



December 8, 2025

Dear Members of the Sussex County Council,

On behalf of the Associated Builders and Contractors Delaware Chapter (ABC Delaware) and the hundreds of contractors, trades professionals, and industry partners we represent across Sussex County, thank you for your continued leadership on issues that shape the long-term success and prosperity of our communities.

ABC Delaware is committed to responsible development and strong environmental stewardship. Our members work every day to ensure that construction practices protect natural resources, support sustainable growth, and strengthen the economic vitality of Sussex County. However, after careful review, we must express significant concerns regarding the proposed stormwater and sediment control ordinance currently under consideration.

While well-intended, several provisions in the draft ordinance conflict with state law, present major technical challenges, and will have serious unintended consequences for housing affordability, project feasibility, and future investment in Sussex County. We respectfully request the Council's consideration of the following points:

1. The Draft Ordinance Conflicts With State Law and Regulatory Authority

Under 7 Del. C. §4007, the authority to administer Delaware's sediment and stormwater program rests solely with DNREC. Delegation of this authority to local governments must be explicit and renewed every five years. Sussex County does not currently have this delegation and therefore cannot assume these responsibilities through ordinance alone. As written, significant portions of the draft may be legally unenforceable and create regulatory uncertainty for contractors, engineers, and developers.

2. The Proposed 5% Runoff Volume Standard Is Prohibited by Delaware Statute

The ordinance's requirement to limit post-development runoff volume to no more than a 5% increase at property lines directly violates 7 Del. C. §4006(f) and Senate Bill 253 (2016). These provisions explicitly bar DNREC from using a volume-reduction approach in stormwater regulations. If the State is prohibited from using this standard, counties likewise cannot impose it. This creates significant legal vulnerability for the ordinance as drafted.

3. Technical and Design Requirements Are Not Feasible in Sussex County's Conditions

Sussex County's coastal plain soils and hydrologic characteristics pose unique challenges. The draft ordinance includes several requirements that are not

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workable under these conditions, including:

- Heavy reliance on a county-controlled electronic flow capture system
 - Restrictions on off-site discharge even where natural drainage patterns require it
- Phasing thresholds that do not reflect practical engineering or construction sequencing

These provisions would severely limit design options and make compliance extremely difficult, if not impossible, for many projects.

4. Significant Economic and Housing Impacts

As the County continues working to expand housing opportunities—especially for the workforce, young families, and seniors—this ordinance would create new barriers. If adopted as written, it would:

- Reduce buildable yield on many properties
- Increase development and construction costs
- Drive up housing prices at a time of already critical affordability challenges
- Delay or potentially halt future projects

Discourage private investment in Sussex County

These impacts would be felt broadly across the construction industry, housing sector, and local economy.

5. ABC Delaware's Recommendation: A Collaborative Working Group

ABC Delaware respectfully urges the Council to pause adoption of the current draft ordinance and convene a stakeholder working group, including:

- Engineers
- Contractors
- Developers
- DNREC
- Sussex Conservation District

Industry associations, including ABC Delaware

A collaborative approach will ensure that the final ordinance is:

- Legally sound
- Technically feasible
- Environmentally meaningful

Aligned with Sussex County's housing and economic priorities

Our members stand ready to assist the County in developing a stormwater policy that protects waterways while supporting responsible, sustainable growth.

Thank you for your leadership, your thoughtful consideration of these concerns, and your continued commitment to improving the quality of life for all Sussex County residents. ABC Delaware looks forward to working with you to create a practical and effective path forward.

Sincerely,



Jen Cohan
President

Associated Builders and Contractors Delaware Chapter