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**ORDINANCE NO. 01 - 2021**

**AN ORDINANCE OF THE TOWNSHIP OF SALEM, WESTMORELAND COUNTY, PENNSYLVANIA, AMENDING AND RESTATING THE TOWNSHIP'S STORMWATER MANAGEMENT ORDINANCE, PROVIDING A COMPREHENSIVE FRAMEWORK FOR THE REGULATION OF STORM WATER WITHIN THE TOWNSHIP CONSISTENT WITH THE DEP MS4 PROGRAM AND PROVIDING PENALTIES FOR THE VIOLATION OF SAME**

**ARTICLE I – GENERAL PROVISIONS**

**Section 101. Short Title**

This Ordinance shall be known and may be cited as the “Salem Township Stormwater Management Ordinance.”

**Section 102. Statement of Findings**

The Board of Supervisors of the Township of Salem finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases runoff volumes, flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.
- B. A comprehensive program of stormwater management (SWM), including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of the Commonwealth, their resources, and the environment.
- C. The use of green infrastructure and low impact development (LID) are intended to address the root cause of water quality impairment by using systems and practices which use or mimic natural processes to: 1) infiltrate and recharge, 2) evapo-transpire, and/or 3) harvest and use precipitation near where it falls to earth. Green infrastructure practices and LID contribute to the restoration or maintenance of pre-development hydrology.
- D. Storm water runoff from lands modified by human activities threatens public health and safety by causing decreased infiltration of rainwater and increased runoff flows and velocities, which overtax the carrying capacity of existing streams and storm sewers, and greatly increases the cost to the public to manage storm water.
- E. Inadequate planning and management of storm water runoff resulting from land development and redevelopment throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream-beds and stream-banks thereby elevating sedimentation), destroying aquatic habitat and elevating aquatic pollutant concentrations and loadings such as sediments,



nutrients, heavy metals and pathogens. Groundwater resources are also impacted through loss of recharge.

- F. Storm water can be an important water resource by providing groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- G. Public education on the control of pollution from storm water is an essential component in successfully addressing storm water.
- H. Federal and state regulations require certain municipalities to implement a program of storm water controls. These municipalities are required to obtain a permit for storm water discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).
- I. Non-storm water discharges to municipal separate storm sewer systems can contribute to pollution of waters of the Commonwealth by the Township.
- J. The Westmoreland Conservation District (WCD) is a recognized regulatory agency with authority in the county to regulate erosion and sediment controls and stormwater management related to land development activities. Because WCD's authority crosses municipal boundaries they are enabled to oversee environmental issues in the Township for the general benefit of all county residents.
- K. The Westmoreland County Integrated Water Resources Plan (2018) addresses water resources and may be used as a resource for development and redevelopment with respect to those resources including stormwater and its management. The Westmoreland County Integrated Water Resources Plan (2018) can be found at [www.paiwrp.com](http://www.paiwrp.com) and [www.westmorelandstormwater.org](http://www.westmorelandstormwater.org)

### **Section 103. Purpose**

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

- A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this Commonwealth.
- B. Manage storm water runoff impacts at their source by regulating activities that cause the problems.
- C. Provide review procedures and performance standards for storm water planning and management.
- D. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- E. Utilize and preserve the existing natural drainage systems as much as possible.

- F. Focus on infiltration of storm water, to maintain groundwater recharge, to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- G. Maintain existing flows and quality of streams and watercourses.
- H. Prevent scour and erosion of stream banks and streambeds.
- I. Provide for proper operations and maintenance of all permanent storm water management BMP's implemented in the Township.
- J. Provide a mechanism to identify controls necessary to meet the NPDES permit requirements.
- K. Implement an illegal discharge detection and elimination program to address non-storm water discharges into the Municipality's separate storm sewer system.

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

The Township is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended, and/or the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. Section 680.1, et seq., as amended, The Stormwater Management Act. The Township is also empowered to regulate land use activities that affect storm water runoff under the authority of the provisions of the Second Class Township Code, 53 P.S. §67701 et seq. and specifically the terms of 53 P.S. §67704.

#### **Section 105. Applicability**

- A. All regulated activities and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this Ordinance.
- B. This Ordinance also applies to any Regulated Earth Disturbance activities within the Township of Salem, and all storm water runoff entering into the Township's separate storm sewer system from lands within the boundaries of the Township.
- C. Earth Disturbance activities and associated storm water management controls are also regulated under the existing state law and implementing regulations. This Ordinance is intended to operate in coordination with those parallel requirements; the requirements of this Ordinance shall be no less restrictive in meeting the purposes of this Ordinance than existing state law and those implementing regulations referenced herein.

#### **Section 106. Repealer**

Any other Ordinance, parts of Ordinances, Resolutions, parts of Resolutions or other regulations of the Township inconsistent with any of the provisions of this Ordinance are hereby repealed to the extent of the inconsistency only and this Ordinance shall be deemed controlling.

#### **Section 107. Severability**

In the event that any section or provision of this Ordinance is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance and the remaining terms of same shall continue in full force and effect.

**Section 108. Compatibility with Other Requirements**

- A. Approvals issued and actions taken under this Ordinance do not relieve the Applicant of the responsibility to secure required permits or approvals for activities regulated by any other Federal, State or Local code, law, regulation or Ordinance. To the extent that this Ordinance imposes more rigorous or stringent requirements for storm water management, the specific requirements contained in this Ordinance shall be followed and controlling.
- B. Nothing in this Ordinance shall be construed to affect any Township requirements regarding storm water matters not conflict with the provisions of this Ordinance, such as local storm water management design criteria (e.g. inlet spacing, inlet type, collection system design and details, outlet structure design, etc). Conflicting provisions in other Municipal Ordinances, now in effect or hereafter enacted, or regulations associated with same, shall be construed to retain the requirements of this ordinance addressing State Water Quality Requirements.

**Section 109. Permits Issued on False Information (Erroneous Permits)**

Any permit or authorization issued or approved based on false, misleading or erroneous information provided by an applicant is void without the necessity of any proceedings for revocation. Any work undertaken or use established pursuant to such permit or other authorization is unlawful. No action may be taken by a board, agency or employee of the Municipality purporting to validate such a violation.

**Section 110. Waivers**

- A. If the Municipality determines that any requirement under this Ordinance cannot be achieved for a particular regulated activity, the Municipality may, after an evaluation of alternatives, approve measures other than those in this Ordinance, subject to Section 110, paragraphs B and C.
- B. Waivers or modifications of the requirements of this Ordinance may be approved by the Municipality if enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that the modifications will not be contrary to the public interest and that the purpose of the Ordinance is preserved. Cost or financial burden shall not be considered a hardship. Modification may be considered if an alternative standard or approach will provide equal or better achievement of the purpose of the Ordinance. A request for modifications shall be in writing and accompany the Stormwater Management Site Plan submission. The request shall provide the facts on which the request is based, the provision(s) of the Ordinance involved and the proposed modification.
- C. No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one (1) acre may be granted by the Municipality unless that action is approved in advance by the Department of Environmental Protection (DEP) or the delegated county conservation district.

## ARTICLE II – GENERAL INTERPRETATION AND DEFINITIONS

### Section 201. General Interpretation

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

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

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

### Section 202. Definitions

The following terms, whenever used in this Ordinance hereafter shall have the meanings indicated in this section, except where the context indicates a different meaning. Those definitions set forth in Chapter VIII, Section 804 hereafter are likewise incorporated herein by reference thereto. To the extent any definition set forth in Chapter VIII, Section 804 is inconsistent with the definition of any of the terms set forth hereafter, those definitions set forth in this Section shall be controlling for purposes of this Chapter II only.

**Accelerated Erosion**-The removal of the surface of the land through the combined action of human activities and the natural processes, at a rate greater than would occur as a result of the natural process alone.

**Act 167**– the Stormwater Management Act, Act of October 4, 1978, P. L. 864, No. 167, as amended by the Act of May 24, 1984, No. 63, 32 P.S. §§680.1 et seq.

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

**Applicant**-A landowner, developer or other person who has filed an application for approval to engage in any Regulated Earth Disturbance activity at a project site in the Municipality.

**Best Management Practice (BMP)** – Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this Ordinance. Stormwater BMPs are commonly grouped into one of two broad categories or measures: “structural” or “non-structural.” In this Ordinance, non-structural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff,

whereas structural BMPs or measures are those that consist of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

**Chapter 102** – Title 25 Pa Code Chapter 102 Erosion and Sedimentation Control.

**Chapter 105** – Title 25 Pa Code Chapter 105 Dam Safety and Waterway Management.

**Conservation District** – Generally, a conservation district, as defined in Section 3(c) of the Conservation District Law (3 P. S. § 851(c)) that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the regulations promulgated under 25 Pa. Code 102. For purposes of this Ordinance, the Westmoreland Conservation District (“WCD”).

**Department** – The Pennsylvania Department of Environmental Protection (DEP).

**Developer** – A person that seeks to undertake any Regulated Earth Disturbance activities at a project site in the Township of Salem.

**Development** – See “Earth Disturbance Activity.” The term includes redevelopment of an existing Development Site.

**Development Site** – The specific tract or parcel of land where any Earth Disturbance activities in the Township are planned, contemplated, laid out, conducted or maintained.

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

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

**Director** – The Secretary of the Department of Environmental Protection or any authorized employee thereof. (NPDES Permit Mod.)

**Disturbance Activity** - Construction activities which result in land disturbance of greater than 5000 square feet, one (1) acre or more (which requires an NPDES Permit and/or land disturbance on a development site of less than one (1) acre where such development site is part of a larger common plan of development or sale that equals one (1) acre or more. *Provided, however, that any construction activities associated with commercial, industrial, institutional or other business related purposes shall be deemed Land Disturbance Activity regardless of the size of the area of disturbance.*

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

**Earth Disturbance Activity** – A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing, grading, excavations, embankments, road maintenance, building construction and the moving, depositing, stockpiling or storing of soil, rock or earth materials, other than activity which occurs during the normally practiced course of farming operations.

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

**Erosion and Sediment Control Plan** – A plan for a project site which identifies BMPs to minimize accelerated erosion and sedimentation.

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

**FEMA** – Federal Emergency Management Agency.

**Floodplain** – Any land area susceptible to inundation by water from any natural source or delineated by applicable FEMA maps and studies as being a special flood hazard area. Also includes areas that comprise Group 13 Soils, as listed in Appendix A of the Pennsylvania DEP Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by DEP).

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

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

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

**Groundwater Recharge** – Replenishment of existing natural underground water supplies.

**Hydrologic Soil Group (HSG)** – Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs (A, B, C, and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The NRCS defines the four groups and provides a list of most of the soils in the United States and their group classification. The soils in the area of the development site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D (NRCS<sup>1,2</sup>).



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

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

**Low Impact Development (LID)** – Site design approaches and small-scale stormwater management practices that promote the use of natural systems for infiltration, evapotranspiration, and reuse of rainwater. LID can be applied to new development, urban retrofits, and revitalization projects. LID utilizes design techniques that infiltrate, filter, evaporate, and store runoff close to its source. Rather than rely on costly large-scale conveyance and treatment systems, LID addresses stormwater through a variety of small, cost-effective landscape features located on-site.

**Municipality** – The Township of Salem, Westmoreland County, Pennsylvania. Also referred to hereafter as the “Township”.

**Municipal Separate Storm Sewer System (MS4)** – A separate storm sewer (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains), which include, but is not limited to, the following:

1. A system owned or operated by a state, city, town, borough, township, county district, association, authority, or any other public body created under state law having jurisdiction over the disposal of sewage, industrial wastes, storm water or other wastes;
2. A system designed or used for collecting or conveying storm water;
3. A system which is not a combined sewer; and/or
4. A system which is not a part of a Publicly Owned Treatment Works. (NPDES Permit Mod.)

**NOI** – The Notice of Intent for Coverage under the NPDES General Permit for discharges from Small Municipal Separate Storm Sewer Systems. (NPDES Permit Mod.)

**NPDES (National Pollutant Discharge Elimination System)** - The federal government’s system for issuance of permits under the Clean Water Act, which is delegated to the DEP in Pennsylvania.

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

**Outfall** – The “Point Source” as described in 40 CFR §122.2 at the point where the Township’s storm sewer system discharges into surface waters of the Commonwealth or where an MS4 discharges into those surface waters of the Commonwealth; “outfall” does not include open conveyances connecting two (2) municipal separate storm sewers, or pipes, tunnels or other



conveyances which connect segments of the same stream or other surface waters which are used to convey surface waters. (NPDES Permit Mod.)

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

**Person** – An individual, partnership, public or private association or corporation, or a governmental unit, public utility or any other legal entity whatsoever, recognized by law as the subject of rights and duties.

**Pervious Area** – Any area not defined as impervious.

**Point Source** – Point source as defined by 25 Pa. Code §92.1, which includes any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. (NPDES Permit Mod.)

**Pollutant Reduction Plan (PRP)** – a plan required by the MS4 permit to calculate existing pollutants of concern and the minimum reduction in loading from stormwater discharges, and to select the best management practices to achieve the minimum reductions.

**Project Site** – The specific area of land where any Regulated Earth Disturbance activity in the Township is planned to occur, conducted or maintained.

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

**Redevelopment** – Earth Disturbance activities on land which has been previously disturbed or developed.

**Release Rate** – The percentage of existing conditions peak rate of runoff from a site or subarea to which the proposed conditions peak rate of runoff must be reduced to protect downstream areas.

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

**Regulated Earth Disturbance Activity** – Activity involving earth disturbance subject to regulation under 25 Pa. Code 92, 25 Pa. Code 102, or the Clean Streams Law. Regulated Earth Disturbance activity includes, but is not limited to, any “Disturbance Activity” or any “Earth Disturbance Activity” as herein defined of 5000 square feet or more having a point source discharge to either surface waters or the Municipality’s storm sewer system. Regulated Earth Disturbance Activity shall also include Disturbance Activity or Earth Disturbance Activity equal to or greater than one (1) acre of land requiring an NPDES Permit, or of five (5) acres or more regardless of the anticipated runoff. This term also includes Disturbance Activity or Earth Disturbance Activity on any portion of, part, or during any stage of, a larger common plan of development and road maintenance (as defined hereafter) involving 25 acres or more.

**Release Rate** – The percentage of existing conditions peak rate of runoff from a site or subarea to which the proposed conditions peak rate of runoff must be reduced to protect downstream areas.

**Release Rate Percentage** – the watershed factor determined by comparing the maximum rate of runoff from a subbasin to the contributing rate of runoff to the watershed peak rate at specific points of interest.

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

**Return Period** – The average interval, in years, within which a storm event of a given magnitude can be expected to occur one time. For example, the 25-year return period rainfall would be expected to occur on average once every 25 years; or stated in another way, the probability of a 25-year storm occurring in any one year is 0.04 (i.e. a 4% chance).

**Road Maintenance** – Earth disturbance activities within an existing road cross-section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches and other similar activities.

**Runoff** – Any part of precipitation that flows over the land.

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

**Separate Storm Sewer System** – A structure, conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) primarily used for collecting and conveying storm water runoff.

**State Water Quality Requirements** – The regulatory requirements to protect, maintain, reclaim, and restore water quality under Title 25 of the Pennsylvania Code and the Clean Streams Law.

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

**Stormwater Management Facility** – Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff. Typical stormwater management facilities include, but are not limited to: detention and retention basins; open channels; storm sewers; pipes; and infiltration facilities.

**Stormwater Management Site Plan** – The plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the development site in accordance with this Ordinance. **Stormwater Management Site Plan** will be designated as **SWM Site Plan** throughout this Ordinance.

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

**USDA** – United States Department of Agriculture.

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

**Township** – The Township of Salem, Westmoreland County, Pennsylvania.

**Watercourse** – A channel or conveyance of surface water, such as a stream or creek, having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

**Watershed** – Region or area drained by a river, watercourse or other body of water, whether natural or artificial.

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

### **ARTICLE III – STORM WATER MANAGEMENT REQUIREMENTS**

#### **Section 301. General Requirements for Storm water Management (hereafter “SWM”)**

- A. For all regulated activities, unless preparation of an SWM Site Plan is specifically exempted in Section 305:
  - 1. Preparation and implementation of an approved SWM Site Plan is required.
  - 2. No regulated activities shall commence until the municipality issues written approval of an SWM Site Plan, which demonstrates compliance with the requirements of this Ordinance.
- B. SWM Site Plans approved by the municipality, in accordance with Article IV hereafter shall be maintained on site throughout the duration of the regulated activity.
- C. The municipality may, after consultation with DEP and where applicable, approve measures for meeting the state water quality requirements other than those in this Ordinance, provided that such modifications comply meet, and are not in conflict with, the minimum requirements of existing state law including, but not limited to, the Pennsylvania Clean Streams Law.
- D. For all regulated earth disturbance activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the regulated earth disturbance activities (e.g., during construction) to meet the purposes and requirements of this Ordinance and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law. Various BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual* (E&S Manual<sup>3</sup>), No. 363-2134-008, as amended and updated.
- E. Impervious areas:
  - 1. The measurement of impervious areas shall include all of the impervious areas in the total proposed development even if development is to take place in stages.
  - 2. For development taking place in stages, the entire development plan must be used in determining conformance with this Ordinance.

3. For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this Ordinance; except that the volume controls in Section 303 and the peak rate controls of Section 304 do not need to be retrofitted to existing impervious areas that are not being altered by the proposed regulated activity.
- F. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without written notification to, and consent of, the adjacent property owner(s). Any increase, decrease, relocation or any other alteration of stormwater flows associated with or resulting from Earth Disturbance exempt from regulation under Section 305 hereafter shall not be subject to enforcement by the Township under this Ordinance. Provided, however, that nothing in this ordinance shall be deemed or construed to preclude any affected property owner from pursuing any private action, at law or in equity, against any other property owner who causes stormwater flows to be created, increased, decreased, relocated, or otherwise altered onto the property of another.
  - G. Stormwater flows shall not be created, increased, decreased, relocated, or otherwise altered to cause same to run onto, under or through a Township Road, the right of way for same or other Township property, without the express written consent of the Township, regardless of whether the activity is exempt from regulation under Section 305 hereafter. Any person, corporation, entity or firm who causes stormwater flows to be created, increased, decreased, relocated, or otherwise altered onto a Township Road or right of way for same without the express written consent of the Township shall be in violation of this ordinance and subject to those penalties set forth hereafter.
  - H. All regulated activities shall include such measures as necessary to:
    1. Protect health, safety, and property.
    2. Meet the water quality goals of this Ordinance by implementing measures to:
      - a. Minimize disturbance to floodplains, wetlands, and wooded areas.
      - b. Maintain or extend riparian buffers.
      - c. Avoid erosive flow conditions in natural flow pathways.
      - d. Minimize thermal impacts to waters of this Commonwealth.
      - e. Disconnect impervious surfaces by directing runoff to pervious areas, wherever possible.
    3. Incorporate methods described in the *Pennsylvania Stormwater Best Management Practices Manual* (BMP Manual<sup>4</sup>). If methods other than green infrastructure and LID methods are proposed to achieve the volume and rate controls required under this Ordinance, the SWM Site Plan must include a detailed justification demonstrating that the use of LID and green infrastructure is not practicable.
  - I. Infiltration BMPs should be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this Ordinance.

- J. Normally dry, open top, storage facilities should completely drain both the volume control and rate control capacities over a period of time not less than 24 and not more than 72 hours from the end of the design storm.
- K. The design storm volumes to be used in the analysis of peak rates of discharge should be obtained from the latest version of the Precipitation-Frequency Atlas of the United States, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland. NOAA's Atlas 14 can be accessed at: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
- L. For all regulated activities, SWM BMPs shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this Ordinance and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law, and the Storm Water Management Act.
- M. Various BMPs and their design standards are listed in the standard BMP Manual.
- N. All Regulated Earth Disturbance Activities within the Municipality shall be designed, implemented operated and maintained to meet the purposes of this Ordinance, through these two elements:
1. Erosion and Sediment control during the earth disturbance activities (e.g. during construction), and
  2. Water quality protection measures after completion of earth disturbance activities (e.g., after construction), including operations and maintenance.
- O. No Regulated Earth Disturbance activities within the Municipality shall commence until the requirements of this Ordinance are met.
- P. Erosion and sediment control during Regulated Earth Disturbance activities shall be addressed as required by Section 303.
- Q. Post-construction water quality protection shall be addressed as required by Section 304. Operations and maintenance of permanent storm water BMPs shall be addressed as required by Article IV herein.
- R. All Best Management Practices (BMPs) used to meet the requirements of this Ordinance shall conform to State Water Quality Requirements and/or any more stringent requirements as may be determined by the Township hereafter.

### **Section 302. Permit Requirements by Other Government Entities**

The following permit requirements may apply to certain Regulated Earth Disturbance Activities, and must be met prior to commencement of Regulated Earth Disturbance Activities, when applicable:

- A. All Regulated Earth Disturbance Activities subject to permit requirements by the DEP under regulations set forth in 25 Pa. Code Chapter 102.
- B. Work within natural drainage ways subject to permit by the DEP under 25 Pa. Code, Chapter 105.
- C. Any storm water management facility that would be located in or adjacent to surface waters of the Commonwealth, including wetlands, subject to permit by the DEP under 25 Pa. Code, Chapter 105.
- D. Any storm water management facility that would be located on a State highway right-of-way, or require access from a State highway, shall also be subject to approval by the Pennsylvania Department of Transportation (PENNDOT).
- E. Culverts, bridges, storm sewers or any other facilities which must pass or convey flows from a tributary area and any facility which may constitute a dam subject to permitting by the DEP under 25 Pa. Code Chapter 105.

### **Section 303. Erosion and Sediment Control During Regulated Earth Disturbance Activities**

- A. No Regulated Earth Disturbance Activities within the Municipality shall commence until approval by the Westmoreland Conservation District of an Erosion and Sediment Control Plan for construction activities.
- B. The DEP has regulations that require an Erosion and Sediment Control Plan for any earth disturbance activity of 5,000 square feet or more, under 25 Pa. Code § 102.4(b) that are applicable to Regulated Earth Disturbance Activities within the Township.
- C. In addition, for certain activities falling under 25 Pa. Code Chapter 92, a DEP "NPDES Construction Activities" permit is required for Regulated Earth Disturbance activities.
- D. Evidence of the issuance of any necessary permit(s) for Regulated Earth Disturbance activities from the appropriate DEP regional office or County Conservation District must be provided to the Municipality prior to the issuance of any Local Permit under this Ordinance.
- E. A copy of the Erosion and Sediment Control plan and any required permit, as required by DEP regulations, shall be available at the project site at all times.

### **Section 304. Water Quality Requirements After Regulated Earth Disturbance Activities Are Complete**

- A. No Regulated Earth Disturbance Activities within the Municipality shall commence until approval by the Municipality of a plan which demonstrates compliance with State Water Quality Requirements after construction is complete.



- B. BMPs must be designed, implemented and maintained to meet State Water Quality Requirements, and any other more stringent requirements as determined by the Township.
- C. To control post-construction storm water impact from Regulated Earth Disturbance activities, State Water Quality Requirements can be met by BMP's including site design, providing for replication of pre-construction storm water infiltration and runoff conditions, so that post-construction storm water discharges do not degrade the physical, chemical or biological characteristics of the receiving waters. As described in the DEP Comprehensive Stormwater Management Policy (#392-0300-002, September 28, 2002 and as may be amended from time to time hereafter), this may be achieved by the following:
  - 1. Infiltration: replication of pre-construction storm water infiltration conditions.
  - 2. Treatment: use of water, quality treatment BMPs to ensure filtering out of the chemical and physical pollutants from the storm water runoff, and
  - 3. Streambank and Streambed Protection: management of volume and rate of post-construction stormwater discharges to prevent physical degradation of receiving waters (e.g., from scouring).
- D. DEP has regulations that require municipalities to ensure the design, implementation and maintenance of Best Management Practices ("BMPs") that control runoff from new development and redevelopment after Regulated Earth Disturbance Activities are complete. These requirements include a requirement to implement post construction storm water BMPs with assurance of long-term operations and maintenance of those BMPs.
- E. Evidence of any necessary permit(s) for Regulated Earth Disturbance Activities from the appropriate DEP regional office must be provided to the Municipality. The issuance of an NPDES Construction Permit (or permit coverage under the statewide General Permit (PAG-2) may, upon review and approval of the Township, satisfy the requirements of subsection 304.A above.
- F. Acceptable BMP operations and maintenance requirements are described in Article IV of this Ordinance.

**Section 305. Exemptions.**

- A. Regulated activities that result in cumulative earth disturbances less than 5000 square feet are exempt from the requirements in Section 303, Section 304, and Article IV of this ordinance. Provided, however, that construction activities associated with commercial, industrial, institutional or other business related purposes are not exempt from the requirements of the foregoing sections, or other applicable portions of this Ordinance, regardless of the size of the area of disturbance.
- B. Agricultural activity is exempt from the SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102.



- C. Forest management and timber operations are exempt from the SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102.
- D. The construction of single-family homes and accessory structures used by the occupants of the single-family home, provided, however, that the construction of a duplex or other form of multi-family residential dwelling causing disturbance in excess of 5000 square feet, shall not be exempt.
- E. Exemptions from any provisions of this Ordinance shall not relieve the applicant from the requirements in Sections 301.D. through K.
- F. The Municipality may deny or revoke any exemption pursuant to this Section at any time for any project that the Municipality believes may pose a threat to public health and safety or the environment.

### Section 306. Volume Controls

The green infrastructure and low impact development practices provided in the BMP Manual<sup>1</sup> shall be utilized for all regulated activities wherever possible. Water volume controls shall be implemented using the *Design Storm Method* in Subsection A or the *Simplified Method* in Subsection B below. For regulated activity areas equal or less than one acre that do not require hydrologic routing to design the stormwater facilities, this Ordinance establishes no preference for either methodology; therefore, the applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology and other factors.

- A. *The Design Storm Method* (CG-1 in the BMP Manual<sup>4</sup>) is applicable to any size of regulated activity. This method requires detailed modeling based on site conditions.
  - 1. Do not increase the post-development total runoff volume for all storms equal to or less than the 2-year 24-hour duration precipitation.
  - 2. For modeling purposes:
    - a. Existing (predevelopment) non-forested pervious areas must be considered meadow in good condition.
    - b. 20% of existing impervious area, when present, shall be considered meadow in good condition in the model for existing conditions.
- B. *The Simplified Method* provided below is independent of site conditions and should be used if the *Design Storm Method* is not followed. This method is not applicable to regulated activities greater than one acre or for projects that require design of stormwater storage facilities. For new impervious surfaces:
  - 1. Stormwater facilities shall capture at least the first two (2) inches of runoff from all new

<sup>1</sup> Pennsylvania Stormwater Best Management Practices Manual, Pennsylvania department of Environmental Protection, Bureau of Watershed Management, Document No. 363-0300-002

impervious surfaces.

2. At least the first one inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow, i.e., it shall not be released into the surface waters of this Commonwealth. Removal options include reuse, evaporation, transpiration, and infiltration.
3. Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first 0.5 inch of the permanently removed runoff should be infiltrated.

This method is exempt from the requirements of Section 307, Rate Control

### **Section 307. Rate Controls**

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

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

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

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

- C. For purposes of stormwater management, portions of the Township in the area of Beaver Run are contained in a Stormwater Management Performance District as shown on the Westmoreland County Integrated Water Resources Plan interactive watershed resource map, said map or maps being incorporated herein by reference thereto. For more information, refer to [www.westmorelandstormwater.org](http://www.westmorelandstormwater.org) and the Westmoreland County Conservation District's interactive watershed resource map.

## **ARTICLE IV – STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS**

### **Section 401. Plan Requirements**

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

- A. Appropriate sections from the municipal's Subdivision and Land Development Ordinance, and other applicable local ordinances, shall be followed in preparing the SWM Site Plans.

B. The Municipality shall not approve any SWM Site Plan that is deficient in meeting the requirements of this Ordinance. At its sole discretion and in accordance with this Article, when a SWM Site Plan is found to be deficient, the municipality may either disapprove the submission and require a resubmission, or in the case of minor deficiencies, the Municipality may accept submission of modifications.

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

D. The following signature block for the municipality:

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

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

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

**Section 402. Plan Submission**

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

- A. Two (2) copies to the municipality.
- B. One (1) copy to the municipal engineer (when applicable).
- C. One (1) copy to the County Conservation District.
- D. One (1) copy to the County Planning Commission/Office.

**Section 403. Plan Review**

- A. SWM Site Plans shall be reviewed by the municipality for consistency with the provisions of this Ordinance.
- B. The Municipality shall notify the applicant in writing within 45 days of the date of submission whether the SWM Site Plan is approved or disapproved. If the SWM Site Plan involves a Subdivision and Land Development Plan, the notification shall occur within the time period allowed by the Municipalities Planning Code (i.e. 90 days from the date of submission of an administratively complete Land Development Application). If a longer notification period is provided by other statute, regulation, or ordinance, the applicant will be so notified by the municipality.
- C. If the Municipality disapproves the SWM Site Plan, the Municipality will state the reasons for the disapproval in writing. The Municipality also may approve the SWM Site Plan with conditions and, if so, shall provide the acceptable conditions for approval in writing.

**Section 404. Modification of Plans**

A modification to a submitted SWM Site Plan that involves a change in SWM BMPs or techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM Site Plan as determined by the Municipality shall require a resubmission of the modified SWM Site Plan in accordance with this Article.

**Section 405. Resubmission of Disapproved SWM Site Plans**

A disapproved SWM Site Plan may be resubmitted, with the revisions addressing the Municipality's concerns, to the Municipality in accordance with this Article. The applicable review fee must accompany a resubmission of a disapproved SWM Site Plan.

**Section 406. Authorization to Construct and Term of Validity**

The Municipality's approval of an SWM Site Plan authorizes the regulated activities contained in the SWM Site Plan for a maximum term of validity of 5 years following the date of approval. The Municipality may specify a term of validity shorter than 5 years in the approval for any specific SWM Site Plan. Terms of validity shall commence on the date the Municipality signs the approval for an SWM Site Plan. If an approved SWM Site Plan is not completed according to Section 407 within the term of validity, then the Municipality may consider the SWM Site Plan disapproved and may

revoke any and all permits. SWM Site Plans that are considered disapproved by the Municipality shall be resubmitted in accordance with Section 405 of this Ordinance.

**Section 407. As-Built Plans, Completion Certificate, and Final Inspection**

- A. The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM Site Plan. The as-built plans and an explanation of any discrepancies with the construction plans shall be submitted to the Municipality.
- B. The as-built submission shall include a certification of completion signed by a qualified professional verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications. The latitude and longitude coordinates for all permanent SWM BMPs must also be submitted, at the central location of the BMPs. If any licensed qualified professionals contributed to the construction plans, then a licensed qualified professional must sign the completion certificate.

After receipt of the completion certification by the Municipality, the Municipality may conduct a final inspection.

**ARTICLE V – BMP OPERATION AND MAINTENANCE PLANS**

**Section 501. General Requirements for Storm Water BMP Operation and Maintenance Plan Requirements**

- A. No Regulated Earth Disturbance Activities within the Municipality shall commence until approval by the Municipality of BMP Operations and a Maintenance Plan which describes how permanent (e.g., post construction) storm water BMP's will be properly operated and maintained.
- B. The following items shall be included in the BMP Operations and Maintenance Plan:
  - 1. Map(s) of the project area, in a form that meets the requirements for recording in the Office of the Recorder of Deeds of Westmoreland County. The contents of the maps(s) shall include, but not be limited to:
    - a. Clear identification of the location and nature of permanent storm water BMPS;
    - b. The location of the project site relative to highways, municipal boundaries or other identifiable landmarks;
    - c. Existing and final contours at intervals of two feet, or others as may be appropriate;
    - d. Existing streams, lakes, ponds, or other bodies of water within the project site area;
    - e. Other physical features including flood hazard boundaries, sinkholes, streams, existing drainage courses, and areas of natural vegetation to be reserved;
    - f. The locations of all existing and proposed utilities, sanitary sewers, and water lines within 50 feet of property lines of the project site;
    - g. Proposed final changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added;

- h. Proposed final structures, roads, paved areas, and buildings;
- i. A fifteen-foot wide access easement around all storm water BMPs that would provide ingress to and egress from a public right-of-way
- j. A description of how all permanent storm water BMPs will be operated and maintained, and the identity of the person(s) responsible for operation and maintenance;
- k. The name of the project site, the name and address of the owner of the property, and the name of the individual or firm preparing the Plan; and
- l. A statement, signed by the landowner, acknowledging that the storm water BMPs are fixtures that can be altered or removed only after approval by the Municipality.

**Section 502. Responsibilities for Operation and Maintenance of BMPs**

- A. The BMP Operation and Maintenance Plan for the project site shall establish responsibility for the continuing operation and maintenance of all permanent storm water BMPs as follows:
  - 1. If a Plan includes structures or lots which are to be separately owned and in which streets, sewers and other public improvements are to be dedicated to the Municipality, storm water BMPs may also be dedicated to and maintained by the Municipality;
  - 2. If a Plan includes operations and maintenance in single ownership, or if sewers and other public improvements are to be privately owned and maintained, then the operation and maintenance of storm water BMPs shall be the responsibility of the owner or private management entity.
- B. The Township shall make the final determination of the responsibility for continuing operations and maintenance. The Township reserves the right to accept or reject operation and maintenance responsibility for any or all stormwater BMPs.

**Section 503. Municipal Review of BMP Operation and Maintenance Plans**

- A. The Municipality shall review the BMP Operation and Maintenance Plan for consistency with the purposes and requirements of this Ordinance, and any permits issued by the DEP.
- B. The Municipality shall notify the Applicant in writing whether the BMP operations and Maintenance Plan is approved.
- C. The Municipality may require an "As-Built Drawings" of all storm water BMPs, and an explanation of any discrepancies with the Operation and Maintenance Plan.
- C. Following construction, the developer shall submit drawings bearing the seal of a registered professional engineer indicating that the as-built improvements called for in the approved plan have been constructed according to the plans and specifications as approved by Salem Township. No occupancy of the structure for which the storm water management plan was prepared will be permitted until the built drawings have been received by the Township and approved by their designee.



**Section 504. Adherence to Approved BMP Operation and Maintenance Plan**

It shall be unlawful to alter or remove any permanent storm water BMP required by an approved BMP Operation and Maintenance Plan, or to allow the property to remain in a condition which does not conform to an approved BMP Operation and Maintenance Plan, unless an exception is granted in writing by the Township.

**Section 505. Operations and Maintenance Agreement for Privately Owned Storm Water BMPs**

- A. The property owner shall sign an operation and maintenance agreement with the Municipality covering all privately owned storm water BMPs. This agreement shall be substantially in the same form as the agreement in Appendix A of this Ordinance, the form of which is hereby approved by the Township.
- B. The Township may require additional provisions in the agreement where deemed necessary by the Township to guarantee the satisfactory operation and maintenance of the permanent storm water BMP. The agreement shall be subject to review and approval by the Township.

**Section 506. Storm Water Management Easements**

- A. Storm water management easements are required for all areas used for off-site storm water control, unless a waiver is granted by the Township Engineer.
- B. Storm water management easements shall be provided by the property owner if necessary for (1) access for inspections and maintenance, or (2) preservation of storm water runoff conveyance, infiltration, and detention areas and other BMPs, by persons other than the property owner. The purpose of the easement shall be specified in any agreement under Section 505.

**Section 507. Recording of Approved BMP Operation and Maintenance Plans and Related Agreements**

- A. The Township, shall record the following documents in the Office of the Recorder of Deeds of Westmoreland County, within 15 days of approval of the BMP Operation Plan by the Municipality to document the continuing obligations of the owner to operate and maintain the approved BMP's:
  - 1. The Operation and Maintenance Plan or a Memorandum thereof; or
  - 2. The Operation and Maintenance Agreement or Agreements prepared under Section 505 above; or
  - 3. Easements granted under Section 506 above.
- B. The Municipality may suspend or revoke any approvals granted for the project site upon discovery of the failure of the owner to comply with this Section.



**Section 508. Municipal Storm Water BMP Operation and Maintenance Fund**

- A. If a storm water BMP is accepted by the Township for dedication, the Township may require any person installing the storm water BMP to pay a specified amount to the Municipal Storm Water BMP Operation and Maintenance Fund, to help defray costs of operations and maintenance activities. The amount may be determined as follows:
  - 1. If the BMP is to be owned and maintained by the Municipality, the amount shall cover the estimated costs for operations and maintenance for ten (10) years, as determined by the Municipality.
  - 2. The amount shall then be converted to present worth of the annual services' values.
- B. If a BMP is proposed that also serves as a recreation facility (e.g. ball field, lake), the Municipality may adjust the amount due accordingly.
- C. The Township hereby establishes the fund referenced herein for purposes associated with the operation and maintenance of storm water BMPs taken over by the Township.

**Section 509. Responsibilities of Developers and Landowners**

- A. The Municipality shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM Site Plan. The municipality may require a dedication of such facilities as part of the requirements for approval of the SWM Site Plan. Such a requirement is not an indication that the municipality will accept the facilities or assume ownership, operating or maintenance responsibilities over same. The municipality reserves the right to accept or reject the ownership and operating responsibility for any portion of the stormwater management controls.
- B. Facilities, areas, or structures used as SWM BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or conservation easements that run with the land.
- C. The O&M Plan shall be recorded as a restrictive deed covenant that runs with the land.
- D. The Municipality may take enforcement actions against an owner for any failure to satisfy the provisions of this Article.

**Section 510. Operation and Maintenance Agreements**

- A. Prior to final approval of the SWM Site Plan, the property owner shall sign and record an Operation and Maintenance (O&M) Agreement (in the form attached hereto in Appendix A, covering all stormwater control facilities which are to be privately owned).
  - 1. The owner, successor and assigns shall maintain all facilities in accordance with the approved maintenance schedule in the O&M Agreement.
  - 2. The owner shall convey to the Municipality conservation easements to assure access for

periodic inspections by the Municipality and maintenance, as necessary.

3. The owner shall keep on file with the Municipality the name, address, and telephone number of the person or company responsible for maintenance activities; in the event of a change, new information shall be submitted by the owner to the Municipality within ten (10) working days of the change.
- B. The owner is responsible for operation and maintenance (O&M) of the SWM BMPs. If the owner fails to adhere to the O&M Agreement, the Municipality may perform the services required and charge the owner appropriate fees. Non-payment of fees may result in a lien against the property and/or subject the owner of the property to other remedial measures available to the Township as set forth hereafter.

#### **Section 511. Performance Guarantee**

- A. For SWM Site Plans that involve subdivision and/or land development, the applicant shall provide a financial guarantee to the Municipality for the timely installation and proper construction of all stormwater management controls as required by the approved SWM Site Plan and this Ordinance in accordance with the provisions of Sections 509, 510, and 511 of the Pennsylvania Municipalities Planning Code.
- B. In addition, the Municipality may require maintenance security to ensure the proper functioning of any storm water management system for a period of 18 months following the date of completion of construction of the storm water management controls in an amount equal to 15 % of the cost of construction of same to guarantee funds for the abatement of Public Nuisances under the Second Class Township Code, Sections 15 and 16 of the Storm Water Management Act and Section 67704 of the Second Class Township Code relating to the enactment of Ordinances regulating the planning, management, implementation, construction and maintenance of storm water facilities.
- C. The Municipality may, at its discretion, also require the posting of additional maintenance security following the expiration of the 18-month period, in the event the storm water management system is malfunctioning, not functioning as designed, improperly designed or lacking proper maintenance. Such financial security shall be in an amount equal to the cost of repairing or replacing the system and shall remain in place for a period of ten (10) years from the date of completion of construction.
- D. All financial guarantees shall be outlined and detailed in the Operation and Maintenance Agreement referenced in Article V and shall also comply with the provisions of Article XII hereafter.

### **ARTICLE VI – INSPECTION OF PREMISES AND ASSESSMENT OF FEES**

#### **Section 601. Inspections**

- A. The Township acknowledges that the DEP or its designee normally ensure compliance with permits issued, including those for storm water management. In addition to DEP compliance programs, the Township or its designee may inspect all phases of the construction, operation, maintenance and any other implementation of storm water BMPs. For purposes of this Ordinance the Township acknowledges that the WCD is currently the designated agent of the

DEP for purposes of conducting inspections and carrying out the responsibilities of the DEP under this Ordinance.

- B. During any stage of the Regulated Earth Disturbance Activity, if the Municipality or its designee determines that any BMP is not being implemented in accordance with this Ordinance, the Township, WCD or DEP may suspend or revoke any existing permits or other approvals previously issued by the Township, the WCD or DEP until the deficiencies are corrected.
- C. The landowner or the owner's designee, and the Municipality to ensure compliance with the Municipality's SWM Site Plan under Article X hereafter, shall inspect SWM BMPs, facilities and/or structures installed under this Ordinance according to the following frequencies, at a minimum, to ensure the BMPs, facilities and/or structures continue to function as intended:
  - 1. Annually for the first 5 years.
  - 2. Once every 3 years thereafter.
  - 3. During or immediately after the cessation of a 10-year or greater storm.
- D. Inspections performed by the landowner or landowner's designee, should be conducted during or immediately following precipitation events. A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable. Inspection reports shall be submitted to the Municipality within 30 days following completion of the inspection.
- E. Nothing in this Section shall be deemed or construed to prevent the Municipality from inspecting privately owned or maintained facilities where such facilities are alleged to be improperly maintained, constructed, managed or failing.

**Section 602. Right of Entry**

- A. Upon presentation of proper credentials, any duly authorized representatives of the Municipality may enter at reasonable times upon any property within the Municipality to inspect the implementation, condition, or operation and maintenance of any storm water BMP to ensure compliance with the terms of this Ordinance or matters associated herewith.
- B. BMP owners and operators shall allow persons working on behalf of the Municipality ready access to all parts of the premises for the purposes of determining compliance with this Ordinance.
- C. Persons working on behalf of the Municipality shall have the right to temporarily locate on any BMP in the Municipality any device deemed necessary to conduct monitoring and / or sampling of the discharges from such BMP.
- E. Unreasonable delays in allowing the Municipality access to a BMP shall be a violation of this Article.

### **Section 603. Fees and Expenses Generally**

The Municipality may charge a reasonable fee for review of BMP Operation and Maintenance Plans to defray review costs incurred by the Municipality. The Applicant shall pay all such fees.

### **Section 604. Expenses Covered by Fees**

The review fees required by this Ordinance may include, but shall not be limited to, costs incurred for the following:

- A. Administrative/clerical processing costs.
- B. Review of the SWM Site Plan.
- C. Attendance at meetings;
- D. The review of the BMP Operation and Maintenance Plan by the Municipal Engineer.
- E. Inspections including, but not limited to, pre-construction meetings, inspections during construction of storm water BMPs, and final inspection following completion of the storm water BMP.
- F. Any additional work required to monitor and/or enforce any provisions of this Ordinance, correct violations, and ensure proper completion of stipulated remedial actions.

### **Section 605. Costs and Fee Escrows**

The Applicant shall be responsible to reimburse the Municipality for all costs and expenses it incurs in the Administration, review and processing of the Application set forth in this Section. The Municipality may require the Applicant to deposit an amount equal to the actual costs it has incurred, plus the estimated costs to be incurred, by the Municipality in the review of the Plans referenced above. Such deposit shall be made prior to the issuance of any permit or approval for the construction of the SWM BMP's. Any deposit shall be held in Escrow and billed against by the Municipality as fees, costs and expenses are incurred. The Municipality may require additional deposits in the event the initial deposit is insufficient to reimburse the Municipality for all costs and expenses it incurs. Any unused deposit shall be returned to the Applicant.

## **ARTICLE VII – DISCHARGES**

### **Section 701. Prohibited Discharges and Connections.**

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

C. The following discharges are authorized unless they are determined to be significant contributors to pollution a regulated small MS4 or to the waters of this Commonwealth:

1. Discharges or flows from firefighting activities.
2. Discharges from potable water sources including water line flushing and fire hydrant flushing, if such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC).
3. Non-contaminated irrigation water, water from lawn maintenance, landscape drainage and flows from riparian habitats and wetlands.
4. Diverted stream flows and springs.
5. Non-contaminated pumped ground water and water from foundation and footing drains and crawl space pumps.
6. Non-contaminated HVAC condensation and water from geothermal systems.
7. Residential (i.e., not commercial) vehicle wash water where cleaning agents are not utilized.
8. Non-contaminated hydrostatic test water discharges, if such discharges do not contain detectable concentrations of TRC.
9. Routine exterior building wash.
10. Riparian buffer and wetland discharges.
11. Lawn watering,
12. Pavement washes from routine spills and splash pads.

C. In the event that the municipality or DEP determines that any of the discharges identified in Subsection C significantly contribute pollutants to a regulated small MS4 or to the waters of this Commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge. Upon notice provided by the Township the discharger will have a reasonable time, as determined by the Municipality, to cease the discharge consistent with the degree of pollution caused by the discharge.

D. Nothing in this Section shall affect a discharger's responsibilities under state law.

#### **Section 702. Prohibited Connections**

A. The following connections are prohibited, except as provided in Section 701.B above:

1. 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 separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks; and

2. 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 Municipality.
3. Any interior or exterior drain carrying or used to divert stormwater or groundwater shall not be connected to any public or private sanitary sewer system.

#### **Section 703. Roof drains and Sump Pumps**

- A. Roof drains and sump pumps shall not be connected to streets, sanitary or storm sewers or roadside ditches, except as provided in Section 703.B.
- B. When it is more advantageous to connect directly to streets or storm sewers, connections of roof drains to streets or roadside ditches may be permitted by the Municipality.
- C. Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs whenever feasible.

#### **Section 704. Alteration of BMPs**

- A. No person shall modify, remove, fill, landscape, or alter any SWM BMPs, facilities, areas, or structures that were installed as a requirement of this Ordinance without the written approval of the Municipality.
- B. No person shall place any structure, fill, landscaping or vegetation into a stormwater BMP or within a drainage easement, which would limit or alter the functioning of the BMP, without the written approval of the Municipality.

### **ARTICLE VIII – STORMWATER RUNOFF FROM SUBDIVISIONS AND OTHER LAND DEVELOPMENTS**

#### **Section 801. Statement of Purpose**

The purpose of the following Sections is to limit and restrict storm water runoff peak flows from subdivisions and other land development to predevelopment flow rates as indicated herein.

#### **Section 802. Applicability**

- A. The following activities are included within the scope of this chapter:
  1. Land developments, including, without limitation, all commercial, industrial and institutional development regardless of size and whether or not such development is considered new or as an addition to existing, commercial, industrial or institutional development. Development of individual residential lots that predate this Ordinance shall be exempt from the provisions of this Ordinance.



2. All subdivisions consisting of four (4) or more lots, regardless of the overall size of the development. Enumeration of lots shall include the residual tract.
3. Construction of new or additional impervious or semipervious surfaces (driveways, roadways, parking lots, buildings and additions thereto) which increases the rate of runoff equal to or more than thirty-hundredths (0.30) cubic feet per seconds (cfs) as calculated using the Rational Formula for a ten-year storm.
4. Earthmoving activity involving 5000 square feet or more of land.

B. Normal agricultural and farming uses shall be exempt from the operation of this Ordinance.

### **Section 803. Compliance with other provisions**

Permits and approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, ordinance, or regulatory agency. If more stringent requirements concerning regulation or storm water control are contained in the other code, rule, or ordinance, the more stringent regulations shall apply.

### **Section 804. Definitions**

The following terms, whenever used in this portion of the Ordinance hereafter shall have the meanings indicated in this section, except where the context indicates a different meaning. Those definitions set forth in Chapter II, Section 202 above are likewise incorporated herein by reference thereto. To the extent any definition set forth in Chapter II, Section 202 above is inconsistent with the definition of any of the terms set forth in this Section, those definitions set forth in this Section shall be controlling for purposes of this Article VIII only.

**Conservation District** - The Westmoreland County Conservation District

**Culvert** - A pipe, conduit or similar structure, including appurtenant works, which carries surface water

**Designee** - Unless otherwise noted, the official designee of Salem Township for action on behalf of the township under the terms of this chapter shall be the Salem Township Engineer.

**Design Storm** - The magnitude of precipitation from a storm event measured in probability of occurrence (e.g., one-hundred-year storm) and duration (e.g., twenty-four-hour) and used in computing storm water management control systems.

**Detention Basin** - A basin designed to detain storm water runoff by having a controlled discharge system.

**Developer** - Any landowner, agent of such landowner or tenant with the permission of such landowner who makes or causes to be made a subdivision of land or a land development as described in this Ordinance.

**Drainage Easement** - A right granted by a landowner to a grantee permitting the use of private land for storm water management purposes.



**Hydraulic Grade Line** - A line joining points whose vertical distance from the center of the cross section of the fluid flowing in a pipe is proportional to the pressure in the pipe at the point.

**Hydraulic Gradient** - The slope of the hydraulic grade line.

**Impervious Surface** - A surface which retards the percolation of water into the ground, e.g., asphalt, concrete and roofs.

**Land Development** - Any of the following activities:

1. The improvement of one (1) lot or two (2) or more contiguous lots, tracts, or parcels of land for any purpose involving a group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants, or tenure; or the division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.
2. A subdivision of land.

**Land Disturbance Activity** - Any nonagricultural grading, earthwork, site preparation or construction activity which alters the vegetative cover, land contours or drainage patterns. Disturbance Activity, for purposes of this Chapter shall be deemed to be those construction activities which result in land disturbance of greater than 5000 square feet or more and/or land disturbance on a development site of less than one (1) acre where such development site is part of a larger common plan of development or sale that equals one (1) acre or more. (NPDES Permit Mod.) Provided, however, that any construction activities associated with commercial, industrial, institutional or other business related purposes shall be deemed Land Disturbance Activity regardless of the size of the area of disturbance.

**Municipality** - Salem Township, Westmoreland County, Pennsylvania.

**Peak Discharge** - The maximum rate of flow of water at a given point and time resulting from a specified storm event.

**Private Entity** - A partnership, corporation, homeowner's association, condominium association or any other similar associations as distinguished from an individual lot owner.

**Rational Formula** - A rainfall to runoff relation used to estimate peak flow, expressed by the following formula:

$$Q=CIA$$

Where:

- Q** =Peak runoff rate in cubic feet per second (cfs)
- C** =Runoff coefficient
- I** =Design rainfall intensity (inches per hour)
- A** =Drainage area in acres.

**Recurrence Interval** - The average interval of time, stated in years, within which a given storm event will be equaled or exceeded once.

**Retention Basin** - A basin designed to retard storm water runoff by having a controlled discharge system.

**Runoff** - That part of precipitation, which flows over the land.

**SCS** - Soil Conservation Service, United States Department of Agriculture.

**Semipervious Surface** - A surface such as stone, rock or other materials which permits some vertical transmission of water.

**Soil Cover Complex Method** - A method of runoff computation developed by SCS and found in its publication Urban Hydrology for Small Watersheds, Technical Release No. 55, SCS, January, 1975, Revised 1986

**Storm Sewer** - A system of pipes or conduits which carries intercepted surface runoff, street water or drainage but excludes domestic sewage and industrial wastes.

**Stormwater Management Plan** - The guidelines for managing storm water runoff in accordance with the provisions of this Ordinance.

**Stormwater Structures** - Basins, pipes, swales, terraces, etc., designed and installed to collect, transport, detain and/or retain storm water.

**Subdivision** - The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**Swale** - A low-lying stretch of land which gathers or carries surface water runoff.

**(Tc)** - The time, in hours, that surface stormwater runoff takes to travel from the hydraulically most distant point in the drainage basin to the point under design consideration.

#### **Section 805. General Provisions.**

- A. Basis of calculations. Computations for determining storm water runoff and discharge for the design of storm water management facilities shall be based upon the methods described in TR-55, Urban Hydrology for Small Watersheds, or other method acceptable to the Township designee, excepting that the Rational Method may be used when the Tc is less than one-tenth (0.1) hours.
- B. Recurrence interval (storm frequency data). The rainfall shall be determined using the United States Weather Service T.P. 40, for use with TR-55, or the National Oceanic and

Atmospheric Administration Technical Memorandum NWS HYDRO-35, for use with the Rational Formula, or other valid data as deemed suitable by the Township.

- C. Storm water runoff volumes; Storm water runoff shall be based on the following twenty-four-hour storm events or other valid data as deemed suitable by the township:

<b>Recurrence Interval (YEARS)</b>	<b>Storm Volume (inches of rainfall)</b>
2	2.7
10	4.0
25	4.6
50	5.0
100	5.4

- D. Storm duration. For use with TR-55 the storm rainfall shall have a twenty-four hour duration with a SCS Type II time distribution. For use with the Rational Formula, the rainfall duration shall equal the watershed  $T_c$ .

- E. Maintenance of natural drainage ways. All natural streams, channels, swales, drainage systems and/or areas of surface water concentration shall be maintained in their existing condition unless an exception is approved by Salem Township or official representative thereof. All encroachment activities shall comply with Chapter 105, Water Obstructions and Encroachments, of Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection.

- F. Method of stormwater runoff detention and control.

1. The following is a list of detention and control methods suitable for use in stormwater management systems. The selection of control methods is not limited to the ones present on this list:

- a. Detention and/or retention structures
- b. Grass channels and vegetated strips
- c. Routed flow over grass
- d. Decreased impervious areas coverage
- e. Porous pavement and concrete lattice block surface
- f. Cisterns and underground reservoirs including piping systems
- g. Rooftop storage
- h. Parking lot and street ponding

2. The Township, however, reserves the right to approve or deny any or all of the above control methods as to any individual project. Certain other control methods which meet the criteria of this subsection will be permitted when approved by the township or an official representative thereof.

**ARTICLE IX – SYSTEM DESIGN**

**Section 901. Design Criteria.**

- A. Total system requirements. All pre-development calculations shall be based upon existing land use features. Agricultural lands shall be considered as using conservation treatment or in good condition regardless of the current condition.
  - 1. Release rates from subdivisions or land developments shall be based on the runoffs calculated pursuant to recurrence intervals set forth in Sections 306, Section 307 and Article IV above.
  - 2. Storage structures shall be designed so that the post-development ten-year peak discharge rate will not exceed the pre-development two-year peak discharge rate. Also, the design should assure that the post-development fifty-year peak discharge rate does not exceed the pre-development twenty-five year peak discharge rate.
  - 3. All storage structures or facilities will be designed with emergency spillways sufficient to handle the one-hundred-year post-development storm event less flow through the primary spillway.
  - 4. Culverts, pipes and other water-carrying structures shall be designed to handle the peak discharge from the ten-year post-development storm event. All pipes shall be provided with an end sections or end wall. Refer to Plate A.
- B. Stormwater inlets. The maximum spacing between storm water inlets shall be designed according to the ten-year storm flow and the capacity of the inlets, taking into account gradient of roadway, maximum allowable street flooding opening or combination inlets exists, use the capacity reduction factors shown in Table 1 applied to theoretical capacity of the inlet. The maximum amount of water that should be bypassed on to the next downstream inlet for inlets on continuous grades is ten percent (10%).
- C. Pipes. The minimum allowable pipe diameter shall be fifteen (15) inches unless approved by the Township or the Township's representative. Horizontal and vertical curves with radii of one hundred (100) feet or greater are allowed for all pipe sizes.
- D. Spacing of structures. The maximum allowable spacing between structures to be used for inspecting and cleaning storm sewers shall be based on the pipe size and spacing shown in Table 3.
- E. Open channels. Maximum allowable velocities of flow in swales, open channels and ditches as relating in slope and grass cover are shown in Table 4.
- F. Spillway design. The outlets for the retention ponds shall consist of a combination of principal and emergency spillways. The outlets must pass the peak runoff expected from the drainage area for one-hundred-year storm without damage to the embankment of the pond.

- G. Principal spillway. The principal spillway shall consist of a solid vertical pipe or concrete box joined by a watertight connection to a horizontal pipe (barrel) extending through the embankment and out-letting beyond the downstream toe of the fill. The principal spillway shall have a minimum capacity of two-tenth (0.2) cfs per acre of drainage area when the water surface is at the crest of the emergency spillway. The maximum capacity of the barrel will be the twenty-five year pre-development flow. The construction materials must be approved by the Township. (Refer to Plate A attached hereto and incorporated herein).
- H. Design elevations. The crest of the principal spillway shall be a minimum of one and zero-tenths (1.0) feet below the crest of the emergency spillway. The crest of the principal spillway shall be a minimum of three (3) feet below the top of the embankment. (Refer to Plate A attached hereto and incorporated herein).
- I. Anti-vortex and trash rack. An anti-vortex device and trash rack shall be attached to the top of the principal spillway to improve the flow of water into the spillway and prevent floating debris from being carried out of the basins. The anti-vortex device shall be of the concentric type as shown in Plate B and Plate C (which are attached hereto and incorporated herein) or approved equivalent.
- J. Base. The base of the principal spillway must be firmly anchored to prevent its floating. If the riser of the spillway is greater than ten (10) feet in height, computations must be made to determine the anchoring requirements. As a minimum, a factor of safety of one and twenty-five hundredths (1.25) shall be used [downward forces=one and twenty-five hundredths (1.25) x upward forces]. For risers ten (10) feet or less in height, the anchoring may be done in one (1) of the two (2) following ways:
- 1 A concrete base eighteen (18) inches thick and twice the width of the riser diameter shall be used and the riser embedded six (6) inches into the concrete. (See Plate D attached hereto and incorporated herein, for design details.);
  - 2 A square steel plate, a minimum of one-fourth (1/4) inch thick and having a width equal to twice the diameter of the riser shall be welded to the base of the riser. The plate shall then be covered with two and five-tenths (2.5) feet of stone, gravel or compacted soil to prevent flotation. (See Plate D attached hereto and incorporated herein, for design details).
- K. Barrel. The barrel of the principal spillway, which extends through the embankment, shall be designed to carry the twenty-five year pre-development flow.
- L. Anti-seep collars. Anti-seep collars shall be installed within the saturated zone. The maximum spacing between collars shall be fourteen (14) times the projection of the collar above the barrel. Collars shall not be closer than two (2) feet to a pipe joint. Connections between the collars and the barrel shall be watertight. See Plates E, F, and G for requirements and details on anti-seep collars.
1. Anti-Seep collars shall be installed where:
    - i. The settled height of the embankment exceeds ten (10) feet.
    - ii. The embankment has a low silt clay content and the barrel is greater than ten (10) inches in diameter.

- M. Emergency spillway. The emergency spillway shall consist of an open channel constructed adjacent to the embankment over undisturbed material. The emergency spillway shall be designed to carry the peak rate of runoff expected from a one-hundred-year storm, less any reduction due to the flow through the principal spillway. (See Plates H and I, attached hereto and incorporated herein, for design of the emergency spillway.)
- N. Embankment. The material and construction for the embankment shall meet the requirements of PADOT Publication 408, Section 206 "Embankment".
- O. Fence. A chain link fence must be installed around the pond at a height of six (6) feet. A ten-foot wide gate with lock and keys must be provided to allow access for future maintenance. Fence details and specifications shall be submitted to the Township for approval. The fence requirements are waived where detention swales are utilized for storage. The maximum water depth in swales shall not exceed 2.0 feet with an average depth of 1.0 foot.
- P. Access road. The developer shall provide a ten-foot wide access road constructed of 2B stone at a depth of four (4) inches. Such access road shall run from the paved township street to the retention pond.

**ARTICLE X – APPLICATIONS FOR APPROVAL OF FACILITIES**

**Section 1001. Standards for Approval.**

Prior to the final approval of subdivision, land development or any activity listed in this Ordinance, or the issuance of any permit or the commencement of any land disturbance activity, the owner, subdivider, developer or his/her agent shall submit a storm water management plan to Salem Township for approval. The plan shall meet the requirements set forth herein and shall also meet all requirements of Title 25, Chapter 102, of the Rules and Regulations of the Pennsylvania Department of Environmental Protection. A copy of the Storm Water Management Plan shall also be provided to the Westmoreland Conservation District for review and comment.

**Section 1002. Plan Requirements**

The following items, where appropriate, shall be included in the plan:

- A. General.
  - 1. A general description of the project.
  - 2. A general description of the storm water controls both during and after development.
  - 3. Expected project time schedule, including anticipated start and completions dates.
  - 4. A statement of the training and experience of the person (s) preparing the plan.
  - 5. An executed signature block by a registered professional engineer, registered land surveyor or registered architect stating as follows:



"I, \_\_\_\_\_, have prepared and hereby certify that the storm water management plan meets all design standards and criteria of Salem Township's Storm Water Management Ordinance."

B Map(s) of the project area showing:

- 1 The location of the project relative to highways, municipalities or other identifiable landmarks.
2. Existing contours at intervals of two (2) feet. In areas of steep slope [greater than ten percent (10%)], five-foot contour intervals may be used.
3. Streams, lakes, ponds or other bodies of water within the project area or adjacent to the site affected by runoff from the project.
4. Other physical features, including wetlands, existing drainage swales and areas of natural vegetation to be preserved.
5. The location of existing overhead and underground utilities, sewers and water lines.
6. The location of proposed underground utilities, sewers and water lines.
7. Soil types and boundaries.
8. Proposed changes to land surface and vegetative cover.
9. Areas to be cut or filled.
10. Proposed structures, roads, paved areas and buildings.
11. Final contours at intervals of two (2) feet. In areas of steep slope [greater than ten percent (10%)], five-foot contour intervals ay be used.
12. The location where water will exit the site and the means for discharging.

C. Storm water management controls. All storm water management controls must be shown on a map and described. Such description shall include:

1. All control devices or methods, such as rooftop storage, semipervious paving materials, grass swales, parking lot ponding, vegetated strips, detention and retentions ponds, storm sewers or underground storage.
2. A schedule for installation of the control measures and devices.
3. All calculations, assumptions and criteria used in the design of the control device or method.

4. Sufficient rights-of-way- which must be provided around all storm water management structures and from such structures to a public right of way.
- D. Maintenance program. A maintenance program for all storm water management control facilities must be included. This program must include the proposed ownership for the control facilities and detail the financial responsibility for any required maintenance.
- E. Priorities. The following priority process is established for facility ownership and maintenance:
  1. Single Family Development (Individual lots)
    - a. As first priority, the facilities shall be incorporated within individual lots so that the respective lot owners will own and be responsible for maintenance in accordance with recorded deed restrictions.
    - b. The second priority, in the event that the above priorities cannot be achieved, is to dedicate the facilities to the Township in accordance with this chapter and pursuant to the regulations and requirements as established hereunder.
  2. Other Developments. All other developments shall own and maintain their storm water facilities. Salem Township will not own or maintain storm water facilities in commercial industrial, institutional, or multi-family developments.

**Section 1003.Submission of Plan**

- A. The plan shall be accompanied by the requisite fee, determined by Resolution of the Board of Supervisors of Salem Township.
- B. Three (3) copies of the completed plan and calculations must be submitted.

**Section 1004. Plan Approval**

- A. Salem Township or its designee shall review the plan and provide written comments to the developer or his/her agent. Failure to address these comments will result in automatic disapproval of the plan.
- B. Salem Township or its designee shall notify the applicant within sixty (60) days from receipt of a completed plan submission of its decision to approve or disapprove the plan.
- C. Any disapproval shall contain the reasons for disapproval and a listing of the plan deficiencies.
- D. Failure of Salem Township or its designee to render a decision within sixty (60) days' time limit shall be deemed an approval.
- E. The applicant must secure Westmoreland Conservation District approval for both Erosion and Sedimentation Control and Storm Water Management prior to Township approval.

**Section 1005.Modification of Plan**

- A. A modification to an approved storm water management plan shall follow the same procedure as required for a new plan. A modification is required when a change in control methods, techniques or the relocation or redesign of control measures is proposed.

**ARTICLE XI – CERTIFICATIONS, INSPECTIONS, SUBMISSION OF DRAWINGS, RIGHTS OF ENTRY AND COMPLIANCE**

**Section 1101.Certification: Inspection**

The developer must submit a certification by a Pennsylvania registered professional engineer, registered land surveyor or registered architect, which certificate shall certify that all elements of the approved plan have been constructed as designed and approved.

- A. Salem Township or its designee may inspect all phases of development of the site.
- B. It is the responsibility of the developer to notify Salem Township or its designee at least forth-eight (48) hours in advance of the completion of each identified phase of development.
- C. Any portion of the work which does not comply with the approved plan must be corrected by the developer. No work may proceed on any subsequent phase of the storm water management plan, the subdivision or land development or building construction until the required corrections have been made.

**Section 1102. As-Built Drawings**

- A. The Municipality may require an “As-Built Drawings” of all storm water improvements and an explanation of any discrepancies with the terms of the proposed storm water management plan.
- B. Following construction, and when required by the Municipality, the developer shall submit drawings bearing the seal of a registered professional engineer indicating that the as-built improvements called for in the approved plan have been constructed according to the plans and specifications as approved by Salem Township. No occupancy of the structure for which the storm water management plan was prepared will be permitted until the requested as built drawings have been received by the Township and approved by their designee.

**ARTICLE XII – FEES, EXPENSES, FINANCIAL GUARANTEES, OWNERSHIP AND OPERATION OF FACILITIES**

**Section 1201.Fees**

- A. Fees covering costs to Salem Township for plan review and inspections shall be established by Resolution of Salem Township. No approval to begin any work on the project shall be issued until the requisite fees have been paid.
- B. Modification of an existing storm water management plan shall require the payment of additional fees.

**Section 1202. Financial Guarantees**

- A. Financial security for construction. The developer or lot owner shall provide financial security as a construction guaranty, in a form to be approved by the Township, in an amount equal to one hundred ten percent (110%) of the full cost to install the facilities required by the approved plan. The financial security shall be released only after receipt by the Township of certification and as-built drawings, as required.
  
- B. Financial security for maintenance. Upon completion of any storm water management facility within Salem Township, the developer shall provide financial security, in a form approved by the Township, for maintenance guaranties as follows:
  - 1. Construction maintenance security. The constructions maintenance security shall be in an amount equal to fifteen percent (15%) of the cost of the installation and shall be used as financial security to guarantee the stability of the newly established facilities and re-vegetation for a period of one (1) year.
  
  - 2. Long-term maintenance security. The long-term maintenance security shall be in an amount equal to a figure which shall be determined by the Township to be the estimated cost of maintenance of the stormwater management facility for a period of ten (10) years or by deposit with the Township of an amount determined by the Township Engineer and the Township Supervisors as to be sufficient to provide for a long-term maintenance of said facility.

**Section 1203. Ownership and Maintenance of Facilities**

Unless storm water management facilities are constructed as part of a subdivision dedicated to the Township where the Township agrees to accept the dedication of the storm water management facilities, any storm water management facilities will not be owned or maintained by Salem Township but shall be owned and maintained by the owners of the private property on which such facilities are located.

- A. Maintenance by private entity. When a private entity retains ownership of any storm water management facility, such entity shall be responsible for maintenance of the facility. In such case, approval of storm water management facility plans shall be conditioned upon the private entity agreeing to be responsible for all maintenance of the storm water management facility. Any such agreement shall be in writing, shall be in recordable form and shall, contain provisions permitting inspection at any reasonable time, by Salem Township or its designee, of all such facilities deemed critical to the public welfare; provided further, however, that said maintenance by a private entity shall be secured by performance security in an amount equal to one hundred and ten percent (110%) of the cost as determined by the Township to be necessary to adequately maintain said system.
  
- B. Maintenance by individual lot owners. When any storm water management facility is located on an individual lot and when maintenance thereof is the responsibility of that landowner, a description of the facility or systems and the terms of the required maintenance shall be incorporated on the plat of the property. The plat shall be recorded with the Westmoreland County Recorder of Deeds within ninety (90) days following Township approval. In addition, the Township may require as a condition of approval that any deed conveying any interest in

such lot contain language indicating that the conveyance is subject to an express covenant by the grantee that the grantee will maintain the storm water management facility.

- C. Failure to maintain. The failure of any person, individual lot owner or private entity to properly maintain any storm water management facility shall be construed to be a violation of this chapter and is declared to be a public nuisance, subject to those penalties prescribed in Article XIV hereafter.

### **ARTICLE XIII – REQUESTS FOR VARIANCES, PENALTIES AND OTHER VIOLATIONS OF THIS ORDINANCE**

#### **Section 1301. Most Restrictive Provisions to Prevail**

In the event any other storm water management plan is duly adopted and approved by the appropriate governmental agency or body which is more restrictive than the provisions of this Ordinance the more restrictive storm water management plan shall prevail.

#### **Section 1302. Declaration of Public Nuisance.**

- A. Any failure of a Storm Water Management Control under this Ordinance or the Pennsylvania Storm Water Management Act, or any activity conducted in violation of the provisions of the Act or of any watershed storm water plan required hereunder, or the failure to prepare and submit a stormwater management plan required by this Ordinance, or the failure to properly implement any required stormwater management plan, or the failure to comply with any regulation or requirement contained in this ordinance or the Pennsylvania Stormwater Management Act, is hereby declared a public nuisance subject to abatement, enforcement and those penalty provisions, set forth hereafter.
- B. It shall be unlawful and a violation of this Ordinance for a person to undertake any regulated activity except as provided in an approved SWM Plan, unless specifically exempted under this Ordinance.
- C. It shall be unlawful and a violation of this Ordinance to violate any provision contained in Article VII of this Ordinance.

#### **Section 1303. Violations and Penalties**

- A. Any activity conducted in violation of this chapter is declared to be a public nuisance.
  - 1. Inspections. Upon presentation of proper credentials, duly authorized representatives of Salem Township may enter at any reasonable time upon any property with the Township to investigate or to ascertain the condition of the subject property with regard to any matter regulated by this chapter. Inspections regarding compliance with the SWM Site Plan are a responsibility of the Municipality. The costs of such inspection are subject to reimbursement by the Owner or Applicant.
  - 2. Notice. Whenever any person shall have violated the terms of this chapter, the Township shall cause a written notice to be served upon the owner, applicant, developer, property manager or other person the Township deems responsible for the property of the violation directing him to comply with all terms of this chapter and give notice to the owner,

applicant, developer, property manager or other persons deemed responsible for the property, or responsible for the creation of the violation, that if the violation is not corrected, the Township may correct the same and charge the landowner, or other person responsible, with the cost thereof plus penalties, as specified herein, for failure to comply.

3. Such notification shall set for the nature of violation(s) and establish a time limit for correction of these violations(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the Municipality or designee with the expense thereof charged to the violator.
  4. Failure to comply within the time limitations specified shall also subject such person to the penalty provisions of this Ordinance. All such penalties shall be deemed cumulative and shall not prevent the Municipality from pursuing any and all other remedies available in law or equity.
  5. Service of notice. Such notice shall be delivered by the United States Mail, first class, postage prepaid, and by certified mail or by personal service, or if the property is occupied, by posting the notice at a conspicuous place upon the subject property.
  6. Whenever the Township finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance or BMP, the Municipality may order compliance by written notice to the responsible person. Such notice may require without limitation:
    - a. The performance of monitoring, analyses, and reporting;
    - b. The elimination of prohibited connections or discharges;
    - c. Cessation of any violating discharges, practices, or operations;
    - d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
    - e. Payment of a fine to cover administrative and remediation costs;
    - f. The implementation of storm water BMPs; and
    - g. Operation and maintenance of storm water BMPs.
- B Any person who fails to comply with the Notice prescribed in this chapter within the period stated in the notice of the Township, or who shall violate or fail to comply with any other term or provision of this chapter, shall be guilty of summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not less than \$500.00, nor more than \$1000.00. Each day a violation continues shall constitute a separate violation without the necessity of filing a subsequent citation. Upon failure to pay such fine, or in lieu thereof, the violator shall be sentenced to incarceration for the maximum period permitted for summary offenses under the laws of the Commonwealth of Pennsylvania.
- C Corrective measures by Township, Costs. In the event that the owner, developer, occupant, applicant, property manager or other person responsible for either the property or the conditions existing thereupon, fails to comply with the terms of this chapter within the time specified by the Township, the Municipality may take any actions necessary to remove the public nuisance. The costs of removal of the violation shall be in addition to any penalties for violations for failure to comply.



- D Additional legal proceedings. In addition, the municipality may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance or the abatement of any nuisance arising from any violation of this ordinance or the Storm Water Management Act. 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. The Municipality may recover all costs and expenses, including reasonable attorney's fees, incurred any such proceeding.
- E Municipal lien. The cost of removal, fine, and penalties hereinabove mentioned may be entered by the Municipality as a lien against such property in accordance with existing provisions of law or collected through such other methods available to the Township for the collection of same, such method being deemed to include, but not be limited to, the initiation of an appropriate civil action.
- F Existing rights and penalties preserved. The collection of any penalty under the provisions of this chapter shall not be construed as an estoppel to the Commonwealth of Pennsylvania, the County of Westmoreland, Salem Township or any aggrieved person from proceeding in any Courts of law or equity to abate nuisances under other existing laws or to restrain, at law or in equity, a violation of this chapter. Moreover, it is hereby declared to be the purpose of this chapter to provide additional and cumulative remedies to abate nuisances.

#### **Section 1304. Suspension and Revocation of Permit and Approvals**

- 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 permit or approval may be reinstated by the Municipality when:
- 1 The Municipality has inspected and approved the corrections to the violations that caused the suspension, and/or;
  2. The Municipality is satisfied that the violation has been corrected.
- C. A permit or approval which has been revoked by the Municipality cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this Ordinance.

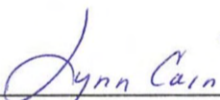
D. If a violation causes no immediate danger to life, public health, or property, at its sole discretion, the Municipality may provide a limited time period for the owner to correct the violation. In these cases, the Municipality will provide the owner, or the owner's designee, with a written notice of the violation and the time period allowed for the correction of the violation.

**Section 1305. Appeals and Variances**

- A. Any property owner or developer may request a variance from the strict application of any provision of this chapter arising out of problems with topography or the configuration of parcels of land. Such variances may be requested from the Board of Supervisors of Salem Township, who shall act upon such requests pursuant to the Local Agency Law. Fees for such appeals and variances shall be established from time to time by Resolution of the Board of Supervisors of Salem Township.
- B. Any person aggrieved by any action of a designee of the Municipality regarding or relevant to the provisions of this Ordinance, may appeal to the governing body of the Municipality within 30 days of receipt of notice of such action. Such appeal must be in writing, describe the action complained of and the reasons for the appeal and be submitted directly to the governing body of the Municipality. The governing body shall take action on such appeal consistent with the provisions of the Local Agency Law and notify the person aggrieved of its determination in writing thereafter.
- C. Any person aggrieved by any decision of the Municipality, relevant to the provisions of this Ordinance, may appeal to the County Court of Common Pleas in the county where the activity has taken place within 30 days of the Municipality's decision.

THIS ORDINANCE WAS ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF SALEM TOWNSHIP AT A PUBLIC MEETING HELD THE 18<sup>TH</sup> DAY OF AUGUST, 2021 AND BECAME EFFECTIVE AUGUST 24, 2021.

ATTEST:

  
\_\_\_\_\_  
Lynn Cain, Secretary

THE BOARD OF SUPERVISORS OF  
THE TOWNSHIP OF SALEM

  
\_\_\_\_\_  
Robert Zundel, Chairman

  
\_\_\_\_\_  
Ken Trumbetta, Vice-Chairman

\_\_\_\_\_  
Kerry Jobe, Supervisor