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**STORMWATER MANAGEMENT ORDINANCE**

**ORDINANCE NO. 277-2011**

**BOROUGH OF FRANKLINTOWN**

**YORK COUNTY, PENNSYLVANIA**

**Adopted**

**October 5, 2011**

**AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY AND WELFARE IN THE BOROUGH WITH REGARD TO ACCELERATED RUNOFF OF STORMWATER THROUGH REASONABLE REGULATION, DESIGN AND PERFORMANCE STANDARDS, AND IMPLEMENTATION OF STORMWATER CONTROLS.**

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## ARTICLE I - GENERAL PROVISIONS

### Section 101. Short Title

This Ordinance shall be known and may be cited as the "Borough of Franklinton Stormwater Management Ordinance."

### Section 102. Statement of Findings

The Borough Council of the Borough of Franklinton finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases 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 non-point source pollution of water resources.
- B. A comprehensive program of stormwater management, 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. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- D. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).

### Section 103. Purpose

The purpose of this Ordinance is to promote health, safety, and welfare within the Municipality and its watershed(s) by minimizing the harm 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. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source.
- D. Provide procedures and performance standards for stormwater planning and management.

- E. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and stream beds.
- G. Provide proper operation and maintenance of all SWM BMPs that are implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements.

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

##### **A. Primary Authority:**

The Municipality is empowered to regulate land use activities that affect stormwater impacts by the authority of The Borough Code, 53 P.S. § 45101 *et seq.*, and 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."

##### **B. Secondary Authority:**

The Municipality is also 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.

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

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.

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

Any other ordinance provision or regulation of the Municipality inconsistent with any of the provisions of this Ordinance is hereby repealed to give this Ordinance full force and effect to the extent of the inconsistency only.

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

In the event that a court of competent jurisdiction declares any section, clause or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining sections, clauses or provisions of this Ordinance.

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

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 code, law, regulation, or ordinance.

### **Section 109. Interpretation**

Unless otherwise expressly stated, the succeeding shall, for the purposes of this Ordinance, be interpreted in the following manner:

- A. Words used in the present tense also imply the future tense.
- B. Words used in the singular imply the plural, and vice versa.
- C. Words of masculine gender include feminine gender, and vice versa.
- D. The words and abbreviation “includes,” “including,” “shall include,” “such as,” and “e.g.” are not limited to the specific example(s) given but are intended to extend the words’ or words’ meaning(s) to all other instances of like kind and character.
- E. The words “person”, “applicant”, or “developer” include, a partnership, corporation, or other legal entity, as well as an individual.
- F. The words “shall”, “required”, or “must” are mandatory; the words “may” and “should” are permissive.

### **Section 110. Erroneous Permit**

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



## ARTICLE II - DEFINITIONS

**Act 167** - Act of October 4, 1978, P.L.864, (Act 167), as amended, and known as the "Stormwater Management Act".

**Agricultural Activity** - Activities associated with agriculture such as, but not limited to, agricultural cultivation, agricultural operations, 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 to the municipality for approval to engage in any regulated 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 "nonstructural." In this Ordinance, nonstructural 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.

**BMP Manual** - Pennsylvania Stormwater Best Management Practices Manual, as amended and updated.

**Conservation District** - The York County Conservation District, which District is 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.

**County** - York County Pennsylvania

**Dam** - An impoundment structure regulated by the Pennsylvania DEP Chapter 105. regulations.

**DEP** - The Pennsylvania Department of Environmental Protection.

**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.

**Developer** - Any person, partnership, association, corporation or other entity, or any responsible person therein or agent thereof, that undertakes any Regulated Activity.

**Detention Basin** - A structure designed to retard stormwater runoff by temporarily storing and releasing the runoff at a predetermined rate.

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

**Development Site (Site)** - See Project Site.

**Disconnected Impervious Area (DIA)** - An impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration, and increased time of concentration as specified in Appendix B. Disconnected Impervious Area of this Ordinance.

**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.

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

**E & S Manual** - Erosion and Sediment Pollution Control Manual, as amended and updated.

**Erosion and Sediment Control Plan** - A site specific plan consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during and after earth disturbance activity.

**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 as delineated by applicable FEMA maps and studies as being a special flood hazard area.

**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 forest land. 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.

**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 3,4).

**IWRP** - The York County Integrated Water Resources Plan, which Plan includes Act 167 Plan elements and requirements.

**Impervious Surface (Impervious Area)** - A surface that prevents the infiltration of water into the ground. Impervious surfaces and areas shall include, but not be limited to, roofs, additional indoor living spaces, patios, garages, storage sheds and similar structures, and any new streets and sidewalks. However, any surface or area designed, constructed and maintained to permit infiltration as specified herein shall be considered pervious, not impervious. For the purposes of this Ordinance, a surface or area shall not be considered impervious if such surface or area does not diminish the capacity for infiltration of stormwater for storms up to, and including, a two (2)-year 24-hour storm event.

**Infiltration** - The entrance of surface water into the soil, usually at the soil-air interface.

**Karst** - A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage, and caves. Karst landscapes are formed on carbonate rocks, such as limestone or dolomite.

**Land Development** - Shall include any of the following activities:

- A. the improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - 1. 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
  - 2. the division or allocation of land or space 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.
- B. A subdivision of land.
- C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.

**Municipality** – the Borough of Franklinton, York County, Pennsylvania.

**NPDES** - National Pollution Discharge Elimination System

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

**O & M** - Operation and Maintenance

**O & M Plan** - Operation and Maintenance Plan

**PCSWMP** - Post-Construction Stormwater Management Plan

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

**Percolation** - The downward movement, under the influence of gravity, of water under hydrostatic pressure through interstices of the soil or rock.

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

**Project Site** - The specific area of land where any regulated activities in the Municipality are planned, conducted, or maintained.

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

**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.

**Retention Basin** - An impoundment in which stormwater is stored and not released during a storm event. Stored water may be released from the basin at some time after the end of a storm.

**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.

**Riparian Buffer** - A Best Management Practice that is an area of permanent vegetation along surface waters. (Such areas serve as natural vegetative filters between upland landscapes and waterways.)

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

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

**Sheet Flow** - Water flow with a relatively thin and uniform depth.

**Spillway** - A depression in the embankment of a pond or basin which is used to pass peak discharge greater than the maximum design storm controlled by the pond or basin.

**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.

**Storm Frequency** - The number of times that a given storm event occurs on average in a stated period of years.

**Storm Sewer** - A pipe or conduit, or a system of pipes or conduits, which intercepts and carries surface stormwater runoff, but excludes sewage, industrial wastes and similar discharges.

**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 Plan** - Parts and/or elements of the York County Integrated Water Resources Plan which incorporate the requirements of the Act of October 4, 1978, P.L. 864, (Act 167), as amended, and known as the "Storm Water Management Act."

**Stormwater Management Best Management Practices** - Is abbreviated as BMPs or SWM BMPs throughout this Ordinance.

**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. For all NPDES permitted sites, the Stormwater Management Site Plan shall include, and be consistent with, the Erosion and Sediment Control Plan as submitted to the York County Conservation District (YCCD) and/or DEP.

**Subdivision** - The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts or 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 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SWM** - Stormwater Management.

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

**Waters of this 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 and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

**Watershed** - Region or area drained by a river, watercourse, or other surface water of this Commonwealth.

**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.

**YCCD** - York County Conservation District

## ARTICLE III - STORMWATER MANAGEMENT STANDARDS

### Section 301. General Requirements

- A. For all regulated activities, unless preparation of an SWM Site Plan is specifically exempted in Section 302:
  - 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 Section 406, shall be on site throughout the duration of the regulated activity.
- C. The Municipality may, after consultation with DEP, approve measures for meeting the state water quality requirements other than those in this Ordinance, provided that they meet the minimum requirements of, and do not conflict with, State law including, but not limited to, the Clean Streams Law. The Municipality shall maintain a record of consultations with DEP pursuant to this paragraph.
- 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, i.e., 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) 2, No. 363-2134-008 (April 15, 2000), as amended and updated.
- E. For all regulated activities, implementation of the volume controls in Section 303. is required, unless specifically exempted under Section 301.C., or exempted by an approved modification request as specified in Section 403.B. of this Ordinance.
- F. 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 phases.
  - 2. For development taking place in phases, 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.

- G. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without written notification of the adjacent property owner(s). Such stormwater flows shall be subject to the requirements of this Ordinance.
- 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, as stated in Section 103. Purpose, by implementing measures to:
    - a. Minimize disturbance to floodplains, wetlands, wooded areas, and existing vegetation.
    - 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.
    - f. Minimize soil disturbance and compaction. Topsoil, if removed, shall be replaced to a minimum depth equal to its depth prior to removal or four (4) inches, whichever is greater. (Additional topsoil may be needed for vegetation other than sod.)
  3. To the maximum extent practicable, incorporate the techniques for Low Impact Development Practices described in the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual).
- I. The design of all facilities in areas of carbonate geology or karst topography shall include an evaluation of measures to minimize adverse effects, including hydro-geologic studies if required by the Municipality.
- J. Infiltration BMPs shall 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. In addition, infiltration BMPs shall include pre-treatment BMPs where appropriate.
- K. Normally dry, open-top storage facilities, designed as such, shall completely drain both the volume control and rate control capacities over a period of time not less than 24 hours and not more than 72 hours from the end of the design storm. However, any designed infiltration at such facilities is exempt from the minimum 24-hour standard, i.e., may infiltrate in a shorter period of time, so long as none of the stormwater flowing into the infiltration facility is discharged directly into the surface waters of the Commonwealth. (Inordinately rapid infiltration rates may indicate the presence of large fractures or other conditions for which an additional soil buffer may be required.)



- L. The design storm volumes and precipitation intensities to be used in the analysis of discharge or runoff shall be obtained from the Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, U.S. Department of Commerce, 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/>.
- M. 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.
- N. Various BMPs and their design standards are listed in the BMP Manual.

### **Section 302. Exemptions**

Any Regulated Activity that meets the following exemption criteria is exempt from the part(s) of this Ordinance as specified herein. However, the requirements of the Ordinance shall otherwise remain in effect. The criteria for exemption in this Section apply to the total development proposed, including instances in which the development is proposed to take place in phases. The date of enactment of this Ordinance shall be the starting point from which future development and the respective proposed impervious surface computations shall be cumulatively considered and regulated. Exemption shall not relieve an applicant from implementing such measures as necessary to meet the intent of this Ordinance, or compliance with any NPDES Permit requirements.

- A. Regulated activities that create DIAs equal to or less than 1,000 square feet are exempt from the peak rate control and the SWM Site Plan preparation requirements of this Ordinance.
- B. Regulated activities that create DIAs greater than 1,000 square feet and equal to or less than 5,000 square feet are exempt only from the peak rate control requirement of this Ordinance.
- C. Agricultural activity is exempt from the rate control and SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 Pa. Code 102.
- D. Forest management and timber operations are exempt from the rate control and SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 PA Code 102.
- E. Domestic gardening and landscaping are exempt from specific approval and permitting under this Ordinance so long as those activities are associated with one, and only one, dwelling unit and the activities comply with all other applicable ordinances and statutes.
- F. Exemptions from certain provisions of this Ordinance shall not relieve the applicant from the requirements in Sections 301.D. through L. of this Ordinance.

- G. The Municipality may deny or revoke any exemption pursuant to this Section at any time for any project that the Municipality determines poses a threat to public health, safety, property or the environment.

### **Section 303. Volume Controls**

The low impact development practices provided in the BMP Manual shall be utilized for all regulated activities to the maximum extent practicable. 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 (1) 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) 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 two (2)-year 24-hour duration precipitation.
  2. For modeling purposes:
    - a. Existing (pre-development) non-forested pervious areas must be considered meadow.
    - b. Twenty percent (20%) of the existing impervious area of a project site, when present, shall be considered meadow in the model for existing conditions.
- B. The Simplified Method (CG-2 in the BMP Manual) 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 (1) 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 impervious surfaces.
2. At least the first one (1) 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 for the first one (1) inch of runoff 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 stormwater runoff shall be infiltrated.
4. This method is exempt from the requirements of Section 304. Rate Controls.

### **Section 304. Rate Controls**

- A. For computation of pre-development peak discharge rates, twenty percent (20%) of the existing impervious area of a project site, when present, shall be considered meadow.
- B. 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 storms. 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.

### **Section 305. Stormwater Management Facilities for Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission Roadways and Associated Facilities**

For the purposes of the Act 167 Stormwater Management (Plan) elements, contained within the York County Integrated Water Resources Plan, and this Ordinance, design policy pertaining to stormwater management facilities for Pennsylvania Department of Transportation (PennDOT) and Pennsylvania Turnpike Commission (PTC) roadways and associated facilities is provided in Section 13.7 (Antidegradation and Post Construction Stormwater Management Policy) of PennDOT Publication No. 13M, Design Manual Part 2 (August 2009), as developed, updated, and amended in consultation with the Pennsylvania Department of Environmental Resources (DEP). As stated in DM-2.13.7.D (Act 167 and Municipal Ordinances), PennDOT and PTC roadways and associated facilities shall be consistent with Act 167 Plans. Dm-2.13.7.B (Policy on Antidegradation and Post Construction Stormwater Management) was developed as a cooperative effort between PennDOT and DEP. DM-2.13.7.C (Project Categories) discusses the anticipated impact on the quality, volume, and rate of stormwater runoff.

Where standards in the Act 167 elements of the IWRP and this Ordinance are impractical, PennDOT or the PTC may request assistance from DEP, in consultation with the County, to develop an alternative strategy for meeting State water quality requirements and the goals and objectives of the Act 167 elements within the IWRP.

For the purposes of the Act 167 elements in the IWRP and this Ordinance, road maintenance activities are regulated under 25 PA Code Chapter 102.

### **Section 306. Design and Installation Standards**

#### **Stormwater Collection System.**

The design of stormwater collection and conveyance facilities shall be governed by the following criteria:

#### **A. Storm Drainage System.**

1. Peak discharge shall be computed using the Rational Formula:

$$Q = CIA$$

Where:

Q = Peak discharge in cubic feet per second

C = Runoff coefficient expressed as the ratio of peak runoff rate to the average amount of rainfall over a period of time equal to the time of concentration

I = Average rainfall intensity in inches per hour for a time equal to the time of concentration

A = Drainage area in acres

In general, the procedure from the Pennsylvania Department of Transportation, Design Manual, Part 2 shall be followed.

- (a) Typical Runoff coefficients for various surfaces can be found in the Appendix on Exhibit 31 of this Ordinance. Runoff coefficients shall be computed as a weighted average of conditions, which represent maximum development potential on the property. Soil types, ground slope, and storm frequency shall all be considered in the selection of Runoff Coefficients.
- (b) A computation table similar to the one found in the Appendix of this Part shall be submitted with the design of any stormwater collection system.
- (c) Storm intensity (I) shall be computed as a function of the time of concentration (Tc). A Tc of 5 minutes shall be used in determining intensity unless the drainage area parameters justify the use of a greater value. Use of a Tc greater than 5 min. shall be as approved by the Borough Engineer.
- (d) The minimum full flow velocity of any storm drainage system or culvert shall be 2.5 feet per second (fps).

(2) Storm Frequency. The following storm frequencies are to be used for design:

- (a) Local Streets – 25 year
- (b) Major Intersections of Local Streets – 25 year
- (c) Collector Streets and Arterial Streets – 50 year

Alternate criteria may be required following recommendation of the Borough Engineer. In addition, functional classification of streets shall be as interpreted by the Borough Engineer.

- (3) For storm drainage systems which will be dedicated to the Borough, all pipe material shall either be reinforced concrete or smooth lined corrugated polyethylene pipe to be as determined by the Borough. Standards as referenced from ASTM or other source acceptable to the Borough Engineer shall be specified.
- (4) Minimum pipe size for storm drainage pipe shall be 15 inches in diameter unless otherwise approved by the Borough Engineer.
- (5) Installation.

- (a) Storm drainage pipes shall be installed a sufficient time in advance of final street paving in order to allow for settlement of the trench.
  - (b) Installation shall be in accordance with manufacturers' recommendations, PENNDOT Publication 408 and RC standards or as specified by the Borough Engineer.
  - (c) Storm drainage systems to be dedicated to the Borough shall be placed on a minimum of 6 inches of stone bedding. Stone backfill shall be required to a point of 12 inches minimum over the top of the pipe for pipes which will not be located under streets or parking lots and to the top of finished subgrade for pipes which will be beneath streets or parking lots. Backfill shall be compacted in lifts and shall be subject to inspection by the Borough Engineer.
  - (d) Minimum cover from the top of the pipe to the top of subgrade shall be 12 inches.
- (6) Safety features shall be incorporated into the storm drainage system as necessary.
- (7) Minimum thickness of any corrugated steel or metal pipe shall be 16 gage or as otherwise required by the Borough for anticipated load conditions. Metal pipes shall also be coated with applicable approved material to minimize corrosion.

#### **B. Inlets/Manholes/Junctions.**

- (1) In general, inlets, manholes, grates, covers, frames and the like shall conform to the Pennsylvania Department of Transportation Standard Specifications, Publication 408 and RC Standards. Design shall be performed in accordance with the Pennsylvania Department of Transportation or Federal Highway Administration Standards. Additional/ alternate criteria may be required following review of the Borough Engineer.
- (a) Inlets shall be spaced such that they are not subject to flows higher than 5 cubic feet per second or at a distance greater than 400 feet along curbed streets and at low points on sag vertical curves with an inlet on each side of the street. Additional inlets shall be placed at the upper side of street intersections, to prevent stormwater from crossing the intersection. Inlets are not allowed on the intersection radii. In no case shall inlets be placed at a location where they function at less than 65% efficiency based on criteria in the PennDot Design Manual. Design shall be such that the maximum allowable spread of water on streets shall not exceed one-half (1/2) of the travel lane.
  - (b) Inlets shall have weep holes placed at the appropriate elevations to drain the bottom of the inlet box and the subgrade prior to placing the base and surface courses.
- (2) Where structures are subject to traffic loads, the structure shall be traffic rated.
- (3) Inlet tops in residential developments shall be bicycle safe unless otherwise approved.
- (4) Manholes shall not be placed more than 500 feet apart. Additionally, manholes shall be placed at points of change in horizontal and/or vertical direction of storm drainage systems. Inlets may be substituted for manholes where they will serve as a means of intercepting runoff.

- (5) If less than a 48-inch diameter, curves in pipes or box culverts, without junction are prohibited. Tee joints, elbows, and wyes are prohibited unless specifically authorized by the Borough Engineer.

#### C. Channels and Culverts.

- (1) In cases where drainage is collected by means of a headwall, and inlet or outlet conditions control, the pipe shall be designed as a culvert.
- (a) The minimum diameter of the culvert shall be 18 inches. Design shall be in accordance with the U.S. Federal Highway Administration design procedure.
  - (b) The maximum HW/D ratio for inlet control shall be 1.25 or such that water surface elevation is 1/2 foot below the edge of street grade during a 25-year storm event, whichever is more stringent.
  - (c) Headwalls and endwalls shall be provided for all culverts unless otherwise approved by the Borough Engineer. Material shall be reinforced concrete unless otherwise approved.
  - (d) Culvert pipe and material shall be the same as that required for storm drainage systems. All applicable nomographs and supporting documentation shall be submitted.
- (2) Manning's equation shall be used for the design of all open channels. Complete calculations shall be submitted which detail flow, depth, and velocity. For channels and swales, design for erosion control must be provided.
- (3) All channels shall be designed to prevent erosion of the channel bottom and sides. The flow velocity in all vegetated drainage channels shall not exceed the maximum permissible velocity to prevent soil erosion. Stabilization techniques such as rip-rap, sodding, geo-fabrics and/or pre-manufactured products shall be utilized where necessary to minimize erosion potential.
- (4) The design of swales and channels shall, as a minimum, conform to the design procedures as outlined by The Federal Highway Administration and The Pennsylvania Department of Environmental Protection, Bureau of Soil and Water Conservation, Erosion and Sediment Pollution Control Manual.
- (5) Where swales are installed and vegetative stabilization has not or will not occur between November 1 and March 1, other means of temporary stabilization shall be provided.
- (6) Design criteria for swales and channels shall be the same, as that required for storm drainage systems.

### **Stormwater Management Facilities**

#### A. General Design Criteria

- (1) Peak Discharge and runoff shall be computed using the soil-cover complex method contained in the "Urban Hydrology for Small Water Sheds," Technical Release No. 55, published by the Engineering Division, Soil Conservation Service, United States Department of Agriculture. Alternate methodology may be used subject to approval by the Borough Engineer.
- (2) Any pre-existing, pervious areas shall be assumed to be "meadow" for purposes of establishing an existing ground cover condition unless actual conditions would dictate a lesser value than for a meadow condition.
- (3) Pre-existing, pervious or impervious areas, where stormwater management controls have been previously provided, may be included as existing conditions in pre-development runoff calculations. However, if stormwater management controls have not been previously provided, ground cover shall be considered as meadow.
- (4) The rate and quantity of stormwater runoff from any proposed subdivision and/or land development shall not exceed the rate and quantity or volume of runoff prior to development (i.e., zero (0) increase in runoff) for the 1, 2, 5, 10, 25 and 50 year storm event frequencies..
- (5) Applicants are encouraged to include stormwater quality considerations in the design of stormwater management facilities.
  - (a) Where, required by the Borough, following review by the Borough Engineer, high concentrations of oils, greases, metals and sediment may occur, the design shall include provisions for the interception of such constituents prior to discharge into surface waterways or municipal storm drainage systems.
- (6) Stormwater shall not be re-routed or concentrated in a manner that is inconsistent with downstream conditions or where downstream properties are likely to be affected. In addition the proposed stormwater discharge at the perimeter of the site shall not exceed the capacity of any existing facility nor shall it alter the pre-development flow characteristics. The existing points of concentrated drainage that discharge onto adjacent property shall not be altered without permission of the altered property owner(s) and shall be subject to any applicable discharge criteria specified in this Part. All new concentrated discharges of stormwater onto adjacent properties shall be within existing storm drainage systems or channels. The Borough may require written acknowledgement or easement from adjacent property owners in the event that these conditions are not met.

#### B. Detention Basins.

##### (1) Basin Design Criteria.

- (a) Basins shall provide control of post development peak runoff rates as previously specified.
- (b) Basins shall be designed to safely convey the rate, quantity or volume of stormwater runoff resulting from a 100 year, 24 hour storm under full development conditions, neglecting the discharge capacity of the principle outlet structure. Contributing flow to the basin shall also include any off-site runoff that may enter the basin. The design

of the facility shall be verified by routing the 1, 2, 5, 10, 25, 50, and 100-year frequency storm hydrographs through the facility.

(c) The Modified PULS Routing technique or other method approved by the Borough Engineer shall be used for routing computations.

(d) Computer software used in analysis shall be as approved by the Borough Engineer.

(2) Basin Construction Standards.

(a) Basins shall not be located over any existing or proposed utility lines.

(b) The maximum slope of earthen embankments shall be 3 to 1, with 4 to 1 preferred. The top or toe of any slope shall be located a minimum of 15 feet from adjacent property lines, except for a downstream property line where there shall be sufficient additional distance for energy dissipation. Greater slopes may be allowed with the provision of a design basis which considers fill material and stabilization where approved by the Borough Engineer. In areas that are not easily accessible for maintenance, side slopes shall not exceed 5 to 1.

(c) Where possible the side slopes and basin shape shall blend with the natural topography.

(d) The minimum top width of detention basin berms shall be 6 feet. For basins over six feet (6') in depth, a top of embankment width of eight feet (8') may be required.

(e) All basins shall have provisions for de-watering so as not to create un-maintainable conditions. The minimum grade of the basin floor shall be 2% to ensure proper drainage towards the outlet structure. This requirement may be waived if a paved low flow channel (1% grade) is provided.

(f) All submitted basin plans shall indicate the construction specifications and compaction requirements to be used during construction. All earth fill dams shall be designed and certified by a registered professional engineer. Construction specifications shall be reviewed and approved by the Borough Engineer.

(g) A cutoff trench shall be excavated along the centerline of any dam on an earth fill embankment. The minimum depth shall be 3 feet. The minimum bottom width shall be 10 feet or wide enough to permit operation of compaction equipment.

(h) A minimum of 6 inches of topsoil shall be placed on all areas affected by the basin construction (i.e., basin floor, side slopes, top of berm, and the like) to allow for the establishment of vegetation.

(i) All basins shall be stabilized using methods acceptable to the USDA Soil Conservation Service.



- (j) The maximum water depth of a finished detention basin (measured from the lowest point in the basin floor to the crest of the emergency spillway) shall not exceed 8 inches unless otherwise approved by the Borough Engineer.
- (k) Fencing may be required where the Borough, following consultation with the Borough Solicitor and/or Borough Engineer, determines the need for each specific case. Height of such fence shall be 4 feet to 6 feet as required and shall include a locking man gate and vehicle access.
- (l) A minimum of 1 foot freeboard shall be provided above the basin water surface elevation during a 100-year frequency storm.
- (m) Minimum floor elevations for all structures shall be 2 feet (minimum) above the basin water surface elevation during 100- year frequency storm. If basements will be provided, detailed calculations and water proofing design shall be provided which addresses the effects of stormwater on the structure.
- (n) The Borough may, upon recommendation of the Borough Engineer, impose additional requirements on earth fill dams for the safety and welfare of the Borough.
- (o) For sites of geologic concern, a geotechnical analysis and design of the site as it relates to the proposed basin shall be provided.
- (p) The toe of slope for the exterior berm, or in the case of a berm excavated into the earth, the outside edge of the berm shall not be closer than 15 feet from existing or proposed property boundary or Borough Right-of-Way.

### (3) Emergency Spillway Standards.

- (a) Minimum freeboard, or the distance between the design flow elevation and the top of the settled basin embankment, shall be 1 foot for a 100 year frequency storm.
- (b) Emergency spillway design should be based on a 100-year design storm when neglecting the capacity of the outlet structure and outfall culvert.
- (c) Emergency spillways shall be constructed on undisturbed earth, where possible. Emergency spillways shall be constructed of vegetated earth, reinforced concrete, or concrete mound slabs. Emergency spillways shall not discharge stormwater over earthen fill or other easily erodible material without adequate protection against soil erosion. Detailed calculations and design shall be submitted.

### (4) Outlet Pipes and Structures. The following measures shall be incorporated into the design and construction of all outlet structures and pipes. Supporting calculations and drawings shall be submitted for approval with the Stormwater Management Plan:

- (a) Anti-seep collars shall be installed around all outlet pipes through embankments. The anti-seep collars and their connections to the pipe barrel shall be watertight. Design calculations in accordance with the USDA Soil Conservation Service shall be submitted.

- (b) Temporary sedimentation controls shall be provided during construction to prevent the flow of sediment-laden runoff through the basin outlet pipe. Such measures may include temporary riser pipes, rock-filled gabions, plywood standboxes, silt fences and the like. Design of such measures shall comply with the requirements of the York County Conservation District.
- (c) Energy dissipation shall be provided at the outlet of detention basins, along outfall channels, and at the discharge end of all conveyance pipes.
- (d) Outlet control structures shall be constructed to prevent flotation.
- (e) Outlet control structures shall be equipped with a childproof, non-clogging, removable, trash rack for all openings larger than 12 inches in diameter.
- (f) All pipes through earthen embankments shall be of a type which watertight joint systems are available. Outfall pipes and culverts shall be smooth lined corrugated polyethylene (SLCP) unless otherwise approved by the Borough Engineer.

### C. Subsurface Disposal/Retention Basin Systems.

- (1) General Requirements. Subsurface disposal or surface infiltration of stormwater shall be design using methods described within the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual). Subsurface disposal or surface infiltration of stormwater shall be allowed only where the applicant demonstrates that soils in that area are suitable for such control measures and that there will be no adverse impacts to the environment or adjoining or surrounding properties. Test pits shall be required to establish a soil profile which shall identify any potential limiting zones such as seasonal high water table, rock presence, spring activity, sinkholes, etc. Soil testing shall also be performed to determine permeability or percolation rates at locations where subsurface facilities are planned. All percolation tests shall be conducted in accordance with the Pennsylvania Department of Environmental Protection, rules and regulations regarding subsurface disposal of wastewater. Tests shall be performed by a representative of the Borough Engineer as directed by the Borough, or an individual certified to perform such tests in which case the tests will be observed by the Borough Engineer. The Borough reserves the right to disallow the use of subsurface disposal or retention basin systems in areas that are deemed to be unsatisfactory.
- (3) Installation Requirements. The following procedures and materials shall be required for all subsurface facilities.
  - (a) Excavation for infiltration facility shall be performed with equipment which will not compact the bottom of the seepage bed, infiltration trench or like facility.
  - (b) The bottom of the bed or trench shall be roughened prior to placement of aggregate.
  - (c) Only clean, open graded aggregate, free of fines, shall be used in subsurface systems.

- (d) The top, sides, and bottom of all seepage beds, infiltration trenches, or like facilities shall be covered with a drainage filtration fabric which meets the requirements of the Pennsylvania Department of Transportation, Publication 408 for Class I Geofabrics.
- (e) All pipes leading into subsurface drainage systems shall be equipped with screening devices to prevent debris from entering the system.
- (f) The bottom of all subsurface disposal or retention basin systems shall be a minimum of 12 inches above the limiting zone as established by the site specific soil profile. Depths of less than 12 inches above the limiting zone will only be allowed where the developer provides a written report certified by a registered professional engineer, geologist, or hydrogeologist, which certifies that the condition will not create an environmental hazard.
- (g) Inspection points, cleanouts and overflow facilities shall be provided for subsurface disposal systems.
- (h) All subsurface stormwater disposal systems or retention basins shall be located a minimum of 100 feet from any potable water wells.

The owner or developer shall be responsible for the proper installation, operation, and maintenance of all subsurface stormwater disposal facilities. If, in the opinion of the Borough, the system is not functioning properly, the developer or owner shall be required to make necessary improvements and/or corrections or provide a new alternate facility which does function properly. Ownership and maintenance shall be the same as under stormwater management facilities.

#### D. Basins With Permanent Pools (Wet Basins).

- (1) Basins designed to have a permanent pool of water stored in the reservoir shall conform to the design standards of detention or retention basins. Where deemed to be necessary, after consulting with the Borough Engineer, the Borough may impose additional criteria for design and construction of wet basins. Earthen embankment designs shall be sealed by a registered professional engineer experienced in such design.
- (2) Embankments shall have a slope not exceeding 4 horizontal to 1 vertical.
- (3) Adequate stabilization shall be provided to control anticipated wave action.

#### **Erosion and Sediment Pollution Control.**

1. General Requirements. Where required by the Borough, all earth moving activities, as identified in this Part, shall be reviewed and approved by the York County Conservation District. In addition, a copy of the Erosion Control Plan shall be submitted as part of the Grading Plan to the Borough Engineer for review and comment. Approval of the Erosion Control Plan is required prior to approval of the Stormwater Management Plan.

2. Requirement for Erosion and Sediment Controls.

- A. No Regulated Earth Disturbance activities within the Borough shall commence until approval by the Borough of an Erosion and Sediment Control Plan for construction activities.
- B. The Pennsylvania Department of Environmental Protection (DEP) has regulations that require an Erosion and Sediment Control Plan under 25 Pa, Code §102.4(b). These and all other legal requirements must be complied with.
- C. Evidence 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 Borough. The issuance of an NPDES Construction Permit (or permit coverage under the statewide General Permit (PAG2)) satisfies the requirements subsection A.
- D. 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.

## ARTICLE IV - STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS

### Section 401. Plan Requirements

Although not a requirement of this Ordinance, prior to proceeding with SWM Site Plan preparation and submission, the applicant is encouraged to request a pre-application meeting with the Municipality's Engineer and a staff member of the York County Conservation District to discuss the plan concept and responsibility for submission of required documents and information.

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

- A. Appropriate sections of the Municipality's Subdivision and Land Development Ordinance, and other applicable ordinances of the Municipality regarding subdivision and land development plan preparation and applicable plan requirements shall be followed in preparing all SWM Site Plans, regardless of whether or not a SWM Site Plan involves a subdivision and/or land development plan. If the Municipality has not adopted a Subdivision and Land Development Ordinance, the content of SWM Site Plans shall follow the plan preparation and applicable plan requirements of the York County Subdivision and Land Development Ordinance.
- 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, or, in the case of minor deficiencies, the Municipality may accept the submission of a revised SWM Site Plan as noted in Section 404. of this Ordinance.
- 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 Item E.9 below.
- D. The following signature block for the municipality:

“(Municipal official or designee), on this date (date of signature), has reviewed and hereby certifies that the SWM Site Plan meets all design standards and criteria of the Municipal Ordinance No. 277-2011.”

- E. If not required by the Municipal or York County Subdivision and Land Development Ordinance, as specified in Section 401.A. of this Ordinance, the SWM Site Plan shall also provide the following information where applicable:
  - 1. The overall stormwater management concept for the project, including any additional information required for a Post-Construction Stormwater Management Plan (PCSWMP) as applicable.
  - 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, as well as for other environmentally sensitive areas, whether natural or

manmade, including floodplains, streams, lakes, ponds, hydric soils, wetlands, brownfields and wellhead protection zones.

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 Section 301.
4. Expected project time schedule.
5. A soil erosion and sediment control plan, where applicable, as prepared for, reviewed, and approved by the York County Conservation District.
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. The 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 Operation and Maintenance (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.
10. A description of permanent stormwater management techniques, including the construction specifications of the materials to be used for stormwater management facilities.
11. A notarized signature of the owner of the parcel for which the SWM Site Plan is proposed.
12. Existing and proposed land uses.
13. The location of the proposed regulated activity relative to streets, municipal boundaries, and other significant manmade features.
14. Significant physical features and associated boundary limits including flood hazard areas, sinkholes, existing drainage courses, and areas of natural vegetation.
15. The location of existing and proposed utilities, stormwater facilities, sanitary sewers, and water lines on the parcel and within 50 feet of property lines.
16. Proposed changes to the land surface and vegetative cover, and the type and amount of existing and proposed impervious area.

17. Existing and proposed structures, buildings, streets, driveways, access drives, and parking areas.
18. Preferred contour intervals of two (2) feet in moderately sloped areas, and contours at intervals of five (5) feet for slopes in excess of 15 %. Dependent upon site conditions, alternative contour intervals proposed by an applicant or his designee may be accepted by the Municipality.
19. The name of the development, the name and address of the owner of the property, and the name and address of the individual or firm preparing the Plan. Also to be included are the name, address, signature and seal of any registered surveyor (attesting the accuracy of the boundary survey), professional engineer, landscape architect, or professional geologist (for geomorphological assessments) contributing to and/or with a responsibility for any aspect of the Plan where applicable.
20. Preferred graphic and written scale of one (1) inch equals no more than 50 feet. For parcels of 20 acres or more, the preferred scale is one (1) inch equals no more than 100 feet. Dependent upon site conditions, an alternative scale proposed by the applicant or his designee may be accepted by the Municipality.
21. North point (arrow).
22. A map showing all existing manmade features beyond the subject parcel's boundary lines that will be affected by the proposed regulated activities.
23. Horizontal and vertical profiles of all open channels, including hydraulic capacity.
24. A note on the plan indicating the location, and responsibility for maintenance of, SWM facilities and/or easements that would be located on adjoining properties as a result of proposed regulated activities, and the location of such facilities and/or easements.
25. A hydrogeologic assessment of the effects of stormwater runoff on sinkholes where present.
26. The effect of the proposed regulated activity in terms of runoff volumes and peak flows on adjacent properties and/or any existing municipal stormwater collection system that may receive runoff from the project site.
27. Drainage flow pathways.

#### **Section 402. Plan Submission**

- A. \_\_\_\_ Three (3) copies of the SWM Site Plan shall be submitted as follows:
  1. \_\_\_\_ Two (2) copies to the Municipality.
  2. \_\_\_\_ One (1) copy to the York County Planning Commission when a SWM Site Plan accompanies a subdivision/land development plan application.

- B. Additional copies shall be submitted as requested by the Municipality or DEP.
- C. The Municipality may establish a fee schedule for the review of SWM Plans, the amount of which shall be set by resolution of the Municipality's governing body.

#### **Section 403. Plan Review and Approval Procedure**

- A. SWM Site Plans shall be reviewed by the municipality for consistency with the provisions of this Ordinance.
- B. Modification Requests:
  - 1. When reviewing a SWM Site Plan, whether or not the SWM Site Plan is included in a subdivision and/or land development plan application, the Municipality's governing body may, after consulting with DEP as noted in Section 301.C. of this Ordinance, grant a modification of the requirements of one or more provisions of this Ordinance if the literal enforcement will enact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the Ordinance is observed.
  - 2. All requests for a modifications from an applicant shall be in writing and shall accompany and be a part of the application for approval of a SWM Site Plan and/or a subdivision or land development plan as applicable. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved and the minimum modification necessary.
  - 3. The governing body of the Municipality shall keep a written record of all action on requests for modifications. The response of any consultation and/or review by DEP shall be included as an original report if available or otherwise documented in the required written record.
- C. SWM Site Plan Review and Approval Procedure:
  - 1. If a SWM Site Plan does not involve a subdivision and/or land development, the review of the SWM Site, recommendations, approval, approval with conditions, or disapproval, i.e., the review and decision period, shall occur within forty five (45) days of submission to the Municipality. However, the Municipality, in its sole discretion, may extend the review and decision period another forty five (45) days due to the nature of the application and/or site conditions. If an extension of another forty five (45) days is imposed or granted by the Municipality beyond the first forty five (45) day review and decision period designated by this paragraph, the Municipality shall notify the applicant in writing and deliver such notice to said applicant within fifteen (15) days of the decision to extend the review and decision period by the Municipality. If no extension is imposed or granted by the Municipality beyond the first forty five (45) day review and decision period, and no decision has been rendered by the Municipality within that period, the SWM Site Plan shall be deemed approved. Similarly, if after a forty five (45) day extension of the review and decision period has been imposed or granted by the



Municipality, and no decision has been rendered by the Municipality within that period, the SWM Site Plan shall be deemed approved.

2. If a SWM Site Plan involves a subdivision and/or land development plan, the period of time from the submission to the Municipality of the subdivision and/or land development plan application which includes the SWM Plan and the approval, approval with conditions, or disapproval, i.e., review and decision period, shall be 90 days, in accordance with the procedure for approval of plats in Section 508 of the Pennsylvania Municipalities Planning Code.
3. From the time an application for approval of a plat involving a subdivision or land development plan, whether preliminary or final, which includes a SWM Site Plan, is duly filed with the Municipality, no change or amendment of this Ordinance or other governing ordinance or plan shall affect the decision on such application in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed, as specified in Section 508. (4) (I) of the Pennsylvania Municipalities Planning Code.

#### D. Decision Notification Procedure:

In all cases, the decision of the Municipality to approve or disapprove the SWM Site Plan shall be in writing and shall be delivered to the applicant no later than 15 days following the decision. If the SWM Site Plan is disapproved, the written decision by the Municipality shall specify the defects in the application, describe the requirements which were not met, and shall cite the provisions of the Ordinance relied upon. If the SWM Site Plan is approved with conditions, the notification to the applicant shall state the acceptable conditions for approval and the time limit for satisfying such conditions. The time limit for satisfying conditions of approval shall be the time limit prescribed for conditional approval of subdivision and land development plans as stated in the Municipality's Subdivision and Land Development Ordinance, or the York County Subdivision and Land Development Ordinance where applicable.

#### **Section 404. Revision of Plans**

A revision to a previously submitted SWM Site Plan that involves a change in SWM BMPs, stormwater management facilities, or changes in analytical 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 re-submission of the revised SWM Site Plan in accordance with this Article, including applicable fees. For NPDES permitted sites, any revised SWM Site Plan shall also be re-submitted to the York County Conservation District for review. In the case of a SWM Site Plan which contains minor deficiencies, such as a missing label, omission of a required note or minor construction detail, as determined by the Municipality, the Municipality may accept a re-submission of such SWM Site Plan without the requirement of a review fee, or for a lesser fee as provided for in the Municipalities fee schedule.

### **Section 405. Re-submission of Disapproved SWM Site Plans**

A disapproved SWM Site Plan may be resubmitted, with the revisions addressing the Municipality's concerns as stated regarding the original submission, to the municipality in accordance with this Article. The applicable review fee must accompany the submission of a revised SWM Site Plan, unless such fee is waived by the Municipality. (See Section 404.)

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

#### **A. SWM Site Plans Independent of Subdivision and Land Development Plans**

The Municipality's approval of a SWM Site Plan, when such Plan is submitted independent of a subdivision and/or land development plan, authorizes the regulated activities contained in the SWM Site Plan for a maximum term of validity of five ( 5) years following the date of approval. The Municipality may, in its sole discretion, specify a term of validity shorter than five ( 5) years in the approval for any specific SWM Site Plan, particularly if the nature of the proposed SWM facilities require more frequent maintenance and/or short-term replacement of certain components. 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 may be resubmitted in accordance with Section 405 of this Ordinance.

#### **B. SWM Site Plans Included in a Subdivision and/or Land Development Plan**

The Municipality's approval of a SWM Site Plan, which is a part of a subdivision and/or land development plan, authorizes that plan and the regulated activities therein so that no subsequent change or amendment in this Ordinance or other governing ordinances or plans shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval, as specified in Section 508. (4) (ii) - (vii) of the Pennsylvania Municipalities Planning Code.

### **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 person verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications. If any licensed qualified person contributed to the construction plans, then a licensed qualified person must sign the completion certificate.
- C. After receipt of the completion certification by the Municipality, the Municipality may conduct a final inspection to verify compliance with, and accuracy of, the as-built plans.

## ARTICLE V - OPERATION AND MAINTENANCE

### Section 501. 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. The Municipality reserves the right to accept or reject the ownership, maintenance, and operating responsibility for any portion of the stormwater management facilities and controls.
- B. Facilities, areas, or structures used as Stormwater Management BMPs shall be enumerated as permanent real estate appurtenances and recorded in the York County Recorder of Deeds Office as deed restrictions/protective covenants or easements that run with the land.
- C. The Operation and Maintenance (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 502. 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 (see 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 Plan.
  - 2. The owner shall convey to the Municipality 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. Nonpayment of fees may result in a lien against the property.
- C. The Municipality is exempt from the requirement to sign and record an Operation and Maintenance Agreement.

### **Section 503. Performance Guarantee**

For SWM Site Plans that involve subdivision and 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.

## ARTICLE VI - FEES AND EXPENSES

### Section 601. General

The Municipality may include all costs incurred in the review fee charged to an applicant.

The review fee may include, but not be limited to, costs for the following:

- A. Administrative/clerical processing.
- B. Review of the SWM Site Plan.
- C. Attendance at meetings.
- D. Inspections.

## ARTICLE VII - PROHIBITIONS

### 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 the waters of this Commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into surface waters of this Commonwealth which are not composed entirely of stormwater, except (1) as provided in Subsection C below and (2) discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of this Commonwealth:

- Discharges from firefighting activities	- Flows from riparian habitats and wetlands
- Potable water sources including water line flushing	- Uncontaminated water from foundations or from footing drains
- Irrigation drainage	- Lawn watering
- Air conditioning condensate	- De-chlorinated swimming pool discharges
- Springs	- Uncontaminated groundwater
- Water from crawl space pumps	- Water from individual residential car washing
- Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used	- Routine external building wash-down (which does not use detergents or other compounds)
- Diverted stream flows	- Water discharged in well testing for potable water supplies

- D. In the event that the municipality or DEP determines that any of the discharges identified in Subsection C significantly contribute to pollution of the waters of this Commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge.

### Section 702. Roof Drains

Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs and to the maximum extent practicable satisfy the criteria for DIAs.

### Section 703. Alteration of SWM BMPs

No person shall modify, remove, fill, landscape, or alter any SWM BMPs, facilities, areas, or structures in a manner without the written approval of the Municipality, with the exception of necessary maintenance activities such as mowing.

## ARTICLE VIII - ENFORCEMENT AND PENALTIES

### Section 801. Right-of-Entry

Upon presentation of proper credentials, the Municipality may enter at reasonable times upon any property within the municipality to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Ordinance.

### Section 802. Inspection

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

- A. Annually for the first five (5) years.
- B. Once every three (3) years thereafter.
- C. During or immediately after the cessation of a ten (10)-year or greater storm, i.e., a storm of a estimated frequency of recurrence of ten (10) years or greater interval of time.

### Section 803. Enforcement

- A. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM Site Plan, unless specifically exempted in Section 302.
- B. It shall be unlawful to violate any Section of this Ordinance.
- C. Inspections regarding compliance with the SWM Site Plan are a responsibility of the Municipality.

### Section 804. Suspension and Revocation

- A. Any approval or permit issued by the Municipality pursuant to this Ordinance may be suspended or revoked for:
  - 1. Non-compliance with or failure to implement any provision of the approved SWM Site Plan or O&M Agreement.
  - 2. A violation of any provision of this Ordinance or any other applicable law, ordinance, rule, or regulation relating to the Regulated Activity.
  - 3. The creation of any condition or the commission of any act during the Regulated Activity which constitutes or creates a hazard, nuisance, pollution, or endangers the life or property of others.

## ARTICLE IX - REFERENCES

1. Pennsylvania Department of Environmental Protection. No. 363-0300-002 (December 2006), as amended and updated. Pennsylvania Stormwater Best Management Practices Manual. Harrisburg, PA.
2. Pennsylvania Department of Environmental Protection. No. 363-2134-008 (April 15, 2000), as amended and updated. Erosion and Sediment Pollution Control Program Manual. Harrisburg, PA.
3. U.S. Department of Agriculture, National Resources Conservation Service (NRCS). National Engineering Handbook. Part 630: Hydrology, 1969-2001. Originally published as the National Engineering Handbook, Section 4: Hydrology. Available from the NRCS online at: <http://www.nrcs.usda.gov/>.
4. U.S. Department of Agriculture, Natural Resources Conservation Service. 1986. Technical Release 55: Urban Hydrology for Small Watersheds, 2nd Edition. Washington, D.C.
5. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service, Hydrometeorological Design Studies Center. 2004-2006. Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, Silver Spring, Maryland. Internet address: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
6. Act of July 31, 1968, P.L. 85, No.247, The Pennsylvania Municipalities Planning Code, as amended.



**ARTICLE X - ENACTMENT**

The Borough of Franklinton

Stormwater Management Ordinance – No. 277-2011

**ENACTED and ORDAINED** at a regular meeting of the  
Borough Council of the Borough of Franklinton

on this 5<sup>th</sup> day of October, 2011.

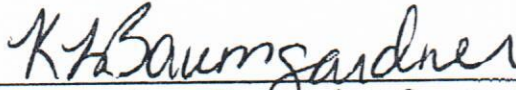
This Ordinance shall take effect immediately.



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Richard Blouch, President

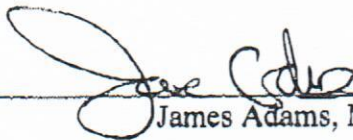
ATTEST:



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Kacey Baumgardner, Secretary

MAYORAL APPROVAL



---

James Adams, Mayor

APPENDIX A

**OPERATION AND MAINTENANCE (O&M) AGREEMENT**

**STORMWATER MANAGEMENT BEST MANAGEMENT**

**PRACTICES (SWM BMPs)**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, (hereinafter the "Landowner"), and the Borough of Franklintown, York County, Pennsylvania, (hereinafter "Municipality");

**WITNESSETH**

**WHEREAS**, the Landowner is the owner of certain real property as recorded by deed in the land records of \_\_\_\_\_ County, Pennsylvania, Deed Book \_\_\_\_\_ at page \_\_\_\_\_, (hereinafter "Property").

**WHEREAS**, the Landowner is proceeding to build and develop the Property; and

**WHEREAS**, the SWM BMP Operation and Maintenance (O&M) Plan approved by the Municipality (hereinafter referred to as the "O&M Plan") for the property identified herein, which is attached hereto as Appendix A and made part hereof, as approved by the Municipality, provides for management of stormwater within the confines of the Property through the use of BMPs; and

**WHEREAS**, the Municipality, and the Landowner, his successors and assigns, agree that the health, safety, and welfare of the residents of the Municipality and the protection and maintenance of water quality require that on-site SWM BMPs be constructed and maintained on the Property; and

**WHEREAS**, the Municipality requires, through the implementation of the SWM Site Plan, that SWM BMPs as required by said SWM Site Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner, successors, and assigns.

**NOW, THEREFORE**, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The Landowner shall construct the BMPs in accordance with the plans and specifications identified in the SWM Site Plan.
2. The Landowner shall operate and maintain the BMPs as shown on the SWM Plan in good working order in accordance with the specific operation and maintenance requirements noted on the approved O&M Plan.

3. The Landowner hereby grants permission to the Municipality, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper credentials, to inspect the BMPs whenever necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.
4. In the event the Landowner fails to operate and maintain the BMPs per paragraph 2., the Municipality or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). It is expressly understood and agreed that the Municipality is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Municipality.
5. In the event the Municipality, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Municipality for all expenses (direct and indirect) incurred within ten (10) days of receipt of invoice from the Municipality.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMPs by the Landowner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.
7. The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Municipality from all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or Municipality.
8. The Municipality may inspect the BMPs at a minimum of once every three (3) years to ensure their continued functioning. Optionally, at its sole discretion, the Municipality may inspect the BMPs at more or less frequent intervals.

This Agreement shall be recorded at the Office of the Recorder of Deeds of \_\_\_\_\_  
County, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable  
servitude, and shall be binding on the Landowner, his administrators, executors, assigns, heirs,  
and any other successors in interests, in perpetuity.

ATTEST:

WITNESS the following signatures and seals:

(SEAL) For the Municipality:

For the Landowner:

ATTEST:

\_\_\_\_\_(City, Borough, Township)

County of \_\_\_\_\_, Pennsylvania

I, \_\_\_\_\_, a Notary Public in and for the county and state  
aforesaid, whose commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, do  
hereby certify that \_\_\_\_\_

whose name(s) is/are signed to the foregoing Agreement bearing date of the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, has acknowledged the same before me in my said county and state.

**GIVEN UNDER MY HAND THIS** \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**NOTARY PUBLIC**

\_\_\_\_\_  
**(SEAL)**

## APPENDIX B

### DISCONNECTED IMPERVIOUS AREA (DIA)

#### B.1. Rooftop Disconnection

When rooftop down spouts are directed to a pervious area that allows for infiltration, filtration, and increased time of concentration, the rooftop may qualify as completely or partially DIA and a portion of the impervious rooftop area may be excluded from the calculation of total impervious area.

A rooftop is considered to be completely or partially disconnected if it meets the requirements listed below:

- § The contributing area of rooftop to each disconnected discharge is 500 square feet or less, and
- § The soil, in proximity of the roof water discharge area, is not designated as hydrologic soil group "D" or equivalent, and
- § The overland flow path from roof water discharge area has a positive slope of five percent (5%) or less.

For designs that meet these requirements, the portion of the roof that may be considered disconnected depends on the length of the overland path as designated in Table B.1.

<b>Length of Pervious Flow Path *</b>	<b>Roof Area Treated as Disconnected</b>
(ft)	(% of contributing area)
0 – 14	0
15 – 29	20
30 – 44	40
45 – 59	60
60 – 74	80
75 or more	100

\* Flow path cannot include impervious surfaces and must be at least 15 feet from any impervious surfaces.

#### B.2. Pavement Disconnection

When pavement runoff is directed to a pervious area that allows for infiltration, filtration, and increased time of concentration, the contributing pavement area may qualify as a DIA that may be excluded from the calculation of total impervious area. This applies generally only to small or

narrow pavement structures such as driveways and narrow pathways through otherwise pervious areas, e.g., a walkway or bike path through a park.

Pavement is disconnected if the pavement, or area adjacent to the pavement, meets the requirements below:

- § The contributing flow path over impervious area is not more than 75 feet, and
- § The length of overland flow is greater than or equal to the contributing length, and
- § The soil is not designated as hydrologic soil group "D" or equivalent, and
- § The slope of the contributing impervious area is five percent (5%) or less, and
- § The slope of the overland flow path is five percent (5%) or less.

If the discharge is concentrated at one or more discrete points, no more than 1,000 square feet may discharge to any one point. In addition, a gravel strip or other spreading device is required for concentrated discharges. For non-concentrated discharges along the edge of the pavement, this requirement is waived; however, there must be a provision for the establishment of vegetation along the pavement edge and temporary stabilization of the area until vegetation becomes stabilized.

#### REFERENCE

Philadelphia Water Department. 2006. Stormwater Management Guidance Manual. Section 4.2.2: Integrated Site Design. Philadelphia, PA.

**ORDINANCE NO. 278 -2011**

**AN ORDINANCE OF THE BOROUGH OF FRANKLINTOWN, COUNTY OF YORK, COMMONWEALTH OF PENNSYLVANIA AMENDING ORDINANCE NUMBER 250-1997, KNOWN AS THE "CODE OF ORDINANCES," AMENDING PART 10, PUBLIC SAFETY, CHAPTER 4, OUTDOOR BURNING, BY REPLACING THAT CHAPTER IN ITS ENTIRETY.**

Part 10, Public Safety, Chapter 4, Outdoor Burning, is hereby amended to read as follows:

**CHAPTER 4 – OUTDOOR BURNING**

Section 401: Open Burning and Outdoor Burning Prohibition

It shall be and is hereby declared to be unlawful for any person or entity to burn or permit to be burned any substances or maintain or permit to be maintained any fire out-of-doors on any tract of land within the Borough of Franklinton except for the following:

- a. Outdoor fires to cook food for human consumption provided the fire is confined to a fire ring, fireplace, charcoal or gas grill or other similar fireproof container;
- b. Fires used exclusively for burning small piles of brush or yard waste, provided that any such burning occurs at a distance of not less than twenty-five (25) lineal feet from the nearest point of any building and not less than ten (10) lineal feet from any boundary line of the tract of land on which said burning occurs;
- c. Upon the issuance of a permit from any two (2) members of Borough Council, kindling a fire for burning large piles of brush or yard waste. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.
  - 1) Where required by state law or regulations, open burning shall only be permitted with prior approval from the Bureau of Air Quality control or other State authority, provided that all conditions specified in the authorization are followed.
- d. Bonfires, upon the issuance of a permit from any two (2) members of Borough Council, provided that:
  - 1) The fuel for the bonfire shall not be more than five (5) feet long by five (5) feet wide by five (5) feet high in dimension. The size and duration of a bonfire shall be defined in the approval of the two (2) members of Borough Council;
  - 2) Any such bonfire must occur at a distance of not less than one hundred (100) lineal feet from the nearest point of any building and not less than one hundred (100) lineal feet from any boundary line of the tract of land on which said bonfire occurs.

3) All bonfires must be completely extinguished at the end of the event. The end time will be noted on the permit.

e. Fires set or maintained for fire fighting training purposes.

Section 402: Additional Restrictions for ALL Burning Activities

a. It shall be and is hereby declared to be unlawful for any person, firm, partnership or corporation to burn any substance or maintain any fire upon any of the public streets, roads, highways, alleys, sidewalks, parks or other public grounds within and under the jurisdiction of the Borough of Franklinton unless specifically authorized in advance of such burning by specific authority of the Borough Council.

b. Burning which produces noxious smoke that could travel to an adjoining property and cause personal discomfort to the residents of that adjoining property or when atmospheric conditions or local circumstances make such fires hazardous shall not be permitted. Additionally, no burning shall be permitted between dusk and dawn of any day or on Sunday. All fires must be completely extinguished by the initiating property owner before dusk.

c. Any permitted open burning shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher, small hose line, or other approved on-site fire extinguisher equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

d. Open burning of refuse is prohibited. Refuse shall refer to any waste material including, but not limited to, construction and demolition waste but excluding trees, logs, brush, grass clippings and other vegetative matter.

e. Open burning of recyclable materials is prohibited.

f. Additional restrictions may be placed on fires by any two (2) members of the Borough Council or other duly authorized official of the Borough if it is determined that the situation is likely to constitute an unreasonable threat to people or property. During periods of low humidity, drought, high wind or other adverse weather conditions, the official may restrict burning to prevent the spread of fire. The two (2) members of Borough Council or other duly authorized official of the Borough shall have the authority to order the extinguishment of any fire in violation of this Ordinance or which creates an unreasonable threat to people or property. Prior to any approved exception of this burning ordinance to allow burning, the property owner must notify the Township Secretary or other duly authorized official of the Borough (717) 342-4969 of their intent to burn with the hours of burning stated.



Section 403: Penalties

Any person or entity who shall violate the provisions of this Ordinance shall, upon conviction thereof in a summary proceeding before a Magisterial District Judge, be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars, plus costs of prosecution, and, in default of payment of such fines and costs, shall be imprisoned for not more than thirty (30) days in the county prison. Extinguishing costs may also be assessed as necessary.

Section 404: Severability

The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect the validity of any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted and enacted if such unconstitutional, illegal or invalid provision had not been included herein.

Section 405: Repealer

Any ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 406: Effective Date

This ordinance shall become effective five (5) days from its enactment.

Duly enacted and ordained by the Council of the Borough of Franklinton, County of York, Commonwealth of Pennsylvania the 5<sup>th</sup> day of October, 2011 in lawful session duly assembled.

ATTEST

BOROUGH OF FRANKLINTOWN

KH Baumgardner  
Secretary

By: Richard H. Blouch  
President of Council

Examined and approved this 5 day of October, 2011.

By: [Signature]  
Mayor of Borough of Franklinton

**BOROUGH OF FRANKLINTOWN,  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE 279-2011**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF FRANKLINTOWN, YORK COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NUMBER 250-1997, KNOWN AS THE "CODE OF ORDINANCES," AMENDING PART 3, FINANCIAL ADMINISTRATION, CHAPTER 2 TAXATION, SECTION 202, ENTITLED "EARNED INCOME AND NET PROFITS TAX, BY DELETING THE EXISTING TEXT OF SECTION 202 EARNED INCOME AND NET PROFITS TAX IN ITS ENTIRETY AND, IN LIEU THEREOF, ADOPTING THE FOLLOWING LEGISLATION TO LEVY AND IMPOSE A TAX FOR GENERAL REVENUE PURPOSES ON EARNED INCOME AND NET PROFITS OF RESIDENTS AS WELL AS NON-RESIDENTS DERIVING INCOME FROM WITHIN THE BOROUGH OF FRANKLINTOWN; REQUIRING THE FILING OF TAX RETURNS; REQUIRING EMPLOYERS TO REGISTER, WITHHOLD AND REMIT TAXES AND FILE TAX RETURNS, PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE, INCLUDING COLLECTION OF AND PROSECUTION OF DELINQUENT ACCOUNTS AND COSTS THEREOF; AND IMPOSING PENALTIES FOR VIOLATIONS OF SUCH ORDINANCE.**

**WHEREAS**, the Borough Council of the Borough of Franklinton is authorized to enact ordinances to levy a tax for general revenue purposes on earned income and net profits of residents of the Borough of Franklinton and certain non-residents, to require the filing of tax returns, to provide for the administration and collection of such taxes, and to impose penalties for violations of such Ordinances pursuant to the Local Tax Enabling Act, 53 P.S. §6924.101 et seq. (hereinafter the "Act") and other applicable law; and

**WHEREAS**, due to the enactment of the Act of General Assembly of July 2, 2008 (P.L. 197) and known as Act No. 32, it is necessary to enact this Ordinance to conform the local income tax currently levied on earned income and net profits by the municipality with Act 32 and to do so within the time frame set forth therein.

**WHEREAS**, after due advertisement of and public hearing on this Ordinance as required by law, the Borough Council of the Borough of Franklinton finds adoption of this Ordinance to be necessary to comply with Act 32 and in the best interest of the health, safety and general welfare of its residents.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Borough Council of the Borough of Franklinton, York County, Pennsylvania, by virtue of the power and authority vested in the same, as follows:

**Section 1. Short Title.**

This Ordinance shall be known as the "Borough of Franklinton Earned Income and Net Profits Tax Ordinance," referred to herein as "Ordinance."

**Section 2. Intent and Applicable Rules.**

It is the intent and purpose of this Ordinance to include all of the applicable language and provisions of 53 P.S. 6924.501 et. seq., the Act of General Assembly of July 2, 2008 (P.L. 197) and known as Act No. 32, as may be amended and supplemented from time to time. In all enforcement of the administration of this Ordinance, the language and intent of the Act, as amended, shall take precedence.

The tax imposed by this Ordinance shall be collected and administered in accordance with: 1) all applicable laws and regulations; and 2) regulations, policies and procedures adopted by the TCC or Tax Officer. This includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. 1937.

**Section 3. Definitions.**

All words and phrases shall have the meanings as set forth in Act 32, as amended. The following words and phrases, when used in this Ordinance shall have the meanings ascribed to them as follows:

**BUSINESS** – An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by a person, partnership, association or any other entity.

**BUSINESS ENTITY** – A sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

**CORPORATION** – A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. This term shall include an entity which is classified as a corporation for Federal income tax purposes.

**CURRENT YEAR** – The calendar year for which the tax is levied.

DEPARTMENT – The Pennsylvania Department of Community and Economic Development or successor agency charged with any duties under the Act, as may be amended and supplemented.

DOMICILE – The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME – The compensation as required to be reported to or as determined by the Pennsylvania Department of Revenue under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the “Tax Reform Code of 1971,” and rules and regulations promulgated under that section. For purposes of earned income, employee business expenses are allowable deductions as determined under Article III of the “Tax Reform Code of 1971.” The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EARNED INCOME AND NET PROFITS TAX – The tax levied herein by municipality on earned income and net profits. Also referred to as “tax” herein.

EMPLOYER – A person, business entity or other entity employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. For purposes of penalties hereunder, this term includes a corporate officer.

MUNICIPALITY – A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class or township of the second class. For purposes of this Ordinance, such term shall mean the Borough of Franklinton, York County, Pennsylvania.

NET PROFITS – The net income from the operation of a business, except corporations as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the “Tax Reform Code of 1971,” and rules and regulations in promulgated under such section. The term does not include income: a) which is not paid for services provided; and b) which is in the nature of earnings from an investment. Further, the term shall not include:

- A. Any gain on the sale of farm machinery;
- B. Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
- C. Any gain on the sale of other capital assets of the farm.

NONRESIDENT – A person, partnership, association or other entity domiciled outside of the municipality.

PERSON or INDIVIDUAL – A natural person.

PRECEDING YEAR – The calendar year before the current year.

RESIDENT – A person, partnership, association or other entity domiciled in the municipality.

SUCCEEDING YEAR – The calendar year following the current year.

TAX BUREAU – A public nonprofit entity established by a TCC for the administration and collection of earned income and net profits tax.

TAX COLLECTION COMMITTEE (herein referred to as “TCC”) – The committee established to govern each TCD for the purpose of income tax collection. This term shall include a joint tax collection committee.

TAX COLLECTION DISTRICT (herein referred to as “TCD”) – The York Tax Collection District as established under Act.

TAX OFFICER – A political subdivision, public employee, tax bureau, county, excluding a county of the first class, or private agency which administers and collects earned income and net profits for one or more TCD. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the Tax Officer or tax collector for the TCD within which the employer is located, or if an employer maintains workplaces in more than one TCD, the Tax Officer for each such TCD with respect to employees principally employed therein.

TAXPAYER – A person or business required hereunder to file a return of earned income or net profits or to pay a tax thereon.

#### **Section 4. Imposition of tax.**

A. A tax of One (1.0%) percent for general revenue purposes is hereby imposed on earned income and net profits earned by residents of the municipality.

B. A tax of One (1.0%) percent for general revenue purposes is hereby imposed on earned income and net profits earned by nonresidents, exclusive of domestic servants and Maryland residents.

C. The earned income and net profits tax levied under this Ordinance shall be applicable to earned income received and to net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year or for taxpayer fiscal years beginning in the current year. The earned income and net profits tax shall continue in force on a calendar year or taxpayer fiscal year basis without the need for annual enactment or re-enactment, unless the

rate of the tax is subsequently changed. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

**Section 5. Declaration and payment of tax.**

A. Application.

1. Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year; except that taxes imposed for the first time and changes to existing tax rates shall become effective on January 1 or July 1, as specified in this Ordinance, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

2. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

B. Partial domicile. The taxable income subject to tax of a taxpayer who is domiciled in a political subdivision for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the tax year that the individual is domiciled in the political subdivision, and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles are equal, the calendar month shall be included in calculating the number of months in the new domicile.

C. Declaration and payment.--Except as provided in subsection (A)(2), taxpayers shall declare and pay income taxes as follows:

1. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident Tax Officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under section 7 below and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the Tax Officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

2. i. Every taxpayer making net profits shall, by April 15 of the current year, make and file with the Tax Officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the Tax Officer in four equal quarterly installments the tax due on the estimated net profits.

The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

ii. Any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the Tax Officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.

iii. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Tax Officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the Tax Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the Tax Officer on or before January 31 of the succeeding year, the final return.

iv. The Department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.

v. Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this Ordinance and pay the tax due.

3. Every taxpayer who receives any other taxable income not subject to withholding under Section 512(3) of the Act shall make and file with the resident Tax Officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as the Department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the Tax Officer the amount of income tax due. The Department shall establish criteria under which the Tax Officer may waive the quarterly return and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

4. The TCC may, by regulation, waive the requirements for a quarterly return and payment of income tax under specified circumstances, including those instances where a taxpayer's annual taxable income is less than a specified amount.

#### **Section 6. Registration.**

A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality, having imposed a tax on earned income or net profits within its municipal boundaries who employs one or more persons, other than domestic servants, for a salary, wage commission or other compensation who has not previously registered shall within fifteen (15) days after becoming an employer, register with the Tax Officer or other designated Tax Officer, his/her or its name and address and such other information as the Department or Tax Officer may require.

B. Every employer shall require each new employee to complete a certificate of residency form, which form shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4 or successor form). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form, which forms are available from the Department or the Tax Officer upon request. The purpose of said form shall be to help identify the political subdivision where an employee lives and works.

#### **Section 7. Filing and Payment of Tax by Employer; Withholding**

A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality imposing a tax on earned income or net profits within the municipality who employs one or more persons, exclusive of domestic servants and Maryland residents, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the greater of the employee's resident tax or the employee's nonresident tax imposed by this Ordinance on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a quarterly return and pay to the Tax Officer the amount of taxes deducted during the preceding quarterly periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the Tax Officer and employer, shall show the name and social security number of each such employee, the compensation of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total compensation of all such employees during such preceding quarterly period and the total tax deducted therefrom and paid with the return as well as any other information prescribed by the Department or the Tax Officer.

B. Any employer who, for two (2) of the preceding four (4) quarterly periods, has failed to deduct the proper tax or any part thereof or who has failed to pay over the proper amount of tax to the Tax Officer may be required by the Tax Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Tax Officer on or before the last day of the month succeeding the month for which the tax was withheld.



C. Notwithstanding the provisions of (A) above, the provisions of this paragraph (C) shall apply if any employer has more than one (1) place of employment in more than one (1) TCD. Within thirty (30) days following the last day of each month, the employer may file the return required by paragraph (A) above and pay the total amount of tax due from employees in all work locations during the preceding month to the Tax Officer for either the TCD in which the employer's payroll operations are located or as determined by the Department. The return and tax deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least one (1) month prior to filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

D. On or before February 28 of the succeeding year, every employer shall file with the Tax Officer or other designated Tax Officer to whom tax, which has been deducted, has been remitted as required herein:

1. An annual return showing the total amount of compensation paid, the total amount of tax deducted, the total amount of tax paid to the Tax Officer for the period beginning January 1 of the current year and ending December 31 of the current year, and any other information prescribed by the Department.
2. An individual withholding statement which may be integrated with the Federal Wage and Tax Statement (Form W-2 or successor form), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the employee's name, address and Social Security number, the amount of compensation paid to the employee during said period, the amount of tax deducted, the numerical code prescribed by the Department representing the TCD where payments required herein were remitted and any other information required by the Department or the Tax Officer and the amount of tax paid to the Tax Officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

E. Every employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

F. Except as otherwise provided for in Section 511 of the Act, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which the employer is required to withhold to the extent that such taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax of from complying with the requirements of this Ordinance relating to the filing of declarations and returns.

G. No employer shall be required to deduct or withhold taxes, file returns or pay taxes with regard to residents of Maryland.

**Section 8. Powers and duties of Tax Officer.**

A. It shall be the duty of the Tax Officer to collect and receive the taxes, fines and penalties imposed by this Ordinance. It shall also be the Tax Officer's duty to keep a record showing the amount of tax received from each taxpayer paying the tax and the date of such receipt.

B. Each Tax Officer, before entering upon official duties, shall give and acknowledge a bond to the TCC appointing such Tax Officer. The bond provided shall be subject to the requirements set forth in the Act.

C. The Tax Officer shall comply with all resolutions, policies and procedures adopted by the tax collection committee and shall comply with all regulations adopted by the Department under the Act.

D. The Tax Officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses to the extent that such expenses are not paid by the taxpayer's employer.

E. The Tax Officer and agents designated by him/her/it are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the Tax Officer reasonably believes to be an employer or taxpayer in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the Tax Officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the Tax Officer or to any agent designated by him any means, facilities and opportunity for such examination and investigations as are hereby authorized. Such examination or audits shall be conducted by the Tax Officer and any agents designated by the Tax Officer shall be conducted in accordance with 53 Pa. C.S.A., Chapter 84, Subchapter "C" (relating to the local taxpayers bill of rights).

F. Any information gained by the Tax Officer, his/her/its agents or by any other official or agent of the taxing district as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Ordinance shall be and remain confidential, except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

G. The Tax Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year, provided that any filing, reporting or payment dates shall provide time periods equivalent to those time periods set forth for taxpayers whose fiscal year coincides with a calendar year.

**Section 9. Suit for collection of tax.**

A. The Tax Officer may sue in the name of the political subdivision within the TCD for the recovery of taxes due and unpaid under this Ordinance.

B. Any suit brought to recover the tax imposed by this Ordinance shall be begun within three (3) years after: 1) such tax is due or 2) the declaration or return has been filed, or 3) a redetermination of compensation or net profits by the Pennsylvania Department of Revenue whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

1. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this Ordinance, there shall be no limitation.
2. Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the Tax Officer reveals a fraudulent evasion of taxes, there shall be no limitation.
3. Where any person has deducted taxes under the provisions of this Ordinance and has failed to pay the amounts so deducted to the Tax Officer or where any person has willfully failed or omitted to make the deductions required by this Ordinance, there shall be no limitation.
4. Where an employer has intentionally failed to make deductions required by this Ordinance.
5. In the case of substantial understatement of tax liability of twenty-five (25%) percent or more and no fraud, suit shall be begun within six (6) years.

C. The Tax Officer may sue for recovery of an erroneous refund, provided that such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

D. This section shall not be construed to limit the municipality from recovering delinquent taxes by any other means provided by the Act. Further, nothing set forth herein shall be construed to limit a Tax Officer, a TCD or political subdivision from recovering delinquent taxes by any other means provided by the Act.

**Section 10. Interest and penalties.**

A. Except as may be provided for in (B) below, in the event any tax imposed in this Ordinance is not paid when due, interest shall accrue at the same rate a taxpayer is required to pay to the Commonwealth as provided in Section 806 of the act of April 9, 1929 (P.L. 343, No. 176), known as the Fiscal Code, or such successor legislation, on the amount of said tax and an

additional penalty of One (1%) percent of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected but the amount of penalty shall not exceed Fifteen (15%) percent in the aggregate. Where an action is brought for the recovery of tax, the taxpayer liable for the tax shall, in addition, be liable for the costs of collection, interest and penalties, including, but not limited to court costs and attorney's fees.

B. Pursuant to the Act, the Department may establish conditions under which a Tax Officer, with the concurrence of the TCC, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for nonpayment of taxes previously imposed and due if the taxpayer files delinquent returns and pays the tax in full.

C. The provisions of (B) above shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this Ordinance, or prevent the commencement of further prosecution of any proceedings by the appropriate authorities for violations of this Ordinance. However, no proceedings shall be commenced on the basis of delinquent returns filed pursuant to Section 10 above if the returns are determined to be substantially true and correct and the tax due is paid within the prescribed time.

#### **Section 11. Violations and penalties.**

A. Any person who fails, neglects or refuses to make any declaration or return required by this Ordinance, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Tax Officer or any agent designated by him to examine his books, records, papers and any person who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than two thousand five hundred (\$2,500) dollars for each offense and costs and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding six (6) months.

B. Any employer who is required under this Ordinance to collect, account for and distribute taxes and who willfully fails to collect or truthfully account for and distribute such tax, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding Twenty-Five Thousand (\$25,000.00) Dollars or to imprisonment not exceeding two (2) years or both.

C. Any person who divulges any information which is confidential under the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than two thousand five hundred (\$2,500) dollars for each offense and costs or to imprisonment for not more than one (1) year, or both.

D. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Ordinance.

E. The failure of any person to receive or procure forms required for making the declaration or returns required by this Ordinance shall not excuse him or her from making such declaration or return.

F. The Borough of Franklinton hereby approves and adopts the Cost of Collection Schedule, attached hereto and made a part hereof, to be imposed by the designated Tax Officer for the collection of taxes on earned income and net profits, upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid; provided, however, that the TCC may approve amendments to said fee schedule by resolution from time to time. Amendments to the collection schedule shall become effective upon adoption by the TCC. The designated Tax Officer is hereby authorized to retain such costs of collection as set forth in the attached schedule, as may be amended and supplemented from time to time, in recovering delinquent taxes and as permitted to be assessed to delinquent taxpayers pursuant to law.

### **Section 12. Applicability.**

This Ordinance shall not apply to any person or property as to whom or which it is beyond the legal power of the municipality to levy, assess and impose the tax or duties as herein provided.

### **Section 13. Severability**

The provisions of the Ordinance are severable and if any of its provisions are determined by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intention of the Borough Council that this Ordinance would have been adopted if such invalid or unconstitutional provision had not been included.

### **Section 14. Purpose/Amendment and Restatement/Repeal.**

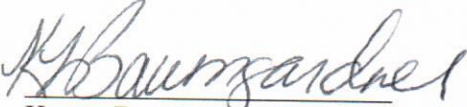
The primary purpose of this Ordinance is to conform the local income tax currently levied on earned income and net profits by the municipality with the Act and to do so within the time frame set forth in the Act. Any prior Ordinance levying such tax is hereby amended and restated in its entirety to read as set forth in this Ordinance. To the extent that any previous Ordinance or portion thereof is inconsistent or conflicts with this Ordinance, such Ordinance(s) or portion thereof shall be repealed to the extent of such inconsistency and/or conflict. To the extent the same or any prior Ordinance levying such tax in force immediately prior to enactment of this Ordinance, this Ordinance is intended as a continuation of such prior Ordinance and not as the enactment of an Ordinance imposing a new tax. In the event this Ordinance or any portion thereof is determined to be unconstitutional or otherwise invalid, the prior Ordinance, or portion thereof, levying a similar tax shall remain in full force and effect and shall not be affected by the adoption of this Ordinance. Nothing contained herein shall affect, impair or otherwise abrogate any act done or liability incurred, nor shall any provision of this Ordinance affect, impair or preclude any suit or prosecution pending, whether or not currently initiated, to enforce any right, penalty or violation under the authority of any previous Ordinance in force prior to adoption of this Ordinance.

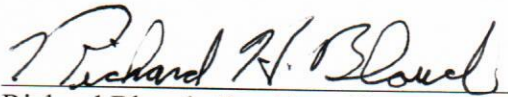
**Section 15. Effective date; initial current year.**

The effective date of this Ordinance and beginning of the initial current year shall be January 1, 2012.

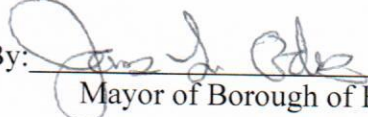
ATTEST:

THE BOROUGH OF FRANKLINTOWN  
YORK COUNTY, PENNSYLVANIA

  
Kacey Baumgardner, Secretary

  
Richard Blouch, President, Borough Council

Examined and approved this 2ND day of NOVEMBER, 2011.

By:   
Mayor of Borough of Franklinton

ORDINANCE 280-2011

AN ORDINANCE OF THE BOROUGH OF FRANKLINTOWN, COUNTY OF YORK, COMMONWEALTH OF PENNSYLVANIA AMENDING ORDINANCE NUMBER 250-1997, KNOWN AS THE "CODE OF ORDINANCES" BY AMENDING PART 3, FINANCIAL ADMINISTRATION, CHAPTER 1, GENERAL PROVISIONS, SECTION 106, TAX COLLECTOR (EXCEPT REAL ESTATE) SCHEDULE OF COSTS, ADOPTING A SCHEDULE OF COSTS FOR THE TAX COLLECTOR (EXCEPT REAL ESTATE) FOR CERTAIN TASKS.

After several recitals detailing the authority under which the subject taxes were levied and collected, and the new relationship between the Borough of Franklinton and the York Adams Tax Bureau, its newly designated tax collector for current and delinquent taxes (except real estate taxes), this Ordinance adopts the following:

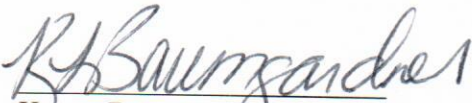
Part 3, Financial Administration, Chapter 1, General Provisions, Section 106, Tax Collector (Except Real Estate) is hereby amended to read as follows:

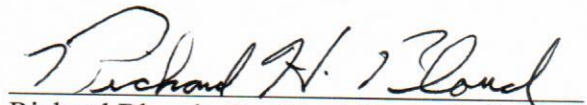
Section 106: Tax Collector – (except real estate) Schedule of Costs

1. The Borough approves and adopts the Cost of Collection Schedule proposed by the York Adams Tax Bureau, which schedule is attached to and made a part of the Ordinance, for collection of delinquent local taxes.
2. The York Adams Tax Bureau, or other designated tax collection of the Borough of Franklinton is authorized to collect and retain expended costs of collection effective January 1, 2012.
3. Any Ordinance conflicting with this Ordinance are repealed.
4. This Ordinance shall become effective January 1, 2012.

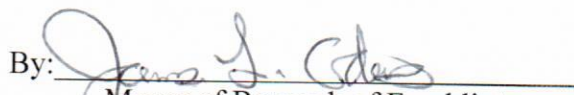
ATTEST:

THE BOROUGH OF FRANKLINTOWN  
YORK COUNTY, PENNSYLVANIA

  
Kacey Baumgardner, Secretary

  
Richard Blouch, President, Borough Council

Examined and approved this 2<sup>ND</sup> day of NOVEMBER, 2011.

By:   
Mayor of Borough of Franklinton

**BOROUGH OF FRANKLINTOWN,  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE 281-2011**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF FRANKLINTOWN, YORK COUNTY, PENNSYLVANIA, CORRECTING ORDINANCE NUMBER 279-2011 AND 250-1997, KNOWN AS THE "CODE OF ORDINANCES," AMENDING PART 3, FINANCIAL ADMINISTRATION, CHAPTER 2 TAXATION, SECTION 202, ENTITLED "EARNED INCOME AND NET PROFITS TAX," BY RETURNING THE EARNED INCOME AND NET PROFITS TAX RATES TO 2011 LEVELS, THERE BEING NO INTENT TO RAISE THE RATE IN THE PRIOR LEGISLATION.**

**WHEREAS**, the Borough Council of the Borough of Franklinton enacted Ordinance 279-2011 on November 2, 2011 in which it enacted a tax for general revenue purposes on earned income and net profits of residents of the Borough of Franklinton and certain non-residents in order to comply with the Act of General Assembly of July 2, 2008 (P.L. 197), known as Act No. 32; and

**WHEREAS**, due to a clerical error not noticed prior to the vote taken to enact this Ordinance, the Borough Council inadvertently and unknowingly caused an increase in the Earned Income and Net Profits Tax to be effective January 1, 2012; and

**WHEREAS**, the Borough Council of the Borough of Franklinton wishes to correct this error and restore the rates charged to residents and certain non-residents for Earned Income and Net Profits Tax to its 2011 rate;

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Borough Council of the Borough of Franklinton, York County, Pennsylvania, by virtue of the power and authority vested in the same, as follows:

Ordinance 250-1997, the "Code of Ordinances," Part 3 Financial Administration, Chapter 2 Taxation, Section 202 Earned Income and Net Profits Tax, Subsection 4 Imposition of Tax, is hereby amended to read:

**Section 4. Imposition of tax.**

- A. A tax of One-Half of One (0.50%) Percent for general revenue purposes is hereby imposed on earned income and net profits earned by residents of the municipality.
- B. A tax of One-Half of One (0.50%) Percent for general revenue purposes is hereby imposed on earned income and net profits earned by nonresidents, exclusive of domestic servants and Maryland residents.



C. The earned income and net profits tax levied under this Ordinance shall be applicable to earned income received and to net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year or for taxpayer fiscal years beginning in the current year. The earned income and net profits tax shall continue in force on a calendar year or taxpayer fiscal year basis without the need for annual enactment or re-enactment, unless the rate of the tax is subsequently changed. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

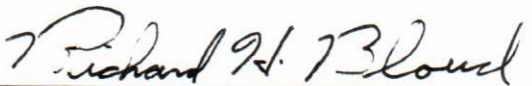
All other provisions of this Ordinance shall remain as unchanged hereby and as enacted by Ordinance 279-2011.

The effective date of this Ordinance and beginning of the initial current year shall be January 1, 2012.

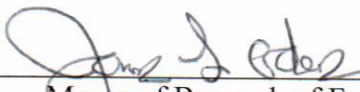
ATTEST:

THE BOROUGH OF FRANKLINTOWN  
YORK COUNTY, PENNSYLVANIA

  
Kacey Baumgardner, Secretary

  
Richard Blouch, President, Borough Council

Examined and approved this 7 day of December, 2011.

By:   
Mayor of Borough of Franklinton

Attachment to Part 3, Section 106  
Tax Collector (Except Real Estate) Schedule of Costs

**YORK ADAMS TAX BUREAU**

**SCHEDULE OF COSTS TO PROVIDE NOTICES OF DELINQUENCY OR TO  
COLLECT DELINQUENT TAXES**

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**I. Individual Earned Income Tax.**

<b>A. Non-filing individual taxpayer delinquency notices:</b>	
1. First delinquent notice(each notice)	\$ 5.00
2. Second delinquent notice(each notice)	\$ 10.00
3. Preparation of Criminal Complaint	\$ 20.00
4. Preparation of re-filing Criminal Complaint due to non-compliance	\$ 40.00
<b>B. Unpaid individual earned income tax:</b>	
1. First non-payment notice(each notice)	\$ 5.00
2. Second non-payment notice(each notice)	\$ 10.00
3. Payment schedule fee:	\$ 20.00
4. Wage attachment	\$ 40.00
5. Suit in assumpsit or other appropriate remedy	Actual costs incurred plus \$20.00 preparation fee
6. Entering Judgment at the Office of the Prothonotary	Actual costs incurred plus \$75.00 preparation fee
7. Satisfaction of Judgment	Actual costs incurred plus \$25.00 preparation fee
<b>C. Non-compliance with required quarterly individual Tax payments.</b>	\$ 5.00 per quarter \$ 20.00 per year
<b>D. Cost to provide copies of filed tax returns or W-2s to taxpayers.(current and next prior year) (2<sup>nd</sup> prior year and older)</b>	\$ 5.00 \$ 10.00

**II. Employer Accounts.**

<b>A. Non-filing tax return or support documentation: (Applicable for each quarter)</b>	
1. First delinquent notice(each notice)	\$ 5.00
2. Second delinquent notice(each notice)	\$ 10.00
3. Preparation of Criminal Complaint	\$ 20.00
4. Preparation of re-filing Criminal Complaint due to non-compliance	\$ 40.00

<b>B. Unpaid Employer's Remittance of Employee's Tax:</b>	
<b>(Applicable for each quarter)</b>	
1. First non-payment notice(each notice)	\$ 5.00
2. Second non-payment notice(each notice)	\$ 10.00
3. Payment schedule fee:	\$ 20.00
4. Preparation of Criminal Complaint	\$ 20.00
5. Preparation of re-filing Criminal Complaint due to non-compliance	\$ 40.00
6. Suit in assumpsit or other appropriate remedy	Actual costs incurred plus \$20.00 preparation fee
7. Entering Judgment at the Office of the Prothonotary	Actual costs incurred plus \$45.00 preparation fee
8. Satisfaction of Judgment	Actual costs incurred plus \$25.00 preparation fee

**III. Other Tax Collection Services. (Emergency and Municipal Services Tax; Delinquent Per Capita Tax). (As applicable for year or designated tax period).**

<b>A. Non-filing of return or support documentation delinquency notice:</b>	
1. First delinquent notice(each notice)	\$ 5.00
2. Second delinquent notice(each notice)	\$ 10.00
3. Preparation of Criminal Complaint	\$ 20.00
4. Preparation of re-filing Criminal Complaint due to non-compliance	\$ 40.00
<b>B. Unpaid taxes.</b>	
1. First non-payment notice(each notice)	\$ 5.00
2. Second non-payment notice(each notice)	\$ 10.00
3. Payment schedule fee:	\$ 20.00
4. Wage Attachment	\$ 40.00
5. Suit in assumpsit or other appropriate remedy	Actual costs incurred plus \$20.00 preparation fee
6. Entering Judgment at the Office of the Prothonotary	Actual costs incurred plus \$45.00 preparation fee
7. Satisfaction of Judgment	Actual costs incurred plus \$25.00 preparation fee

**BOROUGH OF FRANKLINTOWN  
YORK COUNTY, PENNSYLVANIA**

**SCHEDULE OF COSTS TO PROVIDE DELINQUENT TAX NOTICES AND TO  
COLLECT DELINQUENT TAXES FROM INDIVIDUAL TAXPAYERS  
AND EMPLOYERS**

**1. INDIVIDUAL AND EARNED INCOME TAX**

- A. Non-filing individual taxpayer delinquency notices:
- |    |  |          |
|----|--|----------|
| 1. | First delinquent notice – 1 <sup>st</sup> Class Mail (each notice) | No cost  |
| 2. | Second delinquent notice – Certified Mail (each notice)            | \$ 10.00 |
| 3. | Notice of Tax Examination – Certified Mail (each notice)           | \$ 10.00 |
- B. Unpaid individual earned income tax:
- |    |   |             |
|----|---|-------------|
| 1. | First non-payment notice – 1 <sup>st</sup> Class Mail (each notice) | No cost     |
| 2. | Second non-payment notice – Certified Mail (each notice)            | \$ 10.00    |
| 3. | Payment schedule fee  |             |
| a. | 0 – 4 months  | \$ 20.00    |
| b. | 4 – 6 months  | \$ 30.00    |
| 4. | Wage attachment   | \$ 40.00    |
| 5. | Suit in assumpsit or other appropriate remedy                       | Actual Cost |
|    |   | + \$20.00   |
- C. Non-compliance with required quarterly individual Earned Income Tax payments (per quarter):
- |  |  |         |
|--|--|---------|
|  |  | \$ 5.00 |
|--|--|---------|
- D. Cost to provide copies of filed tax returns or W-2 forms to taxpayers:
- |    |                                      |          |
|----|--------------------------------------|----------|
| 1. | Current year and next prior year     | \$ 5.00  |
| 2. | 2 <sup>nd</sup> prior year and older | \$ 10.00 |

**2. EMPLOYER EARNED INCOME TAX**

- A. Non-filing tax return or support documentation (applicable for each quarter):
- |    |   |          |
|----|---|----------|
| 1. | First delinquent notice – 1 <sup>st</sup> Class Mail (each notice)  | No cost  |
| 2. | Second delinquent notice – Certified Mail (each notice)             | \$ 10.00 |
| 3. | Preparation of Non-Traffic Citation                                 | \$ 20.00 |
| 4. | Preparation on re-filing Non-Traffic Citation due to non-compliance | \$ 40.00 |
- B. Unpaid employer's remittance of tax withheld from employee (applicable for each quarter):
- |    |   |          |
|----|---|----------|
| 1. | First non-payment notice – 1 <sup>st</sup> Class Mail (each notice) | No cost  |
| 2. | Second non-payment notice – Certified Mail (each notice)            | \$ 10.00 |

3.	Payment schedule fee	
	a. 0 – 4 months	\$ 20.00
	b. 4 – 6 months	\$ 30.00
4.	Preparation of Non-Traffic Citation	\$ 20.00
5.	Preparation on re-filing Non-Traffic Citation due to non-compliance	\$ 40.00
6.	Suit in assumpsit or other appropriate remedy	Actual Cost + \$20.00

**OTHER TAX COLLECTION SERVICES (Occupational Privilege Tax)**

Non-filing of return or supporting documentation:

1.	First delinquent notice – 1 <sup>st</sup> Class Mail (each notice)	No cost
2.	Second delinquent notice – Certified Mail (each notice)	\$ 10.00
3.	Preparation of Non-Traffic Citation	\$ 20.00
4.	Preparation on re-filing Non-Traffic Citation due to non-compliance	\$ 40.00

Unpaid taxes:

1.	First non-payment notice – 1 <sup>st</sup> Class Mail (each notice)	No cost
2.	Second non-payment notice – Certified Mail (each notice)	\$ 10.00
3.	Payment schedule fee	
	a. 0 – 4 months	\$ 20.00
	b. 4 – 6 months	\$ 30.00
4.	Preparation of Non-Traffic Citation	\$ 20.00
5.	Preparation on re-filing Non-Traffic Citation due to non-compliance	\$ 40.00
6.	Suit in assumpsit or other appropriate remedy	Actual Cost + \$20.00

\* “Actual costs incurred” includes court fees such as filing and service costs, legal fees paid by West Shore Tax Bureau to prosecute or defend the specific case and any other costs incurred by the West Shore Tax Bureau while preparing to prosecute or defend the specific case, including, but not limited to, witness fees, costs of obtaining certified documents from government regulatory agencies or other tax bureaus, etc.

**BOROUGH OF FRANKLINTOWN,  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE 282-2012**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF FRANKLINTOWN, YORK COUNTY, PENNSYLVANIA, AMENDING 250-1997, KNOWN AS THE "CODE OF ORDINANCES," AMENDING PART 3, FINANCIAL ADMINISTRATION, CHAPTER 2 TAXATION, SECTION 201, ENTITLED "REAL ESTATE TAX," BY FIXING THE PROPERTY TAX RATE EFFECTIVE JANUARY 1, 2013.**

**WHEREAS**, Ordinance 250-1997, The Code of Ordinances for the Borough of Franklinton, at Part 3 Financial Administration, Chapter 2 Taxation, Section 201 Real Estate Tax, levied a tax on all real property within the Borough; and

**WHEREAS**, the Borough Council has determined that the current real estate tax rate is insufficient to fund services provided by the Borough to its residents; and

**WHEREAS**, legal notice of a public hearing concerning this tax increase was published in a newspaper of general circulation, the Dillsburg Banner, on three (3) successive weeks, November 15, 22, and 29, 2012; and

**WHEREAS**, the public hearing was held as advertised on December 11, 2012,

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Borough Council of the Borough of Franklinton, York County, Pennsylvania, by virtue of the power and authority vested in the same, as follows:

Ordinance 250-1997, the "Code of Ordinances," Part 3 Financial Administration, Chapter 2 Taxation, Section 201 Real Estate Tax, is hereby amended to read:

Section 201: Real Estate

A tax is hereby levied on all property within the municipality subject to taxation at the rate of 2.07 MILLS effective January 1, 2013.

All other provisions of this Ordinance shall remain unchanged hereby.

The effective date of this Ordinance and beginning of the initial current year shall be January 1, 2013.

ATTEST:

THE BOROUGH OF FRANKLINTOWN  
YORK COUNTY, PENNSYLVANIA

K Baumgardner  
Kacey Baumgardner, Secretary

Richard H. Blouch  
Richard Blouch, President, Borough Council

Examined and approved this 11<sup>th</sup> day of December, 2012.

By: James J. Cidone  
Mayor of Borough of Franklinton

**BOROUGH OF FRANKLINTOWN,  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE 283-2014**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF FRANKLINTOWN, YORK COUNTY, PENNSYLVANIA, CORRECTING ORDINANCE NUMBER 279-2011 AND 250-1997, KNOWN AS THE "CODE OF ORDINANCES," AMENDING PART 9, PUBLIC PLACES AND GATHERINGS, CHAPTER 2 PARKS AND RECREATION IN ITS ENTIRETY.**

**PART 9, PUBLIC PLACES AND GATHERINGS, CHAPTER 2, PARKS AND RECREATION,** is hereby amended to read:

**Chapter 2 – PARKS AND RECREATION**

Section 201: Purpose

The purpose of this Ordinance is to establish a policy and procedures to ensure the proper development and maintenance of a safe, hazard-free public open space that Borough and local children and residents can use for individual and group recreation activities

Section 202: Jurisdiction of the Borough.

The parks and recreation areas referred to herein in the Borough are those parks and recreation areas situated on land owned by or under the jurisdiction of the Borough, primarily Archie Hess Park, located adjacent to the Franklinton Borough Office. See Aerial Map attached hereto as "Exhibit A."

Section 203. Recreation Fund

The Borough parks and recreation areas shall be maintained and developed with funds collected as fees in lieu of dedicated land on approved Subdivision and Land Development Plans as authorized in Section 503 (11) of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10503 (11) and established by resolution of the Franklinton Borough Council from time to time, donations made by the public for this stated purpose, and fees collected for certain uses of the park, which shall be deposited in an interest bearing account specifically created for, and solely to be used for this purpose.

Section 204. Future Park and Recreation Area Development

With the exception of standard and seasonal maintenance of the park and recreation areas, all decisions concerning the timing, design, details and funding of improvements to existing facilities or addition of new or expanded facilities shall lie with the Borough Council, with input



from its Borough Engineer, and after careful consideration of the needs, safety and welfare of Borough residents.

Section 205. Park Rules and Regulations

1. Hours. All Borough parks and recreational areas are open from dawn to dusk. All persons found within Borough parks or recreational areas during closed hours shall be subject to the penalties herein provided unless they have secured written permission from the Borough to be in and use the said recreational area during the time that the recreational area is generally closed.
2. Prohibited Acts. Certain acts are prohibited. When permission is required to conduct certain activities, the Borough shall have authority to refuse permission in any instance where the health, safety, general welfare, or liability of the Borough or its citizens, or park users would be threatened. The following acts are prohibited in any park or recreational area owned by Franklinton Borough:
  - A. Use, sale, consumption, purchase or possession of malt or alcoholic beverages or illegal drugs, except the use of malt or alcoholic beverages in a location designated and approved by the Borough and authorized by permit obtained from the Borough.
  - B. Fighting, drunken or disorderly conduct, disturbing the peace, or to be under the influence of illegal drugs.
  - C. The use of profane, abusive, threatening or obscene language or words.
  - D. Gambling, except as permitted under the Local Option Small Games of Chance Act of Pennsylvania and only if possessing a valid Small Games of Chance license, together with prior approval of the Borough.
  - E. Begging or soliciting of any nature.
  - F. The setting up of any booth, table or stand for the sale of any article or service whatsoever within the park without permission of the Borough; distributing, selling, servicing or renting any services or commodity, or soliciting for any purpose without permission of the Borough.
  - G. Possessing or discharging any firearm, air rifle, air pistol, sling shot, fireworks, firecracker, bow and arrow, or any other type of weapon or explosive device, except with special permission of the Borough Council.
  - H. Damaging, injuring, defacing, destroying, marking, writing, painting or moving borough owned property, whether natural or manmade, including, but not limited to trees, shrubs, plants, flowers, turf, buildings, structures, lights, fixtures, equipment or other material or property of the Borough.

- I. The climbing of any building, structure, fencing or onto the roof of any structure or building located in a park.
- J. Damaging, defacing, destroying or removing any notice, rule or regulation posted at any place within a park by authority of the Borough; or to post, display or distribute any banner or poster of a commercial or political nature unless part of an event approved by the Borough.
- K. Discarding of trash, garbage, rubbish or other litter except into containers provided for that purpose. Personal household trash, garbage or rubbish shall not be deposited into park containers. All persons using the park shall dispose of their trash, garbage and rubbish into containers and receptacles provided for that purpose.
- L. To set or maintain any fire in a park except in proper grills outside pavilions or in stoves, grills or fireplaces provided by the Borough, or with permission of the Borough at a specific location.
- M. Hunting, trapping, capturing, harassing, injuring or killing of wildlife of any kind or to disturb the nests or eggs of birds or fish, or homes of animals.
- N. Skateboarding, rollerblading or roller skating on any street, roadway or sidewalk, except on specially designated pathways for such. Bicycling is prohibited on sidewalks and on the specially designated pathways for skateboarding, rollerblading or roller skating.
- O. Hitting of golf balls on any playing field or surface.
- P. Violating any rule or regulation duly enacted and posted by the Borough.

3. Pets.

Pets in any park must be on a leash and under the control of its owner or its owner's agent at all times. Pet waste must be cleaned up immediately and removed or disposed of properly at designated areas only.

4. Traffic and Parking Regulations.

- A. The Pennsylvania Motor Vehicle Code, Act of 1976, P.L. 162, No. 81, as amended, Title 75 P.S. is hereby declared to be in effect at all Borough parks and on all streets and roadways therein, with like effect as though set forth herein in full, and the traffic rules and regulations set forth herein are in addition to and supplement the Motor Vehicle Code.

- B. A rate of speed exceeding five (5) miles per hour is prohibited. Operating a vehicle in a reckless or negligent manner or in excess of the posted speed limit is prohibited.
  - C. Use or operation of motor vehicles in any park is prohibited except in designated areas and upon hard-surface roads designated for vehicle use within any park.
  - D. All terrain vehicles (ATV's), snowmobiles, go-carts and similar recreational vehicles are prohibited anywhere in any park, including parking areas, except when secured on a trailer.
  - E. Use or operation of all commercial vehicles is prohibited within any park unless providing services authorized by the Borough.
  - F. Cleaning, polishing, greasing, lubricating or making repairs to any vehicle is prohibited in any park, except those of a minor nature and then only in cases of emergency.
  - G. All vehicles in any park must be removed by closing time. No vehicle shall be left in any park after closing hours without special permission from the Borough; the Borough shall be under no obligation to reopen the park or any parking lot, road or gate locked after closing hours in order to allow said vehicle to be removed during a period of time when the park is closed. Each occasion that a vehicle is left in a park after closing hours without permission of the Borough shall be a separate violation of this Ordinance.
5. Reservations. Park facilities including all fields, courts and open pavilions, may be used by all persons except on dates and times reserved. Enclosed park buildings are to be occupied by the Borough or by reservation only. Persons with reservations shall have the sole and exclusive use of designated reserved areas for the duration of the reservation period.

Reservations are to be obtained by applying to the Borough at least forty-eight (48) hours in advance of the requested reservation time.

Should a reservation be granted and a permit issued, the permit must be clearly displayed the entire time that the reserved area is occupied. Persons with reservations shall clean up and remove all trash and garbage or place same in properly designated containers.

6. Fees.

There may be a fee charged, as established from time to time by resolution of the Borough Council, for reservation and use of park facilities. Said fee schedule may

also require the posting of a security deposit to guarantee that the park facilities are left in good and orderly condition.

7. Authority to Close Areas.

Park and recreation areas and facilities which become hazardous for public use due to weather, water, fire or unforeseen conditions may be closed at the discretion of the Borough.

8. Rules and Regulations.

The Borough may, by resolution properly adopted by the Borough Council to provide for the efficient and orderly operation, management or maintenance of its parks and recreational facilities, adopt further rules and regulations which shall be conspicuously posted. The violation of any additional rules and regulations when properly posted shall constitute a violation of this Ordinance.

Section 206: Penalty for Violation.

Any person found guilty of a violation of this Ordinance in a summary proceeding before a Magisterial District Judge shall pay a fine of not more than One Thousand Dollars (\$1,000.00) nor less than Fifty Dollars (\$50.00) and the costs of prosecution, and in default of payment of such fine and costs of prosecution, shall be imprisoned for not more than ten (10) days; provided each day's continuance of a violation shall constitute a separate offense.

Section 207: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

Section 208: Effective Date.


This Ordinance shall take effect five (5) days after its enactment.

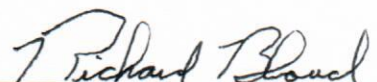
**ENACTMENT SIGNATURES ON NEXT PAGE**

DULY ENACTED AND ORDAINED this 1<sup>st</sup> day of October, 2014 by the Borough Council of the Borough of Franklintown, York County, Pennsylvania, in lawful session duly assembled.

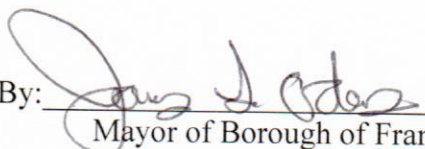
ATTEST:

THE BOROUGH OF FRANKLINTOWN  
YORK COUNTY, PENNSYLVANIA

  
Kacey Baumgardner, Secretary

  
Richard Blouch, President, Borough Council

Examined and approved this 1<sup>st</sup> day of October, 2014.

By:   
Mayor of Borough of Franklintown



MASTER RECREATION PLAN  
FRANKLINTOWN BOROUGH

SCALE  
1 inch = 40 Feet



EXHIBIT "A"

**BOROUGH OF FRANKLINTOWN,  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE 284-2014**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH  
OF FRANKLINTOWN, YORK COUNTY, PENNSYLVANIA, AMENDING  
ORDINANCE NUMBER 273-2009 AND 250-1997, KNOWN AS THE  
"CODE OF ORDINANCES," PART 14, ZONING, CHAPTER 1.**

The following sections of The Franklinton Borough Zoning Ordinance, Ordinance Number 273-2009, as codified in The Code of Ordinances, Borough of Franklinton, Ordinance 250-1997, at Part 14, Zoning, Chapter 1, are hereby amended as follows:

Article 1 Background Provisions, Section 201 Definitions:

**PUBLIC USES** – Includes public and semi-public uses for the betterment of the community's welfare and educational nature, such as educational institutions, parks, fire stations, municipal buildings and municipal garages.

Article 2, Zoning Regulations, Section 200 Rural Conservation Zone (RC)

H. **Agricultural Nuisance Disclaimer.** Some of the lands within this Zone are located within an area where land is used for commercial agricultural production. Owners, residents and other users of this property may be subjected to inconvenience, discomfort and the possibilities of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to, noise, odors, dust, the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants and users of this property should be prepared to accept such inconveniences, discomfort and possibilities of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of the Pennsylvania Act 133 of 1982, "The Right to Farm Act," may bar them from obtaining a legal judgment against such normal agricultural operations.

Article 2, Zoning Regulations, Section 201 Village Zone (V)

B. **Permitted Uses:**

1. Agriculture.
2. Conversion Apartment. (407)
3. Home occupation. (408)
4. Joint use driveway.
5. Medical or Dental practice/clinic. (416)

6. Multifamily Dwellings.
7. No-impact Home-based Business. (418)
8. Passive or Active Recreation Park or Other Preserved Open Space Area. (419)
9. Professional Office. (421)
10. Public Uses. (422)
11. Townhouses. (424)
12. Two-family Dwellings.
13. Mixed Use Buildings containing residential uses within a multi-story building. Residential uses must be located on second or higher stories of a building providing that such first floor business, use, operation or products shall not be objectionable due to odor, dust, smoke noise, vibration, or other similar causes.
  - a. There shall be no manufacturing, compounding, processing, or treatment of products other than that which is clearly incidental to a retail store or business and when all products are sold at retail on the premises.
  - b. There is a separate entrance for all residential tenants. If located on Baltimore Street, at least one residential entrance shall face Baltimore Street.
  - c. Illuminated business signs shall not emit light into residential units.
  - d. Designated on or off-site parking spaces are provided.

C. Conditional Uses:

1. Accessory Apartment. (400)
2. Adult or Child Day-Care or Nursery School. (401)
3. Animal Hospitals, Veterinarian Uses and Other Related Accessory Uses. (403)
4. Financial Institutions. (412)
5. Funeral Homes, Mortuaries and Crematoriums. (413)
6. Motor Vehicle Repair Service Station. (417)
7. Restaurant (Eating Establishment). (423)
8. Retail Sales.
9. Treatment Centers. (426)
10. Two Family Conversions.

D. Special Exception Uses:

1. Amusement Arcade. (402)
2. Bed and Breakfast Inn. (404)
3. Convenience Store (Including Fuel Sales and Vehicle Fueling Station). (406)
4. Dry Cleaners, Laundries and Laundromats. (409)
5. Farm Market. (411)
6. Health and Fitness Club. (414)
7. Personal Services.
8. Places of Worship. (420)
9. Tavern. (424)



Uses designated as Conditional Uses are reviewed and approved by the Franklinton Borough Council and uses designated as Special Exception are reviewed and approved by the Franklinton Borough Zoning Hearing Board.

All uses permitted by right, conditional uses and special exception uses in this Zone and as indicated in Sections C and D must attain strict conformance with the lot dimension requirements and all other referenced relevant sections of this Ordinance.

J. Agricultural Nuisance Disclaimer. Some of the lands within this Zone are located within an area where land is used for commercial agricultural production. Owners, residents and other users of this property may be subjected to inconvenience, discomfort and the possibilities of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to, noise, odors, dust, the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants and users of this property should be prepared to accept such inconveniences, discomfort and possibilities of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of the Pennsylvania Act 133 of 1982, "The Right to Farm Act," may bar them from obtaining a legal judgment against such normal agricultural operations.

#### Article 4, Specific Criteria, Section 408 Home Occupation

- A. Home occupation uses shall include, but not be limited to, the following uses provided the standards of this Section are met:
1. All uses listed under home occupation and professional uses.
  2. Woodworking and furniture shops.
  3. Farm-related businesses.

All other provisions of The Franklinton Borough zoning Ordinance shall remain as-is and in full force and effect.

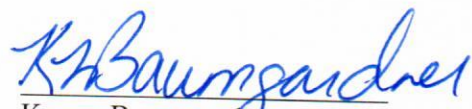
This Ordinance shall take effect thirty (30) days after its enactment.


**ENACTMENT SIGNATURES ON NEXT PAGE**

DULY ENACTED AND ORDAINED this 1<sup>st</sup> day of October, 2014 by the Borough Council of the Borough of Franklinton, York County, Pennsylvania, in lawful session duly assembled.

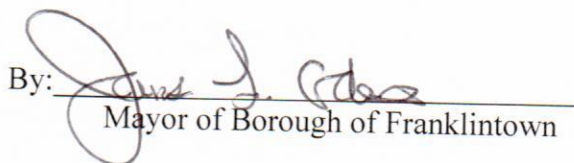
ATTEST:

THE BOROUGH OF FRANKLINTOWN  
YORK COUNTY, PENNSYLVANIA

  
Kacey Baumgardner, Secretary

  
Richard Blouch, President, Borough Council

Examined and approved this 1<sup>st</sup> day of October, 2014.

By:   
Mayor of Borough of Franklinton