

Township of Middletown Stormwater Management Ordinance

ORDINANCE NO. 731

**MIDDLETOWN TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA**

Adopted at a Public Meeting held on

August 27, 2012

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**TOWNSHIP OF MIDDLETOWN
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 731

AN ORDINANCE OF MIDDLETOWN TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, REPEALING THE EXISTING MIDDLETOWN TOWNSHIP STORMWATER MANAGEMENT ORDINANCE, CHAPTER 198 – CODE OF ORDINANCES, AND ENACTING A NEW STORMWATER MANAGEMENT ORDINANCE AS CHAPTER 198, ADOPTING AND ENACTING THE PROVISIONS OF THE ACT 167 STORMWATER MANAGEMENT PLAN AND THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND ESTABLISHING REGULATIONS AND STANDARDS FOR STORMWATER MANAGEMENT IN THE CHESTER CREEK AND RIDLEY CREEK WATERSHEDS AS THE MIDDLETOWN TOWNSHIP STORMWATER MANAGEMENT ORDINANCE, ESTABLISHING PENALTIES FOR THE VIOLATION THEREOF AND INCORPORATING BY REFERENCE THE PROVISIONS, STANDARDS AND REQUIREMENTS OF THIS ORDINANCE INTO CHAPTER 210 SUBDIVISION AND LAND DEVELOPMENT, OF THE CODE OF ORDINANCES OF MIDDLETOWN TOWNSHIP.

The Council of the Township of Middletown, Delaware County, Pennsylvania, hereby ordains that the existing Chapter 198 of the Code of Ordinances of Middletown Township, Delaware County, Pennsylvania, is hereby repealed in its entirety and the following shall be Chapter 198 of the Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania:

Chapter 198 – Stormwater Management, shall be as follows:

ARTICLE I – GENERAL PROVISIONS

Section 198-1. Short Title

This Ordinance shall be known as “The Township of Middletown Stormwater Management Ordinance.”

Section 198-2. Statement of Findings

The Council of the Township of Middletown finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from development throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces infiltration, and threatens public health and safety.
- B. Inadequate planning and management of stormwater runoff resulting from land development throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream beds and stream banks, thereby elevating sedimentation), destroying aquatic habitat, and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals, and pathogens. Groundwater resources are also impacted through loss of recharge.
- C. A comprehensive program of stormwater management, including minimization of impacts of development, redevelopment, and activities causing accelerated erosion and loss of natural infiltration, is fundamental to the public health, safety, welfare, and the protection of the people of

Middletown Township and all of the people of the Commonwealth, their resources, and the environment.

- D. Stormwater can be an important water resource by providing infiltration for water supplies and base flow of streams, which also protects and maintains surface water quality.
- E. Impacts from stormwater runoff can be minimized by using project designs that maintain the natural hydrologic regime and sustain high water quality, infiltration, stream base flow, and aquatic ecosystems. The most cost-effective and environmentally advantageous way to manage stormwater runoff is through nonstructural project design that minimizes impervious surfaces and sprawl, avoids sensitive areas (i.e., stream buffers, floodplains, steep slopes), and considers topography and soils to maintain the natural hydrologic regime.
- F. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.
- G. 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).
- H. Non-stormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the Commonwealth by the Township.

Section 198-3. Purpose

The purpose of this Ordinance is to promote the public health, safety, and welfare within Middletown Township by maintaining the natural hydrologic regime and minimizing the impacts described in Section 198-2 of this Ordinance through provisions designed to:

- A. Promote alternative project designs and layouts that minimize the impacts on surface and groundwater.
- B. Promote nonstructural best management practices (BMPs).
- C. Minimize increases in runoff stormwater volume.
- D. Minimize impervious surfaces.
- E. Manage accelerated stormwater runoff and erosion and sedimentation problems and stormwater runoff impacts at their source by regulating activities that cause these problems.
- F. Provide review procedures and performance standards for stormwater planning and management.
- G. Utilize and preserve existing natural drainage systems as much as possible.
- H. Manage stormwater impacts close to the runoff source, requiring a minimum of structures and relying on natural processes.
- I. Focus on infiltration of stormwater to maintain base flow, to prevent degradation of surface and groundwater quality, and to otherwise protect water resources.
- J. Protect base flows and quality of streams and watercourses, where possible.
- K. Meet legal water quality requirements under state law, including regulations at 25 Pennsylvania Code Chapter 93.4.a requiring protection and maintenance of "existing uses" and maintenance of

the level of water quality to support those uses in all streams, and the protection and maintenance of water quality in “special protection” streams.

- L. Address the quality and quantity of stormwater discharges from the development site.
- M. Provide standards to meet certain NPDES MS4 permit requirements.
- N. Implement an illicit discharge detection and elimination program that addresses non-stormwater discharges into the Township’s separate storm sewer system (MS4).
- O. Preserve the flood-carrying capacity of streams.
- P. Prevent accelerated scour, erosion and sedimentation of stream channels.
- Q. Provide performance standards and design criteria based on watershed-wide stormwater management planning.
- R. Provide proper operation and maintenance of all permanent stormwater management facilities and BMPs that are implemented within the Township.

Section 198-4. Statutory Authority

Middletown Township is empowered or required to regulate land use activities that affect runoff and surface and groundwater quality and quantity by the authority of:

- A. Act of October 4, 1978, 32 P.S., P.L. 864 (Act 167) Section 680.1 et seq., as amended, the “Storm Water Management Act” (hereinafter referred to as “the Act”);
- B. Home Rule 53 PA C.S.A., Section 2961 et seq.;
- C. Act of July 31, 1968, P.L. 805, No. 247, Pennsylvania Municipalities Planning Code, Act 247, as amended.

Section 198-5. Applicability/Regulated Activities

All regulated activities and all activities that may affect stormwater runoff, **including but not limited to land development, redevelopment, and earth disturbance activity** located within the Township, are subject to regulation by this Ordinance and shall require a permit under this Ordinance unless the regulated activity is permitted by a permit issued pursuant to another requirement under the Code of Ordinances.

This Ordinance contains the stormwater management performance standards and design criteria that are necessary from a watershed-wide perspective. Local stormwater management design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.) shall continue to be regulated by the applicable Township ordinances and applicable state regulations.

Section 198-6. Exemptions

An exemption shall not relieve the Applicant from implementing the requirements of the Township Ordinance or from implementing such measures as are necessary to protect public health, safety, and property. An exemption shall not relieve the Applicant from complying with the special requirements for watersheds draining to identified high quality (HQ) or exceptional value (EV) waters or any other current or future state or municipal water quality protection requirements. If a drainage problem is documented or known to exist downstream of, or is expected from the proposed activity, then the Township may withdraw exemptions listed in Table 198-6 and require the Applicant to comply with all requirements of this

Ordinance. Even though the Applicant is exempt, he is not relieved from complying with other Township ordinances or regulations.

General Exemptions

Table 198-6 summarizes the exemptions from certain provisions of this Ordinance. Exemptions are for the items noted in Table 198-6 only, and shall not relieve the owner/applicant from other applicable sections of this Ordinance.

Any regulated activity that is exempt from some provisions of the Ordinance is exempt only from those provisions. If development is to take place in phases, the owner/applicant is responsible for implementing the requirements of the Ordinance as the impervious cover/earth disturbance threshold is met. The date of the Township Ordinance adoption shall be the starting point from which to consider tracts as “parent tracts” in which future subdivisions and respective impervious area and earth disturbance computations shall be cumulatively considered. Exemption shall not relieve the applicant from implementing such measures as are necessary to protect health, safety, and property. For example:

EXAMPLE

If a property owner proposes a **150 square foot shed** after adoption of the Township stormwater management Ordinance, that property owner would be **exempted from water quality and quantity requirements of the Ordinance as noted in Table 198-6 of the Ordinance**. If, at a later date, the property owner proposes to construct a 500 square foot room addition, the applicant would be required to comply with the requirements for the **Simplified Method for the full 650 square feet of impervious cover created since adoption of the Township Ordinance**. If an additional 1400 square foot swimming pool/patio is proposed later, the property owner would be required to implement the full stormwater quantity and quality control submission requirements of this Ordinance for the **total 2,050 square feet of additional impervious surface added to the original property since adoption of the Township Ordinance**.

**TABLE 198-6
Ordinance Exemptions**

Ordinance Article or Section	Type of Project	Proposed Impervious Surface			Earth Disturbance		
		0-499 sq. ft.	500-1999 sq. ft.	2,000+ sq. ft.	0-4,999 sq. ft. disturbance	5,000 sq. ft. - < 1 acre	≥ 1 acre
Article IV SWM Site Plan Requirements	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Exempt	Modified ¹	Not Exempt
Section 198-12 Nonstructural Project Design	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Exempt	Not Exempt	Not Exempt
Section 198-13 Infiltration Volume Requirements	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Exempt	Exempt	Not Exempt
Section 198-14 Water Quality Requirements	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Modified ²	Modified ²	Not Exempt
Section 198-15 Stream Bank Erosion Requirements	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Exempt	Exempt	Not Exempt
Section 198-16 Stormwater Peak Rate Control and Management Districts	Development Redevelopment	Exempt	Exempt to 1,000 s.f.	Not Exempt	Exempt	Not Exempt	Not Exempt
Erosion and Sediment Pollution Control Requirements	Must comply with Title 25, Chapter 102 of the PA Code and other applicable state and Township codes, including the Clean Streams Law.						Not Exempt

Legend:

- **“Proposed Impervious Surface”** in Table 198-6 includes new, additional, or replacement impervious surface/cover as part of development or redevelopment.
- Exempt - Exempt from required section provision only – SWM site plan submission may still be required if other section provisions are applicable.
- Modified¹ - Modified SWM site plan need only consist of items in Sections 198-20.A.2 and 4; 198-20.B.7, 8, 11, and 22; and 198-20.D.1 and 3 and related supportive material needed to determine compliance with Sections 198-12 and 198-16. Modified SWM site plan is required that includes all elements of Section 198-12, as applicable.
- Modified² - Modified SWM site plan need only consist of items and related material needed to determine compliance with Section 198-14C.
- Simplified Approach – Must comply with provisions of Appendix B of the Ordinance.
- Redevelopment – See Section 198-17.C for alternate stormwater peak rate control criteria.

A. Exemptions for Specific Activities

1. Use of land for gardening or home consumption.
2. Agriculture when operated in accordance with a conservation plan, nutrient management plan, or erosion and sedimentation control plan approved by the County Conservation District, including activities such as growing crops, rotating crops, tilling soil, and grazing animals. For agriculture with an approved conservation plan, installation of new or expansion of existing farmsteads, animal housing, waste storage, and production areas having impervious surfaces that result in a net increase in impervious surface of between 500-999 square feet shall apply the simplified approach, and net increases in impervious surface of greater than or equal to 1,000 square feet shall be subject to the provisions of this Ordinance.
3. Forest management operations which are following the Department of Environmental Protection's (PADEP) management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry," are operating under an approved erosion and sedimentation plan, and must comply with the stream buffer requirements in Section 198-14.C.
4. Repaving without reconstruction.
5. Emergency Exemption - Emergency maintenance work performed for the protection of public health, safety, and welfare. A written description of the scope and extent of any emergency work performed shall be submitted to the Township within two (2) calendar days of the commencement of the activity. If the Township finds that the work is not an emergency, then the work shall cease immediately, until a stormwater site-plan in accordance with this ordinance is submitted and approved by the Township.
6. Maintenance Exemption - Any maintenance to an existing stormwater management system made in accordance with plans and specifications approved by the Township Engineer or Township.

ARTICLE II – DEFINITIONS

Section 198-7. Interpretation

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

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word "includes" or "including" shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.
- C. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, unit of government, or any other similar entity.
- D. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.

- E. The words “used” or “occupied” include the words “intended, designed, maintained, or arranged to be used, occupied, or maintained.”

Section 198-8. Definitions

Accelerated Erosion – The removal of the surface of the land through the combined action of man’s activity and the natural processes of a rate greater than would occur because of the natural processes alone.

Agricultural Activities – The work of producing crops and raising livestock including tillage, plowing, disking, harrowing, pasturing, nursery and sod operations, excluding greenhouse structures, and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

Alteration – As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

Applicant – A landowner or other person who has filed an application to the Township for approval to engage in any regulated activity defined in Section 198-5 of this Ordinance.

As-built Drawings – Engineering or site drawings maintained by the contractor as he constructs the project and upon which he documents the actual locations of the building components and changes to the original contract documents. These documents, or a copy of same, are turned over to the Township Engineer at the completion of the project.

Bankfull – The channel at the top-of-bank or point from where water begins to overflow onto a floodplain.

Base flow – Portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

Bioretention – A stormwater retention area that utilizes woody and herbaceous plants and soils to remove pollutants before infiltration occurs.

BMP (Best Management Practice) – Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote infiltration, 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.

Buffer – See Riparian Buffer

Channel – An open drainage feature through which stormwater flows. Channels include, but shall not be limited to, natural and man-made drainage ways, swales, streams, ditches, canals, and pipes flowing partly full.

Channel Erosion – The widening, deepening, or headward cutting of channels and waterways caused by stormwater runoff or bankfull flows.

Cistern – An underground reservoir or tank for storing rainwater.

Conservation District – The Delaware County Conservation District.

Conveyance – A facility or structure used for the transportation or transmission of something from one place to another.

Culvert – A structure with its appurtenant works, which carries water under or through an embankment or fill.

Dam – A man-made barrier, together with its appurtenant works constructed for the purpose of impounding or storing water or another fluid or semi-fluid. A dam may include a refuse bank, fill, or structure for highway, railroad, or other purposes which impounds or may impound water or another fluid or semi-fluid.

Department – The Pennsylvania Department of Environmental Protection.

Designee – The agent of the Delaware County Planning Department, Delaware County Conservation District, and/or agent of the Township Council involved with the administration, review, or enforcement of any provisions of this Ordinance by contract or memorandum of understanding.

Design Professional (Qualified) – A Pennsylvania Registered Professional Engineer, Registered Landscape Architect, Registered Professional Land Surveyor trained to develop SWM site plan, or any person licensed by the Pennsylvania Department of State or qualified by law to perform the work required by the Ordinance.

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., twenty-four (24) hours), used in the design and evaluation of stormwater management systems.

Detention or To Detain – The prevention of, or to prevent, the discharge, directly or indirectly, of a given volume of stormwater runoff into surface waters by temporary storage.

Detention Basin – An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely soon after a rainfall event and become dry until the next rainfall event.

Developer – A person who seeks to undertake any regulated earth disturbance activities at a project site in the Township.

Development, Land – Any human-induced change to improved or unimproved real estate, whether public or private, including, but not limited to, land development, construction, installation, or expansion of a building or other structure, land division, street construction, drilling, and site alteration such as embankments, dredging, grubbing, grading, paving, parking or storage facilities, excavation, filling, stockpiling, or clearing. As used in this Ordinance, development encompasses both new development and redevelopment.

Development Site – The specific tract or parcel of land where any regulated activity set forth in Section 198-5 is planned, conducted, or maintained.

Diameter at Breast Height (DBH) – The outside bark diameter at breast height which is defined as four and one half (4.5) feet (1.37m) above the forest floor on the uphill side of the tree.

Diffused Drainage Discharge – Drainage discharge that is not confined to a single point location or channel, including sheet flow or shallow concentrated flow.

Discharge – 1. (verb) To release water from a project, site, aquifer, drainage basin, or other point of interest; 2. (noun) The rate and volume of flow of water such as in a stream, generally expressed in cubic feet per second (see Peak Discharge).

Discharge Point – The point of discharge for a stormwater facility.

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

Ditch – A man-made waterway constructed for irrigation or stormwater conveyance purposes.

Downslope Property Line – That portion of the property line of the lot, tract, or parcels of land being developed, located such that overland or pipe flow from the project site would be directed towards it by gravity.

Drainage Conveyance Facility – A stormwater management facility designed to transport stormwater runoff that includes channels, swales, pipes, conduits, culverts, and storm sewers.

Drainage Easement – A right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Drainage Permit – A permit issued by the Township after the stormwater management site plan has been approved.

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; the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

Emergency Spillway – A conveyance area that is used to pass peak discharge greater than the maximum design storm controlled by the stormwater facility.

Encroachment – A structure or activity that changes, expands, or diminishes the course, current, or cross-section of a watercourse, floodway, or body of water.

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

Erosion and Sediment Control Plan – A plan that is designed to minimize accelerated erosion and sedimentation. Said plan must be submitted to and approved by the appropriate Conservation District before construction can begin.

Exceptional Value (EV) Waters – Surface waters of high quality which satisfy Pennsylvania Code Title 25 Environmental Protection, Chapter 93, Water Quality Standards, §93.4b(b) (relating to anti-degradation).

Existing Conditions – The initial condition of a project site prior to the proposed alteration. If the initial condition of the site is undeveloped land, the land use shall be considered as “meadow” unless the natural land cover is proven to generate a lower curve number or Rational “c” value, such as forested lands.

FEMA – Federal Emergency Management Agency.

Flood – A temporary condition of partial or complete inundation of land areas from the overflow of streams, rivers, and other waters of this Commonwealth.

Floodplain – Any land area susceptible to inundation by water from any natural source or as delineated by the applicable Department of Housing and Urban Development, Federal Insurance Administration Flood Hazard Boundary Map as being a special flood hazard area.

Floodway – The channel of a watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency 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 frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to fifty (50) feet from the top-of-bank.

Fluvial Geomorphology – The study of landforms associated with river channels and the processes that form them.

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

Freeboard – A vertical distance between the elevation of the design high-water and the top of a dam, levee, tank, basin, swale, or diversion berm. The space is required as a safety margin in a pond or basin.

Grade – 1. (noun) A slope, usually of a road, channel, or natural ground, specified in percent and shown on plans as specified herein. 2. (verb) To finish the surface of a roadbed, the top of an embankment, or the bottom of an excavation.

Grassed Waterway – A natural or man-made waterway, usually broad and shallow, covered with erosion-resistant grasses used to convey surface water.

Groundwater – Water beneath the earth's surface that supplies wells and springs and is often between saturated soil and rock.

Groundwater Recharge – The replenishment of existing natural underground water supplies from rain or overland flow.

HEC-HMS – The U.S. Army Corps of Engineers, Hydrologic Engineering Center (HEC) - Hydrologic Modeling System (HMS). This model was used to model the Darby-Cobbs and Crum Creek watersheds during the Act 167 plan development and was the basis for the standards and criteria of this Ordinance.

High Quality (HQ) Waters – Surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying Pennsylvania Code Title 25 Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(a).

Hotspots – Areas where land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater.

Hydrograph – A graph representing the discharge of water versus time for a selected point in the drainage system.

Hydrologic Regime – The hydrologic cycle or balance that sustains quality and quantity of stormwater, base flow, storage, and groundwater supplies under natural conditions.

Hydrologic Soil Group – A classification of soils by the Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), into four runoff potential groups. The groups range from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

Impervious Surface – A surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, driveway areas, or roofs. Any surface areas designed to be gravel or crushed stone shall be regarded as impervious surfaces.

Impoundment – A retention or detention basin designed to retain stormwater runoff and release it at a controlled rate.

Infill – Development that occurs on smaller parcels that remain undeveloped but are within or in very close proximity to urban or densely developed areas. Infill development usually relies on existing infrastructure and does not require an extension of water, sewer, or other public utilities.

Infiltration – Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolated downward to recharge groundwater.

Infiltration Structures – A structure designed to direct runoff into the underground water (e.g., French drains, seepage pits, or seepage trenches).

Inflow – The flow entering the stormwater management facility and/or BMP.

Inlet – The upstream end of any structure through which water may flow.

Intermittent Stream – A stream that flows only part of the time. Flow generally occurs for several weeks or months in response to seasonal precipitation or groundwater discharge.

Invert – The lowest surface, the floor or bottom of a culvert, drain, sewer, channel, basin, BMP, or orifice.

Land Development – Any of the following activities:

- (i) The improvement of one (1) lot or two (2) or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - a. 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
 - b. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features;
- (ii) A subdivision of land;
- (iii) Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.

Limiting Zone – A soil horizon or condition in the soil profile or underlying strata that includes one of the following:

- (i) A seasonal high water table, whether perched or regional, determined by direct observation of the water table or indicated by soil mottling.
- (ii) A rock with open joints, fracture or solution channels, or masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.
- (iii) A rock formation, other stratum, or soil condition that is so slowly permeable that it effectively limits downward passage of water.

Lot – A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

Main Stem (Main Channel) – Any stream segment or other runoff conveyance used as a reach in watershed-specific hydrologic models.

Manning Equation (Manning Formula) – A method for calculation of velocity of flow (e.g., feet per second) and flow rate (e.g., cubic feet per second) in open channels based upon channel shape, roughness, depth of flow, and slope. “Open channels” may include closed conduits so long as the flow is not under pressure.

Maximum Design Storm – The maximum (largest) design storm that is controlled by the stormwater facility.

Natural Condition – Pre-development condition.

Natural Hydrologic Regime – See Hydrologic Regime.

Natural Recharge Area – Undisturbed surface area or depression where stormwater collects and a portion of which infiltrates and replenishes the underground and groundwater.

Nonpoint Source Pollution – Pollution that enters a waterbody from diffuse origins in the watershed and does not result from discernible, confined, or discrete conveyances.

Non-stormwater Discharges – Water flowing in stormwater collection facilities, such as pipes or swales, which is not the result of a rainfall event or snowmelt.

Nonstructural Best Management Practice (BMPs) – Methods of controlling stormwater runoff quantity and quality, such as innovative site planning, impervious area and grading reduction, protection of natural depression areas, temporary ponding on site, and other techniques.

NPDES – National Pollutant Discharge Elimination System, the federal government’s system for issuance of permits under the Clean Water Act, which is delegated to PADEP in Pennsylvania.

NRCS – Natural Resource Conservation Service (previously SCS).

Open Channel – A conveyance channel that is not enclosed.

Outfall – “Point source” as described in 40 CFR § 122.2 at the point where the Township’s storm sewer system discharges to surface waters of the Commonwealth.

Outflow – The flow exiting the stormwater management facility and/or BMP.

Outlet – Points of water disposal to a stream, river, lake, tidewater, or artificial drain.

Parent Tract – The parcel of land from which a land development or subdivision originates, determined from the date of Township adoption of this Ordinance.

Parking Lot Storage – Involves the use of parking areas as temporary impoundments with controlled release rates during rainstorms.

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

Pennsylvania Stormwater Best Management Practices Manual (Document Number 363-0300-002) (December 2006) - The Best Management Practices Manual published by the Pennsylvania Department of Environmental Protection. The manual is to supplement federal and state regulations and the Department of Environmental Protection's Comprehensive Stormwater Management Policy that emphasizes effective site planning as the preferred method of managing runoff while also providing numerous examples of BMPs that can be employed in Pennsylvania to further avoid and minimize flooding and water resource problems.

Pervious Area – Any area not defined as impervious.

Pipe – A culvert, closed conduit, or similar structure (including appurtenances) that conveys stormwater.

Planning Commission – The Planning Commission of Middletown Township.

Point Source – Any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined in state regulations at 25 Pennsylvania Code § 92.1.

Post-construction – Period after construction during which disturbed areas are stabilized, stormwater controls are in place and functioning, and all proposed improvements in the approved land development plan are completed.

Pre-construction – Prior to commencing construction activities.

Pre-development Condition – Undeveloped/natural condition.

Pretreatment – Techniques employed in stormwater BMPs to provide storage or filtering to trap coarse materials and other pollutants before they enter the system, but not necessarily designed to meet the water quality volume requirements of Section 198-14.

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

Qualified Professional – See Design Professional (Qualified).

Rational Formula – A rainfall-runoff relation used to estimate peak flow.

Reach – Any stream segment or other runoff conveyance used in the watershed-specific hydrologic models.

Recharge – The replenishment of groundwater through the infiltration of rainfall, other surface waters, or land application of water or treated wastewater.

Reconstruction – Demolition and subsequent rebuilding of impervious surface.

Record Drawings – Original documents revised to suit the as-built conditions and subsequently provided by the Engineer to the client. The Engineer reviews the contractor's as-builts against

his/her own records for completeness, then either turns these over to the client or transfers the information to a set of reproducibles, in both cases for the client's permanent records.

Redevelopment – Any development that requires demolition or removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding and re-paving are not considered to be redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment.

Regulated Activities – Any earth disturbances activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff, including redevelopment.

Regulated Earth Disturbance Activity – Activity involving earth disturbance subject to regulation under 25 Pennsylvania Code Chapters 92, Chapter 102, or the Clean Streams Law.

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

Repaving – Resurfacing of the impervious surface that does not involve reconstruction of an existing paved (impervious) surface.

Replacement Paving – Reconstruction of and full replacement of an existing paved (impervious) surface.

Retention or To Retain – The prevention of direct discharge of stormwater runoff into receiving waters or water bodies by temporary or permanent containment in a pond or depression; examples include systems which discharge by percolation to groundwater, and/or evaporation processes and which generally have residence times of less than three (3) days.

Retention Basin – A structure in which stormwater is stored and not released during the storm event. Retention basins are designed for infiltration purposes and do not have an outlet.

Return Period – The average interval, in years, within which a storm event of a given magnitude can be expected to recur. For example, the 25-year return period rainfall would be expected to recur on the average of once every twenty-five (25) years.

Riparian – Pertaining to anything connected with or immediately adjacent to the banks of a stream or other body of water.

Riparian Buffer – An area of land adjacent to a stream or other body of water and managed to maintain the integrity of stream channels and shorelines to 1) reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and 2) supply food, cover and thermal protection to fish and other wildlife.

Riser – A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

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

Roof Drains – A drainage conduit or pipe that collects water runoff from a roof and leads it away from the structure.

Rooftop Detention – The temporary ponding and gradual release of stormwater falling directly onto flat roof surfaces using controlled-flow roof drains in building designs.

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

SALDO – The Middletown Township Subdivision and Land Development Ordinance. (Chapter 210 of the Code of Ordinances of Middletown Township).

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

Sediment Basin – A barrier, dam, or retention or detention basin located and designed in such a way as to retain rock, sand, gravel, silt, or other material transported by water during construction.

Sediment Pollution – The placement, discharge, or any other introduction of sediment into the waters of the Commonwealth.

Sedimentation – The process by which mineral or organic matter is accumulated or deposited by the movement of water or air.

Seepage Pit/Seepage Trench – An area of excavated earth filled with loose stone or similar coarse material into which surface water is directed for infiltration into the underground water.

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

Shallow Concentrated Flow – Stormwater runoff flowing in shallow, defined ruts prior to entering a defined channel or waterway.

Sheet Flow – A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

Soil Cover Complex Method – A method of runoff computation developed by NRCS that is based on relating soil type and land use/cover to a runoff parameter called curve number (CN).

Source Water Protection Areas (SWPA) – The zone through which contaminants, if present, are likely to migrate and reach a drinking water well or surface water intake.

Special Protection Subwatersheds – Watersheds that have been designated by PADEP as EV or HQ waters.

Spillway – A conveyance that is used to pass the peak discharge of the maximum design storm that is controlled by the stormwater facility.

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

Storage Indication Method – A reservoir routing procedure based on solution of the continuity equation (inflow minus outflow equals the change in storage) with outflow defined as a function of storage volume and depth.

Storm Frequency – The number of times that a given storm “event” occurs or is exceeded on the average in a stated period of years (see Return Period).

Storm Sewer – A system of pipes and/or open channels that conveys intercepted runoff and stormwater from other sources but excludes domestic sewage and industrial wastes.

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

Stormwater Management District – Those subareas of a watershed in which some type of detention is required to meet the plan requirements and the goals of Act 167.

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

Stormwater Management Plan – The watershed plan for managing stormwater runoff for a watershed, adopted by Delaware and Chester Counties as required by the Act of October 4, 1978, P.L. 864 (Act 167), as amended, and known as the “Storm Water Management Act.” See also Watershed Stormwater Management Plan.

Stormwater Management (SWM) Site Plan – The plan prepared by the Applicant or his representative indicating how stormwater runoff will be managed at the particular site of interest according to this Ordinance, and including all necessary design drawings, calculations, supporting text, and documentation to demonstrate that Ordinance requirements have been met, hereafter referred to as “SWM site plan.”

Stream – A natural watercourse.

Stream Buffer – The land area adjacent to each side of a stream essential to maintaining water quality (see also Riparian Buffer).

Stream Enclosure – A bridge, culvert, or other structure in excess of one hundred (100) feet in length upstream to downstream which encloses a regulated water of the Commonwealth.

Subarea (Subwatershed) – The smallest drainage unit of a watershed for which stormwater management criteria have been established in the stormwater management plan.

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

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

Swale – A low-lying stretch of land that gathers or carries surface water runoff.

SWM Site Plan – See Stormwater Management Site Plan.

Timber Operations – See Forest Management.

Time-of-concentration (Tc) – The time required for surface runoff to travel from the hydraulically most distant point of the watershed to a point of interest within the watershed. This time is the combined total of overland flow time and flow time in pipes or channels, if any.

Top-of-bank – Highest point of elevation in a stream channel cross-section at which a rising water level just begins to flow out of the channel and over the floodplain.

Township - Township of Middletown, Delaware County, Pennsylvania.

Township Engineer – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for the Township.

USDA – United States Department of Agriculture.

Undeveloped Condition – Natural condition (see also Pre-development Condition).

Vernal Pond – Seasonal depressional wetlands that are covered by shallow water for variable periods from winter to spring but may be completely dry for most of the summer and fall.

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

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

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

Watershed Stormwater Management Plan – A watershed plan for managing stormwater runoff for a watershed, adopted by Delaware and Chester Counties as required by the Act of October 4, 1978, P.L. 864 (Act 167), as amended, and known as the “Storm Water Management Act” (e.g., Chester Creek, Ridley Creek, Crum Creek, Darby-Cobbs Creeks). See also Stormwater Management Plan.

Wellhead – 1. A structure built over a well, 2. The source of water for a well.

Wellhead Protection Area – The surface and subsurface area surrounding a water supply well, well field, or spring supplying a public water system through which contaminants are reasonably likely to move toward and reach the water source.

Wet Basin – Pond for urban runoff management that is designed to detain urban runoff and always contains water.

Wetland – Those 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. Wetlands generally include swamps, marshes, bogs, fens, and similar areas.

Woods – A natural groundcover with more than one (1) viable tree of a DBH of six (6) inches or greater per fifteen hundred (1,500) square feet which existed within three (3) years of application; a cover condition for which SCS curve numbers have been assigned or to which equivalent Rational Method runoff coefficients have been assigned.

ARTICLE III – STORMWATER MANAGEMENT

Section 198-9. General Requirements

- A. Applicants proposing regulated activities in the Township which do not fall under the exemption criteria shown in Section 198-6 shall submit a stormwater management site plan consistent with this Ordinance and the applicable watershed stormwater management plan to the Township for review. The stormwater management criteria of this Ordinance shall apply to the total proposed development even if development is to take place in stages.
- B. No regulated activity within the Township shall commence until the Township issues approval of a SWM plan, which demonstrates compliance with the requirements of this ordinance. "Regulated earth disturbance" is defined to mean any activity involving earth disturbance subject to regulation under 25 Pa. Code Chapter 92, 25 Pa. Code Chapter 102, or the Clean Streams Law.
 - 1. For any site where there is no known drainage problem downstream with proposed regulated earth disturbance equal to or greater than one acre where, after a close evaluation of alternative site designs, it proves to be impracticable to meet the mandatory minimum volume and infiltration control standards of this ordinance onsite, the Township may approve measures other than those in this ordinance after consultation with and evaluation by PADEP that the alternate site design meets State water quality requirements and does not conflict with State law, including, but not limited to, the Clean Streams Law.
 - 2. For any site where there is no known drainage problem downstream with proposed regulated earth disturbance that is less than one acre where, after a close evaluation of alternative site designs, it proves to be impracticable to meet any one or more of the mandatory minimum standards of this ordinance onsite, the Township may approve measures other than those in this ordinance.
- C. The Applicant is required to design the site to minimize surface discharge of stormwater and the creation of impervious surfaces in order to maintain, as much as possible, the natural hydrologic regime.
- D. The SWM site plan must be designed consistent with the sequencing provisions of Section 198-12 to ensure maintenance of the natural hydrologic regime, to promote infiltration, and to protect groundwater and surface water quality and quantity. The SWM site plan designer must proceed sequentially in accordance with Article III of this Ordinance.
- E. Stormwater drainage systems shall be designed in order to preserve natural flow conditions to the maximum extent practicable.
- F. Existing drainage discharge onto adjacent property shall not be altered in any manner without obtaining a drainage easement from affected downstream property owners and providing the facilities to safely convey the flow, and a maintenance access agreement with the affected property owner(s). Such discharge shall be subject to any applicable discharge criteria specified in this Ordinance and still must meet the requirements of Act 167.
- G. Areas of existing diffused drainage discharge, whether proposed to be concentrated or maintained as diffused drainage areas, shall be subject to any applicable discharge criteria in the general direction of existing discharge, except as otherwise provided by this

Ordinance. If diffused drainage discharge is proposed to be concentrated and discharged onto adjacent property, the Applicant must document that adequate downstream conveyance facilities exist to safely transport the concentrated discharge or otherwise prove that no erosion, sedimentation, flooding, or other impacts will result from the concentrated discharge.

- H. Minimization of impervious surfaces and infiltration of runoff through seepage beds, infiltration trenches, etc., is encouraged where soil conditions permit in order to reduce the size or eliminate the need for detention facilities or other structural BMPs.
- I. All stormwater runoff from new development or redevelopment shall be pretreated for water quality prior to discharge to surface or groundwater. Rooftop runoff may go directly to an infiltration BMP or be evapotranspired.
- J. All regulated activities within the Township shall be designed, implemented, operated, and maintained to meet the purposes of this Ordinance, through these two elements:
 - 1. Erosion and sediment control during earth disturbance activities (e.g., during construction), and
 - 2. Water quality protection measures after completion of earth disturbance activities (i.e., after construction), including operations and maintenance.
- K. The BMPs shall be designed, implemented, and maintained to meet state water quality requirements and any other more stringent requirements as determined by the Township.
- L. Post-construction water quality protection shall be addressed as required by Section 198-14.
- M. Operations and maintenance of permanent stormwater BMPs shall be addressed as required by Article VII.
- N. All BMPs used to meet the requirements of this Ordinance shall conform to the state water quality requirements and any more stringent requirements as set forth by the Township.
- O. Techniques described in Appendix E (Low Impact Development) of this Ordinance shall be considered because they reduce the costs of complying with the requirements of this Ordinance and the state water quality requirements.
- P. In selecting the appropriate BMPs or combinations thereof, the Applicant shall consider the following:
 - 1. Total contributing drainage area.
 - 2. Permeability and infiltration rate of the site's soils.
 - 3. Slope and depth to bedrock.
 - 4. Seasonal high water table.
 - 5. Proximity to building foundations and wellheads.
 - 6. Erodibility of soils.
 - 7. Land availability and configuration of the topography.
 - 8. Peak discharge and required volume control.
 - 9. Stream bank erosion.
 - 10. Efficiency of the BMPs to mitigate potential water quality problems.
 - 11. The volume of runoff that will be effectively treated.
 - 12. The nature of the pollutant being removed.
 - 13. Maintenance requirements.

14. Creation/protection of aquatic and wildlife habitat.
 15. Recreational value.
 16. Enhancement of aesthetic and property values.
- R. The design of all stormwater management facilities shall incorporate sound engineering principles and practices in a manner that does not aggravate existing stormwater problems. The Township reserves the right to disapprove any design that would result in construction in or continuation of a stormwater problem area.
- S. The applicant may meet the stormwater management criteria through off-site stormwater management measures as long as the proposed measures are in the same subwatershed as shown in Ordinance Appendix A, and there is no known drainage problem downstream from the site.
- T. Stormwater Hotspots – Stormwater runoff from hotspots shall be pretreated prior to surface or groundwater infiltration to prevent pollutant runoff. Industrial sites referenced in 40 CFR 125 are examples of hotspots.

Below is a list of examples of hotspots:

- Vehicle salvage yards and recycling facilities
- Vehicle fueling stations
- Vehicle service and maintenance facilities
- Vehicle and equipment cleaning facilities
- Fleet storage areas (bus, truck, etc.)
- Industrial sites based on Standard Industrial Classification Codes
- Marinas (service and maintenance areas)
- Outdoor liquid container storage
- Outdoor loading/unloading facilities
- Public works storage areas
- Facilities that generate or store hazardous materials
- Commercial container nursery
- Contaminated sites/brownfields
- Other land uses and activities as designated by an appropriate review authority

The following land uses and activities are not normally considered hotspots:

- Residential streets and rural highways
- Residential development
- Institutional development
- Office developments
- Nonindustrial rooftops
- Pervious areas, except golf courses and nurseries (which may need an integrated pest management (IPM) plan)

While streets and highways (average daily traffic volume (ADT) greater than thirty thousand (30,000)) are not considered stormwater hotspots, it is important to ensure that highway stormwater management facilities are designed to adequately protect receiving streams and/or groundwater.

The Environmental Protection Agency's (EPA) NPDES stormwater program requires some industrial sites to prepare and implement a stormwater pollution prevention plan.

- U. The following standards for protection of down gradient properties from off-site conveyance must be accomplished:
For any location where a new concentrated discharge of stormwater from any frequency rainfall event, up to and including the 100-year, 24-hour event, will flow onto a down gradient property, the following are required
1. A drainage easement (or other legal agreement/approval) must be obtained for conveyance of discharges onto or through adjacent properties.
 2. The conveyance must be designed to avoid erosion, flooding, or other damage to the properties through which it is being conveyed.

Section 198-10. Permit Requirements by Other Governmental Entities

The following permit requirements may apply to certain regulated earth disturbance activities and must be met prior to commencement of regulated earth disturbance activities, as applicable:

- A. All regulated earth disturbance activities subject to permit requirements by PADEP under regulations at Title 25 Pennsylvania Code Chapter 102.
- B. Work within natural drainage ways subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.
- C. Any stormwater management facility that would be located in or adjacent to surface waters of the Commonwealth, including wetlands, subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.
- D. Any stormwater management facility that would be located on or discharging to a state highway right-of-way, or require access to or from a state highway shall be subject to approval by Penn DOT.
- E. Culverts, bridges, storm sewers, or any other facilities which must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.

Section 198-11. Erosion and Sediment Control During Regulated Earth Disturbance Activities

- A. No regulated earth disturbance activities within the Township shall commence until the Township receives an approval from the PADEP in compliance with Title 25 Chapter 102 of the Pennsylvania Code of an erosion and sediment control plan for construction activities if applicable.
- B. PADEP has regulations regarding an erosion and sediment control plan under Title 25 Pennsylvania Code Chapter 102.
- C. In addition, under Title 25 Pennsylvania Code Chapter 92, a PADEP "NPDES Construction Activities" Permit is required for regulated earth disturbance activities.
- D. Evidence of any necessary permit(s) for regulated earth disturbance activities from the appropriate PADEP regional office or County Conservation District must be provided to the Township. The issuance of an NPDES Construction Permit (or permit coverage under the statewide General Permit (PAG-2)) satisfies the requirements of subsection 198-21.A.

- E. A copy of the erosion and sediment control plan and any required permit, as required by PADEP regulations, shall be available on the project site at all times.
- F. Additional erosion and sediment control design standards and criteria are recommended to be applied where infiltration BMPs are proposed. At a minimum, they shall include the following:
 - 1. Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase to maintain maximum infiltration capacity.
 - 2. Infiltration BMPs shall not be constructed nor receive runoff until the entire drainage area contributory to the infiltration BMP has achieved final stabilization.
- G. All work shall conform to Middletown Township Erosion and Sediment Control Ordinance Chapter 186

Section 198-12. Nonstructural Project Design Process (Sequencing to Minimize Stormwater Impacts)

The design of all regulated activities shall include the following to minimize stormwater impacts to reduce the surface discharge of stormwater, reduce the creation of unnecessary impervious surfaces, prevent the degradation of waters of the Commonwealth, and maintain as much as possible the natural hydrologic regime of the site.

- A. The Applicant shall apply Low Impact Development (LID) methods such as those listed in Appendix E, provided that use of this method does not conflict with other local codes.
- B. The Applicant shall demonstrate that the design process follows the sequence noted below. The goal of the sequence is to minimize the increases in stormwater runoff and impacts to water quality resulting from the proposed regulated activity:
 - 1. The following items in this subsection shall be addressed prior to development of other stormwater management site plan design elements:
 - a. Prepare an Existing Resource and Site Analysis Map (ERSAM) showing environmentally sensitive areas including, but not limited to, steep slopes, ponds, lakes, streams, wetlands, hydric soils, vernal pools, stream buffers, and hydrologic soil groups. Land development, any existing recharge areas, and other requirements outlined in the Township SALDO shall also be included.
 - b. Establish a stream buffer according to Section 198-14.C.
 - c. Prepare a draft project layout avoiding sensitive areas identified in Section 198-12.B.1.a.
 - d. Identify site-specific existing conditions drainage areas, discharge points, recharge areas, and hydrologic soil groups A and B (areas conducive to infiltration).
 - e. Evaluate nonstructural stormwater management alternatives:
 - i. Minimize earth disturbance.
 - ii. Minimize impervious surfaces.
 - iii. Break up large impervious surfaces.
 - f. Determine into what management district the site falls (Ordinance Appendix A), and conduct an existing conditions runoff analysis.
 - 2. The following items in this subsection may be addressed in any order provided that all items in Section 198-12.B.1 have been completed.

- a. Satisfy the infiltration objective (Section 198-13) and provide for stormwater pretreatment prior to infiltration.
- b. Provide for water quality protection in accordance with Section 198-14 water quality requirements.
- c. Provide stream bank erosion protection in accordance with Section 198-15 stream bank erosion requirements.
- d. Prepare final project design to maintain existing conditions drainage areas and discharge points, to minimize earth disturbance and impervious surfaces, and, to the maximum extent possible, to ensure that the remaining site development has no surface or point discharge.
- e. Conduct a proposed conditions runoff analysis based on the final design that meets the management district requirements (Section 198-16).
- f. Manage any remaining runoff prior to discharge through detention, bioretention, direct discharge, or other structural control.

Section 198-13. Infiltration Volume Requirements

Providing for infiltration consistent with the natural hydrologic regime is required. Design of the infiltration facilities shall consider infiltration to compensate for the reduction in the recharge that occurs when the ground surface is disturbed or impervious surface is created.

If it cannot be physically accomplished, then the design professional shall be responsible for demonstrating to the satisfaction of the Township that this cannot be physically accomplished on the site (e.g., shallow depth to bedrock or limiting zone, open voids, steep slopes, etc.). If it can be physically accomplished, the volume of runoff to be infiltrated shall be determined from Section 198-13.A.2 depending on demonstrated site conditions, and shall be the greatest volume that can be physically infiltrated. For example:

- Any applicant (developer or redeveloper) shall first attempt to infiltrate the volume required in Section 198-13.A.2.a.
- If the Section 198-13.A.2.a requirement cannot be physically accomplished, then the applicant is required to attempt to infiltrate the volume required in Section 198-13.A.2.b.
- Finally, if the 198-13.A.2.b infiltration volume cannot be physically accomplished, the applicant must, at a minimum, infiltrate the volume required in 198-13.A.2.c

A. Infiltration BMPs shall meet the following minimum requirements:

1. Infiltration BMPs intended to receive runoff from developed or redeveloped areas shall be selected based on suitability of soils and site conditions and shall be constructed on soils that have the following characteristics:
 - a. A minimum depth of twenty-four (24) inches between the bottom of the BMP and the top of the limiting zone.
 - b. An infiltration rate sufficient to accept the additional stormwater volume and dewater completely as determined by field tests conducted by the Applicant's design professional.
 - c. The infiltration facility shall be capable of completely draining the retention (infiltration) volume (Rev) within three (3) days (72 hours) from the end of the design storm.

2. The size of the infiltration facility and Re_v shall be based upon the following volume criteria:
- a. Modified Control Guideline One (MCG-1) of the *Pennsylvania Stormwater Best Management Practices* (PA BMP) Manual – The retention (infiltration) volume (Re_v) to be captured and infiltrated shall be the net 2-year 24-hour volume. The net volume is the difference between the post-development runoff volume and the pre-development runoff volume. The post-development total runoff volume for all storms equal to or less than the 2-year 24-hour duration precipitation shall not be increased. For modeling purposes, existing (pre-development) non-forested pervious areas must be considered meadow in good condition or its equivalent, and forty (40) percent of existing impervious area, when present, shall be considered meadow in good condition.
 - b. Infiltrating the entire Re_v volume in Section 198-13.A.2.a (above) may not be feasible on every site due to site-specific limitations such as shallow depth to bedrock or the water table. If it **cannot be physically accomplished**, then the following criteria from Modified Control Guideline Two (MCG-2) of the PA BMP Manual must be satisfied:

At least the **first one-inch (1.0")** of runoff from new or replacement impervious surfaces shall be infiltrated.

$$Re_v = 1 \text{ (inch)} * \text{impervious area (square feet)} \div 12 \text{ (inches)} = \text{cubic feet (cf)}$$

An asterisk (*) in equations denotes multiplication.

- c. Only if infiltrating the entire Re_v volume in Section 198-13.A.2.b (above) **cannot be physically accomplished**, then the following minimum criteria from Modified Control Guideline Two (MCG-2) of the PA BMP Manual must be satisfied:

Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire water quality volume (WQv) (Section 198-14.A); however, in all cases at least the **first one-half inch (0.5")** of the WQv shall be infiltrated. The minimum infiltration volume (Re_v) required would, therefore, be computed as:

$$Re_v = I * \text{impervious area (square feet)} \div 12 \text{ (inches)} = \text{cubic feet (cf)}$$

An asterisk (*) in equations denotes multiplication.

Where:

I = The maximum equivalent infiltration amount (inches) that the site can physically accept or 0.50 inch, whichever is greater.

The retention volume values derived from the methods in Section 198-13.A.2.a, 198-13.A.2.b, or 198-13.A.2.c is the minimum volume the Applicant must control through an infiltration BMP facility. If site conditions preclude capture of runoff from portions of the impervious area, the infiltration volume for the remaining area should be increased an equivalent amount to offset the loss.

- B. Soils - A detailed soils evaluation of the project site shall be required to determine the suitability of infiltration facilities. The evaluation shall be performed by a qualified design professional and at minimum address soil permeability, depth to bedrock, and subgrade stability. The general process for designing the infiltration BMP shall be:
1. Analyze hydrologic soil groups as well as natural and man-made features within the site to determine general areas of suitability for infiltration practices. In areas where development on fill material is under consideration, conduct geotechnical investigations of sub-grade stability; infiltration may not be ruled out without conducting these tests.
 2. Provide field tests such as double ring infiltrometer or hydraulic conductivity tests (at the level of the proposed infiltration surface) to determine the appropriate hydraulic conductivity rate. Percolation tests are not recommended for design purposes.
 3. Design the infiltration structure for the required retention (Re_v) volume based on field determined capacity at the level of the proposed infiltration surface.
 4. If on-lot infiltration structures are proposed by the Applicant's design professional, it must be demonstrated to the Township that the soils are conducive to infiltrate on the lots identified.
- C. Infiltration facilities should, to the greatest extent practicable, be located to avoid introducing contaminants via groundwater, and be in conformance with an approved source water protection assessment or source water protection plan.
- D. Roadway drainage systems should provide an opportunity to capture accidental spills. Road de-icing material storage facilities shall be designed to avoid salt and chloride runoff from entering waterways and infiltration facilities. The qualified design professional shall evaluate the possibility of groundwater contamination from the proposed infiltration facility and perform a hydrogeologic justification study if necessary.
- E. The antidegradation analysis found in Chapter 93 shall be applied in HQ or EV streams.
- F. An impermeable liner will be required in detention basins where the possibility of groundwater contamination exists. The Township may require a detailed hydrogeologic investigation.
- G. The applicant should provide safeguards against groundwater contamination for land uses that may cause groundwater contamination should there be a mishap or spill.

Section 198-14. Water Quality Requirements

The Applicant shall comply with the following water quality requirements of this Article.

To control post-construction stormwater impacts from regulated activities and conform to state water quality requirements, BMPs which replicate pre-development stormwater infiltration and runoff conditions must be provided in the site design such that post-construction stormwater discharges do not degrade the physical, chemical, or biological characteristics of the receiving waters. This may be achieved by the following:

1. Infiltration: replication of pre-construction stormwater infiltration conditions,
2. Treatment: use of water quality treatment BMPs to provide filtering of chemical and physical pollutants from the stormwater runoff, and

3. Stream bank and stream bed protection: management of volume and rate of post-construction stormwater discharges to prevent physical degradation of receiving waters (e.g., from scouring).

- A. Developed areas shall provide adequate storage and treatment facilities necessary to capture and treat stormwater runoff. The infiltration volume computed under Section 198-13 may be a component of the water quality volume if the Applicant chooses to manage both components in a single facility. If the calculated water quality volume (WQv) is greater than the volume required to be infiltrated as described in Section 198-13.A.2, then the difference between the two volumes shall be treated for water quality by an acceptable stormwater management practice(s). The required water quality volume (WQv) is the storage capacity needed to capture and treat a portion of stormwater runoff from the developed areas of the site.

To achieve this requirement, the following criterion is established:

From Control Guideline (CG-1) in the PA BMP Manual, the water quality volume shall be the net 2-year 24-hour volume. The net volume is the difference between the post-development runoff volume and the pre-development runoff volume. The post-development total runoff volume for all storms equal to or less than the 2-year 24-hour duration precipitation shall not be increased. For modeling purposes, existing (pre-development) non-forested pervious areas must be considered meadow in good condition or its equivalent, and forty (40) percent of existing impervious area, when present, shall be considered meadow in good condition.

This volume requirement can be managed by the permanent volume of a wet basin or the detained volume from other BMPs. Where appropriate, wet basins shall be utilized for water quality control and shall follow the guidelines of the PA BMP manual referenced in Ordinance Appendix G.

Release of water can begin at the start of the storm (i.e., the invert of the water quality orifice is at the invert of the facility). The design of the facility shall provide for protection from clogging and unwanted sedimentation.

- B. The temperature of receiving waters shall be protected through the use of BMPs that moderate temperature.
- C. If a perennial or intermittent stream passes through, or a waterbody (i.e., lake, pond, wetland) is present on the site, the Applicant shall create a riparian buffer extending a minimum of fifty (50) to one hundred fifty (150) feet (subject to federal and state buffer policies and regulation), to either side of the top-of-bank of the channel, lake, or wetland. The buffer area shall be planted with native vegetation and maintained in a vegetated state (Refer to Appendix B, Pennsylvania Native Plant List, contained in the PA BMP Manual).
 1. The following provisions also apply to riparian buffers on lots in existence at the time of adoption of this Ordinance:
 - a. If the applicable rear or side yard setback is less than fifty (50) feet, the buffer width may be reduced within the setback to twenty-five (25) percent of the setback or twenty-five (25) feet, whichever is greater.
 - b. If a stream traverses a site in a manner that significantly reduces the use of the site, the buffer may be reduced to twenty-five (25) feet on either side with Township approval.
 2. Permitted uses within the buffer include the following, subject to Township approval and provided that they comply with all federal, state, and local regulations:

- a. Recreational trails. See Ordinance Appendix J Riparian Buffer Trail Guidelines
 - b. Utility rights-of-way
 - c. Bridges
 - d. Roads and driveways only when no viable alternative alignment or location is feasible provided that such roads and driveways are aligned predominantly perpendicular to the contours.
 - e. Other non-destructive recreational uses subject to Township approval
3. Prohibited uses and activities shall be cuts, fills, soil/rock/mineral extraction and/or removal, removal of topsoil, structures and stormwater management facilities.
- D. If an existing buffer is legally prescribed (i.e., deed, covenant, easement, etc.) and it exceeds the requirements of this Ordinance, the existing buffer shall be maintained.

Section 198-15. Stream Bank Erosion Requirements

- A. In addition to controlling the water quality volume (in order to minimize the impact of stormwater runoff on downstream stream bank erosion), the primary requirement to control stream bank erosion is to design a BMP to detain the proposed conditions 2-year, 24-hour design storm to the existing conditions 1-year flow using the SCS Type II distribution. Additionally, provisions shall be made (such as adding a small orifice at the bottom of the outlet structure) to release the proposed conditions 1-year storm for a minimum of twenty-four (24) hours from a point in time when the maximum volume of water from the 1-year storm is stored in a proposed BMP (i.e., the maximum water surface elevation is achieved in the facility). Release of water can begin at the start of the storm (i.e., the invert of the water quality orifice is at the invert of the facility).
- B. The minimum orifice size in the outlet structure to the BMP shall be three (3) inches in diameter where possible, and a trash rack shall be installed to prevent clogging. On sites with small drainage areas contributing to this BMP that do not provide enough runoff volume to allow a 24-hour attenuation with the 3-inch orifice, the calculations shall be submitted showing this condition. When the calculated orifice size is below three (3) inches, gravel filters (or other methods) are recommended to discharge low-flow rates subject to the Township Engineer's satisfaction. When filters are utilized, maintenance provisions shall be provided to ensure filters meet the design function. All facilities shall make use of measures to extend the flow path and increase the travel time of flows in the facility.

Section 198-16. Stormwater Peak Rate Control

- A. Each watershed has been divided into either stormwater management districts or release rate districts as shown on the Release Rate Maps in Appendix A.
1. In addition to the watershed-specific requirements specified in Tables 198-16.1 and 198-16.2 below, the erosion and sedimentation control (Section 198-11), the nonstructural project design (Section 198-12), the infiltration (Section 198-13), the water quality (Section 198-14), and the stream bank erosion (Section 198-15) requirements shall be implemented.
 2. Standards for managing runoff from each subarea in a watershed for the 2-, 5-, 10-, 25-, 50-, and 100-year design storms are shown in Tables 198-16.1 and 198-16.2. Development sites located in each of the management/release rate districts must control proposed conditions runoff rates to existing conditions runoff rates for the design storms in accordance with the Tables.

- 3. For all subareas set forth in Table 198-16.2, the proposed 2 year peak rate storm condition shall be reduced at a minimum to the existing 1 year storm condition.

- B. General - Proposed conditions rates of runoff from any regulated activity shall not exceed the peak release rates of runoff from existing conditions for the design storms specified on the Stormwater Management District Watershed Map (Ordinance Appendix A) and this section of the Ordinance.

- C. District Boundaries - The boundaries of the stormwater management districts are shown on an official map that is available for inspection at the Township and County Planning offices. A copy of the official map at a reduced scale is included in Ordinance Appendix A. The exact location of the stormwater management district boundaries as they apply to a given development site shall be determined by mapping the boundaries using the 2-foot topographic contours (or most accurate data required) provided as part of the SWM site plan.

- D. Sites Located in More than One (1) District or Watershed - For a proposed development site located within two (2) or more stormwater management district subareas, the peak discharge rate from any subarea shall meet the management district criteria in which the discharge is located. The natural hydrology of each respective subarea shall be maintained, and drainage shall not be redirected from one subarea to another. Under circumstances where the Applicant shows this cannot be accomplished, a waiver is required by the Township.

**TABLE 198-16.1
PEAK RATE CONTROL STANDARDS IN THE
CHESTER/RIDLEY CREEK WATERSHEDS**

Proposed Condition Design Storm	Reduce to	Existing Condition Design Storm
2 - year		1 - year
5 - year		5 - year
10 - year		10 - year
25 - year		25 - year
50 – Year		50 - year
100 - year		100 – year

**TABLE 198-16.2
CONTROL CRITERIA FOR CHESTER/RIDLEY CREEK WATERSHED
STORMWATER MANAGEMENT DISTRICTS**

DISTRICT	CONTROL CRITERIA
100%	Post-development peak discharge for all design storms must be no greater than pre-development peak discharges.
85%	Post-development peak discharge for all design storms must be no greater than 85 percent of the pre-development peak discharges.
60%	Post-development peak discharge for all design storms must be no greater than 60 percent of the pre-development peak discharges.
50%	Post-development peak discharge for all design storms must be no greater than 50 percent of the pre-development peak discharges.

- E. Off-site Areas - Off-site areas that drain through a proposed development site are not subject to release rate criteria when determining allowable peak runoff rates. On-site drainage facilities shall be designed to safely convey off-site flows through the development site.
- F. Site Areas - Where the site area to be impacted by a proposed development activity differs significantly from the total site area, only the proposed impact area utilizing stormwater management measures shall be subject to the peak rate control standards noted above. Unimpacted areas for which the discharge point has not changed are not subject to the peak rate control standards.
- G. Hardship Option for regulated activities less than one acre - There may be certain instances, where the peak rate criteria are too restrictive for a particular landowner or Applicant. The existing drainage network in some areas may be capable of safely transporting slight increases in flows without causing a problem or increasing flows elsewhere. This must be demonstrated as per Section 198-16.H below in order for the hardship option to be considered. If an Applicant or homeowner cannot meet the stormwater standards due to lot conditions or if conformance would become a hardship to an owner, the hardship option may be applied. The Applicant would have to plead his/her case to the Township Council with the final determination made by the Township. Any landowners pleading the "hardship option" will assume all liabilities that may arise due to exercising this option. Cost or financial burden cannot be considered as a hardship. The Applicant may consider off-site management controls as long as the stormwater management controls are within the same subwatershed.
- H. Downstream Hydraulic Capacity Analysis - Any downstream capacity hydraulic analysis conducted in accordance with this Ordinance shall use the following criteria for determining adequacy for accepting increased peak flow rates:
 - 1. Natural or man-made channels or swales must be able to convey the increased runoff associated with a 2-year storm event within their banks at velocities consistent with protection of the channels from erosion. Velocities shall be based upon criteria and methodologies acceptable to the Township.
 - 2. Natural or man-made channels or swales must be able to convey increased 25-year storm event runoff without creating any increased hazard to persons or property.
 - 3. Culverts, bridges, storm sewers or any other hydraulic facilities which must pass or convey flows from the tributary area must be designed in accordance with PADEP Chapter 105 regulations (if applicable) and, at a minimum, pass the increased 25-year storm event runoff.
 - 4. Water quality requirements defined in Section 198-15 must be met.
 - 5. Post construction peak rates shall not exceed the existing peak rates for the respective subarea.

Section 198-17. Calculation Methodology

- A. Stormwater runoff from all development sites with a drainage area of greater than five (5) acres shall be calculated using a generally accepted calculation technique that is based on the NRCS Soil Cover Complex Method. Table 198-17 summarizes acceptable computation methods. The method selected by the design professional shall be based on the individual limitations and suitability of each method for a particular site. The use of the Rational Method to estimate peak discharges for drainage areas greater than five (5) acres shall be permitted only upon approval of the Township.

TABLE 198-17

**ACCEPTABLE COMPUTATION METHODOLOGIES FOR
SWM SITE PLAN**

METHOD	DEVELOPED BY	APPLICABILITY
TR-20 (or commercial computer package based on TR-20)	USDA NRCS	Applicable where use of full hydrology computer model is desirable or necessary.
TR-55 (or commercial computer package based on TR-55)	USDA NRCS	Applicable for land development plans where limitations described in TR-55.
HEC-1/ HEC-HMS	US Army Corps of Engineers	Applicable where use of a full hydrologic computer model is desirable or necessary.
Rational Method (or commercial computer package based on Rational Method)	Emil Kuichling (1889)	For sites up to five (5) acres, or as approved by the Township and/or Township Engineer.
Other Methods	Varies	Other computation methodologies approved by the Township and/or Township Engineer.

- B. All calculations consistent with this Ordinance using the Soil Cover Complex Method shall use the appropriate design rainfall depths for the various return period storms. Rainfall depths shall be according to NOAA Atlas 14 values consistent with a partial duration series. When stormwater calculations are performed for routing procedures or water quality functions, the duration of rainfall shall be twenty-four (24) hours.
- C. The following criteria shall be used for peak rate runoff calculations:
1. For development sites not considered redevelopment, the ground cover used in determining the existing conditions flow rates shall be as follows:
 - a. Wooded sites shall use a ground cover of "woods in good condition." Portions of a site having more than one viable tree measuring a diameter at breast height (DBH) of six (6) inches or greater per fifteen hundred (1,500) square feet shall be considered wooded where such trees existed within three (3) years of application.
 - b. The undeveloped portion of the site including agriculture, bare earth, and fallow ground shall be considered as "meadow in good condition," unless the natural ground cover generates a lower curve (CN) number or Rational "c" value (i.e., woods) as listed in Appendix F of this Ordinance.
 2. For redevelopment sites, the ground cover used in determining the existing conditions flow rates for the developed portion of the site shall be based upon Section 198-13.A.2 and 198-14.A.

- D. All calculations using the Rational Method shall use rainfall intensities consistent with appropriate times-of-concentration (duration) and storm events with rainfall intensities obtained from NOAA Atlas 14 partial duration series estimates, or the latest version of the Penn DOT Drainage Manual (PDM Publication 584). Times-of-concentration shall be calculated based on the methodology recommended in the respective model used. Times of concentration for channel and pipe flow shall be computed using Manning's equation.
- E. Runoff curve numbers (CN) for both existing and proposed conditions to be used in the Soil Cover Complex Method shall be obtained from Appendix F of this Ordinance.
- F. Runoff coefficients (c) for both existing and proposed conditions for use in the Rational Method shall be obtained from Appendix F of this Ordinance.
- G. Hydraulic computations to determine the capacity of pipes, culverts, and storm sewers shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Design Series Number 5 (Publication No. FHWA-NHI-01-020 HDS No. 5). Hydraulic computations to determine the capacity of open channels shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Engineering Circular Number 15 (Publication No. FHWA-NHI-05-114 HEC 15). Values for Manning's roughness coefficient (n) shall be consistent with Appendix F of the Ordinance.
- H. Outlet structures for stormwater management facilities shall be designed to meet the performance standards of this Ordinance using any generally accepted hydraulic analysis technique or method.
- I. The design of any stormwater detention facilities intended to meet the performance standards of this Ordinance shall be verified by routing the design storm hydrograph through these facilities using an acceptable method. The design storm hydrograph shall be computed using a calculation method that produces a full hydrograph. The Township may approve the use of any generally accepted full hydrograph approximation technique that shall use a total runoff volume that is consistent with the volume from a method that produces a full hydrograph.

Section 198-18. Other Requirements

- A. All wet basin designs shall incorporate biologic controls consistent with the West Nile Guidance found in Appendix H or PADEP document 363-0300-001 "Design Criteria – Wetlands Replacement/Monitoring," or contact the Pennsylvania State Cooperative Wetland Center (www.wetlands.psu.edu/) or the Penn State Cooperative Extension Office (www.extension.psu.edu/extmap.html).
- B. Any stormwater basin required or regulated by this Ordinance designed to store runoff and requiring a berm or earthen embankment shall be designed to provide an emergency spillway to handle flow up to and including the 100-year proposed conditions. The height of embankment must provide a minimum 1.0 foot of freeboard above the maximum pool elevation computed when the facility functions for the 100-year proposed conditions inflow. Should any stormwater management facility require a dam safety permit under PADEP Chapter 105, the facility shall be designed in accordance with Chapter 105 and meet the regulations of Chapter 105 concerning dam safety. Chapter 105 may require the passing of storms larger than 100-year event.
- C. Any drainage conveyance facility and/or channel not governed by Chapter 105 regulations must be able to convey, without damage to the drainage structure or

roadway, runoff from the 100-year storm event in the direction of natural flow without creating additional damage to any drainage structures, hereby structures or roadways.

- D. Conveyance facilities to or exiting from stormwater management facilities (i.e., detention basins) shall be designed to convey the design flow to or from the facility.
- E. Roadway crossings or structures located within designated floodplain areas must be able to convey runoff from a 100-year design storm consistent with Federal Emergency Management Agency National Flood Insurance Program – Floodplain Management Requirements.
- F. Any facility located within a Penn DOT right-of-way must meet Penn DOT minimum design standards and permit submission requirements.
- G. Adequate erosion protection and energy dissipation shall be provided along all open channels and at all points of discharge. Design methods shall be consistent with the Federal Highway Administration Hydraulic Engineering Circular Number 11 (Publication No. FHWA-IP-89-016) and the PADEP Erosion and Sediment Pollution Control Program Manual (Publication No. 363-2134-008).

ARTICLE IV – STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS

Section 198-19. General Requirements

For any of the activities regulated by this Ordinance, the preliminary or final approval of subdivision and/or land development plans, the issuance of any building or occupancy permit, or the commencement of any earth disturbance activity may not proceed until the property owner, Applicant, or his/her agent has received written approval of a SWM site plan from the Township and an adequate erosion and sediment control plan review by the Conservation District and Township unless the project qualifies for an exemption in Section 198-6 or the Conservation District has determined that the project does not meet their minimum size requirement

Section 198-20. SWM Site Plan Contents

The SWM site plan shall consist of a general description of the project including sequencing items described in Section 198-12, calculations, maps, and plans. A note on the maps shall refer to the associated computations and erosion and sediment control plan by title and date. The cover sheet of the computations and erosion and sediment control plan shall refer to the associated maps by title and date. All SWM site plan materials shall be submitted to the Township in a format that is clear, concise, legible, neat, and well organized; otherwise, the SWM site plan shall not be accepted for review and shall be returned to the Applicant.

The following items shall be included in the SWM site plan, when applicable:

- A. General
 - 1. General description of the project, including those areas described in Section 198-12.B.
 - 2. General description of proposed permanent stormwater management techniques, including construction specifications of the materials to be used for stormwater management facilities.
 - 3. Complete hydrologic, hydraulic, and structural computations for all stormwater management facilities.

4. An erosion and sediment control plan, including all reviews and letters of adequacy from the Conservation District.
5. A general description of proposed nonpoint source pollution controls.
6. The SWM Site Plan Application and completed fee schedule form and associated fee (Ordinance Appendix C-1).
7. The SWM Site Plan Checklist (Appendix C-2).

B. Maps

Map(s) of the project area shall be submitted on 24-inch x 36-inch sheets and/or shall be prepared in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Delaware County. If the SALDO has more stringent criteria than this Ordinance, then the more stringent criteria shall apply. The contents of the map(s) shall include, but not be limited to:

1. The location of the project relative to highways, Township boundaries, or other identifiable landmarks.
2. Existing contours at intervals of two (2) feet. In areas of slopes greater than 25 percent, 5-foot contour intervals may be used.
3. Existing streams, lakes, ponds, or other waters of the Commonwealth within the project area.
4. Other physical features including flood hazard boundaries, stream buffers, existing drainage courses, areas of natural vegetation to be preserved, and the total extent of the upstream area draining through the site.
5. The locations of all existing and proposed utilities, sanitary sewers, and water lines within fifty (50) feet of property lines.
6. An overlay showing soil names and boundaries.
7. Limits of earth disturbance, including the type and amount of impervious area that would be added.
8. Proposed structures, roads, paved areas, and buildings.
9. Final contours at intervals of two (2) feet. In areas of steep slopes (greater than 25 percent), 5-foot contour intervals may be used.
10. The name of the development, the name and address of the owner of the property, and the name of the individual or firm preparing the plan.
11. The date of submission.
12. A graphic and written scale of one (1) inch equals no more than fifty (50) feet; for tracts of twenty (20) acres or more, the scale shall be one (1) inch equals no more than one hundred (100) feet.
13. A north arrow.

14. The total tract boundary and size with distances marked to the nearest foot and bearings to the nearest degree.
15. Existing and proposed land use(s).
16. A key map showing all existing man-made features beyond the property boundary that would be affected by the project.
17. Location of all open channels.
18. Overland drainage patterns and swales.
19. A 15-foot wide access easement around all stormwater management facilities and a 15-foot wide access easement to and from a public right of way.
20. The location of all erosion and sediment control facilities.
21. A note on the plan indicating the location and responsibility for maintenance of stormwater management facilities that would be located off site. All off-site facilities shall meet the performance standards and design criteria specified in this Ordinance.
22. A statement, signed by the Applicant, acknowledging that any revision to the approved SWM site plan must be approved by the Township, and that a revised erosion and sediment control plan must be submitted to the Conservation District for a determination of adequacy.
23. The following signature block for the Design Engineer:

"I, (Design Engineer), on this date (date of signature), hereby certify that the SWM site plan meets all design standards and criteria of the Township of Middletown Stormwater Management Ordinance." [*Note: license stamp should be included here*]

C. Supplemental information to be submitted to the Township:

1. A written description of the following information shall be submitted by the Applicant and shall include:
 - a. The overall stormwater management concept for the project designed in accordance with Section 198-12.
 - b. Stormwater runoff computations as specified in this Ordinance.
 - c. Stormwater management techniques to be applied both during and after development.
 - d. Expected project time schedule.
 - e. Development stages or project phases, if so proposed.
 - f. An operations and maintenance plan in accordance with Section 198-30 of this Ordinance.
2. An erosion and sediment control plan.

3. A description of the effect of the project (in terms of runoff volumes and peak flows) on adjacent properties and on any existing Township stormwater collection system that may receive runoff from the project site.
4. A Declaration of Adequacy and Highway Occupancy Permit from the Pennsylvania Department of Transportation (PennDOT) District office when utilization of a PennDOT storm drainage system is proposed.

D. Stormwater Management Facilities

1. All stormwater management facilities must be located on a plan and described in detail.
2. When infiltration measures such as seepage pits, beds, or trenches are used, the locations of existing and proposed septic tank infiltration areas and wells must be shown.
3. All calculations, assumptions, loading ratios (guidelines presented in the PA BMP Manual), and criteria used in the design of the stormwater management facilities must be shown.

Section 198-21. Plan Submission

The Township shall require receipt of a complete SWM site plan, as specified in this Ordinance.

- A. Proof of application or documentation of required permit(s) or approvals for the programs listed below shall be part of the plan, if applicable:
 1. NPDES Permit for Stormwater Discharges from Construction Activities
 2. PADEP permits as needed
 - a. PADEP Joint Permit Application
 - b. Chapter 105 (Dam Safety and Waterway Management)
 - c. Chapter 106 (Floodplain Management)
 3. PennDOT Highway Occupancy Permit
 4. Any other permit under applicable state or federal regulations
- B. The plan shall be coordinated with the state and federal permit process and the Township SALDO review process. The process implementing the provisions in this Ordinance is illustrated in Appendices D-1 and D-2.
- C. For projects that require SALDO approval, the SWM site plan shall be submitted by the Applicant as part of the preliminary plan submission where applicable for the regulated activity.
- D. For regulated activities that do not require SALDO approval, see Section 198-9, General Requirements.
- E. Five (5) copies of the SWM site plan shall be submitted by the applicant for review in accordance with established criteria and procedures:

1. Two (2) copies to the Township accompanied by the requisite Township review fee, as specified in this Ordinance.
 2. Two (2) copies to the County Conservation District.
 3. One (1) copy to the Township Engineer.
- F. Any submissions to the agencies listed above that are found to be incomplete shall not be accepted for review and shall be returned to the Applicant with a notification in writing of the specific manner in which the submission is incomplete.

Section 198-22. Stormwater Management (SWM) Site Plan Review

- A. SWM plans shall be submitted to the Township for review by the Township Engineer for consistency with this Ordinance and the respective Act 167 Stormwater Management Plan. Any plan found incomplete may not be accepted for review and may be returned to the Applicant. The Township Engineer will review the SWM site plan for any subdivision or land development against the Township SALDO provisions not otherwise superseded by this Ordinance.
- B. The applicant shall respond to the Conservation District comments on the SWM site plan prior to being considered for final approval by the Township.
- C. For activities regulated by this Ordinance (Section 198-5), the Township Engineer will notify the Applicant and the Township in writing, with a copy to the Building Permit Officer, within 30 calendar days, whether the SWM site plan is consistent with the stormwater management plan.
1. If the Township Engineer determines that the SWM site plan is consistent with the stormwater management ordinance, the Township Engineer will forward a letter of consistency to the Township and the Applicant.
 2. If the Township Engineer determines that the SWM site plan is inconsistent or noncompliant with the stormwater management ordinance, the Township Engineer will forward a letter to the Township, with a copy to the Applicant citing the reason(s) and specific Ordinance sections for the inconsistency or noncompliance. Inconsistency or noncompliance may be due to inadequate information to make a reasonable judgment as to compliance with the stormwater management plan. Any SWM site plans that are inconsistent or noncompliant may be revised by the Applicant and resubmitted when consistent with this Ordinance.
- D. For regulated activities under this Ordinance that require an NPDES Permit Application, the Applicant shall forward a copy of the Township Engineer's letter stating that the SWM site plan is consistent with the stormwater management ordinance to the Conservation District. PADEP and the Conservation District may consider the Township Engineer's review comments in determining whether to issue a permit.
- E. The Township will not grant preliminary or final approval to any subdivision or land development for regulated activities specified in this Ordinance if the SWM site plan has been found by the Township Engineer to be inconsistent with the stormwater management ordinance. All required permits from PADEP must be obtained prior to approval of any subdivision or land development.
- F. No building permits for any regulated activity specified in this Ordinance will be approved by the Township if the SWM site plan has been found to be inconsistent with the stormwater management ordinance, as determined by the Township Engineer and Conservation District, or without considering the comments of the Township Engineer

and Conservation District. All required permits from PADEP must be obtained prior to issuance of a building permit.

- G. The Applicant shall be responsible for completing record drawings of all stormwater management facilities included in the approved SWM site plan. The record drawings and an explanation of any discrepancies with the design plans shall be submitted to the Township Engineer for final approval. In no case will the Township approve the record drawings until the Township receives a copy of an approved Declaration of Adequacy and/or Highway Occupancy Permit from the PennDOT District office, NPDES Permit, and any other applicable permits or approvals from PADEP or the Conservation District. The above permits and approvals must be based on the record drawings.
- H. The Township's approval of a SWM site plan shall be valid for a period not to exceed 5 years commencing on the date that the Township signs the approved SWM site plan. If stormwater management facilities included in the approved SWM site plan have not been constructed, or if constructed, record drawings of these facilities have not been approved within this 5 year time period, then the Township may consider the SWM site plan inconsistent or noncompliant and may revoke any and all permits. SWM site plans that are determined to be inconsistent or noncompliant by the Township shall be resubmitted in accordance with Section 198-24 of this Ordinance.

Section 198-23. Revision of Plans

- A. A revision to a submitted SWM site plan under review by the Township for a development site that involves the following shall require a resubmission to the Township of a revised SWM site plan consistent with Section 198-21 of this Ordinance and be subject to review as specified in Section 198-22 of this Ordinance:
 - 1. Change in stormwater management facilities or techniques,
 - 2. Relocation or redesign of stormwater management facilities, or
 - 3. Is necessary because soil or other conditions are not as stated on the SWM site plan as determined by the Township Engineer.
- B. A revision to an already approved or inconsistent or noncompliant SWM site plan shall be submitted to the Township, accompanied by the applicable Township review and inspection fee. A revision to a SWM site plan for which a formal action has not been taken by the Township shall be submitted to the Township accompanied by the applicable Township review and inspection fee.

Section 198-24. Resubmission of Inconsistent or Noncompliant SWM Site Plans

An inconsistent or noncompliant SWM site plan may be resubmitted with the revisions addressing the Township Engineer's concerns documented in writing. It must be addressed to the Township in accordance with Section 198-21 of this Ordinance, distributed accordingly, and be subject to review as specified in Section 198-22 of this Ordinance. The applicable Township review and inspection fee must accompany a resubmission of an inconsistent or noncompliant SWM site plan.

ARTICLE V – INSPECTIONS

Section 198-25. Inspections

- A. The Township Engineer or his designee shall inspect all phases of the installation of the permanent BMPs and/or stormwater management facilities as deemed appropriate by the Township Engineer.
- B. During any stage of the work, if the Township Engineer or his designee determines that the permanent BMPs and/or stormwater management facilities are not being installed in accordance with the approved stormwater management plan, the Township may revoke any existing permits or other approvals and issue a cease and desist order until a revised SWM site plan is submitted and approved, as specified in this Ordinance, and until the deficiencies are corrected.
- C. A final inspection of all BMPs and/or stormwater management facilities shall be conducted by the Township Engineer or his designee to confirm compliance with the approved SWM site plan prior to the issuance of any occupancy permit.

Section 198-26. As-built Plans, Completion Certificate, and Final Inspections

- A. The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM site plan for activities involving proposed impervious surfaces 2,000 sq. ft. or greater and for earth disturbances 5,000 sq. ft. or greater. The as-built plans and all explanation of any discrepancies with the construction plans shall be submitted to the Township within three (3) months of the completion of construction of the SWM BMPs.
- B. As-built plans shall show the location and as-built conditions of all SWM BMP structures and include the following information: impervious surfaces included in the approved SWM site plan; topographic contours; and existing, proposed, and built impervious surfaces shown in the as-built drawings.
- C. The as-built submission shall include a certification of completion signed by a Design Professional verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications.
- D. The Township will review the as-built submission for consistency with the approved SWM site plan as well as actual conditions at the project site. After receipt of the completion certification by the Township, the Township may conduct a final inspection.

ARTICLE VI – FEES AND EXPENSES

Section 198-27. Township SWM Site Plan Review and Inspection Fee

Fees have been established by the Township to defray plan review and construction inspection costs incurred by the Township. All fees shall be paid by the Applicant at the time of SWM site plan submission. A review and inspection fee schedule shall be established by resolution of the Middletown Township Council based on the size of the regulated activity and based on the Township's costs for reviewing SWM site plans and conducting inspections pursuant to Section 198-25. The Township shall periodically update the review and inspection fee schedule to ensure that review costs are adequately reimbursed.

Section 198-28. Expenses Covered by Fees

The fees required by this Ordinance shall at a minimum cover:

- A. Administrative costs.
- B. The review of the SWM site plan by the Township and the Township Engineer.
- C. The site inspections.
- D. The inspection of stormwater management facilities and drainage improvements during construction.
- E. The final inspection upon completion of the stormwater management facilities and drainage improvements presented in the SWM site plan.
- F. Any additional work required to enforce any permit provisions regulated by this Ordinance, correct violations, and assure proper completion of stipulated remedial actions.

ARTICLE VII – MAINTENANCE RESPONSIBILITIES

Section 198-29. Performance Guarantee

- A. For all activities requiring submittal of a SWM site plan, the Applicant shall provide a financial guarantee to the Township for the timely installation and proper construction of all stormwater management facilities as:
 - 1. Required by the approved SWM site plan equal to or greater than the full construction cost of the required facilities subject to the approval of the Township Engineer.
 - 2. The amount and method of payment provided for in a fee schedule established by the Township.
- B. For other regulated activities, the Township may require a financial guarantee from the Applicant.

Section 198-30. Responsibilities for Operations and Maintenance (O&M) of Stormwater Controls and BMPs

- A. The SWM site plan shall include a BMP operations and maintenance plan that describes how the permanent (e.g., post-construction) stormwater controls and BMPs will be properly operated, inspected, and maintained.
- B. Establish access easements that include all significant stormwater controls, conveyances, and BMPs, and indicate a 15-foot perimeter area surrounding these features plus provide the Township a 15-wide access easement to and from a public right of way.
- C. The following items shall be included in the stormwater control and BMP operations and maintenance plan, as applicable:

1. Map(s) of the project area, in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Delaware County, shall be submitted on 24 inch x 36 inch sheets. The contents of the maps(s) shall include, but not be limited to:
 - a. Clear identification of the location and nature of permanent stormwater controls and BMPs,
 - b. The location of the project site relative to highways, Township boundaries, or other identifiable landmarks,
 - c. Existing and final contours at intervals of two (2) feet, or others as appropriate,
 - d. Existing streams, lakes, ponds, or other bodies of water within the project site area,
 - e. Other physical features including flood hazard boundaries, sinkholes, streams, existing drainage courses, and areas of natural vegetation to be preserved,
 - f. The locations of all existing and proposed utilities, sanitary sewers, and water lines within fifty (50) feet of property lines of the project site,
 - g. Proposed final changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added,
 - h. Proposed final structures, roads, paved areas, and buildings, and
 - i. Access easement boundaries
 2. A description of how each permanent stormwater control and BMP will be operated and maintained,
 3. The identity and contact information associated with the person(s) responsible for operations and maintenance,
 4. The name of the project site, the name and address of the owner of the property, and the name of the individual or firm preparing the plan, and
 5. A statement, signed by the landowner, acknowledging that the stormwater controls and BMPs are fixtures that can be altered or removed only after approval by the Township.
- D. The stormwater control and BMP operations and maintenance plan for the project site shall establish responsibilities for the continuing operation and maintenance of all permanent stormwater controls and BMPs, as follows:
1. If a plan includes structures or lots that are to be separately owned and in which streets, sewers, and other public improvements are to be dedicated to the Township, stormwater controls and BMPs may, at the Township's discretion, also be dedicated to and maintained by the Township;
 2. If a plan includes operations and maintenance by a single owner or if sewers and other public improvements are to be privately owned and maintained, the operations and maintenance of stormwater controls and BMPs shall be the responsibility of the landowner.

- E. The Township will make the final determination on the continuing operations and maintenance responsibilities. The Township reserves the right to accept or reject the operations and maintenance responsibility for any or all of the stormwater controls and BMPs.

Section 198-31. Township Review of a Stormwater Control and BMP Operations and Maintenance Plan

- A. The Township will review the stormwater control and BMP operations and maintenance plan for consistency with this Ordinance and any permits issued by PADEP.
- B. The Township will notify the Applicant in writing whether or not the stormwater control and BMP operations and maintenance plan is approved.
- C. The Township will require an as-built plan per Section 198-26 showing all constructed stormwater controls and BMPs and an explanation of any discrepancies with the approved operations and maintenance plan.

Section 198-32. Adherence to an Approved Stormwater Control and BMP Operations and Maintenance Plan

It shall be unlawful to alter or remove any permanent stormwater control and BMP required by an approved stormwater control and BMP operations and maintenance plan or to allow the property to remain in a condition which does not conform to an approved stormwater control and BMP operations and maintenance plan.

Section 198-33. Operations and Maintenance Agreement for Privately Owned Stormwater Controls and BMPs

- A. Prior to final approval of the site's SWM site plan (including plans for private facilities constructed under the simplified method), the Applicant shall sign and record an operations and maintenance agreement with the Township covering all stormwater controls and BMPs that are to be privately owned (refer to Appendix I). The maintenance agreement shall be transferred with transfer of ownership in perpetuity. The agreement shall be substantially the same as the agreement in Appendix I of this Ordinance.
- B. Other items may be included in the agreement where determined necessary to guarantee the satisfactory operation and maintenance of all permanent stormwater controls and BMPs. The agreement shall be subject to the review and approval of the Township.

Section 198-34. Stormwater Management Easements

- A. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Township.
- B. Additional requirements regarding easements and access are included in Appendix I, Stormwater Controls and Best Management Practices, Operations and Maintenance Agreement.

Section 198-35. Recording of an Approved Stormwater Control and BMP Operations and Maintenance Plan and Related Agreements

- A. The owner of any land upon which permanent stormwater controls and BMPs will be placed, constructed, implemented, or permanently maintained, as described in the stormwater control and BMP operations and maintenance plan, shall record the following documents in the Office of the Recorder of Deeds for Delaware County, within fifteen (15)

days of approval of the stormwater control and BMP operations and maintenance plan by the Township and return proof of recording to the Township within 5 days of the recording:

1. The operations and maintenance plan, or a summary thereof,
 2. Operations and maintenance agreements under Section 198-33, and
 3. Easements under Section 198-34.
- B. The Township may suspend or revoke any approvals granted for the project site upon discovery of failure on the part of the owner to comply with this section.

ARTICLE VIII – PROHIBITIONS

Section 198-36. Prohibited Discharges

- 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, stormwater discharges into the Township's separate storm sewer system that are not composed entirely of stormwater, except as provided in subsection C below, and 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 the Commonwealth:
 1. Discharges from fire fighting activities;
 2. Potable water sources including water line and fire hydrant flushings;
 3. Irrigation drainage;
 4. Routine external building washdown (which does not use detergents or other compounds);
 5. Air conditioning condensate;
 6. Water from individual residential car washing;
 7. Springs and water from crawl space pumps;
 8. Uncontaminated water from foundation or from footing drains;
 9. Flows from riparian habitats and wetlands;
 10. Lawn watering;
 11. Pavement washwaters 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;
 12. Uncontaminated groundwater;
 13. Dechlorinated swimming pool discharges.

- D. In the event that the Township determines that any of the discharges identified in Section 198-36.C significantly contribute to pollution of waters of the Commonwealth, or is so notified by PADEP, the Township will notify the responsible person to cease the discharge.
- E. Upon notice provided by the Township under Section 198-36.D, the discharger will have a reasonable time, as determined by the Township, to cease the discharge consistent with the degree of pollution caused by the discharge.
- F. Nothing in this section shall affect a discharger's responsibilities under state law.

Section 198-37. Prohibited Connections

The following connections are prohibited, except as provided in Section 198-36.C above:

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge, including sewage, process wastewater, wash water entering the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks.

Section 198-38. Roof Drains and Sump Pumps

- A. Roof drains and sump pumps shall not be connected to sanitary sewers.
- B. Roof drains and sump pumps shall not be connected to streets, storm sewers, or roadside ditches except on a case by case basis as determined by the Township.
- C. Roof drains and sump pumps shall discharge to infiltration areas or vegetative BMPs to the maximum extent practicable.

Section 198-39. Alteration of BMPs

- A. No person shall modify, remove, fill, landscape, or alter any existing stormwater control or BMP unless it is part of an approved maintenance program without the written approval of the Township.
- B. No person shall place any structure, fill, landscaping, or vegetation into a stormwater control or BMP or within a drainage easement that would limit or alter the functioning of the stormwater control or BMP without the written approval of the Township.

ARTICLE IX – ENFORCEMENT AND PENALTIES

Section 198-40. Right-of-Entry

- A. Upon presentation of proper credentials, duly authorized representatives of the Township may enter at reasonable times upon any property within the Township to inspect the implementation, condition, or operation and maintenance of the stormwater controls or BMPs in regard to any aspect governed by this Ordinance.
- B. Persons working on behalf of the Township shall have the right to temporarily locate on or in any stormwater control or BMP in the Township such devices as are necessary to conduct monitoring and/or sampling of the discharges from such stormwater control or BMP.

- C. If the property owner or representative does not grant access to the Township within 24 hours of notification, it will be a violation of this Ordinance.

Section 198-41. Public Nuisance

- A. The violation of any provision of this Ordinance is hereby deemed a public nuisance.
- B. Each day that a violation continues shall constitute a separate violation.

Section 198-42. Enforcement Generally

- A. Whenever the Township finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Township may order compliance by written notice to the responsible person. Such notice may, without limitation, require the following remedies:
 - 1. Performance of monitoring, analyses, and reporting;
 - 2. Elimination of prohibited connections or discharges;
 - 3. Cessation of any violating discharges, practices, or operations;
 - 4. Abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - 5. Payment of a fine to cover administrative and remediation costs;
 - 6. Implementation of stormwater controls and BMPs; and
 - 7. Operation and maintenance of stormwater controls and BMPs.
- B. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violations(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the Township or designee, and the expense thereof shall be charged to the violator.
- C. Failure to comply within the time specified shall also subject such person to the penalty provisions of this Ordinance. All such penalties shall be deemed cumulative and shall not prevent the Township from pursuing any and all other remedies available in law or equity.

Section 198-43. Suspension and Revocation of Permits and Approvals

- A. Any building, land development, or other permit or approval issued by the Township may be suspended or revoked by the Township for:
 - 1. Noncompliance with or failure to implement any provision of the permit;
 - 2. A violation of any provision of this Ordinance or any other law or regulation applicable to the regulated activity;
 - 3. The creation of any condition or the commission of any act during construction or development that constitutes or creates a hazard or nuisance, pollution, or endangers the life, health, or property of others.

- B. Prior to revocation or suspension of a permit and at the request of the Applicant, the Township Council shall schedule a hearing to discuss the noncompliance if there is no immediate danger to life, public health, or property. The expense of a hearing shall be the Applicant's responsibility.
- C. A suspended permit or approval may be reinstated by the Township when:
 1. The Township Engineer or designee has inspected and approved the corrections to the stormwater controls and BMPs or the elimination of the hazard or nuisance, and/or
 2. The Township is satisfied that the violation has been corrected.
- D. A permit or approval that has been revoked by the Township cannot be reinstated. The Applicant may apply for a new permit in accordance with this Ordinance.

Section 198-44. Penalties

- A. Any person violating the provisions of this chapter shall be subject to a fine of not more than \$500 for each violation plus court costs. Each day that the violation continues shall be a separate offense.
- B. In addition, the Township, through its Solicitor, may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

Section 198-45. Notification

In the event that a person fails to comply with the requirements of this Ordinance or fails to conform to the requirements of any permit issued hereunder, and the Township chooses to pursue enforcement action, the Township will provide written notification of the violation. Such notification will state the nature of the violation(s) and establish a time limit for correction of these violation(s). Failure to comply within the time specified will subject such person to the penalty provisions of this Ordinance. All such penalties will be deemed cumulative and shall not prevent the Township from pursuing any and all remedies. It shall be the responsibility of the owner of the real property on which any regulated activity is proposed to occur, is occurring, or has occurred to comply with the terms and conditions of this Ordinance.

Section 198-46. Enforcement

The Township Engineer is hereby authorized and directed to enforce all of the provisions of this Ordinance. All inspections regarding compliance with the SWM site plan shall be the responsibility of the Township Engineer or his designee.

- A. A set of design plans approved by the Township Engineer shall be on file and available for viewing at the site throughout the duration of the construction activity. Periodic inspections may be made by the Township Engineer or his designee during construction.
- B. It shall be unlawful for any person, firm, or corporation to undertake any regulated activity under Section 198-5 on any property except as provided for in the approved SWM site plan and pursuant to the requirements of this Ordinance. It shall be unlawful to alter or

remove any control structure required by the SWM site plan pursuant to this Ordinance or to allow the property to remain in a condition that does not conform to the approved SWM site plan.

- C. At the completion of the project and as a prerequisite for the release of the performance guarantee, the owner or his representatives shall:
 - 1. Provide a certification of completion from an engineer, architect, surveyor, or other qualified person verifying that all stormwater facilities have been constructed according to the plans and specifications and approved revisions thereto.
 - 2. Provide a set of as-built (record) drawings per Section 198-26.
- D. After receipt of the certification by the Township Engineer, a final inspection shall be conducted by the Township or its designee to certify compliance with this Ordinance.

Section 198-47. Appeals

- A. Any person aggrieved by any action of the Township or its designee relevant to the provision of this Ordinance may appeal to the Council of the Township of Middletown within thirty (30) days of that action.
- B. Any person aggrieved by any decision of the Council of the Township of Middletown relevant to the provision of this Ordinance may appeal to the County Court of Common Pleas in the County where the activity has taken place within thirty (30) days of the Township decision.

Section 198-48. Compatibility with Other Ordinances or Legal Requirements

- A. Approvals issued pursuant to this Ordinance do not relieve the Applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance.
- B. This Ordinance shall be made a part of and be incorporated in the SALDO by reference as if fully set forth at length therein. It is intended that the provisions of this Ordinance shall replace and supersede the standards and requirements for Stormwater Management and Erosion and Sedimentation Control in the SALDO, to the extent that this Ordinance provides more restrictive standards and requirements. To the extent that the SALDO provides standards and requirements not addressed in this Ordinance, those provisions shall remain applicable.

Section 198-49. Repealer

Any ordinance or ordinance provision of the Township inconsistent herewith, including without limitation any of the provisions of Ordinance 654 of 2004 as amended (Code of Ordinances Chapter 198 Sections 198-1 through 198-38) are hereby repealed to the extent of the inconsistency only.

Section 198-50. Severability

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

Section 198-51. Effective Date

This Ordinance shall be effective thirty-one (31) days after its enactment.

ENACTED and ORDAINED this 27th day of August , 2012.

TOWNSHIP OF MIDDLETOWN

BY: _____
Scott D. Galloway
Council Chairman

ATTEST: _____
W. Bruce Clark
Township Manager