

ORDINANCE NO. 04-1775

**MONTGOMERY TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**AN ORDINANCE AMENDING THE CODE OF MONTGOMERY TOWNSHIP, SPECIFICALLY CHAPTER 205, KNOWN AS THE MONTGOMERY TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, FOR THE PURPOSE OF AMENDING ARTICLE II, DEFINITIONS, ARTICLE III, DESIGN STANDARDS, AND ARTICLE IV, EROSION AND SEDIMENT CONTROL, TO ADD ADDITIONAL STORMWATER MANAGEMENT REQUIREMENTS PROVIDING PROHIBITIONS AGAINST NON-STORMWATER DISCHARGES; EROSION AND SEDIMENT CONTROL REQUIREMENTS; REQUIREMENTS TO ADDRESS POST-CONSTRUCTION RUNOFF IN NEW DEVELOPMENT AND REDEVELOPMENT, INCLUDING OPERATION AND MAINTENANCE OF STORMWATER BEST MANAGEMENT PRACTICES; AND, SANCTIONS TO ENSURE COMPLIANCE WITH SUCH PROVISIONS; AND AMENDING APPENDIX B, STANDARDS AND CRITERIA FOR STORMWATER MANAGEMENT IN THE NESHAMINY CREEK WATERSHED AND THE LITTLE NESHAMINY CREEK WATERSHED, TO ADD AN ADDITIONAL SECTION F WHICH REQUIRES COMPLIANCE WITH THE STORMWATER REGULATIONS CONTAINED IN SECTION 25-18.1. OF THE MONTGOMERY TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE.**

**NOW, THEREFORE, BE IT ENACTED and ORDAINED** by the Board of Supervisors of Montgomery Township as follows:

**SECTION 1. ARTICLE II, Definitions, Section 205-6, Definitions** is hereby amended to include the following terms:

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 purpose of this Ordinance. BMPs 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 Montgomery County Conservation District.

DEP. The Pennsylvania Department of Environmental Protection.

The term Developer is hereby amended to read as follows: Developer. Any landowner, agent of such landowner or tenant with the permission of such landowner who makes or causes to be made a subdivision of land or a land development or who seeks to undertake any Regulated earth Disturbance Activity.

**Development Site.** The specific tract of land where any Earth Disturbance activities in the 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. All Earth Disturbance Activities are governed by the National Pollutant Discharge Elimination System, defined below, and the existing provisions of the Montgomery township Subdivision and Land Development Ordinance.

**Erosion.** The removal of surface materials by the action of natural elements. Accelerated Erosion is 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.

**Erosion and Sediment Control Plan.** A plan for a project site which identifies BMPs 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.

**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 40 CFR § 122.2 at the point where the township's storm sewer system discharges to surface waters of the Commonwealth.

**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 Township are planned, conducted or maintained.

**Redevelopment.** Earth Disturbance Activities on land which has previously been disturbed or developed.

Regulated Earth Disturbance Activity. Earth disturbance activity one acre or more with a point source discharge to surface waters or the Township's storm sewer system, or five acres or more regardless of the planned runoff. This includes earth disturbance on any portion of, part, or during any stage of, a larger common plan of development. This only includes road maintenance activities involving 25 acres or more of earth 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, township streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) primarily used for collecting and conveying stormwater runoff.

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 or conveyance of surface water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

Township. Montgomery Township, 1001 Stump Road, Montgomeryville, Pennsylvania 18936.

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

**SECTION 2. ARTICLE III, Design Standards, Section 205-18., Storm and surface drainage.,** is hereby amended by adding the following Subsection E.:

E. In addition to the above, an Applicant shall comply with the stormwater management regulations set forth in Section 205-18.1 of the Montgomery Township Subdivision and Land Development Ordinance.

**SECTION 3. ARTICLE III, Design Standards,** is hereby amended by adding the following Section 205-18.1.

Section 205-18.1. Stormwater management.

A. Purpose. The purpose of this Section 205-18.1. is to augment existing Township ordinances and regulations by adopting prohibitions against non-stormwater discharges, erosion and sediment control requirements, requirements to address post-construction runoff from new development and redevelopment, including operation and maintenance of stormwater BMPs and sanctions to ensure compliance with such provisions.

**B. Prohibition against non-stormwater discharges.**

**1. Prohibited discharges.**

No person in the Township shall allow, or cause to allow, stormwater discharges into the Township's Separate Storm Sewer System which are not composed entirely of stormwater, except (1) as provided in subsection 1.(b) below, and (2) discharges allowed under state or federal permit.

Discharges which may be allowed, based on a finding by the Township that the discharge(s) do not significantly contribute to pollution to Surface Waters of the Commonwealth, are:

- (i) Discharges from fire fighting activities;
- (ii) Air conditioning condensate;
- (iii) Potable water sources including dechlorinated water line and fire hydrant flushings;
- (iv) Water from individual residential car washing;
- (v) Springs;
- (vi) Water from crawl space pumps;
- (vii) Irrigation drainage;
- (viii) Routine external building washdown (which does not use detergents or other compounds);
- (ix) Uncontaminated water from foundation or from footing drains;
- (x) Flows from riparian habitats and wetlands;
- (xi) Lawn watering;
- (xii) 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;
- (xiii) Dechlorinated swimming pool discharges;
- (xiv) Uncontaminated groundwater; and
- (xv) Uncontaminated water.

In the event that the Township determines that any of the discharges identified in subsection 1.(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 1.(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.

Nothing in this section shall affect a discharger's responsibilities under state law.

2. Prohibited connections.

The following connections are prohibited, except as provided in Section 1.(b) above:

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 Separate Storm Sewer System, and any connections to the storm drain system from indoor drains and sinks; and,

- (b) 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 Township.

C. Requirement for erosion and sediment controls.

1. Erosion and sediment control.

- (a) No Regulated Earth Disturbance Activities within the Township shall commence until approval by the Township of an Erosion and Sediment Control Plan for construction activities.
- (b) The Pennsylvania Department of Environmental Protection ("DEP") has regulations that require an Erosion and Sediment Control Plan for any Earth Disturbance Activity of 5,000 square feet or more, under 25 Pa. Code § 102.4(b).
- (c) In addition, under 25 Pa. Code Chapter 92, a DEP "NPDES Construction Activities" permit is required for any earth disturbance of one acre or more with a Point Source discharge to surface waters or the Township's storm sewer system, or five acres or more regardless of the planned runoff (hereinafter collectively referred to as "Regulated Earth Disturbance Activities"). This includes earth disturbance on any portion of, part of, or during any stage of, a larger common plan development.

Evidence of any necessary permit(s) for Regulated Earth Disturbance Activities from the appropriate DEP regional office or County Conservation District must be provided to the Township. The issuance of an NPDES construction permit (or permit coverage under the statewide General Permit (PAG-2)) satisfies the requirements in Subsection 1.(a) above.

- (e) 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.

D. Post-construction stormwater runoff controls for new development and redevelopment, including operation and maintenance of stormwater BMPs.

1. Post-construction runoff control requirements.

No Regulated Earth Disturbance Activities within the Township shall commence until approval by the Township of a plan which demonstrates compliance with State Water Quality requirements after construction is complete.

State Water Quality Requirements. As defined under state regulations- protection of designated and existing uses (See 25 Pa. Code Chapters 93 and 96)- as may be amended from time to time, including:

- 1 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.
2. “Existing uses” are those attained as of November 1975, regardless of 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.
3. 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 the 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, streambed and structural integrity of the waterway, to prevent these impacts.

The BMPs must be designed to protect and maintain existing uses (e.g., drinking water use; cold water fishery use) 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, as required by statewide regulations at 25 Pa. Code Chapter 93 (collectively referred to herein as “State Water Quality Requirements”).

To control post-construction stormwater impacts from Regulated Earth Disturbance Activities, State Water Quality requirements can be met by BMPs, including site design, which provide for replication of pre-construction stormwater filtration 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:

- (1) Infiltration: replication of pre-construction stormwater infiltration conditions;
  - (2) Treatment: use of water quality BMPs to ensure filtering out of chemical and physical pollutants from the stormwater runoff; and,
  - (3) Stream Bank and Streambed Protection: management of volume and rate of post-construction stormwater discharges to prevent physical degradation of receiving waters (e.g., from scouring and erosion).
- (e) DEP has regulations that require municipalities to ensure design, implementation and maintenance of BMPs that control runoff from new development and Redevelopment (hereinafter “development”) after Regulated Earth Disturbance Activities are complete. These requirements include the need to implement post-construction stormwater BMPs with assurance of long-term operations and maintenance of those BMPs.
- (f) Evidence of any necessary permit(s) for Regulated earth Disturbance Activities from the appropriate DEP regional office or County Conservation District must be provided to the Township. He issuance of an NPDES construction permit (or permit coverage under the statewide General Permit (PAG-2)) satisfies the requirements in Subsection 1.(a).

#### E. Sanctions.

1. The sanctions outlined in this Section shall only be applicable to violations of Section 205-18.1, Stormwater management of the Montgomery Township Subdivision and Land Development Ordinance.
2. Public nuisance.
  - (a) The violation of any provision of this Ordinance is hereby deemed a Public Nuisance.

Each day that a violation continues shall constitute a separate violation.

3. Enforcement.

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

- (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of prohibited discharges;
  - (3) Cessation of any violating discharges, practices or operations;
  - (4) The abatement or remediation of stormwater 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 BMPs; and
  - (7) Operation and maintenance of stormwater BMPs.
- (b) 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 Township from pursuing any and all other remedies available in law or equity.
4. Suspension and revocation of permits and approvals.

Any building, land development or other permit approval for Regulated Earth Disturbance Activities issued by the Township may be suspended or revoked by the governing body for:

- (a) Non-compliance with or failure to implement any provision of the permit;
  - (b) A violation of any provision of this Ordinance; or,
  - (c) 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.
5. 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 one thousand dollars (\$1,000.00) for each violation, recoverable with costs, or imprisonment of not more than thirty (30) days, or both. Each day that the violation continues shall be a separate offense.

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 Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or other appropriate forms of remedy or relief.



**SECTION 4. ARTICLE IV, Erosion and Sediment Control**, is hereby amended by adding the following Section 205-27.1.:

Section 205-27.1. Compliance with stormwater management.

In addition to full compliance with Article IV, Erosion and sediment control, an applicant's erosion and sediment control measures must comply with Article III, Design Standards, Section 205-18.1., Stormwater management.

**SECTION 5. Appendix B, Standards and Criteria for Stormwater Management in the Neshaminy Creek Watershed and the Little Neshaminy Creek Watershed**, is hereby amended to add the following Subsection F.:

F. Compatibility with other ordinance requirements.

Compliance with Appendix B does not relieve the applicant of the responsibility to comply with and secure permits or approvals for activities regulated by any other applicable code, rule, act or ordinance, including, but not limited to, the prohibitions against non-stormwater discharges; erosion and sediment control requirements; requirements to address post-construction runoff for new development and redevelopment, including operation and maintenance of stormwater best management practices; and, sanctions to ensure compliance with such provisions contained in Article III, Designs standards, Section 205-18.1. of the Montgomery Township Subdivision and Land Development Ordinance.

**SECTION 6.** Except as specifically hereby amended, the Neshaminy Creek Watershed and the Little Neshaminy Creek Watershed Ordinance, Appendix B of the Montgomery Township Subdivision and Land Development Ordinance, is hereby ratified and confirmed in its entirety.

**SECTION 7. Severability.**

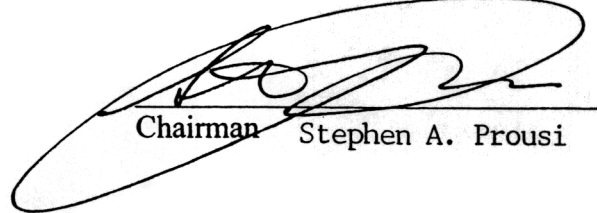
In the event that any section, sentence, clause, phrase or word of this ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose enforcement of any of the remaining portions of this ordinance.

**SECTION 8. Repealer.**

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

**ORDAINED and ENACTED** by the Board of Supervisors of Montgomery Township this  
12th day of April, 2004.

**BOARD OF SUPERVISORS  
MONTGOMERY TOWNSHIP**



Chairman Stephen A. Prousi

ATTEST: Deborah A. Rivas  
Assistant Secretary

Deborah A. Rivas