

ARTICLE 943
Enforcement and Penalties

- 943.01 Right-of-entry.
- 943.02 Inspection.
- 943.03 Notification.
- 943.04 Enforcement.
- 943.05 Suspension and revocation.
- 943.06 Penalties.
- 943.07 Appeals.

943.01 RIGHT-OF-ENTRY.

Upon presentation of proper credentials, the Municipality may enter at reasonable times upon any property within the Municipality to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Ordinance.
(Ord. 32-2011. Passed 10-4-11.)

943.02 INSPECTION.

SWM BMPs shall be inspected by the landowner, or the owner's designee, including the Municipality for dedicated and owned facilities, according to the following list of minimum frequencies:

(a) Annually.

- (1) During or immediately after the cessation of a ten (10)-year or greater storm, i.e., a storm of a estimated frequency of recurrence of ten (10) years or greater interval of time.
- (2) A report of all inspections shall be submitted to the Municipality annually.
- (3) All inspection records shall be maintained by the landowner and shall be made available to the Municipality upon written request
(Ord. 32-2011. Passed 10-4-11.)

943.03 NOTIFICATION.

In the event that a person fails to comply with the requirements of this Ordinance, or fails to conform to the requirements of any permit issued hereunder, the Municipality shall provide written notification of the violation. Such notification shall set forth the nature of the violations and establish a time limit for the correction of these violation(s). Failure to comply within the time specified shall subject such person to the penalty provisions of this Ordinance. All such penalties shall be deemed cumulative and do not prevent the Municipality from pursuing any and all remedies. It shall be the responsibility of the Owner of the real property on which any Regulated Activity is proposed to occur, is occurring, or has occurred, to comply with the terms and conditions of this Ordinance. (Ord. 32-2011. Passed 10-4-11.)

943.04 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 937.02.

(b) It shall be unlawful to violate any Section of this Ordinance.

(c) Inspections regarding compliance with the SWM Site Plan are a responsibility of the Municipality. (Ord. 32-2011. Passed 10-4-11.)

943.05 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 or 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 shall 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. (Ord. 32-2011. Passed 10-4-11.)

943.06 PENALTIES.

(a) Any person, partnership or corporation who or which has violated the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Municipality, pay a judgement of not more than one thousand dollars (\$1,000.00). No judgement shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgement, the Municipality may enforce the judgement pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgement pending a final adjudication of the violation and judgement.

(b) 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 of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.
(Ord. 32-2011. Passed 10-4-11.)

943.07 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 City Council 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 York County Court of Common Pleas within 30 days of the Municipality's decision.
(Ord. 32-2011. Passed 10-4-11.)