

EAST HUNTINGDON TOWNSHIP
STORMWATER MANAGEMENT ORDINANCE

EAST HUNTINGDON TOWNSHIP
WESTMORELAND COUNTY
PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF EAST HUNTINGDON,
WESTMORELAND COUNTY, PENNSYLVANIA, PROVIDING FOR A
STORMWATER MANAGEMENT SYSTEM BY CONTROLLING
EROSION AND SEDIMENTATION PROBLEMS BY THE REGULATION
OF ACTIVITIES; REQUIRING A STORMWATER BMP OPERATIONS
AND MAINTENANCE PLAN PRIOR TO ANY REGULATED ACTIVITY;
ESTABLISHING REQUIREMENTS FOR A STORMWATER BMP
OPERATIONS AND MAINTENANCE PLAN; PROVIDING FOR A
PROCEDURE FOR PLAN SUBMISSION AND PLAN APPROVAL;
PROVIDING FOR INSPECTIONS; ESTABLISHING THE RIGHT OF
ENTRY; ESTABLISHING AND AUTHORIZING FOR FEE'S AND
EXPENSES TO BE ASSESSED FOR PLAN REVIEW AND INSPECTIONS;
PROHIBITING NON-STORMWATER CONNECTIONS AND
DISCHARGES; SPECIFYING EXEMPTIONS; PROVIDING FOR A
PROCEDURE FOR NOTIFICATION OF VIOLATIONS; ESTABLISHING
PENALTIES AND AN APPEAL PROCEDURE; PROVIDING FOR
DEFINITIONS, REPEAL OF INCONSISTENT PROVISIONS OF
ORDINANCES AND THE SEVERABILITY OF THE ORDINANCE.

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ARTICLE I – GENERAL PROVISIONS

Section 101 – Short Title

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

Section 102 – Statement of Findings

The governing body of the Municipality finds that:

- A. Stormwater runoff from lands modified by human activities threatens public health and safety by causing decreased infiltration of rainwater and increased runoff flows and velocities, which overtax the carrying capacity of existing streams and storm sewers, and greatly increases the cost to the public to manage stormwater.
- B. Inadequate planning and management of stormwater runoff resulting from land development and redevelopment throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream-beds and stream-beds 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. These impacts happen mainly through a decrease in natural infiltration of stormwater.
- D. A program of stormwater management, including reasonable regulation of land development, redevelopment and other activities causing loss of natural infiltration, is fundamental to the public health, safety, welfare and the protection of the people of *East Huntingdon Township* and all the people of the Commonwealth, their resources, and the environment.
- E. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.
- F. 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).
- G. Non-stormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the Commonwealth by the Municipality.

Section 103 – Purpose

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

- A. Manage stormwater runoff impacts at their source by regulating activities that cause the problems.

- B. Provide review procedures and performance standards for stormwater planning and management.
- C. Utilize and preserve the existing natural drainage systems as much as possible.
- D. Manage stormwater impacts close to the runoff source, which requires a minimum of structures and relies on natural processes.
- E. Focus on infiltration of stormwater, to maintain groundwater recharge, to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- F. Maintain existing flows and quality of streams and watercourses.
- G. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93.4a to protect and maintain "existing uses" and maintain the level of water quality to support those uses in all streams, and to protect and maintain water quality in "special protection" streams.
- H. Prevent stream-bank, and stream-bed scour and erosion.
- I. Provide for proper operations and maintenance of all permanent stormwater management BMP's that are implemented in the Municipality.
- J. Provide a mechanism to identify controls necessary to meet the NPDES permit requirements.
- K. Implement an illegal discharge detection and elimination program to address non-stormwater discharges into the Municipality's separate storm sewer system.

Section 104 – Statutory Authority

East Huntingdon Township is empowered to regulate land use activities that affect stormwater impacts by the Authority of the Act of July 31, 1968, P.L. 805, No. 247, The Municipalities Planning Code, as amended, and the Second Class Township Code.

Section 105 – Applicability

- A. This Ordinance applies to any Regulated Earth Disturbance activities within *East Huntingdon Township*, all stormwater runoff entering into *East Huntingdon Township's* separate storm sewer system from lands within the boundaries of the Municipality and existing stormwater BMP's.
- B. Earth disturbance activities are also regulated under existing state law and implementing regulations. This Ordinance shall operate in coordination with those parallel requirements; the requirements of this Ordinance shall be no less restrictive in meeting the purposes of this Ordinance than state law.

Section 106 – Repealer

Any ordinance or ordinance provision of *East Huntingdon Township* inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

Section 107 – Severability

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

Section 108 – Compatibility with Other Requirements

- A. Approvals issued and actions taken under this Ordinance do not relieve the Applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance. To the extent that this Ordinance imposes more rigorous or stringent requirements for stormwater management, the specific requirements contained in this Ordinance shall be followed.
- B. Nothing in this Ordinance shall be construed to affect any *East Huntingdon Township's* requirements regarding stormwater matters which do not conflict with the provisions of this Ordinance, such as local stormwater management design criteria (e.g. inlet spacing, inlet type, collection system design and details, outlet structure design, etc.) Conflicting provisions in other municipal ordinances or regulations shall be construed to retain the requirements of this ordinance addressing Water Quality Requirements.

ARTICLE II - DEFINITIONS

For the purposes of this chapter, 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, 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.”

Accerlated Erosion

The removal of the surface of the land through the combined action of human activities and the natural processes, at a rate greater than would occur because of the natural process alone

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; the changing of surface conditions by causing the surface to be more or less impervious; or; earth disturbance activity.

Applicant

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

BMP (Best Management Practice)

Activities, facilities, designs, measures or procedures used to manage stormwater impacts from Regulated Earth Disturbance activities, to meet State Water Quality Requirements, to promote groundwater recharge and to otherwise meet the purposes of this Ordinance. BMP's include but are not limited to infiltration, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, forested buffers, sand filters and detention basins.

Conservation District

The Westmoreland County Conservation District

DEP

The Pennsylvania Department of Environmental Protection.

Developer

A person that seeks to undertake any Regulated Earth Disturbance activities at a project site in *East Huntingdon Township*.

Development

See "Earth Disturbance Activity." The term includes redevelopment.

Development Site

The specific tract of land where any Earth Disturbance activities in *East Huntingdon Township* are planned, conducted or maintained.

Earth Disturbance Activity

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

Erosion

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

Erosion and Sediment Control Plan

A plan for a project site which identifies BMP's to minimize accelerated erosion and sedimentation.

Groundwater Recharge

Replenishment of existing natural underground water supplies.

Impervious Surface

A surface that prevents the infiltration of water into the ground. Impervious surface includes, but is not limited to, any roof, parking or driveway areas, and any new streets and sidewalks. Any surface areas designed to initially be gravel or crushed stone shall be assumed to be impervious surfaces.

Municipality

East Huntingdon Township, Westmoreland County, Pennsylvania

NPDES

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

Outfall

"Point source" as described in 40CFR § 122.2 at the point where the Municipality's storm sewer system discharges to surface waters of the Commonwealth.

PADEP

The Pennsylvania Department of Environmental Protection.

Person

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

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 Pa. Code § 92.1.

Project Site

The specific area of land where any Regulated Earth Disturbance activities in the Municipality are planned, conducted or maintained.

Redevelopment

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

Regulated Earth Disturbance Activity

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

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.

Separate Storm Sewer System

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

State Water Quality Requirements

As defined under state regulations – protection of designated and existing uses (See 25 Pa. Code Chapters 93 and 96) – including:

- A. Each stream segment in Pennsylvania has a “designated use,” such as “cold water fishery” or “potable water supply,” which are listed in Chapter 93. These uses must be protected and maintained under state regulations.
- B. “Existing uses” are those attained as of November, 1975, regardless whether they have been designated in Chapter 93. Regulated Earth Disturbance activities must be designed to protect and maintain existing uses and maintain the level of water quality necessary to protect those uses in all streams, and to protect and maintain water quality in special protection streams.
- C. Water quality involves the chemical, biological and physical characteristics of surface water bodies. After Regulated Earth Disturbance activities are complete, these characteristics can be impacted by addition of pollutants such as sediment, and changes in habitat through increased flow volumes and/or rates as a result of changes in land surface area from those activities. Therefore, permanent discharges to surface waters must be managed to protect the stream-bank, stream-bed and structural integrity of the waterway, to prevent these impacts.

Stormwater

The surface runoff generated by precipitation reaching the ground surface.

Surface Waters of the Commonwealth

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

Watercourse

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

Watershed

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

ARTICLE III – STORMWATER MANAGEMENT FOR WATER QUALITY

Section 301 – General Requirements for Stormwater Management

- A. All Regulated Earth Disturbance activities within *East Huntingdon 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 the earth disturbance activities (e.g., during construction), and
 - 2. Water quality protection measures after completion of earth disturbance activities (e.g., after construction), including operations and maintenance.
- B. No Regulated Earth Disturbance activities within *East Huntingdon Township* shall commence until the requirements of this Ordinance are met.
- C. Erosion and sediment control during Regulated Earth Disturbance activities shall be addressed as required by Section 303.
- D. Post-construction water quality protection shall be addressed as required by Section 304. Operations and maintenance of permanent stormwater BMP's shall be addressed as required by Article IV.
- E. All Best Management Practices (BMP's) used to meet the requirements of this Ordinance shall conform to the State Water Quality Requirements, and any more stringent requirements as determined by the Municipality.
- F. Techniques described in Appendix A (Low Impact Development) of this Ordinance are encouraged, because they reduce the costs of complying with the requirements of this Ordinance and the State Water Quality Requirements.
- G. Prohibited discharges and connections as defined in Article VII of this Ordinance shall not be made to *East Huntingdon Township's* storm sewer system.

Section 302 – Permit Requirements by Other Government Facilities

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 earth disturbance activities subject to standards and possible permit requirements by PADEP under regulations at 25 Pa. Code Chapter 102.
- B. Work within natural drainageways subject to permit by PADEP under 25 Pa. 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 PA DEP under Pa. Code Chapter 105.

- D. Any stormwater management facility that would be located on a State highway right-of-way, or require access from a state highway, shall be subject to approval by the Pennsylvania Department of Transportation (PENNDOT).
- E. Culverts, bridges, storm sewers or any other facilities which must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit by DEP under 25 Pa. Code Chapter 105.

Section 303 – Erosion and Sediment Control During Regulated Earth Disturbance Activities

- A. No Regulated Earth Disturbance Activities within *East Huntingdon Township* shall commence until approval by the Westmoreland Construction District of an Erosion and Sediment Control Plan for construction activities.
- B. Earth disturbance activities of 5,000 square feet or greater require design, implementation and maintenance of erosion and sediment control BMP's that control erosion and prevent sediment pollution during the earth disturbance activities.
- C. The BMP's shall be identified in a plan, and a permit if applicable, as required by PADEP regulations at 25 Pa. Code Chapter 102.
- D. Regulated Earth Disturbance Activities may be subject to a DEP "NPDES Construction Activities" permit under 25 Pa. Code Chapter 92.
- E. Evidence of receipt of any necessary permit(s) for Regulated Earth Disturbance Activities from the Westmoreland County Conservation District shall be provided by the Applicant to *East Huntingdon Township*.
- F. A copy of the Erosion and Sediment Control plan and any required permit, as required by DEP regulations, shall be available at the project site at all times.

Section 304 – Water Quality Requirements After Regulated Earth Disturbance Activities Are Complete

- A. No Regulated Earth Disturbance activities within *East Huntingdon Township* shall commence until approval by the Municipality of a plan which demonstrates compliance with State Water Quality Requirements after construction is complete.
- B. The BMP's must be designed, implemented and maintained to meet State Water Quality Requirements, and any other more stringent requirements as determined by *East Huntingdon Township*.
- C. To control post-construction stormwater impacts from Regulated Earth Disturbance activities, State Water Quality Requirements can be met by BMP's, including site design, which provide for replication of pre-construction stormwater infiltration and runoff conditions, so that post-construction stormwater discharges do not degrade the physical, chemical or biological characteristics of the receiving waters. As described in the DEP Comprehensive Stormwater Management Policy (#392-0300-002, September 28, 2002), this may be achieved by the following:

Infiltration:

Replication of pre-construction stormwater infiltration conditions.

Treatment:

Use of water quality treatment BMP's to ensure filtering out of the chemical and physical pollutants from the stormwater runoff, and;

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).

- D. DEP has regulations that require Municipalities to ensure design, implementation and maintenance of Best Management Practices (BMP's) that control runoff from new development and redevelopment after Regulated Earth Disturbance activities are complete. These requirements include the need to implement post-construction stormwater BMP's with assurance of long-term operations and maintenance of those BMP's.
- E. Evidence of any necessary permit(s) for Regulated Earth Disturbance activities from the appropriate DEP regional office must be provided to the Municipality. The issuance of an NPDES Construction Permit (or permit coverage under the statewide General Permit (PAG-2) satisfies the requirements of subsection 304-A.
- F. BMP operations and maintenance requirements are described in Article IV of this Ordinance.

ARTICLE IV – STORMWATER BMP OPERATIONS AND MAINTENANCE PLAN REQUIREMENTS

Section 401 – General Requirements

- A. No Regulated Earth Disturbance activities within the Municipality shall commence until approval by the Municipality of BMP Operations and Maintenance plan which describes how the permanent (e.g., post-construction) stormwater BMP's will be properly operated and maintained.
- B. The following items shall be included in the BMP Operations and Maintenance Plan:
 - 1. Map(s) of the project area, in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Westmoreland County, shall be submitted. The contents of the map(s) shall include, but not be limited to:
 - a. Clear identification of the location and nature of permanent stormwater BMP's.
 - b. The location of the project site relative to highways, municipal boundaries or other identifiable landmarks.
 - c. Existing and final contours at intervals of two feet, or others as appropriate.

- d. Existing streams, lakes, ponds, or other bodies of water within the project area.
 - e. Other physical features including flood hazard boundaries, sinkholes, streams, existing drainage courses, areas of natural vegetation to be preserved and the total extent of the upstream area draining through the site.
 - f. The locations of all existing and proposed utilities, sanitary sewers, and water lines within 50 feet of property lines of the project site.
 - g. Proposed changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added.
 - h. Proposed structures, roads, paved areas, and buildings.
 - i. A fifteen-foot wide access easement around all stormwater BMP's that would provide ingress to and egress from a public right-of-way, and;
 - j. A north arrow.
- 2. A description of how each permanent stormwater BMP will be operated and maintained, and the identify of the person(s) responsible for operations and maintenance.
 - 3. 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;
 - 4. A statement, signed by the landowner, acknowledging that the stormwater BMP's are fixtures that can be altered or removed only after approval by the Municipality.

Section 402 – Responsibilities for Operations and Maintenance of BMP's

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

Section 403 – Municipality Review of BMP Operations and Maintenance Plan

- A. The Municipality shall review the BMP Operations and Maintenance Plan for consistency with the purposes and requirements of this ordinance, and any permits issued by DEP.

- B. The Municipality shall notify the Applicant in writing whether the BMP Operations and Maintenance Plan is approved.
- C. *East Huntingdon Township* shall require an "As-Built Survey" of all stormwater BMP's, and an explanation of any discrepancies with the Operations and Maintenance Plan.

Section 404 – Adherence to Approved BMP Operations and Maintenance Plan

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

Section 405 – Operations and Maintenance Agreement for Privately Owned Stormwater BMP's

- A. The property owner shall sign an operations and maintenance agreement with the Municipality covering all stormwater BMP's that are to be privately owned. The agreement shall be substantially the same as the agreement in Appendix B 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 BMP's. The agreement shall be subject to the review and approval of the Solicitor for *East Huntingdon Township*.

Section 406 – 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 Municipal Engineer.
- B. Stormwater management easements shall be provided by the property owner if necessary for (1) access for inspections and maintenance, or (2) preservation of stormwater runoff conveyance, and detention areas and other BMP's, by persons other than the property owner. The purpose of the easement shall be specified in any agreement under Section 405.

Section 407 – Recording of Approved BMP Operations and Maintenance Plan and Related Agreements

- A. The owner of any land upon which permanent BMP's will be placed, constructed or implemented, as described in the BMP Operations and Maintenance Plan, shall record the following documents in the Office of the Recorder of Deeds for Westmoreland County, within 15 days of approval of the BMP Operations Plan by the Municipality:
 - 1. The Operations and Maintenance Plan, or a summary thereof.
 - 2. Operations and Maintenance Agreements under Section 405, and;
 - 3. Easements under Section 406.

- B. The Municipality may suspend or revoke any approvals granted for the project site upon discovery of the failure of the owner to comply with this Section.

Section 408 – Municipal Stormwater BMP Operation and Maintenance Fund

- A. If stormwater BMP's are accepted by the Municipality for dedication, the Municipality may require persons installing stormwater BMP's to pay a specified amount to the Municipal Stormwater BMP Operation and Maintenance Fund, to help defray costs of operations and maintenance activities. The amount may be determined as follows:
1. If the BMP is to be owned and maintained by the Municipality, the amount shall cover the estimated costs for operations and maintenance for ten (10) years, as determined by the Municipality.
 2. The amount shall then be converted to present worth of the annual series values.
- B. If a BMP is proposed that also serves as a recreation facility (e.g., ball field, lake), the Municipality may adjust the amount due accordingly.

Section 409 – Plan Submission

- A. All applications for permits required by this Ordinance shall be made on forms supplied by *East Huntingdon Township*. Such application shall provide a brief description of the stormwater management controls and the earth disturbance activity. This application shall become part of the Project Plan submission.
- B. Three (3) copies of the completed Plan must be submitted to *East Huntingdon Township*.
- C. The Plan shall be accompanied by all required fee's as set forth in Article 6 of this Ordinance.

ARTICLE V – INSPECTIONS AND RIGHT OF ENTRY

Section 501 – Inspection

- A. Inspection programs may be established on any reasonable basis; random inspections; inspections based upon complaints, or other notice of possible violations; inspection of drainage basins or area identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutions or with discharges of a type which are more likely that the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under the environmental safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges from and water and materials in drainage control and BMP facilities; and evaluating the condition of drainage control and BMP facilities.

- B. PADEP or its designees (e.g., County Conservation Districts) normally ensure compliance with any permits issued, including those for stormwater management. In addition to PADEP compliance programs, the Municipality or its designee may inspect all phases of the construction, operations, maintenance and any other implementation of stormwater BMP's.
- C. During any stage of the Regulated Earth Disturbance activities, if the Municipality or its designee determines that any BMP's are not being implemented in accordance with this Ordinance, the Municipality may suspend or revoke any existing permits issued by *East Huntingdon Township* or other applicable approvals until the deficiencies are corrected.

Section 502 – Right of Entry

- A. Upon presentation of proper credentials, duly authorized representatives of the Municipality may enter at reasonable times upon any property within the Municipality to inspect the implementation, condition, or operation and maintenance of the stormwater BMP's in regard to any aspect governed by this Ordinance.
- B. BMP owners and operators shall allow persons working on behalf of the Municipality ready access to all parts of the premises for the purposes of determining compliance with this Ordinance.
- C. Persons working on behalf of the Municipality shall have the right to temporarily locate on any BMP in the Municipality such devices as are necessary to conduct monitoring and/or sampling of the discharges from such BMP.
- D. Unreasonable delays in allowing the Municipality access to BMP is a violation of this Article.

ARTICLE VI – FEE'S AND EXPENSES

Section 601 – General

- A. Fees covering costs to *East Huntingdon Township* for plan review and inspections shall be established by resolution of *East Huntingdon Township*. No approval to begin any work on the project shall be issued until the requisite fee's have been paid.
- B. Modification of an existing plan shall require the payment of additional fee's.
- C. The Applicant shall pay all fee's.

Section 602 – Expenses Covered by Fee's

The fee's required by this Ordinance shall cover:

- A. Administrative/Clerical costs.
- B. The review of the BMP Operations and Maintenance Plan by the Municipal Engineer.

- C. The site inspections including, but not limited to, pre-construction meeting, inspections during construction of stormwater BMP's, and final inspection upon completion of the stormwater BMP's.
- D. Any additional work required to monitor and enforce any provisions of this Ordinance, correct violations, and assure proper completion of stipulated remedial actions.

ARTICLE VII - PROHIBITIONS

Section 701 – Prohibited Discharges

- A. No person in *East Huntingdon Township* shall allow, or cause to allow, stormwater discharges into the Municipality's separate storm system which are not composed entirely of stormwater, except (1) as provided in subsection B below, and (2) discharges allowed under a state or federal permit.
- B. Discharges which may be allowed under *East Huntingdon Township's* NPDES Permit based on a finding by *East Huntingdon Township* that the discharge(s) do not significantly contribute to pollution to surface waters of the Commonwealth, are:
 - 1. Discharges from fire fighting activities
 - 2. Potable water sources including dechlorinated 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
 - 8. Water from crawl space pumps
 - 9. Uncontaminated water from foundation or from footing drains
 - 10. Flows from riparian habitats and wetlands
 - 11. Lawn watering
 - 12. Pavement washwaters where spills or leaks of toxic or hazardous material have not occurred (unless all spill material has been removed) and where detergents are not used
 - 13. Dechlorinated swimming pool discharges
 - 14. Uncontaminated groundwater
- C. In the event that *East Huntingdon Township* determines that any of the discharges identified in Subsection B above significantly contribute to pollution of waters of the Commonwealth, or is so notified by DEP then *East Huntingdon Township* will notify the responsible person to cease the discharge.
- D. Upon notice provided by *East Huntingdon Township* under Subsection C above, the discharger will have a reasonable time, as determined by the Municipality, to cease the discharge consistent with the degree of pollution caused by the discharge.

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

Section 702 – Prohibited Connections

- A. The following connections are prohibited, except as provided in Section 701.B above:
1. Any drain or conveyance, whether on the surface or subsurface, which allows any non-storm water discharge including sewage, process wastewater, and washwater, to enter the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks; and
 2. Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system which has not been documented in plans, maps, or equivalent records, and approved by the Municipality.

Section 703 – Roof Drains

- A. Roof drains shall not be connected to streets, sanitary or storm sewers or roadside ditches, except as provided in Section 703.B.
- B. When it is more advantageous to connect directly to streets or storm sewers, connections of roof drains to streets or roadside ditches may be permitted by the Municipality.
- C. Roof drains shall discharge to infiltration areas or vegetative BMP's to the maximum extent practicable.

Section 704 – Alteration of BMP's

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

ARTICLE VIII – ENFORCEMENT AND PENALTIES

Section 801 – 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 802 – Enforcement Generally

- A. Whenever *East Huntingdon Township* finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Municipality may order compliance by written notice to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analysis, and reporting;
 2. The elimination of prohibited connections or discharges;
 3. Cessation of any violating discharges, practices, or operations;
 4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 5. Payment of a fine to cover administrative and remediation costs;
 6. The implementation of stormwater BMP's; and
 7. Operation and maintenance of stormwater BMP's.
- B. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violation(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the Municipality or designee 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 Municipality from pursuing any and all other remedies available in law or equity.

Section 803 – Suspension and Revocation of Permits and Approvals

- A. Any building, land development or other permit or approval issued by the Municipality may be suspended or revoked by the Municipality for:
1. Non-compliance with or failure to implement any provision of the permit;
 2. A violation of any provision of this Ordinance; or
 3. The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others.
- B. A suspended permit or approval shall be reinstated by the Municipality when:
1. The Municipal Engineer or designee has inspected and approved the corrections to the stormwater BMP's, or the elimination of the hazard or nuisance, and/or;
 2. The Municipality is satisfied that the violation of the Ordinance, law, or rule and regulation has been corrected.
- C. A permit or approval which has been revoked by the Municipality cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this Ordinance.

Section 804 – Penalties

- A. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than **\$500.00** for each violation, recoverable with costs, or imprisonment of not more than **30 days**, or both. Each day that the violation continues shall be a separate offense.
- B. In addition, the Municipality, through its solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. 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.
- C. Any person found guilty of violating the provisions of this Ordinance shall also be required to pay the legal fee's and expenses that **East Huntingdon Township** has incurred as a result of each violation.

Section 805 – Stop Work Order


Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until **East Huntingdon Township** confirms that the development activity is in compliance and violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized by this Ordinance.

Section 806 – Appeals

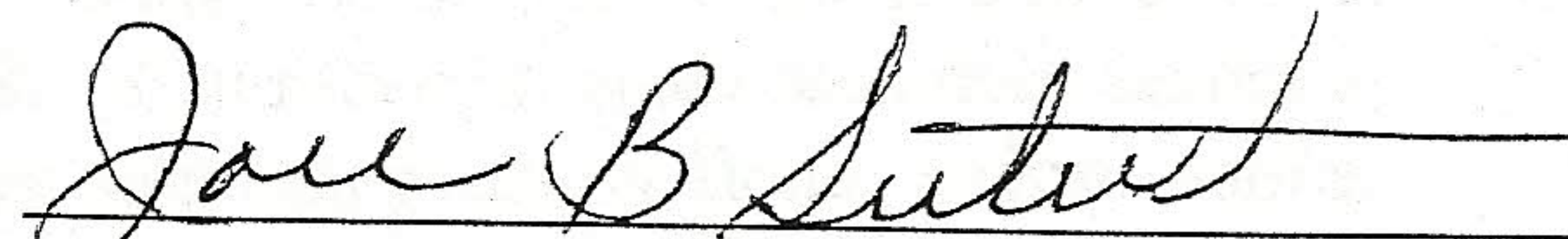
Any person aggrieved by any action of the Municipality or its designee, relevant the provisions of this ordinance, may appeal to the relevant judicial or administrative body according to law, within the time period allowed.

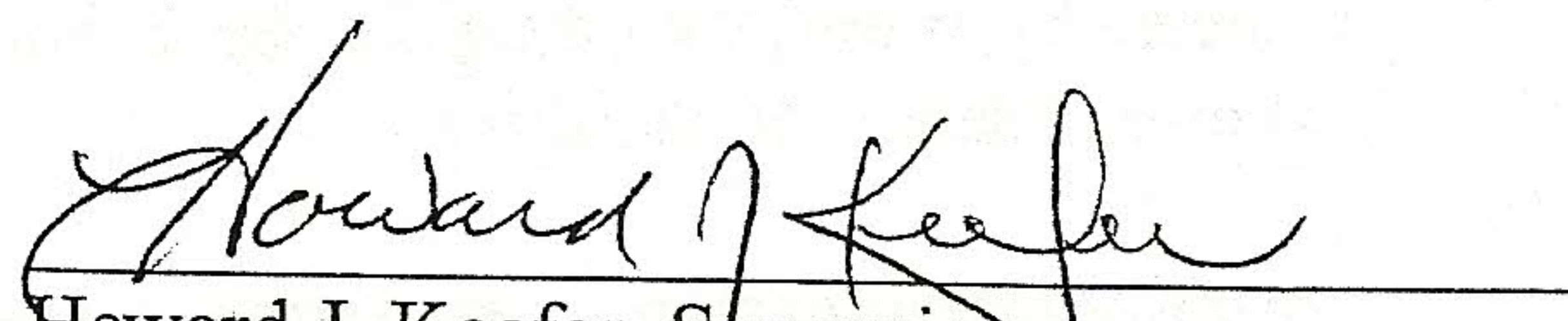
THIS ORDINANCE, ORDAINED AND ENACTED BY THE SUPERVISOR'S OF THE TOWNSHIP OF EAST HUNTINGDON this 25th day of March, 2004.

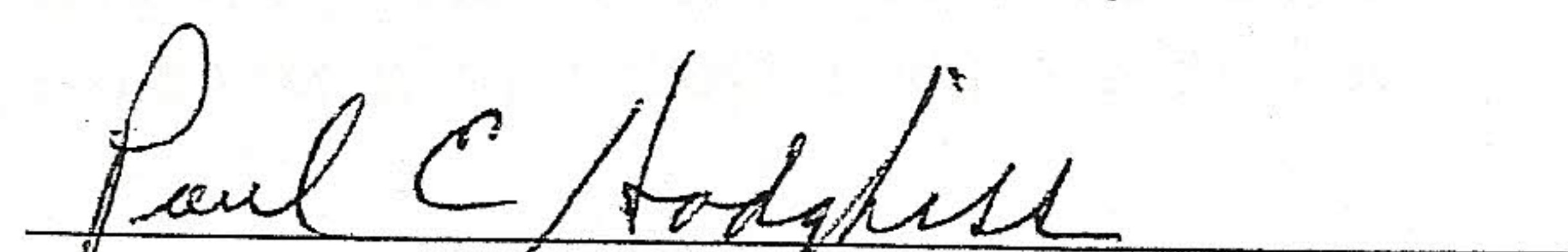
ATTEST:


Cynthia Walthour, Secretary-Treasurer

**Board of Supervisor's of
East Huntingdon Township**


Joel B. Suter, Chairman


Howard J. Keefer, Supervisor


Paul E. Hodgkiss, Supervisor

APPENDIX A

LOW IMPACT DEVELOPMENT PRACTICES

ALTERNATIVE APPROACH FOR MANAGING STORMWATER RUNOFF

Natural hydrologic conditions may be altered radically by poorly planned development practices, such as introducing unneeded impervious surfaces, destroying existing drainage swales, constructing unnecessary storm sewers, and changing local topography. A traditional drainage approach of development has been to remove runoff from a site as quickly as possible and capture it in a detention basin. This approach leads ultimately to the degradation of water quality as well as expenditure of additional resources for detaining and managing concentrated runoff at some downstream location.

The recommended alternative approach is to promote practices that will minimize post-development runoff rates and volumes, which will minimize needs for artificial conveyance and storage facilities. To simulate pre-development hydrologic conditions, forced infiltration is often necessary to offset the loss of infiltration by creation of impervious surfaces. The ability of the ground to infiltrate depends upon the soil types and its conditions.

Preserving natural hydrologic conditions requires careful alternative site design considerations. Site design practices include preserving natural drainage features, minimizing impervious surface area, reducing the hydraulic connectivity of impervious surfaces, and protecting natural depression storage. A well-designed site will contain a mix of all those features. The following describes various techniques to achieve the alternative approach:

- **Preserving Natural Drainage Features.** Protecting natural drainage features, particularly vegetated drainage swales and channels, is desirable because of their ability to infiltrate and attenuate flows and to filter pollutants. However, this objective is often not accomplished in land development. In fact, commonly held drainage philosophy encourages just the opposite pattern -- streets and adjacent storm sewers typically are located in the natural headwater valleys and swales, thereby replacing natural drainage functions with a completely impervious system. As a result, runoff and pollutants generated from impervious surfaces flow directly into storm sewers with no opportunity for attenuation, infiltration, or filtration. Developments designed to fit site topography also minimizes the amount of grading on site.
- **Protecting Natural Depression Storage Areas.** Depressional storage areas have no surface outlet, or drain very slowly following a storm event. They can be commonly seen as ponded areas in farm fields during the wet season or after large runoff events. Traditional development practices eliminate these depressions by filling or draining, thereby obliterating their ability to reduce surface runoff volumes and trap pollutants. The volume and release-rate characteristics of depressions should be protected in the design of the development site. The depressions can be protected by simply avoiding the depression or by incorporating its storage as additional capacity in required detention facilities.
- **Avoiding introduction of impervious areas.** Careful site planning should consider reducing impervious coverage to the maximum extent possible. Building footprints, sidewalks, driveways and other features producing impervious surfaces should be evaluated to minimize impacts on

runoff.

- **Reducing the Hydraulic Connectivity of Impervious Surfaces.** Impervious surfaces are significantly less of a problem if they are not directly connected to an impervious conveyance system (such as storm sewer). Two basic ways to reduce hydraulic connectivity are routing of roof runoff over lawns and reducing the use of storm sewers. Site grading should promote increasing travel time of stormwater runoff, and should help reduce concentration of runoff to a single point in the development.
- **Routing Roof Runoff Over Lawns.** Roof runoff can be easily routed over lawns in most site designs. The practice discourages direct connections of downspouts to storm sewers or parking lots. The practice also discourages sloping driveways and parking lots to the street. By routing roof drains and crowning the driveway to run off to the lawn, the lawn is essentially used as a filter strip.
- **Reducing the Use of Storm Sewers.** By reducing use of storm sewers for draining streets, parking lots, and back yards, the potential for accelerating runoff from the development can be greatly reduced. The practice requires greater use of swales and may not be practical for some development sites, especially if there are concerns for areas that do not drain in a "reasonable" time. The practice requires educating local citizens and public works officials, who expect runoff to disappear shortly after a rainfall event.
- **Reducing Street Widths.** Street widths can be reduced by either eliminating on-street parking or by reducing roadway widths. Municipal planners and traffic designers should encourage narrower neighborhood streets which ultimately could lower maintenance.
- **Limiting Sidewalks to One Side of the Street.** A sidewalk on one side of the street may suffice in low-traffic neighborhoods. The lost sidewalk could be replaced with bicycle/recreational trails that follow back-of-lot lines. Where appropriate, backyard trails should be constructed using pervious materials.
- **Using Permeable Paving Materials.** These materials include permeable interlocking concrete paving blocks or porous bituminous concrete. Such materials should be considered as alternatives to conventional pavement surfaces, especially for low use surfaces such as driveways, overflow parking lots, and emergency access roads.
- **Reducing Building Setbacks.** Reducing building setbacks reduces driveway and entry walks and is most readily accomplished along low-traffic streets where traffic noise is not a problem.
- **Constructing Cluster Developments.** Cluster developments can also reduce the amount of impervious area for a given number of lots. The biggest savings is in street length, which also will reduce costs of the development. Cluster development clusters the construction activity onto less-sensitive areas without substantially affecting the gross density of development.

In summary, a careful consideration of the existing topography and implementation of a combination of the above mentioned techniques may avoid construction of costly stormwater control measures. Other benefits include reduced potential of downstream flooding, water quality degradation of receiving streams/water bodies and enhancement of aesthetics and reduction of development costs. Beneficial results include more stable baseflows in receiving streams, improved groundwater recharge, reduced flood flows, reduced pollutant loads, and reduced costs for conveyance and storage.

APPENDIX B

STORMWATER BEST MANAGEMENT PRACTICES OPERATIONS AND MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 200____, by and between _____, (hereinafter the "Landowner"), and _____, _____ County, Pennsylvania, (hereinafter "Municipality");

WITNESSETH

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

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

WHEREAS, the stormwater management BMP Operations and Maintenance Plan approved by the Municipality (hereinafter referred to as the "Plan") for the property identified herein, which is attached hereto as Appendix A and made part hereof, as approved by the Municipality, provides for management of stormwater within the confines of the Property through the use of Best Management Practices (BMP's); and

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

WHEREAS, for the purposes of this agreement, the following definitions shall apply:

- BMP – "Best Management Practice;" activities, facilities, designs, measures or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and groundwater recharge and to otherwise meet the purposes of the Municipal Stormwater Management Ordinance, including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffers, sand filters and detention basins.

- Infiltration Trench – A BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer,
- Seepage Pit – An underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer,
- Rain Garden – A BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer, and

WHEREAS, the Municipality requires, through the implementation of the Plan, that stormwater management BMP's as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner, his successors and assigns. and

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

1. The BMPs shall be constructed by the Landowner in accordance with the plans and specifications identified in the Plan.
2. The Landowner shall operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Municipality and in accordance with the specific maintenance requirements noted on the Plan.
3. The Landowner hereby grants permission to the Municipality, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.
4. In the event the Landowner fails to operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Municipality, the Municipality or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the Municipality to erect any permanent structure

on the land of the Landowner. It is expressly understood and agreed that the Municipality is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Municipality.

5. In the event the Municipality, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Municipality for all expenses (direct and indirect) incurred within 10 days of receipt of invoice from the Municipality.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMP(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.
7. The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Municipality's employees and designated representatives from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or Municipality. In the event that a claim is asserted against the Municipality, its designated representatives or employees, the Municipality shall promptly notify the Landowner and the Landowner shall defend, at his own expense, any suit based on the claim. If any judgment or claims against the Municipality's employees or designated representatives shall be allowed, the Landowner shall pay all costs and expenses regarding said judgment or claim.
8. The Municipality shall inspect the BMP(s) at a minimum of once every three years to ensure their continued functioning.

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

WITNESS the hand and seals of the parties hereto on the date above first written.

East Huntingdon Township

ATTEST:

Secretary

BY: _____
Chairman

WITNESS:

Landowner

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF WESTMORELAND) SS:

On this the day of , 20____, before me,
a notary public, the undersigned officer, personally appeared,
_____, Chairman of the Board of
Supervisors of East Huntingdon Township, known to me
(or satisfactorily proven) to be the person whose name is
subscribed to the within Agreement; and acknowledged that he
executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF)

On this the day of , 20____, before me,
a notary public, the undersigned officer, personally appeared,
_____, known to me
(or satisfactorily proven) to be the person(s) whose name(s) is/are
subscribed to the within Agreement; and acknowledged that she/he
executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public