inventory in accordance with the following restrictions:

(a) A vehicle may be washed in preparation for sale at the time the vehicle is received from the manufacturer or prior owner.

(b) A vehicle shall be washed no more than once every 7 days, to be determined as follow: (i) Odd street addresses on Tuesdays. (ii) Even street addresses on Wednesdays. (iii) No street address on Thursdays.

(c) A vehicle may be washed following sale immediately prior to delivery to the purchaser.

(d) A vehicle may be washed only by a means designed and operated to assure effective conservation of water or by bucket of hand-held hose equipped with an automatic shutoff nozzle.

(i) Water may be used by professional mobile wash businesses, at the minimum rate necessary, for the washing of commercial, government or other vehicles as part of normal business practices.

(7) The serving of water in restaurants, clubs or eating places, unless specifically requested by the individual.

(8) The use of water to fill and top off swimming pools, except that water may be used to fill and top off: (a) Public swimming pools and residential swimming pools serving 25 or more dwelling units, if the pools have filtration equipment allowing for continued use and recycling of water over the swimming season. (b) Swimming pools operated by health care facilities used in relation to patient care and rehabilitation. (c) Other pools only if approved by the public water supply system from which the water is withdrawn. If water is obtained from other sources, permission from the owner of the source is required.

E. VariANCES FROM THE PROHIBITION OF NONESSENTIAL USES OF WATER IN LOCAL EMMAUS BOROUGH WATER EMERGENCY. Where the Borough Council has independently declared a Water Emergency due to local shortage of potable water or equipment failure or pipe breakage, the following procedures shall be implemented to afford persons a forum for seeking relief from the restrictions. If the water emergency has been declared by the Borough Council, the Council shall sit as a committee of the whole to hear such applications, utilizing the standards of review and application procedures as set forth in the Zoning Ordinance at Chapter 27, §116(2), for conditional use applications. Such decision shall be appealable to the Lehigh County Court of Common Pleas as a decision of an agency under the Local Agency Law. Where the water emergency is declared by the Governor, the procedures set forth in 4 Pa.Code, Chapter 119, shall be applicable.

F. PROCEDURE FOR EXEMPTIONS OR VARIANCE FROM THE PROHIBITION OF NONESSENTIAL USES OF WATER.

(1) If compliance with the prohibition of nonessential use of water would result in extraordinary hardship upon a water user, the water user may apply for an exemption or variance.

(2) For purposes of this Section, extraordinary hardship means a permanent damage to property or other personal or economic loss which is substantially more severe than the sacrifices borne by other water users subject to the prohibition of nonessential use of water.

(3) A water user that believes it suffers an extraordinary hardship and desires to be wholly or partially exempt from the prohibitions or nonessential use of water may apply for an exemption or variance under the following procedures:

(a) The water user shall submit a written application with full documentation supporting the need for the requested relief to: Commonwealth Drought Coordinator c/o Department of Environmental Protection, Bureau of Water Supply & Community Health, Post Office Box 8467 Harrisburg, Pennsylvania 17105-8467. [Ord. 940]

(b) The application shall contain information specifying:

(i) The nature of the hardship claimed and the reason for the requested exemption or variance.

(ii) The efforts taken by the water user to conserve water and the extent to which water use may be reduced by the applicant without extraordinary hardship.

(c) The Commonwealth Drought Coordinator will review the application in consultation with the staff of PEMA and other appropriate Commonwealth agencies, and may request the water user to provide within a reasonable time additional information as necessary to review the application.

(d) The Commonwealth Drought Coordinator, as agent for PEMA and the Council, is authorized to render a decision regarding applications received for exemption or variance. The Commonwealth Drought Coordinator will provide the water user and other interested parties notice in writing of the decision and the reasons for the decision. When possible, the Commonwealth Drought Coordinator will provide a decision within 7 working days of submission of an application or of additional information as necessary to review the application. unless appealed under this section, the decision of the Commonwealth Drought Coordinator shall be considered a final action on the application.

(e) A water user aggrieved by a decision of the Commonwealth Drought Coordinator may, within 30 days of notice of the decision, appeal the decision to the Council.

(f) An appeal from an initial decision of the Commonwealth Drought Coordinator will not act as an automatic supersedes, but, upon cause shown and where the circumstances require it, the Commonwealth Drought Coordinator or the Council, or both, will have the power to grant a supersedes.

(g) When an initial decision is appealed, the Council will provide the water user with an opportunity for a hearing. The council will appoint a presiding officer to act as the hearing officer. Hearings will be conducted under 1 Pa.Code,

Part II, (relating to general rules of administrative practice and procedure).

(h) The hearing examiner will provide the record of the hearing, if any, and a recommendation to PEMA and Council for review and adoption.

(i) The Council will notify the water user in writing of its final decision and the reasons for the decision regarding the appeal.

(4) An exemption or variance will only be granted to a water user to the extent necessary to relieve extraordinary hardship and will be conditioned upon compliance with all reasonable conservation measures required by this Part or the variance or exemption.

(5) An exemption or variance approved by the Council may be modified or rescinded if public health, safety and welfare require further reduction in water use.

(6) An exemption or variance granted to a water user for a specific property, purpose or person is not transferable to another property, purpose or water user without prior written approval from PEMA and the Council.

G. Implementation Period. This Part shall be implemented upon declaration by the Governor of a drought or water shortage emergency, and shall remain in effect during the period of the emergency until terminated by action of the Governor or by concurrent resolution of the General Assembly. Notice of the termination of the drought emergency and the reversion of this Part to a standby status will be submitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(Ord. 880, 3/1/1999, §204; as amended by Ord. 940, 1/7/2002, §2)

§205. Enforcement, Fines and Penalties. In the event of a drought emergency, (as declared by a river basin commission and or by a proclamation or executive order issued by the Governor), the Borough is authorized to collect fines and/or excess use charges as set forth in its Local Rationing Plan as filed with and approved by the Pennsylvania Emergency Management Agency from any water user. Fines may also be imposed upon water users for violation of any part of this Part, upon a finding by a District Justice of noncompliance with an official Borough directive or emergency plan, at a rate not in excess of \$300.00 per day per event. A water user who violates this Part by violating a State directive, fails to implement the duties and responsibilities imposed by this Chapter or impedes or interferes with action undertaken or ordered under this Part shall be subject to the penalties provided under 35 Pa.C.S. §7707 (relating to penalties). Violation of a provision of this Part is a summary offense enforceable by proper law enforcement authorities or private citizens under 234 Pa.Code, Chapter 50. (Ord. 880, 3/1/1999, §205)

Part 3

Little Lehigh Creek Watershed
Act 167 Stormwater Management Ordinance

A. General Provisions.

§301. Short Title. This Part shall be known and may be cited as the "Little Lehigh Creek Watershed Act 167 Stormwater Management Ordinance." (Ord. 1011, 6/5/2006, §101)

§302. 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 flood flows and velocities, contributes to erosion and sedimentation, changes the natural hydrologic patterns, destroys aquatic habitat, elevates aquatic pollutant concentrations and loadings, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, and threatens public health and safety.

B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated erosion and loss of natural infiltration, is fundamental to the public health, safety and welfare and the protection of the people of the municipality and all of the people of the Commonwealth, their resources and the environment.

C. Stormwater can be an important resource by providing groundwater recharge for water supplies and baseflow of streams, which also protects and maintains surface water quality.

D. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.

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).¹

F. Non-stormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the Commonwealth by the municipality.

(Ord. 1011, 9/5/2006, §102)

§303. Purpose. The purpose of this Part is to promote the public health, safety, and welfare within the Little Lehigh Creek Watershed by minimizing the damages and maximizing the benefits described in §302 of this

¹Throughout this Part, these provisions are from the DEP Guidance on MS4 Ordinance Provisions and are not required for municipalities not subject to the NPDES Phase II regulations.

Part by provisions designed to:

- A. Manage stormwater runoff impacts at their source by regulating activities which cause such problems.
- B. Utilize and preserve the desirable existing natural drainage systems.
- C. Encourage infiltration of stormwater, where appropriate, to maintain groundwater recharge, to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- D. Maintain the existing flows and quality of streams and watercourses in the municipality and the Commonwealth.
- E. Preserve and restore the flood carrying capacity of streams.
- F. Provide for proper maintenance of all permanent stormwater management BMPs that are implemented in the municipality.
- G. Provide review procedures and performance standards for stormwater planning, design and management.
- H. Manage stormwater impacts close to the runoff source which requires a minimum of structures and relies on natural processes.
- I. Meet legal water quality requirements under State law, including regulations at 25 Pa.Code Chapter 93.4a to protect and maintain "existing uses" and maintain the level of water quality to support those uses in all streams and to protect and maintain water quality in "special protection" streams.
- J. Prevent scour and erosion of streambanks and streambeds.
- K. Provide standards to meet the NPDES permit requirements. ²

(Ord. 1011, 9/5/2006, §103)

§304. Statutory Authority. The municipality is empowered to regulate these activities by the authority of the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. §680.1 et seq., as amended, the "Stormwater Management Act" and the Code of Ordinances of the Borough of Emmaus, Chapter 26, Part 3. (Ord. 1011, 9/5/2006, §104)

§305. Applicability. This Part shall only apply to those areas of the municipality which are located within the Little Lehigh Creek Watershed as delineated on an official map available for inspection at the municipal office. A map of the Little Lehigh Creek Watershed at a reduced scale is included in Appendix A for general reference. (Municipalities subject to the NPDES Phase II regulations must ensure that all of the ordinance provisions required to meet the MS4 NPDES requirements apply across the entire municipality.) The following activities are defined as regulated activities and shall be governed by this Part:

- A. Land development.

² Throughout this Part, these provisions are from the DEP Guidance on MS4 Ordinance Provisions and are not required for municipalities not subject to the NPDES Phase II regulations.

B. Subdivision.

C. Construction of new or additional impervious surfaces (driveways, parking lots, etc.).

D. Construction of new buildings or additions to existing buildings.

E. Diversion or piping of any natural or man-made stream channel.

F. Installation of stormwater systems or appurtenances thereto.

G. Regulated earth disturbance activities.

(Ord. 1011, 9/5/2006, §105)

§306. Exemptions.

1. Impervious Cover. Any proposed regulated activity, except those defined in §§305.E and 305.F, which would create ten thousand (10,000) square feet or less of additional impervious cover is exempt from the drainage plan preparation provisions of this Part. All of the impervious cover added incrementally to a site above the initial ten thousand (10,000) square feet shall be subject to the drainage plan preparation provisions of this Part. If a site has previously received an exemption and is proposing additional development such that the total impervious cover on the site exceeds ten thousand (10,000) square feet, the total impervious cover on the site proposed since the original ordinance date must meet the provisions of this Part.

A. The date of the Municipal Ordinance adoption of the original Little Lehigh Act 167 Stormwater Management Ordinance (1978) shall be the starting point from which to consider tracts as "parent tracts" in which future subdivisions and respective impervious area computations shall be cumulatively considered.

B. For development taking place in stages, the entire development plan must be used in determining conformance with these criteria.

C. Additional impervious cover shall include, but not be limited to, additional indoor living spaces, decks, patios, garages, driveways, storage sheds and similar structures, any roof, parking or driveway areas and any new streets and sidewalks constructed as part of or for the proposed regulated activity.

D. Any additional areas proposed to initially be gravel, crushed stone, porous pavement, etc., shall be assumed to be impervious for the purposes of comparison to the exemption criteria. Any existing gravel, crushed stone or hard packed soil areas on a site shall be considered as pervious cover for the purpose of exemption evaluation.

2. Prior Drainage Plan Approval. Any regulated activity for which a drainage plan was previously prepared as part of a subdivision or land development proposal that received preliminary plan approval from the municipality prior to the effective date of this Part is exempt from the drainage plan preparation provisions of this Part, except as cited in subsection .C, provided that the approved drainage plan included design of stormwater facilities to control runoff from the site currently proposed for regulated activities consistent with ordinance provisions in effect at the time of approval and the approval has not lapsed under the Municipalities Planning Code. If significant revisions are made to the drainage plan after

both the preliminary plan approval and the effective date of this Part, preparation of a new drainage plan, subject to the provisions of this Part, shall be required. Significant revisions would include a change in control methods or techniques, relocation or redesign of control measures or changes necessary because soil or other conditions are not as stated on the original drainage plan.

3. These exemptions shall not relieve the applicant from implementing such measures as are necessary to protect health, safety, property, and State water quality requirements. These measures include adequate and safe conveyance of stormwater on the site and as it leaves the site. These exemptions do not relieve the applicant from the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance.

4. No exemptions shall be provided for regulated activities as defined in §§305.E and 305.F.

(Ord. 1011, 9/5/2006, §106)

§307. Compatibility with Other Ordinance Requirements. Approvals issued pursuant to this Part do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance. (Ord. 1011, 9/5/2006, §109)

§308. Duty of Persons Engaged in the Development of Land. Notwithstanding any provisions of this Part, including exemption and waiver provisions, any landowner and any person engaged in the alteration or development of land which may affect stormwater runoff characteristics shall implement such measures as are reasonably necessary to prevent injury to health, safety or other property. Such measures shall include such actions as are required to manage the rate, volume, direction and quality of resulting stormwater runoff in a manner which otherwise adequately protects health and property from possible injury. (Ord. 1011, 9/5/2006, §110)

B. Definitions.

§311. Definitions. For the purposes of this Part, 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.

ACCELERATED EROSION - the removal of the surface of the land through the combined action of human activities and natural processes, at a rate greater than would occur because of the natural process alone.

BEST MANAGEMENT PRACTICE (BMP) -activities, facilities, measures or procedures used to manage stormwater quantity and quality impacts from the regulated activities listed in §305, to meet State water quality requirements, to promote groundwater recharge and to otherwise meet the purposes of this Part.

BEST MANAGEMENT PRACTICE OPERATIONS AND MAINTENANCE PLAN - documentation, included as part of a drainage plan, detailing the proposed BMPs, how they will be operated and maintained and who will be responsible.

BIORETENTION - densely vegetated, depressed features that store stormwater and filter it through vegetation, mulch, planting soil, etc. Ultimately stormwater is evapotranspired, infiltrated, or discharged. Optimal bioretention areas mimic natural forest ecosystems in terms of species diversity, density, distribution, use of native plants, etc.

BUFFER -(1) streamside buffer - a zone of variable width located along a stream that is vegetated and is designed to filter pollutants from runoff. (2) special geologic feature buffer -a required isolation distance from a special geologic feature to a proposed BMP needed to reduce the risk of sinkhole formation due to stormwater management activities.

CAPTURE/REUSE - stormwater management techniques such as cisterns and rain barrels which direct runoff into storage devices, surface or sub-surface, for later re-use, such as for irrigation of gardens and other planted areas. Because this stormwater is utilized and no pollutant discharge results, water quality performance is superior to other non-infiltration BMPs.

CARBONATE BEDROCK-rock consisting chiefly of carbonate minerals, such as limestone and dolomite; specifically a sedimentary rock composed of more than fifty percent (50% by weight of carbonate minerals that underlies soil or other unconsolidated, superficial material.

CISTERN - an underground reservoir or tank for storing rainwater.

<u>Return Period</u>	<u>24-Hour Rainfall Depth</u>
1 year	2.40 inches
2 year	3.00 inches
5 year	3.60 inches
10 year	4.56 inches
25 year	5.52 inches
50 year	6.48 inches
100 year	7.44 inches

A graphical and tabular presentation of the Type II twenty-four (24) hour distribution is included in Appendix C⁶.

6. All calculations using the rational method shall use rainfall intensities consistent with appropriate times of concentration and return periods and the Intensity-Duration-Frequency Curves as presented in Appendix C⁷.

7. Runoff curve numbers (CN's) to be used in the soil-cover-complex method shall be based upon the matrix presented in Appendix C⁸.

8. Runoff coefficients for use in the Rational Method shall be based upon the table presented in Appendix C⁹.

9. Proposed volume controls shall be designed with sufficient storage volume for a one hundred (100) year return period event unless proposed in combination with rate controls to achieve the required performance standard across all return periods. For the return period(s) to be solely controlled by the volume control, the storage volume shall equal or exceed the volume of the Universal Rational Hydrograph for the drainage area to the volume control.

10. All time of concentration calculations shall use a segmental approach, which may include one or all of the flow types below:

A. Overland flow (sheet flow) calculations shall use either the NRCS average velocity chart (Figure 15.2, Technical Release-55, 1975) or the modified kinematic wave travel time equation (equation 303, NRCS TR-55, June 1986). If using the modified kinematic wave travel time equation, the overland flow length shall be limited to fifty (50) feet for designs using the rational method and limited to one hundred fifty (150) feet for designs using the soil-cover-complex method.

B. Shallow concentrated flow travel times shall be determined from the watercourse slope, type of surface and the velocity from Figure 3-1 of TR-55, June 1986.

⁶ Editor's Note: Appendix C is on file in the Borough office.

⁷ Editor's Note: Appendix C is on file in the Borough office.

⁸ Editor's Note: Appendix C is on file in the Borough office.

⁹ Editor's Note: Appendix C is on file in the Borough office.

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C. Open channel flow travel times shall be determined from velocities calculated by the Manning equation. Bankfull flows shall be used for determining velocities. Manning 'n' values shall be based on the table presented in Appendix C¹⁰.

D. Pipe flow travel times shall be determined from velocities calculated using the Manning equation assuming full flow and the Manning 'n' values from Appendix C¹¹.

11. All predevelopment calculations for a given discharge direction shall be based on a common time of concentration considering both onsite and any offsite drainage areas. All postdevelopment calculations for a given discharge direction shall be based on a common time of concentration considering both onsite and any offsite drainage areas.

12. The Manning equation shall be used to calculate the capacity of watercourses. Manning 'n' values used in the calculations shall be consistent with the table presented in Appendix C¹². Pipe capacities shall be determined by methods acceptable to the Borough Engineer.

13. The Pennsylvania DEP, Chapter 105, "Rules and Regulations," apply to the construction, modification, operation or maintenance of both existing and proposed dams, water obstructions and encroachments throughout the watershed. Criteria for design and construction of stormwater management facilities according to this Part may not be the same criteria that are used in the permitting of dams under the Dam Safety Program.

(Ord. 918, 1/8/2001, §304)

§325. Prohibition Against Stormwater Discharges.

1. Prohibited Discharges. No person shall cause for any reason intentionally, or negligently, any discharge of any effluent into the storm sewer system which is not entirely composed of storm water except as provided by subsection (2).

2. Allowable Discharges. Permitted discharges into the Borough's storm sewer system, shall be:

A. When approved under a State or Federal permit.

B. Based on a finding by the Emmaus Borough Public Works Director that the discharge(s) does not significantly contribute to pollution of surface waters. Examples of such discharges are:

(1) Discharge from firefighting activities.

(2) Discharges from potable water sources not containing chlorine, including dechlorinated water line and fire hydrant flushing.

(3) Irrigation drainage.

¹⁰ Editor's Note: Appendix C is on file in the Borough office.

¹¹ Editor's Note: Appendix C is on file in the Borough office.

¹² Editor's Note: Appendix C is on file in the Borough office.

- (4) Discharges from routine external building wash down (which does not use detergents or other compounds).
- (5) Discharges from air conditioning condensate.
- (6) Discharges from water from individual residential car washing.
- (7) Springs.
- (8) Discharges from water from crawl space pumps.
- (9) Discharges from uncontaminated water from foundation or from footing drains.
- (10) Flows from riparian habitats and wetlands.
- (11) Discharges from lawn watering.
- (12) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.
- (13) Dechlorinated swimming pool discharges.
- (14) Discharges from uncontaminated groundwater.

3. In the event the Emmaus Borough Public Works Director determines that any of the discharges identified in subsection (2) significantly contributes to the pollution of groundwater or if the Borough is so notified by the State Department of Environmental Protection, the Borough will notify the responsible person or entity to cease any further discharge. Upon notice provided by the Borough under subsection (2), the person or entity making the discharge shall have a reasonable time, as determined by the Emmaus Borough Public Works Director, to cease the discharge consistent with the degree of pollution caused by the discharge. Nothing in this Section shall affect the person or entity's responsibility or liability under State law.

(Ord. 981, 1/8/2001, §305; as added by Ord. 982, 7/19/2004)

§326. Prohibited Connections. The following connections shall be prohibited, except as provided in §325(2) above:

A. Any drain or conveyance, whether on the surface or subsurface, which allows any non-storm water discharge, including sewage, process wastewater, and wash water, to enter the storm sewer system and any connections to the storm drain system from indoor drains and sinks.

B. Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system which has not been documented in plans, maps, or equivalent records, and approved by the Borough of Emmaus.

(Ord. 918, 1/8/2001, §306; as added by Ord. 982, 7/19/2004)

All prior Ordinances and parts of ordinances inconsistent herewith be, and the same are hereby repealed.