

TOWNSHIP OF WARMINSTER  
BUCKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 769

**AN ORDINANCE OF THE TOWNSHIP OF WARMINSTER, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE WARMINSTER TOWNSHIP CODE AND SPECIFICALLY AMENDING CHAPTER 26 (WATER AND STORMWATER MANAGEMENT), PARTS 4 (STORMWATER MANAGEMENT) AND 5 (NESHAMINY CREEK STORMWATER MANAGEMENT) TO COMPLY WITH FEDERAL AND STATE REGULATIONS**

**WHEREAS**, the Pennsylvania Storm Water Management Act (Act 167) requires the Pennsylvania Department of Environmental Protection to draft a Model Ordinance for municipalities that complies with Federal and State regulations; and

**WHEREAS**, the Township's current stormwater management ordinances need to be amended to comply with the model ordinance and regulations;

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, the Code of the Township of Warminster is amended as follows:

**Section 1.** Part 4 is amended to include new Sections 26-408, 26-409, 26-410 and 26-439:

**Section 26-408 Repealer; Severability.**

1. Any other Ordinance provision(s) or regulation of the Township inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.
2. In the event that a court of competent jurisdiction declares any section or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

**Section 26-409 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 26-410 Waivers.**

1. If the Township determines that any requirement under this Ordinance cannot be achieved for a particular regulated activity, the Township may, after an evaluation of alternatives, approve measures other than those in this Ordinance, subject to Section 110, paragraphs B and C.

2. **Waivers or modifications of the requirements of this Ordinance may be approved by the Township if enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that the modifications will not be contrary to the public interest and that the purpose of the Ordinance is preserved. Cost or financial burden shall not be considered a hardship. Modification may be considered if an alternative standard or approach will provide equal or better achievement of the purpose of the Ordinance. A request for modifications shall be in writing and accompany the Stormwater Management Site Plan submission. The request shall provide the facts on which the request is based, the provision(s) of the Ordinance involved and the proposed modification.**
3. **No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one acre may be granted by the Township unless that action is approved in advance by the Department of Environmental Protection (DEP) or the delegated county conservation district.**

#### **Section 26-439 Resubmission of Disapproved SWM Site Plans.**

**A disapproved SWM Site Plan may be resubmitted, with the revisions addressing the Township's concerns, to the Township in accordance with this Part. The applicable review fee must accompany a resubmission of a disapproved SWM Site Plan.**

**Section 2.** Section 26-412 Definitions is amended to include the following terms and definitions:

**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.**

**Municipality – Township of Warminster, Bucks County, Pennsylvania.**

**Section 3.** Section 26-421 General Requirements is amended to include the following provision as Subsection 9:

**9. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without written notification to the adjacent property owner(s). Such stormwater flows shall be subject to the requirements of this Ordinance.**

**Section 4.** Subsection 2 of Section 26-423 Recharge Volume Requirements Applicable is amended to read as follows:

The project plan shall describe how water quality protection requirements with regard to volume control will be met. Infiltration BMPs shall be evaluated and

utilized to the maximum extent possible to manage the net change in stormwater runoff generated so that post-construction discharges do not degrade the physical, chemical or biological characteristics of the receiving waters. These BMPs may be used to satisfy all or part of the requirements in § 26-422. **For project areas equal to or less than one acre that do not require hydrologic routing to design the stormwater facilities, this Ordinance establishes no preference for either methodology; therefore, the Applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology and other factors.**

**Section 5.** Section 26-436 Operations and Maintenance Agreement for Privately Owned Stormwater Controls and BMPs is amended to read as follows:

1. The Applicant shall sign an Operations and Maintenance Agreement with the Municipality covering all stormwater controls and BMPs that are to be privately owned. The maintenance agreement shall be transferred with transfer of ownership. The Agreement shall be substantially the same as the Agreement in Appendix E. **Facilities, areas, or structures used as SWM BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or conservation easements that run with the land. The O&M Plan and O&M Agreement shall be recorded as a restrictive deed covenant that runs with the land.**
2. Other items may be included in the Agreement where determined necessary to guarantee the satisfactory operation and maintenance of all permanent stormwater controls and BMPs. The Agreement shall be subject to the review and approval of the Municipality.
3. **The owner is responsible for operation and maintenance of the SWM BMPs. If the owner fails to adhere to the O&M Agreement, the Municipality may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.**

**Section 6.** Subsection 3 of Section 26-463 Roof Drains is amended to read as follows:

Roof drains **and sump pumps** shall discharge to infiltration areas or vegetative BMPs to the maximum extent practicable.

**Section 7.** Section 26-451 Schedule of Inspections is amended to include Subsection 10:

- A. **The landowner or the owner's designee (including the Municipality for dedicated and owned facilities) shall inspect SWM**

BMPs, facilities and/or structures installed under this Ordinance according to the following frequencies, at a minimum, to ensure the BMPs, facilities and/or structures continue to function as intended:

- (1) Annually for the first 5 years.
- (2) Once every 3 years thereafter.
- (3) During or immediately after the cessation of a 10-year or greater storm.

B. Inspections should be conducted during or immediately following precipitation events. A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable. Inspection reports shall be submitted to the Municipality within 30 days following completion of the inspection.

Section 8. Part 5 is amended to include new Sections 26-508, 26-509 and 26-510:

**Section 26-508 Repealer; Severability.**

1. Any other Ordinance provision(s) or regulation of the Township inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.
2. In the event that a court of competent jurisdiction declares any section or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

**Section 26-509 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 26-510 Waivers.**

1. If the Township determines that any requirement under this Ordinance cannot be achieved for a particular regulated activity, the Township may, after an evaluation of alternatives, approve measures other than those in this Ordinance, subject to Section 110, paragraphs B and C.
2. Waivers or modifications of the requirements of this Ordinance may be approved by the Township if enforcement will exact undue

hardship because of peculiar conditions pertaining to the land in question, provided that the modifications will not be contrary to the public interest and that the purpose of the Ordinance is preserved. Cost or financial burden shall not be considered a hardship. Modification may be considered if an alternative standard or approach will provide equal or better achievement of the purpose of the Ordinance. A request for modifications shall be in writing and accompany the Stormwater Management Site Plan submission. The request shall provide the facts on which the request is based, the provision(s) of the Ordinance involved and the proposed modification.

3. No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one acre may be granted by the Township unless that action is approved in advance by the Department of Environmental Protection (DEP) or the delegated county conservation district.

**Section 9.** Section 26-582 Inspection is amended to include the following language:

Inspections should be conducted during or immediately following precipitation events. A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable. Inspection reports shall be submitted to the Municipality within 30 days following completion of the inspection.

**Section 10.** Section 26-583 Enforcement is amended to include the following as Subsection D:

- D. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM Site Plan, unless specifically exempted in Section 26-506 of this Part 5.

**Section 11.** Severability.

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

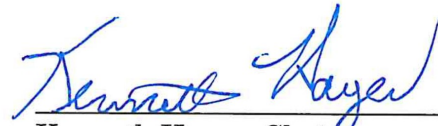
**Section 12. Effective Date.**


This Ordinance shall become effective five (5) days after the date of enactment, listed below.

**ORDAINED AND ENACTED** by the Board of Supervisors of Warminster Township  
this 8<sup>th</sup> day of September, 2022.

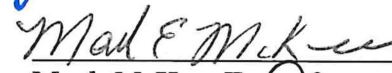
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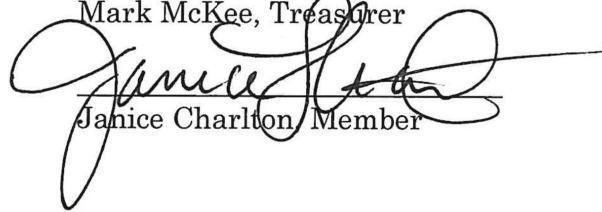
  
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Tom Scott,  
Township Manager

  
\_\_\_\_\_  
Kenneth Hayes, Chair

  
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Katherine Frescatore, Vice-Chair

  
\_\_\_\_\_  
Judith Hoover, Secretary

  
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Mark McKee, Treasurer

  
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Janice Charlton, Member

