

## **ARTICLE VIII. ADMINISTRATION**

### **SECTION 801. MODIFICATIONS**

1. The provisions of this ORDINANCE related to water quality are the minimum water quality standards and the COMMISSIONERS are not permitted to alter these minimum standards or grant relief from these standards.
2. The provisions of this ORDINANCE not related to water quality are the minimum standards for the protection of the public health, safety and welfare.
3. If any mandatory provision of this ORDINANCE not related to water quality is shown by the APPLICANT, to the satisfaction of the COMMISSIONERS at a scheduled public meeting, to be unreasonable and to cause unique and undue hardship or that the alternate proposal will allow for equal or better results, as it applies to the APPLICANT's proposed subdivision, land DEVELOPMENT or STORMWATER MANAGEMENT PLAN the COMMISSIONERS upon obtaining the comments and recommendations of the TOWNSHIP or TOWNSHIP ENGINEER, may grant a MODIFICATION, in writing, to such APPLICANT for such mandatory provision not related to water quality, so that substantial justice may be done and the public interest secured; provided that such MODIFICATION will not have the effect of nullifying the intent and purpose of this ORDINANCE.
4. All requests for a MODIFICATION shall be in writing and shall accompany and be a part of the application for DEVELOPMENT. The request shall state in full, the grounds and facts, of unreasonableness or hardship on which the request is based, the provision or provisions of the ORDINANCE involved and the minimum MODIFICATION necessary.
5. The COMMISSIONERS shall keep a written record of all action on all MODIFICATION requests.
6. In granting MODIFICATIONS from the provisions of this ORDINANCE, the COMMISSIONERS may impose conditions that will, in its judgment; secure substantially the objectives of the standards or requirements so modified.
7. The list of such MODIFICATIONS, along with the date of approval shall be included on the plan.
8. This Section does not apply during an enforcement action.

### **SECTION 802. AMENDMENT**

The COMMISSIONERS may, from time to time, amend this ORDINANCE by appropriate action taken at a scheduled public meeting. Amendments to the ORDINANCE shall be advertised and enacted in accordance with the MPC and First Class Township Code.

### **SECTION 803. 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 804. VIOLATIONS**

It shall be a violation of this ORDINANCE to commit or permit any other person to commit any of the following acts:

1. To commence REGULATED ACTIVITIES for which this ORDINANCE requires a permit prior to obtaining a permit or in violation of the terms or conditions of any permit issued under this ORDINANCE.
2. To install, repair, modify or alter STORMWATER MANAGEMENT FACILITIES prior to obtaining a permit under this ORDINANCE, or, in a manner which violates the terms and conditions of any permit issued under this ORDINANCE.
3. To misuse or fail to maintain any STORMWATER MANAGEMENT FACILITY installed upon a property.
4. To construct any IMPROVEMENTS upon, GRADE, FILL or take any other action which will impair the proper functioning of any STORMWATER MANAGEMENT FACILITY.
5. To place false information on, or, omit relevant information from an application for a permit under this ORDINANCE.
6. To fail to comply with any other provisions of this ORDINANCE.

#### **SECTION 805. ENFORCEMENT**

The COMMISSIONERS are hereby authorized and directed to enforce all of the provisions of this ORDINANCE.

1. Any permit or approval issued by the TOWNSHIP pursuant to this ORDINANCE may be suspended by the TOWNSHIP for:
  - A. Noncompliance with or failure to implement any provision of the approved STORMWATER MANAGEMENT PLAN, O&M PLAN or STORMWATER MANAGEMENT Agreement and Declaration of Easement document.
  - B. A violation of any provisions of this ORDINANCE or any other applicable law, ORDINANCE, rule, or regulation relating to the REGULATED ACTIVITY.
  - C. The creation of any condition or the commission of any act during CONSTRUCTION or DEVELOPMENT that constitutes or creates a hazard, nuisance, pollution or endangers the life or property of others.
  - D. When any other required permit is allowed to lapse prior to satisfying all requirements of the STORMWATER MANAGEMENT PLAN.
2. A suspended permit may be reinstated by the TOWNSHIP when:

- A. The TOWNSHIP has inspected and approved the corrections to the violation that caused the suspension;
  - B. The TOWNSHIP is satisfied that the violation has been corrected.
3. Any permit or approval may be withheld by the TOWNSHIP when other permits are suspended.

## **SECTION 806. NOTIFICATION**

1. In the event that any person fails to comply with the requirements of this ORDINANCE, or fails to conform to the requirements of any permit issued hereunder, the TOWNSHIP may order compliance by written notice to the responsible person. Such notice may require without limitation:
  - A. The performance of monitoring, analyses, and reporting;
  - B. The elimination of prohibited discharges;
  - C. Cessation of any violating discharges, practices, or operations;
  - D. The abatement or remediation of STORMWATER pollution or contamination hazards and the restoration of any affected property;
  - E. Payment of a fine to cover administrative and remediation costs;
  - F. The implementation of STORMWATER BMPs; and
  - G. Operation and maintenance of STORMWATER BMPs.
2. Such notification shall set forth the nature of the violation(s) and establish a reasonable time limit for correction of these violation(s). Failure to comply within the time specified shall subject each person to the penalty provisions of this ORDINANCE. All such penalties shall be deemed cumulative and shall not preclude the TOWNSHIP from pursuing any and all other remedies.

## **SECTION 807. VIOLATIONS AND PENALTIES; REMEDIES FOR VIOLATION**

1. For each violation of the provisions of this ORDINANCE, the owner, agent, lessee, or contractor or any other person who commits, takes part in, or assists in any such violation shall be liable upon conviction thereof in a summary proceeding to pay a fine of not more than \$300 for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this ORDINANCE, and each Section of this ORDINANCE which is violated shall be considered a separate violation.
2. The TOWNSHIP may also institute suits to restrain, prevent, or abate a violation of this ORDINANCE in equity or at law. Such proceedings in equity or at law may be initiated before any court of competent jurisdiction. In cases of emergency where, in the opinion of the court, the circumstances of the case require immediate abatement of the unlawful conduct, the court may, in its decree, fix a reasonable time during which the person

responsible for the unlawful conduct shall correct or abate the same. The expense of such proceedings shall be recoverable from the violator in such manner as may now or hereafter be provided by law.

#### **SECTION 808. MUNICIPAL LIABILITY**

Except as specifically provided by Act 167, the making of any administrative decision by the TOWNSHIP or any of its officials or employees shall not constitute a representation, guarantee or warranty of any kind by the TOWNSHIP of the practicability or safety of any proposed structure or use with respect to damage from EROSION, SEDIMENTATION, STORMWATER RUNOFF, FLOOD, or any other matter, and shall create no liability upon or give rise to any cause of action against the TOWNSHIP and its officials and employees. The COMMISSIONERS, by enacting this ORDINANCE, does not waive or limit any immunity granted to the TOWNSHIP and its officials and employees by the Governmental Immunity Act, 42 Pa. C.S. § 8541 et seq., and does not assume any liabilities or obligations.

#### **SECTION 809. CHALLENGE AND APPEALS**

1. Any person, partnership, corporation or organization aggrieved by any administration action of a qualified representative of the TOWNSHIP, may appeal to the COMMISSIONERS within thirty (30) days of that action. Any such appeal shall be governed by the procedures of Article V of the Local Agency Law, 2 Pa. C.S.A. 401 et seq.
2. Any person, partnership, corporation or organization aggrieved by any decision of the COMMISSIONERS, may appeal to Lancaster County Court of Common Pleas, in accordance with Article VII of Local Agency Law, 2 Pa. C.S.A. 701 et seq. the Local Agency Law, within thirty (30) days of that decision.

#### **SECTION 810. REPEALER**

1. Except as otherwise required by law, this ORDINANCE is intended as a continuation of, and not a repeal of, existing regulations governing the subject matter. To the extent that this ORDINANCE restates regulations contained in ordinances previously enacted by the COMMISSIONERS, this ORDINANCE shall be considered a restatement and not a repeal of such regulations. It is the specific intent of the COMMISSIONERS that all provisions of this ORDINANCE shall be considered in full force and effect as of the date such regulations were initially enacted. All ordinances or parts of ordinances inconsistent with the provisions of this ORDINANCE are hereby repealed. It is expressly provided that the provisions of this ORDINANCE shall not affect any act done, contract executed or liability incurred prior to its effective date, or affect any suit or prosecution pending or to be instituted to enforce any rights, rule, regulation or ordinance, or part thereof, or to punish any violation which occurred under any prior STORMWATER regulation or ordinance. In the event any violation has occurred under any prior STORMWATER regulation or ordinance or code of the TOWNSHIP, prosecution may be initiated against the alleged offender pursuant to the provisions of said prior STORMWATER regulation or ordinance or code, and the provisions and penalties provided in said prior STORMWATER regulation or ordinance or code shall remain effective as to said violation.

2. Any Plan (hereinafter defined) pending at the time of the effective date of this ORDINANCE shall be allowed to proceed with revisions, finalization and implementation in accordance with any ordinance or code in effect prior hereto.

#### **SECTION 811. VALIDITY**

Should any section, subsection, provision, sentence or part of this ORDINANCE be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this ORDINANCE as a whole or any remaining section, subsection, provision, sentence or part thereof.

#### **SECTION 812. EFFECTIVE DATE**

This ORDINANCE shall become effective immediately following its adoption by the COMMISSIONERS of Manheim Township, Lancaster County, Pennsylvania.

Duly Ordained this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

MANHEIM TOWNSHIP COMMISSIONERS

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Sean P. Molchany, Secretary

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President (Vice-President)