

## **ARTICLE I - GENERAL PROVISIONS**

### **Section 101. Short Title**

This Ordinance shall be known and may be cited as the "Drumore Township Stormwater Management (SWM) Ordinance."

### **Section 102. Statement of Findings**

The governing body of the Township finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from development throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain 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 SWM, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, welfare, and the protection of the people of the Township and all the people of the Commonwealth, their resources, and the environment.
- C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- D. Riparian forest buffers enhance water quality by filtering pollutants in runoff, providing light control and temperature moderation, processing pollutants, increasing infiltration and providing channel and shoreline stability thus decreasing erosion.

### **Section 103. Purpose**

The purpose of this Ordinance is to promote health, safety, and welfare 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 Chapter 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this Commonwealth.

- B. Preserve the natural drainage systems as much as practicable.
- C. Manage stormwater runoff close to the source.
- 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 Management Best Management Practices (SWM BMPs) that are implemented within the Township.
- H. Provide standards to meet NPDES permit requirements.
- I. Promote stormwater runoff prevention through the use of nonstructural Best Management Practices (BMPs).
- J. Provide a regulatory environment that supports the proportion, density and intensity of development called for in the comprehensive plan; allow for creative methods of improving water quality and managing stormwater runoff; and promote a regional approach to water resource management.
- K. Help preserve and protect exceptional natural resources, and conserve and restore natural resource systems.
- L. Promote stormwater management practices that emphasize infiltration, evaporation, and transpiration.

#### **Section 104. Statutory Authority**

A. Primary Authority:

The Township is empowered to regulate these activities by the authority of 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" and Act 394 of 1937, as amended, 35 P.S. Section 691.1 et seq. the Pennsylvania Clean Streams Law. The Township also is empowered to regulate land use activities that affect stormwater impacts by the authority of the express and implied powers granted to the Board of Supervisors under the Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), reenacted and amended November 9, 1995 (P.L. 350, No. 60), as amended.

B. Secondary Authority:

The Township also 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 (hereinafter "PMPC"). However, in the case of the PMPC, administrative and related provisions not specifically referenced in this Ordinance shall not be considered adopted by reference. Ordinances adopted pursuant to the PMPC, including, but not limited to Ordinances covering subdivision and land development and zoning, shall continue to apply as amended.

C. Adoption of the County Plan:

There is hereby adopted by reference by the Township "Blueprints, An Integrated Water Resource Plan for Lancaster County" dated October 2012, as amended, which shall form the basis of the authority for this Ordinance.

**Section 105. Applicability**

The provisions, regulations, limitations, and restrictions of this ordinance shall apply to regulated activities, as defined in this Ordinance.

**Section 106. Repealer**

- A. Any other ordinance provision(s) or regulation of the Township inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.
- B. Any Plan (hereinafter defined) pending at the time of the effective date of this Ordinance shall be allowed to proceed with revisions, finalization and implementation in accordance with any Ordinance in effect prior hereto. Any Subdivision and Land Development Plan filed pursuant to the provisions of the Pennsylvania Municipalities Planning Code where there isn't a prior storm water management ordinance in effect may proceed with development in accordance with the filing at the time of the effective date of this Ordinance.

**Section 107. Severability**

Should any section, provision or part thereof of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

### **Section 108. Compatibility with Other Ordinance Requirements**

Approvals issued pursuant to this Ordinance 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.

### **Section 109. 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 Township purporting to validate such a violation.

### **Section 110. Municipal Liability**

- A. Except as specifically provided by the Pennsylvania Storm Water Management Act, Act of October 4, 1978, P.L. 864, No. 167, as amended, 32 P.S. §680.1 et seq., the making of any administrative decision by the Township or any of its officials or employees shall not constitute a representation, guarantee or warranty of any kind by the [Township] of the practicability or safety of any proposed structure or use with respect to damage from erosion, sedimentation, storm water runoff, flood, or any other matter, and shall create no liability upon or give rise to any cause of action against the Township and its officials and employees. [Township], by enacting and amending this Ordinance, does not waive or limit any immunity granted to the [Township] and its officials and employees by the Governmental Immunity Act, 42 Pa. C.S. §8541 et seq., and does not assume any liabilities or obligations.
- B. Nothing contained in this Ordinance and no review by the Township or any of its agents or officials shall be construed by any person to be (unless specifically applied for and granted in writing, in advance, by the Township), a waiver of any term or condition of this Ordinance.
- C. Township shall not be held liable for lack of compliance with the terms and conditions of this Ordinance by any person or for the mistakes of any person in complying with or implementing the terms and conditions of this Ordinance.
- D. All approvals are subject to all other laws, ordinances, rules and regulations then in effect applicable to all applications, which said other rules, ordinances and regulations are adopted there by reference.
- E. All applicants agree to and shall indemnify, defend and save harmless the Township from any and all costs incurred by Township (including its reasonable attorney's fees) arising out of intentional action or negligent action by applicants and/or their agents or employees.

### **Section 111. Duty of Persons Engaged in the Development of Land**

Notwithstanding any provision(s) of this Ordinance, including exemptions, any landowner or 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 also shall include actions as are required to manage the rate, volume, direction, and quality of resulting stormwater runoff in a manner which otherwise adequately protects health, property, and water quality.

### **Section 112. Financial Security**

- A. A financial security (bond, restricted account or letter of credit) for stormwater related improvements shall be supplied by the Developer in conjunction with the subdivision/land development approval, or in conjunction with the SWM Site Plan approval if no subdivision/land development plan is required.
- B. The applicant shall provide a financial security to the Township for the timely installation and proper construction of all SWM facilities, including E&S BMPS, as required by the approved SWM Site Plan and this ordinance and, as applicable, in accordance with the provisions of Sections 509, 510, and 511 of the MPC.
- C. In the event that any SWM Facilities which may be required have not been installed as provided in the approved SWM Site Plan the Governing Body of the Township is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the SWM Facilities covered by said security, the Governing Body of the Township may, at its option, install part of such SWM Facilities and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the SWM Facilities. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the Developer, or both, shall be used solely for the installation of the SWM Facilities covered by such security, and not for any other Municipal purpose.
  - 1. Except as otherwise specifically herein provided, all issues associated with improvement security, shall be governed by the provisions of §§509, 510 and 511 of the PMPC, as amended 53. P.S. §§10509, 10510, 10511, which provisions, to the extent applicable, are adopted herein by reference.
  - 2. If an irrevocable letter of credit from a financial institution is submitted as security, it shall not expire without the Township being notified in writing at least 90 days in advance.