

TOWNSHIP OF EPHRATA

Lancaster County, Pennsylvania

ORDINANCE NO. 265

AN ORDINANCE OF THE TOWNSHIP OF EPHRATA, LANCASTER COUNTY, PENNSYLVANIA AMENDING THE EPHRATA TOWNSHIP STORM WATER MANAGEMENT ORDINANCE.

WHEREAS, the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Storm Water Act, Act No. 167 of October 4, 1978, (P.L. 864) (Act 167), Section 680.1 *et seq.*, as amended, delegated the responsibility to local government units to adopt storm water management regulations, which regulations are to be consistent with the requirements of the Lancaster County Act 167 Plan; and

WHEREAS, the Board of Supervisors adopted the Ephrata Township Storm Water Management Ordinance of 2014 on May 6, 2014; and

WHEREAS, the Board of Supervisors desires to amend the Ephrata Township Storm Water Management Ordinance of 2014 by revising certain definitions and by clarifying the responsibility of certain public officials in processing storm water management plans; and

WHEREAS, the Board of Supervisors desires to further amend the Ephrata Township Storm Water Management Ordinance of 2014 by revising the provisions addressing prohibited discharges and connections.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Ephrata, Lancaster County, Pennsylvania, as follows:

Section 1. The Ephrata Township Storm Water Management Ordinance of 2014, Article I, Section 102, Purpose and Legislative Intent, Subsection 1, shall be amended by adding Subsections L – O as follows:

- L. To provide for the health, safety, and general welfare of the citizens of Ephrata Township through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.

- M. To prohibit illegal connections and discharges to the municipal separate storm sewer system.
- N. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.
- O. To provide for oversight by the Lancaster County Conservation District for Construction Activity requiring NPDES Construction Permits.

Section 2. The Ephrata Township Storm Water Management Ordinance of 2014, Article II, Section 201, Definitions, shall be amended by adding the following terms in alphabetical order and renumbering the definitions as appropriate:

1. Clean Water Act: The 1972 Amendments to the Federal Water Pollution Control Act, P.L. 92-500 of 1972, as amended (33 U.S.C. §1251 *et seq.*), and any subsequent amendments thereto.
2. Construction Activity: Activities subject to NPDES Construction Permits. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.
3. Ephrata Township Subdivision and Land Development Ordinance: The Ephrata Township Subdivision and Land Development Ordinance of 1992, as amended.
4. Hazardous Material: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
5. Illegal Connection: Either of the following:
 - A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter a storm sewer, including but not limited to, any conveyances which allow any non-storm water drainage including sewage, process wastewater, and wash water to enter a storm sewer and any connections to a storm sewer from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Township or other authorized enforcement agency; or
 - B. Any drain or conveyance connected from a commercial or industrial land use to the storm sewer system which has not been documented in plans, maps, or equivalent records and approved by the Township.
6. Illegal Discharge: Any direct or indirect non-storm water discharge to a storm sewer, except as exempted in Section 5, Article VI, Sections 601.1 to 601.4 of this Ordinance.
7. Illegal Discharge Prevention Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or

indirectly to storm water, receiving waters, or storm water conveyance systems. This term also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks sludge or water disposal, or drainage from raw materials storage.

8. Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).
9. National Pollutant Discharge Eliminate System (NPDES) Storm Water Discharge Permit: A permit issued by DEP under the Clean Water Act that authorizes the discharge of pollutants to waters of this Commonwealth, whether the permit is applicable on an individual, group, or general area-wide basis.
10. Non-Storm Water Discharge: Any discharge to a storm sewer that is not composed entirely of storm water.
11. Pollutant: Anything, which causes or contributes to pollution including, but not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
12. Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
13. Storm Water Pollution Prevention Plan: A document which describes the Discharge Prevention BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, a storm sewer, and/or waters of this Commonwealth to the maximum extent practicable.
14. Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Section 3. The Ephrata Township Storm Water Management Ordinance of 2014, Article II, Section 201, Definitions, Definition No. 40, Land Disturbance, shall be amended as follows:

Land Disturbance: Any activity involving grading, tilling, digging, or filling of ground or stripping of vegetation or any other activity that causes an alteration to the natural condition of the land; the erection of a dwelling or other structure; or the modification, removal, filling, or alteration of an existing storm water management facility or drainage easement. Land Disturbance Activities shall be classified as follows:

- A. Major Land Disturbance Activity:

- (1) Any use requiring the submission of a subdivision or land development plan under the Ephrata Township Subdivision and Land Development Ordinance.
- (2) Any Land Disturbance not defined as a Minor Land Disturbance Activity or deemed to qualify as a Minor Land Disturbance Activity by the Township.
- (3) Any use involving the diversion or piping of any natural or man-made watercourse or existing drainage pattern.

B. Minor Land Disturbance Activity: The use of land for any purpose on an existing lot of record, including subdivided lots or land developments approved under a Major Land Disturbance Activity, provided that:

- (1) The use is not within a floodplain area.
- (2) No diversion or piping of any natural or man-made watercourse or existing drainage pattern is involved.
- (3) The use does not require the submission of a subdivision or land development plan under the Ephrata Township Subdivision and Land Development Ordinance.
- (4) Within the Agricultural and Agricultural Holding Zoning Districts, the use does not create more impervious area, or more earth disturbance (the removal of ground cover, grading, filling or excavation) than shown in the table below, either of which shall be measured on a cumulative basis from May 6, 2014.

Parent Tract Size	*Minimum Distance	**Cumulative New Earth Disturbance	**Cumulative New Impervious Areas
0-0.5 acre	20	1,000 sf	500 sf
0.5-1 acre	50	3,500 sf	2,500 sf
1-2 acre	100	21,780 sf	10,000 sf
>2-5 acres	250	43,560 sf	15,000 sf
>5 acres	500	43,560 sf	20,000 sf

* For the purpose of this subsection "Minimum Distance" shall be the minimum distance between the downslope portion of the project site and the down slope property line of the property.

** All post developed storm water runoff from the disturbed area or additional impervious area shall leave the site in the same manner as the pre-development condition and there shall be no adverse effects to the adjacent property.

- (5) Temporary and final grading shall, whenever possible, discourage concentrated storm water and allow for sheet flow. Unless

- otherwise provided for by the approved plan(s), all runoff shall be in a non-erosive sheet flow condition at all property lines;
- (6) Within all zoning districts other than Agricultural and Agricultural Holding zoning districts, the use does not create more than five thousand (5,000) square feet of impervious area or involve the removal of ground cover, grading, filling, or excavation of more than five thousand (5,000) square feet, either of which shall be measured on a cumulative basis from May 6, 2014;
 - (7) All agricultural activities shall have a Conservation Plan approved by the appropriate officials;
 - (8) The use of land represents minimal ground disturbance or impact to the environment as determined by the Code Enforcement Officer or other authorized Township official.

Section 4. The Ephrata Township Storm Water Management Ordinance of 2014, Article V, Section 502, Operation and Maintenance Agreements, shall be amended by adding a new Subsection 3, as follows:

3. The Operation and Maintenance Agreement may be approved and executed on behalf of the Township by the Township Manager or by any other Township official who shall be so designated by the Board of Supervisors.

Section 5. The Ephrata Township Storm Water Management Ordinance of 2014, Article V, shall be amended by removing Section 505 in its entirety.

Section 6. The Ephrata Township Storm Water Management Ordinance of 2014 shall be amended by adding a new Article VI titled: "Illegal Discharges and Connections" as follows:

Article VI – Illegal Discharges and Connections

Section 601 DISCHARGE PROHIBITIONS.

No person shall discharge or cause to be discharged into the MS4 or any watercourse any materials, including but not limited to pollutants or waters containing any pollutants, other than storm water. The commencement, conduct or continuance of any illegal discharge to the MS4 or any watercourse is prohibited except as described as follows:

1. The Following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, fire hydrant flushing, or other potable water sources; non-contaminated landscape irrigation or lawn watering; diverted stream flows and springs; rising ground water; ground water infiltration to storm drains; non-contaminated pumped ground water; foundation or footing drains (not including active groundwater dewatering

systems), crawl space pumps; non-contaminated HVAC condensation and water from geothermal systems; non-commercial washing of vehicles; natural riparian habitat or wetland flows; firefighting activities; non-contaminated hydrostatic test water discharges, which do not contain detectable concentrations of total residual chlorine (TRC) without use of cleaning agents; and any other water source not containing pollutants.

2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
3. Dye testing is an allowable discharge, but requires a verbal notification to the Township Manager or Engineer prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency or DEP, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Section 602 PROHIBITION OF ILLEGAL CONNECTIONS.

1. The construction, use, maintenance or continued existence of illegal connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Section 603 SUSPENSION OF MS4 ACCESS.

1. Suspension due to Illegal Discharges in Emergency Situations

The Township through its Manager or Engineer may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health, or presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of this Commonwealth. If the violator fails to comply with a suspension order issued in an emergency, the Township may take such steps as deemed necessary to

prevent or minimize damage to the MS4 or Waters of this Commonwealth, or to minimize danger to persons.

2. Suspension due to the Detection of Illegal Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illegal discharge. The Township will notify a violator of the proposed termination of its MS4 access. The violator may petition the Township for a reconsideration and hearing.

3. Violation for Unauthorized Reinstatement of Access

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Township.

Section 604 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Township prior to the allowing of discharges to the MS4.

Section 605 MONITORING OF DISCHARGES.

1. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

2. Access to Facilities.

A. The Township Supervisors, Engineer, Manager, Solicitor, agents and employees and the Lancaster County Conservation District are authorized and shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to authorized representatives of the Township.

B. Facility operators shall allow the Township ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

- C. The Township shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- D. The Township has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Township and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- F. Unreasonable delays in allowing the Township access to a permitted facility are a violation of a storm water discharge permit and of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Township reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- G. If the Township has been refused access to any part of the premises from which storm water is discharged, and is able to demonstrate probable cause to believe that there may be a violation and sampling program designed to verify compliance with this Ordinance or any order, then the Township may seek issuance of a search warrant from any court of competent jurisdiction.

Section 606 USE OF ILLEGAL DISCHARGE PREVENTION BMPs.

The Township has adopted requirements as part of this Ordinance identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of this Commonwealth. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited material or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illegal discharge, may be required to implement, at said person's expense, additional illegal discharge prevention BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Section 607 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or the occupant of such property if required pursuant to a lease, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or occupant shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 608 NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of material which are resulting or may result in illegal discharges or pollutants discharging into storm water, a storm sewer, the MS4 or waters of this Commonwealth, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person responsible for such facilities, operation, or emergency response for a facility or operation, shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Township Manager within three (3) business days of the in-person or phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 609 REVIEW OF EROSION AND SEDIMENT CONTROL PLANS

Notwithstanding anything to the contrary set forth in this Ordinance or any other Township ordinance:

1. An Erosion and Sediment Control Plan must be reviewed and approved by the Lancaster County Conservation District for any earth disturbance of one acre or more with runoff to the MS4.
2. This review and approval is a prerequisite for the formal approval of a subdivision or land development plan or the issuance of a building permit.

Section 610 ENFORCEMENT

Whenever the Township finds that a person has violated any provision under this Article VI, the Code Enforcement Officer, or other person appointed by the Board of Supervisors to enforce this Ordinance, is authorized to enforce the requirements of this Article in accordance with this Section. Persons determined by the Township to be violating the provisions of this Article shall be subject to the following enforcement provisions:

1. Notice of Violation.

Whenever the Township finds that a person has violated any provision or failed to meet a requirement of this Article, the Code Enforcement Officer or other person appointed by the Board of Supervisors to enforce this Ordinance, may order compliance by written Notice of Violation to the responsible person. Such Notice of Violation may require without limitation:

- A. The performance of monitoring, analyses, and reporting; and
- B. The elimination of illicit connections or discharges;
- C. That violating discharges, practices, or operations shall cease and desist;
- D. The abatement or remediation of storm water pollution or contamination hazardous and the restoration of any affected property; and
- E. Payment of a fine to cover administrative and remediation costs; and
- F. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. Said Notice of Violation shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the Township or a contractor hired by the Township and the expense thereof shall be charged to the violator.

2. Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the Code Enforcement Officer or other designated official to the Board of Supervisors. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the Board of Supervisors shall take place within 30 days from the date of receipt of the notice of appeal.

3. Enforcement Measures for Failure to Comply with Notice of Violation.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or in the event of an appeal, within 30 days of the decision of the Board of Supervisors upholding the decision of its' enforcement officer, then the Township may enter upon the subject property, and authorized officials, employees, agents and/or contractors are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Township officials, employees, agents and/or contractors to enter upon the premises for the purposes set forth above.

4. Cost of Abatement of Violation.

The owner of the property for which corrective measures must be taken by the Township in accordance with Section 610.3 will be notified of the cost of abatement, including administrative costs and the Township's intent to file a municipal lien if such costs are not satisfied by the property owner within a time certain. If the amount due is not paid within the time set forth in the notice, a municipal lien for the amount due including court costs and legal fees will be filed against the property. Any person violating any of the provisions of this Article shall become liable to the Township by reason of such violation.

5. Injunctive Relief.

It shall be unlawful for any person to violate or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Township may authorize the Township Solicitor to petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

6. Alternative Remedial Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Township may impose upon a violator alternative remedial actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

7. Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or an equitable action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

8. Violations Involving Emergencies.

Notwithstanding anything to the contrary in this Ordinance, violations of this Article that cause or contribute to, or threaten to cause or contribute to, an imminent and substantial danger to the environment, or to the health, or present or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of this Commonwealth may be enforced without the necessity of the Township issuing a Notice of Violation.

9. Fines.

Any person who shall violate any of the provisions of this Article, or who shall fail to comply with a Notice of Violation from Ephrata Township which describes a condition of noncompliance, shall be guilty of a summary offense, and upon conviction thereof, shall be subject to a fine payable to Ephrata Township of not more than \$1,000 for each violation, recoverable with cost. In default of payment of the fine, such person shall be liable to imprisonment for not more than thirty (30) days. Each day or portion of a day in which a violation continues constitutes a separate offense, subject to a separate penalty.

10. Remedies not Exclusive.

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law, and the Township may, in its discretion, seek cumulative remedies.

Section 7. All other sections, parts and provisions of the Ephrata Township Storm Water Management Ordinance shall remain in full force and effect as previously enacted and amended.

Section 8. Severability. The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 9. Effective Date. This Ordinance shall take effect and be in force five (5) days after adoption.

DULY ORDAINED AND ENACTED this 6th day of February,
2018, by the Board of Supervisors of the Township of Ephrata, Lancaster County, Pennsylvania,
in lawful session duly assembled.

TOWNSHIP OF EPHRATA
Lancaster County, Pennsylvania

Attest: [Signature]
(Assistant) Secretary

By: [Signature]
(Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]