

**WILLISTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NUMBER 3 OF 2022

AN ORDINANCE OF WILLISTOWN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 73 OF THE WILLISTOWN TOWNSHIP CODE, BEING THE WILLISTOWN TOWNSHIP ENVIRONMENTAL PROTECTION ORDINANCE OF 1995, REVISING ARTICLE VIII, STORMWATER MANAGEMENT AND ARTICLE IX, SOIL EROSION AND SEDIMENT POLLUTION CONTROL PURSUANT TO PENNSYLVANIA AND CHESTER COUNTY REQUIREMENTS, AND REPLACING APPENDICES C AND D IN THEIR ENTIRETY.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Willistown Township, Chester County, Pennsylvania, that Chapter 73 of the Code of the Township of Willistown, being the Willistown Township Environmental Protection Ordinance, is amended as follows (text revisions in bold type, deletions bracketed):

Section 1. Article I, § 73-4, Definitions, is amended by inserting, replacing, or revising the following definitions (bolded language is added; bracketed language is deleted):

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

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

BASEFLOW – 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.

BMP (BEST MANAGEMENT PRACTICE) – Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from Regulated Activities, to provide water quality treatment, infiltration, volume reduction, and/or peak rate control, to promote groundwater recharge, and to otherwise meet the purposes of this Ordinance. Stormwater BMPs are commonly grouped into one (1) of two (2) broad categories or measures: “structural” or “nonstructural.” In this Ordinance, nonstructural BMPs or measures include certain low impact development and conservation design practices used to minimize the contact of pollutants with stormwater runoff. These practices aim to limit the total volume of stormwater runoff and manage stormwater at its source by techniques such as protecting natural systems and incorporating existing landscape features. Nonstructural BMPs include, but are not limited to, the protection of sensitive and special value features such as wetlands and riparian areas, the preservation of open space while clustering and concentrating development, the reduction of

impervious cover, and the disconnection of rooftops from storm sewers. Structural BMPs are those that consist of a system that is designed and engineered 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, bioretention, wet ponds, permeable paving, grassed swales, riparian buffer, sand filters, detention basins, and manufactured devices. Structural and nonstructural stormwater BMPs are permanent appurtenances to the Site.

CONSERVATION DESIGN - A series of holistic land development design goals that maximize protection of key land and environmental resources, preserve significant concentrations of open space and greenways, evaluate, and maintain site hydrology, and ensure flexibility in development design to meet community needs for complimentary and aesthetically pleasing development. Conservation design encompasses the following objectives: conservation/enhancement of natural resources, wildlife habitat, biodiversity corridors, and greenways (interconnected open space); minimization of environmental impact resulting from a change in land use (minimum disturbance, minimum maintenance); maintenance of a balanced water budget by making use of site characteristics and infiltration; incorporation of unique natural, scenic and historic site features into the configuration of the development; preservation of the integral characteristics of the site as viewed from adjoining roads; and reduction in maintenance required for stormwater management practices. Such objectives can be met on a site through an integrated development process that respects natural site conditions and attempts, to the maximum extent possible, to replicate or improve the natural hydrology of a site.

CONSERVATION PLAN – A plan written by a planner certified by NRCS that identifies Conservation Practices and includes site specific BMPs for agricultural plowing or tilling activities and animal heavy use areas.

CONSERVATION PRACTICES – Practices installed on agricultural lands to improve farmland, soil and/or water quality which have been identified in a current Conservation Plan.

CONVEYANCE – A natural or manmade, existing, or proposed Stormwater Management Facility, feature or channel used for the transportation or transmission of stormwater from one place to another. For the purposes of this chapter, “conveyance” shall include pipes, drainage ditches, channels, and swales (vegetated and other), gutters, stream channels, and like facilities or features.

DISTURBED AREA – Land area disturbed by or where an Earth Disturbance Activity is occurring or has occurred.

EARTH DISTURBANCE (OR 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; land development; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

EVAPOTRANSPIRATION (ET) – The combined processes of evaporation from the water or soil surface and transpiration of water by plants.

FLOODWAY - The channel of the watercourse and those portions of the adjoining floodplains

that are reasonably required to carry and discharge the one hundred (100)-year flood (also called the base flood or one percent (1%) annual chance 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 floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the centerline of the stream and to fifty (50) feet beyond the top of the bank of the stream on both sides.

FOREST MANAGEMENT/TIMBER OPERATIONS – Planning and activities necessary for the management of forest lands. These include timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, Site preparation, and reforestation.

GEOTEXTILE – A fabric manufactured from synthetic fiber that is used to achieve specific objectives, including infiltration, separation between different types of media (i.e., between soil and stone), or filtration.

GRADE/GRADING – 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.

GREEN INFRASTRUCTURE – Systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated.

GROUNDWATER – Water that occurs in the subsurface and fills or saturates the porous openings, fractures and fissures of under-ground soils and rock units.

HEC-1 – The U.S. Army Corps of Engineers, Hydrologic Engineering Center (HEC) hydrologic runoff model.

HEC-HMS – The U.S. Army Corps of Engineers, Hydrologic Engineering Center (HEC) - Hydrologic Modeling System (HMS).

HIGH TUNNEL - A structure which meets the following:

- A. is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the Act of December 19, 1974 (P.L. 973, No. 319), known as the “Pennsylvania Farmland and Forest Land Assessment Act of 1974,” or for the storage of agricultural equipment or supplies; and
- B. is constructed with all the following:
 - 1. has a metal, wood, or plastic frame;
 - 2. when covered, has a plastic, woven textile, or other flexible covering; and
 - 3. has a floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

IMPERVIOUS SURFACE - A surface that has been compacted or covered with a layer of material so that it prevents or is resistant to infiltration of water, including but not limited to: structures such as roofs, buildings, storage sheds; other solid, paved or concrete areas such as streets, driveways, sidewalks, parking lots, patios, terraces, decks, swimming pools, tennis or other paved courts; or athletic playfields comprised of synthetic turf materials. For the purposes of determining compliance with this

chapter, compacted soils or stone surfaces used for vehicle parking and movement shall be considered impervious. [Surfaces that were designed to allow infiltration (i.e., areas of porous pavement) will be considered on a case-by-case basis by the Township, based on appropriate documentation and condition of the material, etc.] **Uncompacted gravel areas with no vehicular traffic, such as gardens, walkways, or patios areas, shall be considered pervious per review by the Municipal Engineer. Surfaces that were designed to allow infiltration (i.e., pavers and areas of porous pavement) are not to be considered impervious surface if designed to function as a BMP per review by the Municipal Engineer. Additionally, for the purposes of determining compliance with Article VIII, Stormwater Management, the total horizontal projection area of all ground-mounted and free-standing solar collectors, including solar photovoltaic cells, panels, and arrays, shall be considered pervious so long as the designs note that natural vegetative cover will be preserved and/or restored underneath the solar photovoltaic cells, panels, and arrays, and the area disturbed is planned as a vegetated pervious surface.**

INFILTRATION FACILITY – A stormwater BMP designed to collect and discharge runoff into the subsurface in a manner that allows infiltration into underlying soils and groundwater (e.g., French drains, seepage pits, or seepage trenches, etc.).

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

- A. A seasonal high-water table, whether perched or regional, determined by direct observation of the water table or indicated by other subsurface or soil conditions.**
- B. 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.**
- C. A rock formation, other stratum, or soil condition that is so slowly permeable that it effectively limits downward passage of water.**

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

PREDEVELOPMENT – Ground [Land] cover conditions assumed to exist within the proposed Disturbed Area prior to commencement of the Regulated Activity for the purpose of calculating the Predevelopment water quality volume, infiltration volume, and peak flow rates as required in this Ordinance.

PRETREATMENT – Techniques employed in stormwater BMPs to provide storage or filtering, or other methods to trap or remove coarse materials and other pollutants before they enter the stormwater system but may not necessarily be designed to meet the entire water quality volume requirements of this Ordinance.

RAINFALL INTENSITY - The depth of accumulated rainfall per unit of time.

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

REGULATED IMPERVIOUS SURFACE - Proposed impervious surface as part of a current proposed activity and all existing impervious surfaces installed after December 16, 2013 (last ordinance update) as part of previous activity.

RETENTION OR TO RETAIN – The prevention of direct discharge of stormwater runoff into surface waters or water bodies during or after a storm event by permanent containment in a pond or depression; examples include systems which discharge by percolation to groundwater, exfiltration, and/or evaporation processes and which generally have residence times of less than three (3) days.

RETENTION VOLUME/REMOVED RUNOFF – The volume of runoff that is captured and not released directly into the surface Waters of the Commonwealth during or after a storm event.

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

STORMWATER MANAGEMENT (SWM) SITE PLAN – The plan prepared by the Applicant or its representative, in accordance with the requirements of Article VIII, Stormwater Management, indicating how stormwater runoff will be managed at a particular site in accordance with this article, and including all necessary design drawings, calculations, supporting text, and documentation to demonstrate that article requirements have been met, herein referred to as “SWM Site Plan.” All references in this article to “final” or “approved” SWM Site Plans shall incorporate the approved SWM Site Plan and all subsequent approved revisions thereto.

STREAM – A natural watercourse.

WATER TABLE – The upper most level of saturation of pore space or fractures by groundwater. Seasonal high-water table refers to a water table that rises and falls with the seasons due either to natural or man-made causes.

Section 2. Article VIII, Stormwater Management, § 73-35, Objectives, is amended by adding the following sections M and N, as follows:

M. Reduce scour, erosion, and sedimentation of stream channels.

N. Provide stormwater management performance standards and design criteria on a watershed basis.

Section 3. Article VIII, Stormwater Management, § 73-36, General Provisions, is amended by adding or deleting the following language in sections A.(3), E., G.(2)(a)(b)(f) and (h), H.(2), and I, as follows (bolded language is added; bracketed language is deleted):

A.(3) Any regulated activity (including but not limited to new development, redevelopment, or earth disturbance) that is to take place incrementally or in phases, or occurs in sequential projects on the same parcel or property, shall be subject to regulation by this article if the **regulated** [cumulative

proposed] impervious surface or earth disturbance exceeds the corresponding threshold for exemption. The date of adoption of this provision (**December 16, 2013, last ordinance update**) shall be the starting point from which to consider tracts as parent tracts relative to future subdivisions, and from which impervious surface and earth disturbance computations shall be cumulatively considered.

- E. Applicants shall refer to the Pennsylvania Stormwater Best Management Practices Manual (December 2006 and subsequent revisions) to design stormwater management facilities most appropriate to individual site conditions. Objectives for design, in order of Township preference, are: to recharge runoff at its source to the maximum extent possible; achieve water quality improvement during any conveyance; and provide for storage as needed. Applicants shall examine design alternatives according to this hierarchy, viewing them in a series. In addition, applicants are strongly encouraged to use structural or nonstructural best management practices (BMPs) that reduce or eliminate the need for detention basins. **If methods other than green infrastructure, Low Impact Design (LID), and Conservation Design (CD) methods are proposed to achieve the volume and rate controls required under this Ordinance, the SWM Site Plan must include a detailed justification demonstrating that the use of LID, green infrastructure, and CD are not practicable.**

- G.(2)(a) Emergency exemption: emergency maintenance work performed for the protection of public health, safety and welfare. This exemption is limited to repair of the existing **stormwater management** facility; upgrades, additions or other improvements are not exempt. A written description of the scope and extent of any emergency work performed shall be submitted to the Township within two calendar days of the commencement of the activity. A detailed plan shall be submitted no later than 30 days following commencement of the activity. If the Township finds that the work is not an emergency, then the work shall cease immediately and the requirements of this article shall be addressed as applicable.

- G.(2)(b) Maintenance exemption: any maintenance to an existing stormwater management [system,] facility, BMP or conveyance made in accordance with plans and specifications approved by the Township Engineer or Township.

- G.(2)(f) Improvement-related exemption: The cumulative total square feet of all **regulated** impervious surfaces must not exceed the impervious surface standards of the applicable zoning district. Stormwater management facilities will not be required for any net increase of impervious surface up to 800 square feet.

- G.(2)(h) Maintenance of existing **gravel and** paved surfaces: Replacement of existing **gravel and** paved surfaces shall meet the erosion and sediment control requirements of 25 Pa. Code Chapter 102 and this chapter 73. Resurfacing of existing **gravel and** paved surfaces is exempt from the requirements of this chapter. Construction of new or additional impervious surfaces shall comply with all requirements of this chapter.

- H.(2) PADEP approval required. **No waiver or modification of any regulated stormwater activity involving Earth Disturbance greater than or equal to one (1) acre may be granted by the Municipality unless that action is approved in advance by PADEP or the Chester County**

Conservation District. [For any proposed regulated activity involving earth disturbance equal to or greater than one acre, the Township may approve measures for minimum volume and infiltration control other than those required in this article only 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 Pennsylvania Clean Streams Law, 35 P.S. § 691.1, et seq.]

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

Section 4. Article VIII, Stormwater Management, § 73-37, Permanent stormwater management, is amended by creating new sections, or adding or deleting sections A.(15), D.(14), E.(3), E.(7), H and I, as follows (bolded language is added; bracketed language is deleted):

- A.(15) Techniques described in Appendix D (**Conservation Design and Low Impact Development Site Design**) [(Natural Hydrology Site Design Process: Alternative Approaches for Managing Stormwater Runoff Using Conservation Design and Low-Impact Development Practices)] of this chapter shall be considered because they reduce the costs of complying with the requirements of this article, better manage stormwater, protect the environment, and meet Pennsylvania water quality requirements.

Editor's Note: Appendix D is included at the end of this chapter.

D.(14) All infiltration practices shall:

- (a) **Be set back at least ten (10) feet from all buildings and features with sub-grade elements (e.g., basements, foundation walls, etc.), unless otherwise approved by the Municipal Engineer;**
- (b) **For any infiltration practice that collects runoff from shared or multiple features and that is located within twenty-five (25) feet of a building or feature with sub-grade elements (e.g., basements, foundation walls, etc.), the bottom elevation shall be set below the elevation of the sub-grade element.**

- E.(3) To control postconstruction stormwater impacts from regulated earth disturbance activities, state water quality requirements can be met by BMPs, including site design, which provide for replication of preconstruction stormwater infiltration and runoff conditions so that postconstruction stormwater discharges do not degrade the physical, chemical, or biological characteristics of the receiving waters. **The green infrastructure and Low Impact Development (LID) practices provided in the PA BMP Manual, as well as the guidance on green infrastructure, LID and Conservation Design (CD) provided in Appendix D, shall be utilized for all regulated activities wherever possible.** These requirements shall be in addition to state water quality requirements for discharges to exceptional value waters and high quality waters. As described in the DEP Comprehensive Stormwater Management Policy (No. 392-0300-002, September 28, 2002), this may be achieved by the following:

E.(7) Evapotranspiration may be quantified and credited towards meeting volume requirements according to the PADEP Post Construction Stormwater Management (PCSM) Spreadsheet and Instructions (December 2020) or the most recent guidance from PADEP.

H. SWM Site Plan Submission

A complete SWM Site Plan that complies with all applicable provisions of this article shall be submitted to the Township for review and approval, as follows:

- (1) The SWM Site Plan shall be coordinated with the applicable State and Federal permit process and the Township SALDO review process. All permit approvals or letters of adequacy not yet received by the Applicant at the time of submittal of the SWM Site Plan to the Township must be submitted to the Township prior to (or as a condition of) the Township's final approval of the SWM Site Plan.**
- (2) 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.**
- (3) For Regulated Activities that do not require SALDO approval, the SWM Site Plan shall be submitted by the Applicant for review in accordance with instructions from the Township.**
- (4) The number of copies of the SWM Site Plan to be submitted by the Applicant for review shall be in accordance with instructions from the Township.**
- (5) The corresponding review fee shall be submitted to the Township simultaneously with the SWM Site Plan, per the Township's fee schedule.**
- (6) Any submissions to the Township that are found to be incomplete shall not be accepted for review and shall be returned to the Applicant within ten (10) days, with a notification in writing of the specific manner in which the submission is incomplete.**
- (7) Financial security, per the requirements of article, shall be submitted to the Township prior to approval of the SWM Site Plan.**

I. SWM Site Plan Review

- (1) The SWM Site Plan shall be submitted to the Township for review by the Township Engineer for consistency with this article and the respective PA Act 167 Stormwater Management Plan(s). The Township Engineer will review the SWM Site Plan for any regulated activity, subdivision or land development, for compliance with this article and the Township SALDO provisions not otherwise superseded by this article.**
- (2) If applicable, the Applicant shall have received a "letter of adequacy" from the Conservation District or other PADEP approval for the proposed Regulated Activity prior to (or as a condition of) final approval by the Township.**

- (3) The Township Engineer will notify the Applicant and the Township in writing, within thirty (30) business days, whether the SWM Site Plan is consistent with the requirements of this article. If the SWM Site Plan involves a subdivision and land development Plan, the notification shall occur within the time period allowed by the MPC (as amended). If a longer notification period is provided by other statute, regulation, or ordinance, the Applicant will be so notified by the Township.**
- (a) If the Township Engineer determines that the SWM Site Plan is consistent with this article, the Township Engineer shall forward a letter of consistency to the Township, who shall then forward a copy to the Applicant.**
- (b) The Township may approve the SWM Site Plan with conditions reasonably defined to make the SWM Site Plan compliant with the terms of this article, and, if so, shall provide the conditions for approval in writing.**
- (c) If the Township Engineer determines that the SWM Site Plan is inconsistent or noncompliant with this article, the Township Engineer will forward a letter to the Township, with a copy to the Applicant citing the reason(s) and specific article sections for the inconsistency or noncompliance. Inconsistency or noncompliance may be due to inadequate information to make a reasonable judgment as to compliance with this article. Any SWM Site Plans that are inconsistent or noncompliant may be revised by the Applicant and resubmitted in accordance with this article. Resubmission will commence a new municipal review and notification time period.**
- (4) The Township will not grant final approval to any proposed subdivision, land development, or Regulated Activity specified in this article if the SWM Site Plan has been found to be inconsistent with this article.**
- (5) All required permits from PADEP shall be obtained and submitted to the Township prior to (or as a condition of) final approval of any proposed subdivision, land development, or other Regulated Activity by the Township.**
- (6) No building permits for any Regulated Activity will be approved by the Township if the SWM Site Plan has been found to be inconsistent with this article, as determined by the Township Engineer. All required permits from PADEP shall be obtained prior to issuance of a building permit.**
- (7) The Township's approval of a SWM Site Plan shall be valid for a period not to exceed five (5) years commencing on the date that the Township approved the SWM Site Plan. If stormwater management facilities included in the approved SWM Site Plan have not been constructed, or if constructed, As-Built Plans of these facilities have not been approved within this five (5) year time period, then the Applicant may seek reinstatement of approval of the expired SWM Site Plan. If the Township determines that the expired SWM Site Plan is consistent and compliant with current regulations and requirements, then the expired SWM Site Plan will be reinstated; otherwise, it will be rejected. The Applicant will be prohibited from conducting any Regulated Activity until a reinstated or newly approved**

SWM Site Plan is obtained in accordance with this article.

- (8) All or portions of the final approved SWM Site Plan shall be recorded (as “recorded plans”) per the instructions of the Township.**
- (9) Upon completion of construction, the Applicant shall be responsible for completing final As-Built Plans of all BMPs, Conveyances, or other stormwater management facilities included in the approved SWM Site Plan as per the requirements of this article. Applicants shall provide to the Township final As-Built Plans (signed and sealed by a qualified Licensed Professional) of all BMPs, Conveyances, other stormwater facilities, and related improvements shown in the final approved SWM Site Plan.**
- (10) For any SWM Site Plan that proposes to use any BMPs other than green infrastructure, LID practices, or CD to achieve the volume and rate controls required under this article, the Township will not approve the SWM Site Plan unless it determines that green infrastructure, LID practices, and CD are not practicable.**

Section 5. Article VIII, Stormwater Management, § 73-39, Detention or retention basin design, is amended by adding a new subsection (3) under section E., as follows (bolded language is added; bracketed language is deleted):

E. The following [slope] restrictions shall be applied to basins:

- (3) 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 safely convey flow up to and including the one hundred (100)-year proposed conditions. The height of embankment shall provide a minimum one (1.0) foot of Freeboard above the maximum pool elevation computed when the facility functions for the one hundred (100)-year proposed conditions inflow. Should any BMP require a dam safety permit under PA Chapter 105 regulations, the facility shall be designed in accordance with and meet the regulations of PA Chapter 105 concerning dam safety. PA Chapter 105 may require the safe conveyance of storms larger than one hundred (100)-year event.**

Section 6. Article VIII, Stormwater Management, § 73-43, Operation and maintenance responsibilities, is amended to insert a new subsection (3) under section A., renumbering the section, and adding new language to (4)(d), and amending section C. to add new language to subsection (6), as follows (bolded language is added):

A. General responsibilities

- (3) Inspection and BMP Operation and Maintenance Requirements (Landowner or Owner’s Designee)**

The landowner or the owner’s designee shall inspect SWM BMPs, facilities and/or structures installed under this article according to the following frequencies, at a minimum, to ensure the BMPs, facilities and /or structures continue to function as intended:

1. **Annually for the first 5 years.**
2. **Once every 3 years thereafter.**
3. **During or immediately after the cessation of a 10-year or greater storm, as determined by the Township Engineer. Inspection reports for inspections during or after the cessation of a 10-year or greater storm event are only required to be submitted to the Township if requested by the Township or Township Engineer.**

Inspections should be conducted during or immediately following precipitation events or in dry weather conditions if the BMP design parameters include dewatering within a specified period of time. A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, Stormwater Management Facility, or structure inspection, observations on performance, and recommendations for improving performance, if applicable. When requested by the Township, inspection reports shall be submitted to the Township within 30 days following completion of the inspection.

(4) Dedication and acceptance of stormwater management practices

- (d) **Regardless of ownership, the applicant shall submit a written offer deeding an access and/or drainage easement to the Township pursuant to § 73-43B. Such easement shall cover the stormwater management facilities, any drainage to and from such facilities at a width as determined in consultation with the Township and the Township Engineer, and shall clearly permit entry for inspection and/or maintenance purposes. When fully executed, be recorded by the Landowner at the Chester County Office of the Recorder of Deeds against all parcels affected by the terms of the easement agreement, within ten (10) days of the Township's approval of the corresponding O&M Plan.**

C. **Operation and maintenance plan.**

- (6) **Parties responsible for the long-term operation and maintenance of stormwater management facilities shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 10 years. These records shall be submitted to the Township as established by the operation and maintenance plan or if otherwise required by the Township. In the event of a change, new information shall be submitted by the BMP or Conveyance owner to the Township within thirty business days of the change.**

Section 7. Article VIII, Stormwater Management, § 73-44, Prohibitions, is amended to add new language to section A., subsection (2), as follows (bolded language is added; bracketed language is deleted):

- (2) **Discharges that may be allowed based on a finding by the Township that the discharge(s) do not significantly contribute to pollution to surface waters of the commonwealth, are:**

(b) Potable water sources including water line and fire hydrant flushings, if such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC);

(c) Non-contaminated irrigation drainage water

(e) Non-contaminated HVAC condensation and water from geothermal systems.

Section 8. Article VIII, Stormwater Management, § 73-45, Right of entry, is amended by adding new text to section D, and adding a new section E., as follows (bolded language is added; bracketed language is deleted):

- D. Unreasonable delays **exceeding twenty-four (24) hours** in allowing the Township access to a stormwater control or BMP is a violation of this article.
- E. **The following as it pertains to any easements, covenants and deed restrictions established for each applicable BMP or Conveyance:**
 - (1) **Boundaries delineated with bearings and distances shown that encompass the BMP or Conveyance and that includes a ten (10) foot perimeter area surrounding these features and sufficient vehicular ingress to and egress from a public right-of-way and roadway;**
 - (2) **Labels specifying the type and purpose of the easement, covenant, or deed restriction and who it benefits; and**
 - (3) **Labels with reference to any corresponding easement agreement, covenant, deed restriction or other document to be recorded.**

Section 9. Article IX, Soil Erosion and Sediment Pollution Control, § 73-47, General provisions, is amended by adding new language to section F, as follows (bolded language is added; bracketed language is deleted):

- F. A National Pollutant Discharge Elimination System (NPDES) permit or a general permit shall be required from the Pennsylvania Department of Environmental Protection (PA DEP) for all construction activity involving one or more acres of earthmoving. A PA DEP earth disturbance permit or a waiver of the same will be required from the PA DEP for all land development sites involving 25 or more acres of earthmoving as related to silvicultural (forestry) activities. For all projects that exceed one acre of proposed disturbance, a review of the soil erosion and sediment control design and procedures by the Chester County Conservation District shall be required [unless waived by the Board upon the recommendation of the Township Engineer. Evidence of compliance with the above items must be provided to the Township]. **If an NPDES Permit for Stormwater Discharges Associated with Construction Activities was required for the Regulated Activity, a Notice of Termination (NOT) approval must be obtained upon completion of construction prior to final approval of the project by the Township. A “letter of adequacy” from the Conservation District or other approval from PADEP in compliance with Title 25 Chapter 102 of the Pennsylvania Code of an Erosion and Sediment Control Plan for construction activities for projects where the area of disturbance exceeds one (1) acre, where pond dredging is involved, or when the disturbance is associated with activities described under Title 25 Chapter 105 of the Pennsylvania Code permits.**

Section 10. Article XI, Administration and Enforcement, § 73-58, General provisions: enforcement

of specific provisions, is amended by adding a new subsection (7) to section E., as follows (bolded language is added):

(7) SWM Site Plan Review and Inspection Fees

Fees shall be established on a yearly basis each January by Township resolution, or as otherwise allowed by law 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.

Section 11. Appendices C and D are replaced in their entirety, as attached hereto.

Section 12. This Ordinance shall become effective five (5) days from enactment.

ENACTED and ORDAINED this 12TH day of December 2022.

**BOARD OF SUPERVISORS
WILLISTOWN TOWNSHIP**

William R. Shoemaker, Chair

Robert T. Lange, Vice Chair

Molly H. B. Perrin, Member

ATTEST:

Shanna Lodge, Secretary