

**BIRMINGHAM TOWNSHIP**  
**CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE BIRMINGHAM TOWNSHIP CODE, CHAPTER 101, TITLED “STORMWATER MANAGEMENT AND LAND DISTURBANCE” BY ADDING A NEW ARTICLE XI, TITLED, “PROHIBITED DISCHARGES TO STORM SEWER SYSTEM.”**

**THE BOARD OF SUPERVISORS DOES HEREBY ENACT AND ORDAIN THAT CHAPTER 101 OF THE BIRMINGHAM TOWNSHIP CODE, TITLED, “STORMWATER MANAGEMENT AND LAND DISTURBANCE”, IS HEREBY FURTHER AMENDED AS FOLLOWS:**

**SECTION I.** Section 101-6 is hereby amended by the addition of the following definitions:

**Applicant** – A landowner or developer, including heirs, successors and assigns, who has filed an application pursuant to this chapter with the township.

**Best Management Practices (BMPs)** – Stormwater quantity and quality management measures, techniques, controls, etc. utilized to mitigate and minimize the negative impacts of runoff to streams, lakes, wetlands, forests, residential, business, commercial, or institutional properties, as well as new land development sites. BMPs can be nonstructural (preventative actions) and structural (treatment facilities).

**Stormwater Management** – Procedures involved in the control of water that runs off the surface of the land from rain and melting snow.

**Watercourse** – A channel or conveyance of surface water having defined bed and banks, whether natural or artificial.

**Wetlands** – Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and which under normal conditions do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

**SECTION II.** Section 101-32 is hereby amended to read as follows:

**§101-32. Violations and penalties.**

- A. A violation of the terms of this Chapter shall be enforced in a summary criminal proceeding before the District Justice. Any person violating the terms of this Article shall be subject to a fine of not more than \$1,000 for each violation, plus the Township's attorney fees and costs. Each day that the violation continues shall be a separate offense.
- B. In addition, the Township, through its solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Chapter. A court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

**SECTION III.** The following new Article XI, titled, "Prohibited Discharges to Storm Sewer System," is added to Chapter 101, "Stormwater Management and Land Disturbance":

**"ARTICLE XI  
Prohibited Discharges to Storm Sewer System**

**§101-36. Prohibited Discharges.**

- A. No person in the Township shall allow, or cause to allow, stormwater discharges into the Township's storm sewer 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, based on a finding by the Township that the discharge(s) do not significantly contribute to pollution of surface waters of the Commonwealth or reduce the hydraulic capacity of the existing storm sewer system, are:
- Discharges from fire fighting activities;
  - Potable water sources including dechlorinated water line and fire hydrant flushings;
  - Irrigation drainage;
  - Routine external building washdown (which does not use detergents or other compounds);
  - Air conditioning condensate;
  - Water from individual residential car washing;
  - Uncontaminated water from foundation or from footing drains;
  - Flows from riparian habitats and wetlands;
  - Lawn watering; and
  - Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.

All authorized non-stormwater discharges shall be directed through existing stabilized vegetated areas prior to entering the Township's storm sewer system.

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

**§101-37. Prohibited Non-Stormwater Connections.**

The following connections are prohibited, except as provided in §101-36.B. above:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows any non-stormwater discharge including sewage, process wastewater, and wash water, to enter the Township's storm sewer system, and any connections to the storm drain system from indoor drains and sinks.
- B. Any drain or conveyance connected from a commercial or industrial land use to the Township's storm sewer system which has not been documented in plans, maps, or equivalent records, and approved by the Township.
- C. Roof drains shall not be connected to streets, sanitary or storm sewers or roadside ditches/ swales. Roof drains shall be discharged to existing vegetated areas, or shall be discharged into appropriate stormwater BMPs (infiltration, vegetative, etc.) to the maximum extent practicable. Notwithstanding the above prohibition, roof drains that are connected to the Township's storm sewer system as of the effective date of this ordinance which were previously authorized by the Township shall be permitted to remain.

**§101-38. Enforcement.**

- A. Whenever the Township finds that a person has violated a provision of this Article or failed to meet a requirement of this Article, the Township may order compliance by written notice to the responsible party. Such a notice may require without limitation:
  - The performance of monitoring, analyses, and reporting;
  - The elimination of prohibited connections or discharges;
  - Cessation of any violating discharges, practices, or operations;

- The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and/or
  - Payment of a fine to cover administrative and remediation costs.
- B. Such notice 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 may be done by the Township or its designee and the expense thereof, including reasonable attorneys' fees and costs, shall be charged to the violator and shall be a lien against the property in question and shall be collected in the manner provided by law for the filing and collection of such liens.
- C. Failure to comply within the time specified in the notice shall also subject such responsible person or party to the provisions of §101-40 and §101-41 of this Article. All such penalties shall be deemed cumulative and shall not prevent the Township from pursuing any and all other remedies available in law or equity.

**§101-39. Suspension and Revocation of Permits and Approvals.**

- A. Any building, land development or other permit(s) or approval(s) issued by the Township may be suspended or revoked by the Township for:
1. A violation of any provision of this Article; or
  2. 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 Township when:
1. The Township Engineer or his or her designee has inspected and approved the corrections, or elimination of the hazard or nuisance; and/or
  2. The Township is satisfied that the violation of this Article, law, or rule and regulation has been corrected.

**§101-40. Violations and penalties; enforcement remedies.**

- C. A violation of the terms of this Article shall be enforced in a summary criminal proceeding before the District Justice. Any person violating the terms of this Article shall be subject to a fine of not more than \$1,000 for each violation, plus the Township's attorney fees and costs. Each day that the violation continues shall be a separate offense.
- D. In addition, the Township, through its solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Article. A 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.

**§101-41. Appeals.**

Any person aggrieved by any action of the Township, under this Article, may appeal to the Chester County Court of Common Pleas pursuant to the Local Agency Law, within the time period allowed by law.

**§101-42. Right of Entry.**

Authorized representatives of the Township may enter at reasonable times any property within the Township to inspect any drain, conveyance, discharge or stormwater facility under this Article, consistent with federal and state laws.

**SECTION IV. Severability.** If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION V. Repealer.** All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

**SECTION VI. Effective Date.** This ordinance shall be effective five (5) days after enactment as by law provided.

ENACTED AND ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2008.

**BOARD OF SUPERVISORS  
BIRMINGHAM TOWNSHIP**

\_\_\_\_\_  
John L. Conklin, Chairman

\_\_\_\_\_  
William J. Kirkpatrick, Vice Chairman

Attest:

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Quina Nelling, Secretary

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Alfred W. Bush, Member