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**September 21, 2022**

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**MINUTES  
Council Meeting  
September 21, 2022**

\*\*\*The video of this meeting can be viewed in its entirety on [youtube.com/upperdarby.org](https://youtube.com/upperdarby.org)\*\*\*

**Pledge of Allegiance to the flag of the United States of America**  
Moment of Silence

Opening of Meeting

**Roll Call**

Andrew Hayman (AH), Danyelle Blackwell (DB), Brian Andruszko (BA), Sheikh M. Siddique, (SS),  
Lisa Faraglia (LF), Brian K. Burke (BB), Michelle Billups, (MB), Meaghan Wagner (MW),  
Hafiz Tunis Jr. (HT), Laura Wentz (LW)

Matt Silva (MS), via Zoom

**Present at the Meeting**

Barbarann Keffer, Mayor  
Chief Municipal Clerk, Alexis Cicchitti  
Solicitor Sean Kilkenny  
Solicitor Courtney Richardson  
Solicitor Colleen Marsini  
David Haman, Treasurer, via Zoom  
Mike Galante, Township Engineer  
Sergeant of Arms, Officer Bateman  
Sergeant of Arms, Officer Cristinzio  
Sergeant of Arms, Officer O’Gara

**Rules for Meeting Decorum**

**“Upper Darby residents have the opportunity to speak for three (3) minutes. Residents are prohibited from making threats, using profanity, or acting in a manner that would impede or prevent the conduct of the business of the meeting.” Public Forum should not exceed thirty (30) minutes.”**

**Approval of the Minutes from June, July and August 2022**

Approval of the Committee Meeting Minutes of June 1, 2022  
Approval of the Council Meeting Minutes of June 15, 2022  
Approval of the Committee Meeting Minutes of July 6, 2022  
Approval of the Council Meeting Minutes of July 20, 2022  
Approval of the Special Meeting Minutes of August 10, 2022  
Approval of the Council Meeting of August 17, 2022

**Motion to approve the Minutes: MW/LW**

**Moved and seconded. All in favor. The Minutes of June, July & August 2022 are approved.**

## **Public Forum**

### **Speakers:**

Ed Brown, 7111 Pennsylvania Ave, want ARPA funds released

Tina Hamilton, 4715 Woodland Avenue, happy that Community Action is now in 69th St. but upset when she found out that the Mayor sits on the board

Bonnie Hallam, 4719 Woodland Avenue, will continue coming to speak until all of the ARPA funding is released

Marion Minick, 1204 Wilde Avenue, referred to the "Micozzie 6", the "Shameful 6" and 'Micozzie's minions' and the sham investigation that took place

Olivia Taylor, 204 Kent Road, referred to the "Super 6" and praised the investigation. She also asked why the Bangladeshi Event was allowed to take place until 1:30 a.m.

John Vizzari, 353 Kirks Lane, believes that ARPA money was used for pensions. He asked the Mayor to provide information why money was removed from the PLGIT account without approval. He thanked the "Super 6."

Judy Duggan, 141 N. Pennock Avenue, upset that the 2nd Ward Playground is not finished. She also thanked the "Super 6."

Jason Harrison, 211 Westpark Lane, inquired about the issue with the "No Parking of Trucks or Commercial Vehicles" Ordinance.

LF asked for an update from Solicitor Richardson who said that the fire routes are being reviewed to see what streets are wide enough to have parking on both sides of the street

Mike Galante gave some details about the 2nd Ward playground and is hoping to get more information. He stated that the equipment is in a container at the park and they are hoping to wrap it all up in the next few weeks.

## **The Honorable Mayor Barbarann Keffer**

### **MAYOR'S MESSAGE**

**SEPTEMBER 21, 2022**

This Saturday is the 5th annual Upper Darby International Festival from 12-6pm. It is free and fun for all ages. We have a great performer lineup, featuring Minas, a Grammy nominated band, playing songs from their hit record Beatles in Bossa which sold-out when it premiered at the World Cafe Live in Philadelphia, and Snacktime, a brass-heavy Philadelphia band formed over the pandemic and now, it has a new live album, and gigs galore across the city and at our festival! We will have a beer garden, which is new this year and the traditional parade of flags. The YMCA Kids Zone will also be returning. We have recently been featured in Visit Philly's list of "things to do" in the greater Philly area this weekend, and it is going to be a great event. I cannot wait to see everyone there.

The Upper Darby Police Department is now holding their Teen and Police Service Academy at the Municipal Library from 4-7pm on the second Wednesday of every month starting in October. Each session will cover a new topic and give teens from grades 7-12 the opportunity to have open, honest, and real conversations with Upper Darby's police officers. For more information, visit our Facebook page, Upper Darby Township - Government.

I would now like to invite our representative from Brinker Simpson, Donna Stilwell, Acting Finance Director, to give an update to Council.

**Presentation by Donna Stilwell of Brinker Simpson**

**\*\*SEE ATTACHED**

**THERE WERE QUESTIONS AND COMMENTS FROM COUNCIL MEMBERS FOR MS. STILWELL WHICH CAN ALL BE VIEWED AT [YOUTUBE.COM/UPPERDARBY.ORG](https://www.youtube.com/upperdarby.org)**

**Mayor Keffer continued her report.**

Finally, there are three ARPA ordinances on the agenda for discussion today, which include funding for Parks and Public Spaces, Revenue Replacement, and COVID Relief and Negative Economic impacts which allocates funding in the form of grants for nonprofits and small business as well as our COVID premium pay for township staff. As I stated in my letter to Council, now that multiple reports have shown that none of this ARPA money is missing, the time is now to put our debates behind us and focus on the future of our community. Our dedicated Township employees are rightfully restless watching other priorities go before their well-earned COVID pay. Our residents with small businesses or nonprofits are awaiting grant funding from these ARPA allocations. These funds must be allocated and contracted out by December 31, 2024 and must be spent in full by December 31, 2026. I would like to ask that a member of Council make a motion to introduce and advertise Ordinances 3121, 3123, and 3124 tonight.

Thank you.

**President of Council, Brian K. Burke**

Council President Burke stated that there was an Executive Session earlier this evening for real estate matters.

**COMMITTEE REPORTS**

**Municipal Services, Licensing and Public Works Committee**

Chair: Hafiz Tunis Jr.

Members: Michelle Billups, Andrew Hayman, Brian Andruszko

**Public Hearing for Ordinance No. 3125**, an Ordinance of Upper Darby Township, Delaware County, adopting the Delaware County-Wide Stormwater Management Model Ordinance; Repealing inconsistent Ordinances or parts thereof; providing for a severability clause and providing for an effective date

Solicitor Kilkenny gave a brief on Ordinance No. 3125

Council President Burke convened a Public Hearing.

**Speakers**

There were no speakers. Therefore, the Public Hearing was closed.

**Motion to adopt: LW/AH**

**Moved and seconded. A roll call vote was taken. All in favor. Ordinance No. 3125 was adopted.**

**Finance and Appropriations Committee**

Chair: Laura A. Wentz

Members: Matt Silva, Meaghan R. Wagner, Brian Andruszko

**Resolution No. 39-22**, a Resolution of Upper Darby Township, Delaware County, Pennsylvania, requiring the Tax Collector to waive additional charges for Real Estate Taxes where notice of the Real Estate Taxes was not received beginning in Tax Year 2023; Repealing all inconsistent Resolutions or parts thereof; Providing a severability clause; and providing an effective date

Solicitor Richardson gave a brief on Resolution No. 39-22

**Motion to approve: LW/AH**

**Moved and seconded. All in favor. Resolution No. 39-22 was approved.**

**Resolution No. 40-22**, a Resolution of Upper Darby Township, Delaware County, Pennsylvania, acknowledging the funding requirements for the Upper Darby Township Police Pension Plan, Firefighters' Pension Plan, and Municipal Employees Pension Plan; making provisions for payment of these costs as part of the Upper Darby Township Budget for Fiscal Year 2023; repealing all inconsistent Resolutions or parts thereof; providing a severability clause; and providing an effective date

Solicitor Kilkeny gave a brief on Resolution No. 40-22

**Motion to approve: LW/DB**

LW asked for clarification that this Resolution included the Township's portion, as the Resolution from last year only included what the State had paid the Township, and it did not include the Township's obligation, which used to be paid in October. It was not paid last year until December.

Mayor Keffer stated that the actuaries calculate the MMO and this is what the Township is paying. The MMO is due on December 31 of every year. The money that the State gives to the Township to help with the pensions is given around September and it is sent to the Pension funds.

LW stated that she wanted to make sure that this would be paid in October and not December.

Mayor Keffer clarified that the State Aid needs to be paid in October and the MMO needs to be paid by December 31.

**Moved and seconded. All in favor. Resolution No. 40-22 was approved.**

**Discussion of Ordinance No. 3121**, an Ordinance of Upper Darby Township, Delaware County, providing for supplemental appropriations for the 2022 Budget appropriating the funds provided by the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Fund for Township Parks and Public Spaces; repealing inconsistent Ordinances or parts thereof; providing for a severability clause and providing for an effective date

Solicitor Richardson gave a brief on Ordinance No. 3121

**Motion to introduce and advertise Ordinance No. 3121: AH/HT**



LW stated that this Ordinance was on the Agenda for discussion and not for introduction.

Council President Burke stated that there would be discussion on the Ordinance.

LW read three paragraphs that are in the other ARPA Ordinances that she would like added to this one as well.

She also stated that she would like more details rather than just the lump sum with no breakdowns.

Mayor Keffer responded that there needs to be some flexibility in the event that something costs more than anticipated.

Both agreed that the details could be put into the Ordinance.

Solicitor Kilkenny stated that there was an earlier Motion and second, but suggested that the Motion be amended for the changes.

**Motion to introduce and advertise the AMENDED version of Ordinance No. 3121: AH/HT**

*AH amended his Motion to introduce and advertise Ordinance No. 3121 with the requested Administrative changes if the Administration is fine with that too.*

HT had concerns that no one came forth with any questions before rather than wait until Monday.

Council President Burke replied that an email was received from the Administrative requesting that all questions be submitted by the end of business on Monday.

BA commented on open space conversion stating that there are still some outstanding questions and that they have not had total discussion on that. There are some things that he would like to talk about in his district, specifically Drexel Gardens. Based on conversations in the closed session earlier this evening regarding open space acquisition, he would recommend that AH amend his Motion and that the Ordinance only be for open space acquisition and to take that value down to \$1 million based on that discussion.

AH stated that he believed that there had been sufficient time to address this matter and that he is not comfortable amending his Motion.

**Moved and seconded. A roll call vote was taken.**

**5 in favor. (AH, DB, SS, MB, HT) 6 opposed. (BA, LF, MS, BB, TW, LW)**

**Motion to introduce and advertise the amended version of Ordinance No. 3121 FAILS.**

MB questioned why the Motion failed if the Ordinance was amended.

Council President Burke clarified that people voted "no" on the \$4.5 million.

AH requested to make a Motion for this Ordinance with BA's requested amendments and asked if BA would be willing to second that Motion.

BA seconded the Motion and clarified that it would be for \$1 million.

AH wanted to clarify his amended Motion to introduce and advertise the Ordinance with \$4.5 million for parks and public spaces. He asked BA if he was saying that it should say \$3.5 million with \$1 million withheld for Green Space Acquisition.

BA stated that was incorrect, as he wanted it to be \$1 million for open space acquisition only and nothing for open space conversion at this moment.

Council President Burke stated that he believes that it should be \$1.5 million rather than \$1 million.

BA asked to review the documents again and had a private discussion with Solicitor Kilkenny.

BA asked to review the documents again and had a private discussion with Solicitor Kilkenny. AH then had a private discussion with BA regarding the documents, which HT and BB joined.

**AH amended his Motion to introduce and advertise Ordinance No. 3121, specifically only for \$1.5 million for open space acquisition.**

**BA seconded the Motion.**

LW requested that the chart be added to the Ordinance as well as the “wherefore” clauses, B, C & D.

*For the public’s understanding, Solicitor Kilkenny clarified all that transpired leading up to this final amended version of Ordinance No. 3121.*

After a very brief discussion, LW retracted the request to include the chart.

**AH amended his Motion to remove the section that he previously agreed to.  
BA seconded.**

**Moved and seconded. A roll call vote was taken. 11 in favor. Motion to introduce and advertise the amended version of Ordinance No. 3121 is approved.**

**Discussion of Ordinance No. 3123**, an Ordinance of Upper Darby Township, Delaware County, providing for supplemental appropriations for the 2022 Budget appropriating the funds provided by the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Fund to allocate funds for COVID Relief & Negative Economic Impact; repealing inconsistent Ordinances or parts thereof; providing for a severability clause and providing for an effective date

Solicitor Richardson gave a brief on Ordinance No. 3123

LW stated that she would also like to add the “wherefore clauses” to this Ordinance along with the charts provided by Mayor Keffer. She further stated that she believes the \$1.3 million for premium pay is a bit low, as she believes that the negotiations with the unions have not been completed. She suggested that the Administration should negotiate and sign a contract with the unions and then bring that to Council.

**Motion to introduce and advertise Ordinance No. 3123 with the above amendments: AH/HT**

LW stated that she would like to amend the Ordinance to increase the essential worker’s pay to \$2 million. In April, they came up with the figure of \$2.2 million, which would give some “wiggle room” to negotiate appropriately.

**LW stated that she wanted to make a Motion to increase the number to \$2,275,000.00**

Council President Burke added that he believes that there has only been an agreement with the 2 smallest unions. Therefore, he is very uncomfortable moving forward as there is no way to know if enough money is being allocated for all of the essential workers who worked during COVID and he does not want Council being blamed for the shortfall.

MW stated that any COVID money received from the Federal Government should have gone to the essential workers first.

LW stated that they would like to break down the non-profits in a different format and possibly obtain more funds for the non-profits. They would also like to add more categories.



MS stated that he would like a Committee established to help allocate what non-profit applications will be accepted and for what amount. He added that the Committee could be appointed by the Administration and approved by Council.

Council members negotiated and ultimately agreed on final figures.

MW restated the amended Motion

MW made a Motion and HT seconded.

Solicitor Kilkenny clarified that those who made the original Motion agreed with these changes and they did.

**Moved and seconded. All in favor. Motion to introduce and advertise the FINAL AMENDED version of Ordinance No. 3123 is approved.**

**Discussion of Ordinance No. 3124**, an Ordinance of Upper Darby Township, Delaware County, providing for supplemental appropriations for the 2022 Budget appropriating the funds provided by the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Fund to account for Lost Revenue for Years 2020 and 2021; repealing inconsistent Ordinances or parts thereof; providing for a severability clause and providing for an effective date

Solicitor Kilkenny gave a brief on Ordinance No. 3124

LW stated that she wanted to add the “wherefore” clauses to this Ordinance as well. She would also like the breakdown on the chart to be included in the Ordinance and does not want to see only lump sums.

BA stated that he believes that \$17.7 million for revenue replacement is very high, as it is still not known how much things will cost. He does not feel comfortable moving forward with this.

LW stated that Mr. Regan said that the best place to take funds for alleyways is out of Lost Revenue and it is not listed.

In response to LF’s question, Mayor Keffer stated that there was no grant to pay for paving driveways. In 2016, Capital Funds were used to pave the 14 or 16 driveways and various options could be considered after seeing how other municipalities have done this.

AH stated that he believes the revenue replacement to be important and asked BA if he would be willing to do a portion of it.

BA replied that he is not willing to do so at this time. After discussion with Ms. Stilwell, he is not positive where the Township is financially. He added that there are many important projects that could be done and does not believe that giving almost half of the \$40 million received from the government to Revenue Replacement is appropriate.

**Motion to introduce and advertise Ordinance No. 3124 with the above amendments: AH/DB**

**Moved and seconded. A roll call vote was taken. 5 in favor, 6 opposed.**

**Motion to introduce and advertise Ordinance No. 3124 FAILS.**

**Solicitor**

Nothing to report

## **Old Business**

### **Motion to deem the office of the CAO forfeited based on 501 C1 and now 2, which is a willful violation of the Charter**

#### **Motion to approve: MW/LW**

BA stated that Section C1 states that financial responsibility belongs to the CAO's office and the Township clearly missed budget last year by \$1.7 million. He further stated that the first time this Motion was made, the Ordinance brought to amend this deficit was absolutely incorrect. There were multiple bank accounts, deficits, and excess in other ones. Ms. Stilwell even said that in November of last year, the Township would not make revenue and a TRAN was not taken. He asked why the person who was the head of the Finance Department at that time did not ask for ARPA money to be allocated. Had that been brought forward then, sure. BA does not believe that the CAO is fit for that role financially. He spoke about the movement of the restricted confiscated funds the day before a payroll was going to be missed and recommended that everyone deem the office of the CAO forfeited.

MW echoed BA's sentiments regarding the movement of the restricted funds. She also stated that she believes that the CAO was unqualified for the position from the beginning and believes that his willful intent to violate the Charter is cause to deem his office forfeited.

LW was in agreement with MW and BA and added that there are many things that are not addressed in the Home Rule Charter regarding holding people accountable and the treatment of employees. She also stated that the Township finances are not in a good place and they keep finding out more and more.

#### **Moved and seconded. A roll call vote was taken.**

**6 in favor, (BA, LF, MS, BB, MW, LW) 5 opposed (AH, DB, SS, MB, HT). The Motion was approved.**

HT thanked SS for inviting everyone to the Bangladeshi Parade.

SS thanked the Administration and the Mayor for the event. He also thanked AH, HT, DB, MB and Council President Burke for attending the event.

## **New Business**

AH spoke of Operation Warm, which will raise money for winter coats and shoes for children in need of Upper Darby Township. There is a link online through Operation Warm's website. Any funds received prior to October 31 of this year will be used to purchase winter coats and shoes for children in Upper Darby Township this year.

He also mentioned that he partnered with the Bywood Community Association for a giveaway that they hope to have on Saturday, November 12 or around that date.

LW stated that Council will have a table on Thursday, September 22, 2022 at the Senior Expo at Drexelbrook from 9am until 12 pm, along with State Representative Zabel and Senator Kearney.

MW stated that she and LF attended Pastor Goodson's Public Safety meeting last week at his church. She also spoke of the upcoming Fall Fest on Ferne Blvd on October 1, 2022 beginning at 2pm. She added that she and BA have been working with small businesses in that area and they are excited about the Fall Fest.

MB stated that she is on the Re-Entry Coalition in Del Co and there is a paralegal program for a criminal expungement clinic on Saturday, October 22, 2022 that people may join in person or virtually via Zoom. It will be held at the Marple Campus in the Academy Building Cafe, 901 South Media Line Road in Media, PA. In addition, the George Hill Prison has an Inside Out Program for the inmates to take college courses for credits. "Once they are released, those college credits can translate to college courses and they can attend the Community College." The Coalition is looking for more people and those who are interested can contact Councilwoman Billups for more information.

MB also stated that the International Festival would be on Saturday, October 24, 2022, from noon until 6pm., outside of the Township Building.

BB would like to form a non-profit Committee to work with UHY and he would like Mayor Keffer, Solicitor Richardson, two members of the community and no more than five members of Council so that there would not be a quorum.

BA stated that he is aware that Solicitor Kilkenny has a conflict with this situation; however, if Mr. Rongione does not comply with tonight's Motion, he would ask that this be taken back to the courts to ask for a judgment on the merits. He asked Solicitor Kilkenny if he would speak to Solicitor Boggs, or if he would prefer that it go on the next Agenda for a Motion.

Council President Burke stated that Solicitor Kilkenny does have a conflict and that he believes with the Motion that was passed at the last meeting, that Mr. Boggs could do what is legal.

DB spoke of five clean-ups that took place in the Township over the summer. She thanked the Mayor for this idea and stated that the last summer clean-up would take place on Saturday from 10-12, meeting at Observatory Hill Field, and then branching out to different areas that need clean-ups.

She also reminded everyone about the International Festival on September 24, 2022 and that evening, there would be a free Movie Night at Observatory Field at 7:30 pm featuring Hotel Transylvania.

HT asked if there was any update on the 200 block of Shirley and another street regarding parking permits.

Chair Lisa Faraglia stated that there was a meeting with the Public Safety Committee and an error was discovered on the Ordinance that needed to be corrected.

HT stated that he believes that Council should state their position on the apparent closure of Delaware County Memorial Hospital, as it does serve the entire County, but it is right in our own backyard. He would like for the Council to meet before the next meeting.

Mayor Keffer stated that the Administration has been in contact with the CEO, Tony Esposito, and the EMS services will still be coming out of there

## **Adjournment**

**Motion to adjourn: AH/HT**

**Moved and seconded. All in favor. Meeting adjourned at 10:07**

Respectfully submitted,

*Alexis Cicchitti*

Alexis Cicchitti

Chief Municipal Clerk

\*\*\*The video of this meeting can be viewed in its entirety on [youtube.com/upperdarby.org](https://youtube.com/upperdarby.org)\*\*\*

**ORDINANCE NO. 3125  
UPPER DARBY TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, ADOPTING THE DELAWARE COUNTY-WIDE STORMWATER MANAGEMENT MODEL ORDINANCE; REPEALING INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, Upper Darby Township Council (“Council”) desires to promote the public health, safety, and general welfare, property, and water quality by implementing drainage and stormwater management practices, criteria, and provisions included herein for land development, construction, and Earth Disturbance Activities, to achieve the following throughout the Township; and,

**WHEREAS**, Delaware County Planning Department has updated its Model Ordinance to comply with the regulatory requirements of Pennsylvania Department of Environmental Protection’s (“PA DEP”) National Pollutant Discharge Elimination System (“NPDES”) Municipal Separate Storm Sewer System (“MS4”) program. The updates also comply with the provisions included in PA DEP’s 2022 Model Stormwater Ordinance; and,

**WHEREAS**, this County requires all Municipalities to adopt the Model Ordinance submit it to PA DEP along with the Annual MS4 Status Report; and,

**NOW, THEREFORE BE IT ORDAINED AS FOLLOWS**, Upper Darby Township Council hereby adopts the Delaware County-Wide Stormwater Management Model ordinance, including all appendices, in accordance with the provision of Pennsylvania Stormwater Management Act, Act 167, and, submits this Plan to the Pennsylvania Department of Environmental Protection for approval with the Annual MS4 Status Report:

**SECTION 1.**

Upper Darby Township Stormwater Management Ordinance codified in Chapter 465 of the Upper Darby Township Code of Ordinances is hereby amended and replaced in its entirety to read as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

**SECTION 2.** All Ordinances and parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

**SECTION 3.** The terms, conditions and provisions of this ordinance are hereby declared to be severable, and should any portion, part or provision of this ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, Upper Darby Township Council hereby declares its intent that the ordinance shall have been enacted without regard to the invalid, unenforceable or unconstitutional portion, part or provision of this ordinance.

**SECTION 4.** This ordinance shall become effective immediately.

**ENACTED and ORDAINED** this 21st day of September, 2022.

BY:   
BRIAN K. BURKE  
President of Council

ATTEST:   
MICHELLE BILLUPS  
Secretary of Council

**APPROVED** this 21st day of September, 2022

BY:   
BARBARANN KEFFER  
Mayor

ATTEST:   
ALEXIS CICCCHITTI  
Chief Municipal Clerk

**UPPER DARBY TOWNSHIP STORMWATER  
MANAGEMENT ORDINANCE**

**ORDINANCE NO. 3125**

***UPPER DARBY TOWNSHIP, DELAWARE COUNTY,  
PENNSYLVANIA***

**Adopted at a Public Meeting held on  
September 21, 2022**



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## **ARTICLE I – GENERAL PROVISIONS**

### **Section 101. Short Title**

This Ordinance shall be known as the “Upper Darby Township Stormwater Management Ordinance.”

### **Section 102. Statement of Findings**

The governing body of the Municipality finds that:

- A. Inadequate management of accelerated erosion resulting from development throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtakes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces infiltration, and threatens public health and safety.
- B. Inadequate planning and management of stormwater runoff resulting from land development throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream beds and stream banks, thereby elevating sedimentation), destroying aquatic habitat, and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals, and pathogens. Groundwater resources are also impacted through loss of recharge.
- C. A comprehensive program of stormwater management, including minimization of impacts of development, redevelopment, and activities causing accelerated erosion and loss of natural infiltration, is fundamental to the public health, safety, welfare, and the protection of the people of the Municipality and all of the people of the Commonwealth, their resources, and the environment.
- D. Stormwater can be an important water resource by providing infiltration for water supplies and baseflow of streams, which also protects and maintains surface water quality.
- E. Impacts from stormwater runoff can be minimized by using project designs that maintain the natural hydrologic regime and sustain high water quality, infiltration, stream baseflow, and aquatic ecosystems. The most cost-effective and environmentally advantageous way to manage stormwater runoff is through nonstructural project design that minimizes impervious surfaces and sprawl, avoids sensitive areas (i.e., stream buffers, floodplains, steep slopes), and considers topography and soils to maintain the natural hydrologic regime.
- F. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.

- G. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).
- H. Nonstormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the Commonwealth by the Municipality.
- I. The use of green infrastructure and low impact development (LID) are intended to address the root cause of water quality impairment by using systems and practices which use or mimic natural processes to 1) infiltration and recharge, 2) evapotranspire, and/or 3) harvest and use precipitation near where it falls to earth. Green infrastructure practices, LID, and CD contribute to the restoration or maintenance of pre-development hydrology.

### **Section 103. Purpose**

The purpose of this Ordinance is to promote the public health, safety, and general welfare, property, and water quality by implementing drainage and stormwater management practices, criteria, and provisions included herein for land development, construction, and Earth Disturbance Activities, to achieve the following throughout the Municipality

- A. Promote alternative project designs and layouts that minimize the impacts on surface and groundwater.
- B. Promote nonstructural best management practices (BMPs).
- C. Minimize increases in runoff stormwater volume.
- D. Minimize impervious surfaces.
- E. Manage accelerated stormwater runoff and erosion and sedimentation problems and stormwater runoff impacts at their source by regulating activities that cause these problems.
- F. Provide review procedures and performance standards for stormwater planning and management.
- G. Utilize and preserve existing natural drainage systems as much as possible.
- H. Manage stormwater impacts close to the runoff source, requiring a minimum of structures and relying on natural processes.
- I. Focus on infiltration of stormwater to maintain base flow, to prevent degradation of surface and groundwater quality, and to otherwise protect water resources.
- J. Protect base flows and quality of streams and watercourses, where possible.

- K. Meet legal water quality requirements under state law, including regulations at 25 Pennsylvania Code Chapter 93 to protect, maintain, reclaim, and restore the existing and designated uses of the Waters of the Commonwealth.
- L. Address the quality and quantity of stormwater discharges from the development site.
- M. Provide standards to meet certain NPDES MS4 permit requirements.
- N. Implement an illicit discharge detection and elimination program that addresses non-stormwater discharges into the Municipality's separate storm sewer system (MS4).
- O. Preserve the flood-carrying capacity of streams.
- P. Prevent accelerated scour, erosion and sedimentation of stream channels.
- Q. Provide performance standards and design criteria based on watershed-wide stormwater management planning.
- R. Provide proper operation and maintenance of all permanent stormwater management facilities and BMPs that are implemented within the Municipality.
- S. Implement the requirements of Total Maximum Daily Loads (TMDLs) where applicable to waters within or impacted by the Municipality.

#### **Section 104. Statutory Authority**

The Municipality is empowered or required to regulate land use activities that affect runoff and surface and groundwater quality and quantity by the authority of:

- A. Act of October 4, 1978, 32 P.S., P.L. 864 (Act 167) Section 680.1 et seq., as amended, the "Storm Water Management Act" (hereinafter referred to as "the Act");
- B. The Home Rule Charter and Optional Plans Law, 53 Pa.C.S. §2901 *et seq.*; and
- C. Act of July 31, 1968, P.L. 805, No. 247, Pennsylvania Municipalities Planning Code, Act 247, as amended.



## Section 105. Applicability/Regulated Activities

All regulated activities and all activities that may affect stormwater runoff, **including but not limited to land development, redevelopment, and earth disturbance activity** located within the municipality, are subject to regulation by this Ordinance.

This Ordinance contains the stormwater management performance standards and design criteria that are necessary from a watershed-wide perspective. Local stormwater management design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.) shall continue to be regulated by the applicable municipal ordinances and applicable state regulations.

## Section 106. Exemptions

An exemption shall not relieve the Applicant from implementing the requirements of the municipal Ordinance or from implementing such measures as are necessary to protect public health, safety, and property. An exemption shall not relieve the Applicant from complying with the special requirements for watersheds draining to identified high quality (HQ) or exceptional value (EV) waters or any other current or future state or municipal water quality protection requirements. If a drainage problem is documented or known to exist downstream of, or is expected from the proposed activity, then the Municipality may withdraw exemptions listed in Table 106 and require the Applicant to comply with all requirements of this Ordinance. Even though the Applicant is exempt, he is not relieved from complying with other municipal ordinances or regulations.

### General Exemptions

Table 106.1 summarizes the exemptions from certain provisions of this Ordinance. Exemptions are for the items noted in Table 106.1 only and shall not relieve the Applicant from other applicable sections of this Ordinance.

Any regulated activity that is exempt from some provisions of the Ordinance is exempt only from those provisions. If development is to take place in phases, the developer is responsible for implementing the requirements of the Ordinance as the impervious cover/earth disturbance threshold is met. The date of the municipal Ordinance adoption shall be the starting point from which to consider tracts as "parent tracts" in which future subdivisions and respective impervious area and earth disturbance computations shall be cumulatively considered. Exemption shall not relieve the applicant from implementing such measures as are necessary to protect health, safety, and property. For example:

If a property owner proposes a **150 square foot shed** after adoption of the municipal stormwater management Ordinance, that property owner would be **exempted from water quality and quantity requirements of the Ordinance as noted in Table 106.1 of the Ordinance**. If, at a later date, the property owner proposes to construct a 499 square foot room addition, the applicant would be required to comply with the requirements for the **Simplified Method for the full 649 square feet of impervious cover created since adoption of the municipal Ordinance**.

If an additional 700 square foot swimming pool/patio is proposed later, the property owner would be required to implement the full stormwater quantity and quality control submission requirements of this Ordinance for the **total 1,349 square feet of additional impervious surface added to the original property since adoption of the Municipal Ordinance**.

**TABLE 106.1**  
**Ordinance Exemptions**

Ordinance Article or Section	Type of Project	Regulated Impervious Surface			Earth Disturbance		
		0-249. Ft.	250-749 sq. ft.	750+ sq. ft.	1,500 sq. ft. disturbance	1,500 sq. ft. - < 1 acre	≥ 1 acre
<u>Article IV</u> SWM Site Plan Requirements	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Exempt	Modified <sup>1</sup>	Not Exempt
<u>Section 304</u> Nonstructural Project Design	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Exempt	Not Exempt	Not Exempt
<u>Section 305</u> Infiltration Volume Requirements	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Exempt	Exempt	Not Exempt
<u>Section 306</u> Water Quality Requirements	Development Redevelopment	Exempt	Not Exempt Simplified Approach	Not Exempt	Modified <sup>2</sup>	Modified <sup>2</sup>	Not Exempt
<u>Section 307</u> Stream Bank Erosion Requirements	Development Redevelopment	Exempt	Exempt Simplified Approach	Not Exempt	Exempt	Exempt	Not Exempt
<u>Section 308</u> Stormwater Peak Rate Control and Management Districts	Development Redevelopment	Exempt	Not Exempt	Not Exempt	Exempt	Not Exempt	Not Exempt
Erosion and Sediment Pollution Control Requirements	Must comply with Title 25, Chapter 102 of the PA Code and other applicable state and municipal codes, including the Clean Streams Law.						Not Exempt

Legend:

- **“Regulated Impervious Surface” in Table 106.1 includes new, additional, or replacement impervious surface/cover as part of development or redevelopment.**
- Exempt - Exempt from required section provision only – SWM site plan submission may still be required if other section provisions are applicable.
- Modified<sup>1</sup> - Modified SWM site plan need only consist of items in Sections 402.A.2 and 4; 402B.7, 8, 11, and 22; and 402.D.1 and 3 and related supportive material needed to determine compliance with Sections 304 and 308. Modified SWM site plan is required that includes all elements of Section 304, as applicable.
- Modified<sup>2</sup> - Modified SWM site plan need only consist of items and related material needed to determine compliance with Section 311.
- Simplified Approach – **Must comply with provisions of Appendix B of the Ordinance.**
- Redevelopment – See Section 308.I for alternate stormwater peak rate control criteria.

A. Exemptions for Specific Activities

1. Use of land for gardening or home consumption.
2. Agriculture when operated in accordance with a conservation plan, nutrient management plan, or erosion and sedimentation control plan approved by the County Conservation District, including activities such as growing crops, rotating crops, tilling soil, and grazing animals. For agriculture with an approved conservation plan, installation of new or expansion of existing farmsteads, animal housing, waste storage, and production areas having impervious surfaces that result in a net increase in impervious surface of between 250-749 square feet shall apply the simplified approach, and net increases in impervious surface of greater than or equal to 750 square feet shall be subject to the provisions of this Ordinance.
3. High Tunnel if:
  - a. The High Tunnel or its flooring does not result in an impervious surface exceeding 25% of all structures located on the Landowner's total contiguous land area; and
  - b. The High Tunnel meets one of the following:
    - i. The High Tunnel is located at least 100 feet from any perennial stream or watercourse, public road, or neighboring property line.
    - ii. The High Tunnel is located at least 35 feet from any perennial stream or watercourse, public road or neighboring property line and located on land with a slope not greater than 7%.
    - iii. The High Tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing stormwater runoff in a manner consistent with the requirements of Pennsylvania Act 167.
4. Forest management operations which are following the Department of Environmental Protection's (PADEP) management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry," are operating under an approved erosion and sedimentation plan and must comply with the stream buffer requirements in Section 311.
5. Repaving without reconstruction.
6. Emergency Exemption - Emergency maintenance work performed for the protection of public health, safety, and welfare. A written description of the scope and extent of any emergency work performed shall be submitted to the Upper Darby Township within two (2) calendar days of the commencement of the activity. If the Upper Darby Township finds that the work is not an emergency, then the work shall cease immediately, until a stormwater site-plan in accordance with this ordinance is submitted and approved by the municipality.
7. Maintenance Exemption - Any maintenance to an existing stormwater management system made in accordance with plans and specifications approved by the municipal Engineer or Upper Darby Township.

### **Section 107. Repealer**

Any ordinance or ordinance provision of the Municipality inconsistent with any of the provisions of this and other federal and state regulations are hereby repealed to the extent of the inconsistency only.

### **Section 108. Severability**

Should any section or provision of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

### **Section 109. Compatibility with Other Ordinances or Legal Requirements**

- A. Approvals issued pursuant to this Ordinance do not relieve the Applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance.
- B. To the extent that this Ordinance imposes more rigorous or stringent requirements for stormwater management, the specific requirements contained in this Ordinance shall be followed.
- C. Nothing in this Ordinance shall be construed to affect any of the Municipality's requirements regarding stormwater matters that do not conflict with the provisions of this Ordinance, such as local stormwater management design criteria (e.g., inlet spacing, inlet type, collection system design and details, outlet structure design, etc.). Conflicting provisions in other municipal ordinances or regulations shall be construed to retain. The requirements of this Ordinance shall supersede any conflicting requirements in other municipal ordinance or regulations.

### **Section 110. 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, or employee of the Municipality purporting to validate such a violation.

### **Section 111. Waivers**

- A. If the Municipality determines that any requirement under this Ordinance cannot be achieved for a particular regulated activity, the Municipality may, after an evaluation of alternatives, approve measures other than those in this Ordinance, subject to Sections 111.B and 111.C.
- B. Waivers or modifications of the requirements of this Ordinance may be approved by the Municipality 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.

- C. No waiver or modification of any regulated stormwater activity involving Earth Disturbance greater than or equal to one (1) acre may be granted by the Municipality unless that action is approved in advance by PADEP or the Delaware County Conservation District.



## ARTICLE II – DEFINITIONS

### Section 201. Interpretation

For the purposes of this Ordinance, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word “includes” or “including” shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, unit of government, or any other similar entity.
- D. The words “shall” and “must” are mandatory; the words “may” and “should” are permissive.
- E. The words “used” or “occupied” include the words “intended, designed, maintained, or arranged to be used, occupied, or maintained.”

### Section 202. Definitions

**Accelerated Erosion** – The removal of the surface of the land through the combined action of man’s activity and the natural processes of a rate greater than would occur because of the natural processes alone.

**Agricultural Activities** – The work of producing crops and raising livestock including tillage, plowing, disking, harrowing, pasturing, nursery and sod operations, excluding greenhouse structures, and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**Alteration** – As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

**Applicant** – A landowner or other person who has filed an application to the Municipality for approval to engage in any regulated activity defined in Section 105 of this Ordinance.

**As-built Drawings** – Engineering or site drawings maintained by the contractor as he constructs the project and upon which he documents the actual locations of the building components and changes to the original contract documents. These documents, or a copy of same, are turned over to the municipal Engineer at the completion of the project.

**Bankfull** – The channel at the top-of-bank or point from where water begins to overflow onto a

floodplain.

**Baseflow** – Portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

**Bioretention** – A stormwater retention area that utilizes woody and herbaceous plants and soils to remove pollutants before infiltration occurs.

**BMP (Best Management Practice)** – Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote infiltration, and to otherwise meet the purposes of this Ordinance. Stormwater BMPs are commonly grouped into one of two broad categories or measures: “structural” or “nonstructural.” In this Ordinance, nonstructural BMPs or measures include certain low impact development practices used to minimize the contact of pollutants with stormwater runoff. These practices aim to limit the total volume of stormwater runoff and manage stormwater at its source by techniques such as protecting natural systems and incorporating existing landscape features. Nonstructural BMPs include, but are not limited to, low impact development practices such as the protection of sensitive and special value features such as wetlands and riparian areas, the preservation of open space while clustering and concentrating development, the reduction of impervious cover, and the disconnection of rooftops from storm sewers. Structural BMPs are those that consist of a physical to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands to small-scale underground treatment systems, infiltration facilities, filter strips, bioretention, wet ponds, permeable paving, grassed swales, riparian buffers, sand filters, detention basins, and manufactured devices. Structural and nonstructural stormwater BMPs are permanent appurtenances to the project Site.

**Buffer** – See Riparian Buffer.

**Channel** – An open drainage feature through which stormwater flows. Channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full.

**Channel Erosion** – The widening, deepening, or headward cutting of channels and waterways caused by stormwater runoff or bankfull flows.

**Cistern** – An underground reservoir or tank for storing rainwater.

**Conservation District** – The Delaware County Conservation District.

**Conveyance** – A natural or manmade, existing, or proposed Stormwater Management Facility, feature or channel used for the transportation or transmission of stormwater from one place to another. For the purposes of this Ordinance, Conveyance shall include pipes, drainage ditches, channels, and swales (vegetated and other), gutters, stream channels, and like facilities or features.

**Culvert** – A structure with its appurtenant works, which carries water under or through an embankment or fill.

**Dam** – A man-made barrier, together with its appurtenant works constructed for the purpose of impounding or storing water or another fluid or semi-fluid. A dam may include a refuse bank, fill, or structure for highway, railroad, or other purposes which impounds or may impound water or another fluid or semi-fluid.

**Department** – The Pennsylvania Department of Environmental Protection. Also referred to as “DEP”, “PA DEP”, or “PADEP.”

**Designee** – The agent of Delaware County Planning Department, Delaware County Conservation District, and/or agent of the Governing Body involved with the administration, review, or enforcement of any provisions of this Ordinance by contract or memorandum of understanding.

**Design Professional (Qualified)** – A Pennsylvania Registered Professional Engineer, Registered Landscape Architect, Registered Professional Land Surveyor trained to develop SWM site plan, or any person licensed by the Pennsylvania Department of State or qualified by law to perform the work required by the Ordinance.

**Design Storm** – The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a 5-year storm with a 20% chance of occurring in any one year) and duration (e.g., twenty-four (24) hours), used in the design and evaluation of stormwater management systems.

**Detention or To Detain** – The prevention of, or to prevent, the discharge, directly or indirectly, of a given volume of stormwater runoff into surface waters by temporary storage.

**Detention Basin** – An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely soon after a rainfall event and become dry until the next rainfall event.

**Developer** – A person, or company, or organization who seeks to undertake any regulated earth disturbance activities at a project site in the Municipality.

**Development, Land** – Any human-induced change to improved or unimproved real estate, whether public or private, including, but not limited to, land development, construction, installation, or expansion of a building or other structure, land division, street construction, drilling, and site alteration such as embankments, dredging, grubbing, grading, paving, parking or storage facilities, excavation, filling, stockpiling, or clearing. As used in this Ordinance, development encompasses both new development and redevelopment.

**Development Site** – The specific tract or parcel of land where any regulated activity set forth in Section 105 is planned, conducted, or maintained.

**Diameter at Breast Height (DBH)** – The outside bark diameter at breast height which is defined as four and one half (4.5) feet (1.37m) above the forest floor on the uphill side of the tree.

**Diffused Drainage Discharge** – Drainage discharge that is not confined to a single point location

or channel, including sheet flow or shallow concentrated flow.

**Discharge** – 1. (verb) To release water from a project, site, aquifer, drainage basin, or other point of interest; 2. (noun) The rate and volume of flow of water such as in a stream, generally expressed in cubic feet per second (see Peak Discharge).

**Discharge Point** – The point of discharge for a stormwater facility.

**Disturbed Area** – Unstabilized land area where an earth disturbance activity is occurring or has occurred.

**Ditch** – A man-made waterway constructed for irrigation or stormwater conveyance purposes.

**Downslope Property Line** – That portion of the property line of the lot, tract, or parcels of land being developed, located such that overland or pipe flow from the project site would be directed towards it by gravity.

**Drainage Conveyance Facility** – A stormwater management facility designed to transport stormwater runoff that includes channels, swales, pipes, conduits, culverts, and storm sewers.

**Drainage Easement** – A right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

**Drainage Permit** – A permit issued by the Municipality after the stormwater management site plan has been approved.

**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; the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

**Emergency Spillway** – A conveyance area that is used to pass peak discharge greater than the maximum design storm controlled by the stormwater facility.

**Encroachment** – A structure or activity that changes, expands, or diminishes the course, current, or cross-section of a watercourse, floodway, or body of water.

**Erosion** – The process by which the surface of the land, including water/stream channels, is worn away by water, wind, or chemical action.

**Erosion and Sediment (E&S) Control Plan** – A plan that is designed to minimize accelerated erosion and sedimentation. Said plan must be submitted to and approved by the appropriate Conservation District before construction can begin.

**Evapotranspiration (ET)** – The combined processes of evaporation from the water or soil surface and transpiration of water by plants.

**Exceptional Value (EV) Waters** – Surface waters of high quality which satisfy Pennsylvania

Code Title 25 Environmental Protection, Chapter 93, Water Quality Standards, §93.4b(b) (relating to anti-degradation).

**Existing Conditions** – The initial condition of a project site prior to the proposed alteration. If the initial condition of the site is undeveloped land, the land use shall be considered as “meadow” unless the natural land cover is proven to generate a lower curve number or Rational “c” value, such as forested lands.

**FEMA** – Federal Emergency Management Agency.

**Financial Hardship** – A situation where the greatest possible profit cannot be fully realized from development/redevelopment on a given parcel of land due to added costs or burdens associated with the design, construction, and/or maintenance of stormwater structures, facilities, buffers and/or setbacks.

**Flood** – A temporary condition of partial or complete inundation of land areas from the overflow of streams, rivers, and other waters of this Commonwealth.

**Floodplain** – Any land area susceptible to inundation by water from any natural source or as delineated by the applicable Department of Housing and Urban Development, Federal Emergency Management Agency (FEMA) maps and studies as being a Special Flood Hazard Area.

**Floodway** – The channel of a watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood (also called the base flood or one percent (1%) annual chance flood). Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to fifty (50) feet from the top-of-bank.

**Fluvial Geomorphology** – The study of landforms associated with river channels and the processes that form them.

**Forest Management/Timber Operations** – Planning and associated activities necessary for the management of forest lands. These include timber inventory and preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, and reforestation.

**Freeboard** – A vertical distance between the elevation of the design high-water and the top of a dam, levee, tank, basin, swale, or diversion berm. The space is required as a safety margin in a pond or basin.

**Grade** – 1. (noun) A slope, usually of a road, channel, or natural ground, specified in percent and shown on plans as specified herein. 2. (verb) To finish the surface of a roadbed, the top of an embankment, or the bottom of an excavation.

**Grassed Waterway** – A natural or man-made waterway, usually broad and shallow, covered with erosion-resistant grasses used to convey surface water.

**Green Infrastructure** – Systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated. Also referred to as Green Stormwater Infrastructure (GSI).

**Groundwater** – Water beneath the earth's surface that supplies wells and springs and is often between saturated soil and rock.

**Groundwater Recharge** – The replenishment of existing natural underground water supplies from rain or overland flow.

**HEC-HMS** – The U.S. Army Corps of Engineers, Hydrologic Engineering Center (HEC) - Hydrologic Modeling System (HMS). This model was used to model the Darby-Cobbs and Crum Creek watersheds during the Act 167 plan development and was the basis for the standards and criteria of this Ordinance.

**High Quality (HQ) Waters** – Surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying Pennsylvania Code Title 25 Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(a).

**High Tunnel** – A structure which meets the following:

1. Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the Act of December 19, 1974 (P.L. 973, No. 319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," or the storage of agricultural equipment or supplies; and
2. Is constructed with all the following:
  - a. has a metal, wood, or plastic frame.
  - b. when covered, has a plastic, woven textile, or other flexible covering; and
  - c. has a floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

**Hotspots** – Areas where land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater.

**Hydrograph** – A graph representing the discharge of water versus time for a selected point in the drainage system.

**Hydrologic Regime** – The hydrologic cycle or balance that sustains quality and quantity of stormwater, baseflow, storage, and groundwater supplies under natural conditions.

**Hydrologic Soil Group** – A classification of soils by the Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), into four runoff potential groups. The groups range from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

**Impervious Surface** – A surface that prevents the infiltration of water into the ground. Impervious surfaces shall include, but are not limited to, streets, sidewalks, pavements, additional indoor living spaces, patios, decks if not slatted, swimming pools not the pool water surface but

surrounding solid deck, garages, storage sheds, and similar structures, driveway areas, roofs, tennis or other paved courts. For the purposes of determining compliance with this Ordinance, compacted soils or stone surfaces used for vehicle parking and movement shall be considered impervious. Uncompacted gravel areas with no vehicular traffic shall be considered pervious per review by the Municipal Engineer. Surfaces that were designed to allow infiltration (i.e., pavers and areas of porous pavement) are not to be considered impervious surface if designed to function as a BMP per review by the Municipal Engineer. Additionally, for the purposes of determining compliance with this Ordinance, the total horizontal projection area of all ground-mounted and free-standing solar collectors, including solar photovoltaic cells, panels, and arrays, shall be considered pervious so long as the Municipal Engineer determines that the area underneath the solar photovoltaic cells, panels, and arrays is maintained as a vegetated pervious surface.

**Impoundment** – A retention or detention basin designed to retain stormwater runoff and release it at a controlled rate.

**Infill** – Development that occurs on smaller parcels that remain undeveloped but are within or in very close proximity to urban or densely developed areas. Infill development usually relies on existing infrastructure and does not require an extension of water, sewer, or other public utilities.

**Infiltration** – Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolated downward to recharge groundwater.

**Infiltration Structures** – A structure designed to direct runoff into the underground water (e.g., French drains, seepage pits, or seepage trenches).

**Inflow** – The flow entering the stormwater management facility and/or BMP.

**Inlet** – The upstream end of any structure through which water may flow.

**Intermittent Stream** – A stream that flows only part of the time. Flow generally occurs for several weeks or months in response to seasonal precipitation or groundwater discharge.

**Invert** – The lowest surface, the floor or bottom of a culvert, drain, sewer, channel, basin, BMP, or orifice.

**Land Development** – Any of the following activities:

- (i) The improvement of one (1) lot or two (2) or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - a. A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure, or
  - b. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features;
- (ii) A subdivision of land;
- (iii) Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.

**Limiting Zone** – A soil horizon or condition in the soil profile or underlying strata that includes one of the following:

- (i) A seasonal high-water table, whether perched or regional, determined by direct observation of the water table or indicated by soil mottling.
- (ii) A rock with open joints, fracture or solution channels, or masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.
- (iii) A rock formation, other stratum, or soil condition that is so slowly permeable that it effectively limits downward passage of water.

**Lot** – A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

**Low Impact Development (LID)** - Site design approaches and small-scale stormwater management practices that promote the use of natural systems for infiltration, evapotranspiration, and reuse of rainwater. LID can be applied to new development, urban retrofits, and revitalization projects. LID utilizes design techniques that infiltrate, filter, evaporate, and store runoff close to its source. Rather than rely on costly large-scale conveyance and treatment systems, LID addresses stormwater through a variety of small, cost-effective landscape features located on-site.

**Main Stem (Main Channel)** – Any stream segment or other runoff conveyance used as a reach in watershed-specific hydrologic models.

**Managed Release Concept (MRC)** - A post-construction stormwater management (PCSM) strategy that comprises the collection, management, and filtration of captured runoff from the contributing drainage area through a best management practice (BMP) that is preferably vegetated and includes release of a portion of the captured runoff through an underdrain within the BMP. If the MRC BMP is not vegetated, then pretreatment is required to meet water quality requirements. MRC is intended to be used for project areas or subareas where infiltration is considered infeasible to meet regulatory requirements. Refer to the “Managed Release Concept” Version 1.2 (August 25, 2020) guidance document or latest guidance from PA DEP.

**Manning Equation (Manning Formula)** – A method for calculation of velocity of flow (e.g., feet per second) and flow rate (e.g., cubic feet per second) in open channels based upon channel shape, roughness, depth of flow, and slope. “Open channels” may include closed conduits so long as the flow is not under pressure.

**Maximum Design Storm** – The maximum (largest) design storm that is controlled by the stormwater facility.

**Municipal Engineer** – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for a Municipality, planning agency, or joint planning commission.

**Municipality** – Upper Darby Township, Delaware County, Pennsylvania.



**Natural Condition** – Pre-development condition.

**Natural Hydrologic Regime** – See Hydrologic Regime.

**Natural Recharge Area** – Undisturbed surface area or depression where stormwater collects and a portion of which infiltrates and replenishes the underground and groundwater.

**Nonpoint Source Pollution** – Pollution that enters a waterbody from diffuse origins in the watershed and does not result from discernible, confined, or discrete conveyances.

**Nonstormwater Discharges** – Water flowing in stormwater collection facilities, such as pipes or swales, which is not the result of a rainfall event or snowmelt.

**Nonstructural Best Management Practice (BMPs)** – Methods of controlling stormwater runoff quantity and quality, such as innovative site planning, impervious area and grading reduction, protection of natural depression areas, temporary ponding on site, and other techniques.

**NPDES** – National Pollutant Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act, which is delegated to PADEP in Pennsylvania.

**NRCS** – Natural Resource Conservation Service (previously SCS).

**Open Channel** – A conveyance channel that is not enclosed.

**Outfall** – “Point source” as described in 40 CFR § 122.2 at the point where the Municipality's storm sewer system discharges to surface waters of the Commonwealth.

**Outflow** – The flow exiting the stormwater management facility and/or BMP.

**Outlet** – Points of water disposal to a stream, river, lake, tidewater, or artificial drain.

**Parent Tract** – The parcel of land from which a land development or subdivision originates, determined from the date of municipal adoption of this Ordinance.

**Parking Lot Storage** – Involves the use of parking areas as temporary impoundments with controlled release rates during rainstorms.

**Peak Discharge** – The maximum rate of stormwater runoff from a specific storm event.

**Pennsylvania Stormwater Best Management Practices Manual** (Document Number 363-0300-002) (December 2006, and as subsequently amended) - The Best Management Practices Manual published by the Pennsylvania Department of Environmental Protection. The manual is to supplement federal and state regulations and the Department of Environmental Protection's Comprehensive Stormwater Management Policy that emphasizes effective site planning as the preferred method of managing runoff while also providing numerous examples of BMPs that can be employed in Pennsylvania to further avoid and minimize flooding and water resource problems.

**Pervious Area** – Any area not defined as impervious.

**Pipe** – A culvert, closed conduit, or similar structure (including appurtenances) that conveys stormwater.

**Planning Commission**– The Planning Commission of Upper Darby Township.

**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 Pennsylvania Code § 92.1.

**Post-construction** – Period after construction during which disturbed areas are stabilized, stormwater controls are in place and functioning, and all proposed improvements in the approved land development plan are completed.

**Pre-construction** – Prior to commencing construction activities.

**Pre-development Condition** – Undeveloped/natural condition.

**Pretreatment** – Techniques employed in stormwater BMPs to provide storage or filtering to trap coarse materials and other pollutants before they enter the system, but not necessarily designed to meet the water quality volume requirements of Section 306.

**Project Site** – The specific area of land where any regulated activities in the Municipality are planned, conducted, or maintained.

**Qualified Professional** – See Design Professional (Qualified).

**Rational Formula** – A rainfall-runoff relation used to estimate peak flow.

**Reach** – Any stream segment or other runoff conveyance used in the watershed-specific hydrologic models.

**Recharge** – The replenishment of groundwater through the infiltration of rainfall, other surface waters, or land application of water or treated wastewater.

**Reconstruction** – Demolition and subsequent rebuilding of impervious surface.

**Record Drawings** – Original documents revised to suit the as-built conditions and subsequently provided by the Engineer to the client. The Engineer reviews the contractor's as-builts against his/her own records for completeness, then either turns these over to the client or transfers the information to a set of reproducibles, in both cases for the client's permanent records.

**Redevelopment** – Any development that requires demolition or removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top layer grinding and re-paving are not considered to be redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment.

**Regulated Activities** – Any earth disturbances activities or any activities that involve the alteration

or development of land in a manner that may affect stormwater runoff, including redevelopment.

**Regulated Earth Disturbance Activity** – Activity involving earth disturbance subject to regulation under 25 Pennsylvania Code Chapters 92, Chapter 102, or the Clean Streams Law.

**Regulated Impervious Surface** – Proposed impervious surface as part of a current proposed activity and all existing impervious surfaces installed after May 16, 2011 as part of a previous activity.

**Release Rate** – The percentage of existing conditions peak rate of runoff from a site or subarea to which the proposed conditions peak rate of runoff must be reduced to protect downstream areas.

**Repaving** – Resurfacing of the impervious surface that does not involve reconstruction of an existing paved (impervious) surface.

**Replacement Paving** – Reconstruction of and full replacement of an existing paved (impervious) surface.

**Retention or To Retain** – The prevention of direct discharge of stormwater runoff into receiving waters or water bodies by temporary or permanent containment in a pond or depression; examples include systems which discharge by percolation to groundwater, which generally have residence times of less than three (3) days.

**Retention Basin** – A structure in which stormwater is stored and not released during the storm event. Retention basins are designed for infiltration purposes and do not have an outlet.

**Return Period** – The average interval, in years, within which a storm event of a given magnitude can be expected to recur. For example, the 25-year return period rainfall would be expected to recur on the average of once every twenty-five (25) years.

**Riparian** – Pertaining to anything connected with or immediately adjacent to the banks of a stream or other body of water.

**Riparian Buffer** – An area of land adjacent to a body of water and managed to maintain the integrity of stream channels and shorelines to 1) reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and 2) supply food, cover and thermal protection to fish and other wildlife.

**Riser** – A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

**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.

**Roof Drains** – A drainage conduit or pipe that collects water runoff from a roof and leads it away from the structure.

**Rooftop Detention** – The temporary ponding and gradual release of stormwater falling directly onto flat roof surfaces using controlled-flow roof drains in building designs.

**Runoff** – Any part of precipitation that flows over the land surface.

**SALDO** – Subdivision and land development ordinance.

**Sediment** – Soil or other materials transported by surface water as a product of erosion.

**Sediment Basin** – A barrier, dam, or retention or detention basin located and designed in such a way as to retain rock, sand, gravel, silt, or other material transported by water during construction.

**Sediment Pollution** – The placement, discharge, or any other introduction of sediment into the waters of the Commonwealth.

**Sedimentation** – The process by which mineral or organic matter is accumulated or deposited by the movement of water or air.

**Seepage Pit/Seepage Trench** – An area of excavated earth filled with loose stone or similar coarse material into which surface water is directed for infiltration into the underground water.

**Separate Storm Sewer System** – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) primarily used for collecting and conveying stormwater runoff.

**Shallow Concentrated Flow** – Stormwater runoff flowing in shallow, defined ruts prior to entering a defined channel or waterway.

**Sheet Flow** – A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

**Soil Cover Complex Method** – A method of runoff computation developed by NRCS that is based on relating soil type and land use/cover to a runoff parameter called curve number (CN).

**Source Water Protection Areas (SWPA)** – The zone through which contaminants, if present, are likely to migrate and reach a drinking water well or surface water intake.

**Special Protection Subwatersheds** – Watersheds that have been designated by PADEP as EV or HQ waters.

**Spillway** – A conveyance that is used to pass the peak discharge of the maximum design storm that is controlled by the stormwater facility.

**State Water Quality Requirements** – The regulatory requirements to protect, maintain, reclaim, and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.

**Storage Indication Method** – A reservoir routing procedure based on solution of the continuity equation (inflow minus outflow equals the change in storage) with outflow defined as a function

of storage volume and depth.

**Storm Frequency** – The number of times that a given storm “event” occurs or is exceeded on the average in a stated period of years (see Return Period).

**Storm Sewer** – A system of pipes and/or open channels that conveys intercepted runoff and stormwater from other sources but excludes domestic sewage and industrial wastes.

**Stormwater** – Drainage runoff from the surface of the land resulting from precipitation, snow, or ice melt.

**Stormwater Control Measure** – Physical features used to effectively control, minimize, and treat stormwater runoff. Also, may be referred to as Stormwater Management Practice (SMP). [See Best Management Practice (BMP)].

**Stormwater Management District** – Those subareas of a watershed in which some type of detention is required to meet the plan requirements and the goals of Act 167.

**Stormwater Management Facility** – Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff quality, rate, or quantity, including Best Management Practices and Stormwater Control Measures. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration structures.

**Stormwater Management Plan** – The watershed plan for managing stormwater runoff for a watershed, adopted by Delaware and Chester Counties as required by the Act of October 4, 1978, P.L. 864 (Act 167), as amended, and known as the “Storm Water Management Act.” See also Watershed Stormwater Management Plan.

**Stormwater Management (SWM) Site Plan** – The plan prepared by the Applicant or his representative indicating how stormwater runoff will be managed at the particular site of interest according to this Ordinance, and including all necessary design drawings, calculations, supporting text, and documentation to demonstrate that Ordinance requirements have been met, hereafter referred to as “SWM site plan.”

**Stream** – A natural watercourse.

**Stream Buffer** – The land area adjacent to each side of a stream essential to maintaining water quality (see also Riparian Buffer).

**Stream Enclosure** – A bridge, culvert, or other structure in excess of one hundred (100) feet in length upstream to downstream which encloses a regulated water of the Commonwealth.

**Subarea (Subwatershed)** – The smallest drainage unit of a watershed for which stormwater management criteria have been established in the stormwater management plan.

**Subdivision** – The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to

heirs or devisees, transfer of ownership, or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres not involving any new street or easement of access or any residential dwelling shall be exempted.

**Surface Waters of the Commonwealth** – Any and all rivers, streams, creeks, rivulets, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface waters, or parts thereof, whether natural or artificial, within or on the boundaries of the Commonwealth.

**Swale** – A low-lying stretch of land that gathers or carries surface water runoff.

**SWM Site Plan** – See Stormwater Management Site Plan.

**Timber Operations** – See Forest Management.

**Time-of-concentration (T<sub>c</sub>)** – The time required for surface runoff to travel from the hydraulically most distant point of the watershed to a point of interest within the watershed. This time is the combined total of overland flow time and flow time in pipes or channels, if any.

**Top-of-bank** – Highest point of elevation in a stream channel cross-section at which a rising water level just begins to flow out of the channel and over the floodplain.

**USDA** – United States Department of Agriculture.

**Undeveloped Condition** – Natural condition (see also Pre-development Condition).

**Vernal Pond** – Seasonal depressional wetlands that are covered by shallow water for variable periods from winter to spring but may be completely dry for most of the summer and fall.

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

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

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

**Watershed Stormwater Management Plan** – A watershed plan for managing stormwater runoff for a watershed, adopted by Delaware and Chester Counties as required by the Act of October 4, 1978, P.L. 864 (Act 167), as amended, and known as the “Storm Water Management Act” (e.g., Chester Creek, Ridley Creek, Crum Creek, Darby-Cobbs Creeks). See also Stormwater Management Plan.

**Wellhead** – 1. A structure built over a well, 2. The source of water for a well.

**Wellhead Protection Area** – The surface and subsurface area surrounding a water supply well, well field, or spring supplying a public water system through which contaminants are reasonably likely to move toward and reach the water source.

**Wet Basin** – Pond for urban runoff management that is designed to detain urban runoff and always contains water.

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

**Woods** – A natural groundcover with more than one (1) viable tree of a DBH of six (6) inches or greater per fifteen hundred (1,500) square feet which existed within three (3) years of application; a cover condition for which SCS curve numbers have been assigned or to which equivalent Rational Method runoff coefficients have been assigned.

## ARTICLE III – STORMWATER MANAGEMENT

### Section 301. General Requirements

- A. Applicants proposing regulated activities in the Municipality which do not fall under the exemption criteria shown in Section 106 shall submit a stormwater management site plan consistent with this Ordinance and the applicable watershed stormwater management plan to the Municipality for review. The stormwater management criteria of this Ordinance shall apply to the total proposed development even if development is to take place in stages.
- B. No regulated activity within the Municipality shall commence until the Municipality issues approval of a SWM plan, which demonstrates compliance with the requirements of this ordinance.
- C. The Applicant is required to design the site to minimize surface discharge of stormwater and the creation of impervious surfaces to maintain, as much as possible, the natural hydrologic regime.
- D. The SWM site plan must be designed consistent with the sequencing provisions of Section 304 to ensure maintenance of the natural hydrologic regime, to promote infiltration, and to protect groundwater and surface water quality and quantity. The SWM site plan designer must proceed sequentially in accordance with Article III of this Ordinance.
- E. Stormwater drainage systems shall be designed in order to preserve natural flow conditions to the maximum extent practicable.
- F. Alteration of existing drainage discharge onto adjacent property shall only be proposed in accordance with PADEP guidance document “Chapter 102 Off-Site Discharges of Stormwater to Non-Surface Waters – Frequently Asked Questions (FAQ)” dated January 2, 2019, or latest guidance document from PADEP. Such discharge shall be subject to any applicable discharge criteria specified in this Ordinance and **still must meet the requirements of Act 167.**
- G. Areas of existing diffused drainage discharge, whether proposed to be concentrated or maintained as diffused drainage areas, shall be subject to any applicable discharge criteria in the general direction of existing discharge, except as otherwise provided by this Ordinance. If diffused drainage discharge is proposed to be concentrated and discharged onto adjacent property, the Applicant must document that adequate downstream conveyance facilities exist to safely transport the concentrated discharge or otherwise prove that no erosion, sedimentation, flooding, or other impacts will result from the concentrated discharge. Concentrated discharges directly on adjacent properties shall be strictly prohibited.
- H. Where a development site is traversed by a stream, drainage easements of 25 feet shall be provided on either side of and conform to the line of such streams.
- I. Minimization of impervious surfaces and infiltration of runoff through seepage beds, infiltration trenches, etc., is encouraged where soil conditions permit in order to reduce the size or eliminate the need for detention facilities or other structural BMPs.



- J. All stormwater runoff from new development or redevelopment shall be pretreated for water quality prior to discharge to surface or groundwater. Rooftop runoff may go directly to an infiltration BMP containing a debris trap.
- K. All regulated activities within the Municipality shall be designed, implemented, operated, and maintained to meet the purposes of this Ordinance, through these two elements:
1. Erosion and sediment control during earth disturbance activities (e.g., during construction), and
  2. Water quality protection measures after completion of earth disturbance activities (i.e., after construction), including operations and maintenance.
- L. The BMPs shall be designed, implemented, and maintained to meet state water quality requirements and any other more stringent requirements as determined by the Municipality. Applicants shall utilize the *Pennsylvania Stormwater Best Management Practices Manual* (PA BMP Manual), as amended, or other sources acceptable to the Municipal Engineer, for testing and design standards for BMPs, and where there is a conflict with the provisions of this Ordinance, the most restrictive applies.
- M. Post-construction water quality protection shall be addressed as required by Section 306.
- N. Operations and maintenance of permanent stormwater BMPs shall be addressed as required by Article VII.
- O. All BMPs used to meet the requirements of this Ordinance shall conform to the state water quality requirements and any more stringent requirements as set forth by the Municipality.
- P. Techniques described in Appendix E (Low Impact Development) of this Ordinance shall be considered because they reduce the costs of complying with the requirements of this Ordinance and the state water quality requirements.
- Q. In selecting the appropriate BMPs or combinations thereof, the Applicant shall consider the following:
1. Total contributing drainage area.
  2. Permeability and infiltration rate of the site's soils.
  3. Slope and depth to bedrock.
  4. Seasonal high-water table.
  5. Proximity to building foundations and wellheads.
  6. Erodibility of soils.
  7. Land availability and configuration of the topography.
  8. Peak discharge and required volume control.
  9. Stream bank erosion.
  10. Efficiency of the BMPs to mitigate potential water quality problems.
  11. The volume of runoff that will be effectively treated.
  12. The nature of the pollutant being removed.
  13. Maintenance requirements.

14. Creation/protection of aquatic and wildlife habitat.

15. Recreational value.

16. Enhancement of aesthetic and property values.

- R. The design of all stormwater management facilities shall incorporate sound engineering principles and practices in a manner that does not aggravate existing stormwater problems. The Municipality reserves the right to disapprove any design that would result in construction in or continuation of a stormwater problem area.
- S. The applicant may meet the stormwater management criteria through off-site stormwater management measures as long as the proposed measures are in the same subwatershed as shown in Ordinance Appendix A.
- T. Stormwater Hotspots – Stormwater runoff from hotspots shall be pretreated prior to surface or groundwater infiltration to prevent pollutant runoff. Industrial sites referenced in 40 CFR 125 are examples of hotspots.

Below is a list of examples of hotspots:

- Vehicle salvage yards and recycling facilities
- Vehicle fueling stations
- Vehicle service and maintenance facilities
- Vehicle and equipment cleaning facilities
- Fleet storage areas (bus, truck, etc.)
- Industrial sites based on Standard Industrial Classification Codes
- Marinas (service and maintenance areas)
- Outdoor liquid container storage
- Outdoor loading/unloading facilities
- Public works storage areas
- Facilities that generate or store hazardous materials
- Commercial container nursery
- Contaminated sites/brownfields
- Other land uses and activities as designated by an appropriate review authority

The following land uses, and activities are not normally considered hotspots:

- Residential streets and rural highways
- Residential development
- Institutional development
- Office developments
- Nonindustrial rooftops
- Pervious areas, except golf courses and nurseries (which may need an integrated pest management (IPM) plan)

While streets and highways (average daily traffic volume (ADT) greater than thirty thousand (30,000)) are not considered stormwater hotspots, it is important to ensure that highway stormwater management facilities are designed to adequately protect receiving streams and/or groundwater.

The Environmental Protection Agency's (EPA) NPDES stormwater program requires some industrial sites to prepare and implement a stormwater pollution prevention plan.

- U. The following standards for protection of adjacent and downgradient properties from off-site conveyance must be accomplished:

For any location where a new concentrated discharge of stormwater from any frequency rainfall event, up to and including the 100-year storm and the volume of runoff up to and including the 2-year storm onto or through adjacent property(ies) or downgradient property(ies), the following are required:

1. A drainage easement (or other legal agreement/approval) must be obtained for conveyance of discharges onto or through adjacent properties per the PADEP guidance document "Chapter 102 Off-Site Discharges of Stormwater to Non-Surface Wasters – Frequently Asked Questions (FAQ)" dated January 2, 2019, or latest guidance document from PADEP.
2. The conveyance must be designed to avoid erosion, flooding, or other damage to the properties through which it is being conveyed.

### **Section 302. Permit Requirements by Other Governmental Entities**

The following permit requirements may apply to certain regulated earth disturbance activities and must be met prior to commencement of regulated earth disturbance activities, as applicable:

- A. All regulated earth disturbance activities subject to permit requirements by PADEP under regulations at Title 25 Pennsylvania Code Chapter 102.
- B. Work within natural drainageways subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.
- C. Any stormwater management facility that would be located in or adjacent to surface waters of the Commonwealth, including wetlands, subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.
- D. Any stormwater management facility that would be located on or discharging to a state highway right-of-way or require access to or from a state highway shall be subject to approval by PennDOT.
- E. Culverts, bridges, storm sewers, or any other facilities which must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit by PADEP under Title 25 Pennsylvania Code Chapter 105.

### **Section 303. Erosion and Sediment Control During Regulated Earth Disturbance Activities**

- A. No regulated earth disturbance activities within the Municipality shall commence until the Municipality receives an approval from the PADEP in compliance with Title 25 Chapter 102 of the Pennsylvania Code of an erosion and sediment control plan for construction activities if applicable. In addition, no earth disturbance activities shall commence until the applicant has

secured a grading and erosion control permit from the municipality in which the project lies.

- B. PADEP has regulations regarding an erosion and sediment control under Title 25 Pennsylvania Code Chapter 102.
- C. In addition, under Title 25 Pennsylvania Code Chapter 92, a PADEP "NPDES Construction Activities" Permit is required for regulated earth disturbance activities.
- D. Evidence of any necessary permit(s) for regulated earth disturbance activities from the appropriate PADEP regional office or County Conservation District must be provided to the Municipality. The issuance of an NPDES Construction Permit (or permit coverage under the statewide General Permit (PAG-2)) satisfies the requirements of subsection 403.A.
- E. A copy of the erosion and sediment control plan and any required permit, as required by PADEP regulations, shall be available on the project site at all times.
- F. Additional erosion and sediment control design standards and criteria are recommended to be applied where infiltration BMPs are proposed. At a minimum, they shall include the following:
  - 1. Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase to maintain maximum infiltration capacity.
  - 2. Infiltration BMPs shall not be constructed nor receive runoff until the entire drainage area contributory to the infiltration BMP has achieved final stabilization.

#### **Section 304. Nonstructural Project Design Process (Sequencing to Minimize Stormwater Impacts)**

The design of all regulated activities shall include the following to minimize stormwater impacts to reduce the surface discharge of stormwater, reduce the creation of unnecessary impervious surfaces, prevent the degradation of waters of the Commonwealth, and maintain as much as possible the natural hydrologic regime of the site.

- A. The Applicant shall apply Low Impact Development (LID) methods such as those listed in Appendix E, provided that use of this method does not conflict with other local codes.
- B. The Applicant shall demonstrate that the design process follows the sequence noted below. The goal of the sequence is to minimize the increases in stormwater runoff and impacts to water quality resulting from the proposed regulated activity:
  - 1. The following items in this subsection shall be addressed prior to development of other stormwater management site plan design elements:
    - a. Prepare an Existing Resource and Site Analysis Map (ERSAM) showing environmentally sensitive areas including, but not limited to, steep slopes, ponds, lakes, streams, wetlands, hydric soils, vernal pools, stream buffers, and hydrologic soil groups. Land development, any existing recharge areas, and other requirements outlined in the municipal SALDO shall also be included.
    - b. Establish a stream buffer according to Section 311.
    - c. Prepare a draft project layout avoiding sensitive areas identified in Section 304.B.1.a.

- d. Identify site-specific existing conditions drainage areas, discharge points, recharge areas, and hydrologic soil groups A and B (areas conducive to infiltration).
  - e. Evaluate nonstructural stormwater management alternatives:
    - i. Minimize earth disturbance.
    - ii. Minimize impervious surfaces.
    - iii. Break up large impervious surfaces.
  - f. Determine into what management district the site falls (Ordinance Appendix A) and conduct an existing conditions runoff analysis.
2. The following items in this subsection may be addressed in any order provided that all items in Section 304.B.1 have been completed.
- a. Satisfy the infiltration objective (Section 305) and provide for stormwater pretreatment prior to infiltration.
  - b. Provide for water quality protection in accordance with Section 306 water quality requirements.
  - c. Provide stream bank erosion protection in accordance with Section 307 stream bank erosion requirements.
  - d. Prepare final project design to maintain existing conditions drainage areas and discharge points, to minimize earth disturbance and impervious surfaces, and, to the maximum extent possible, to ensure that the remaining site development has no surface or point discharge.
  - e. Conduct a proposed conditions runoff analysis based on the final design that meets the management district requirements (Section 308).
  - f. Manage any remaining runoff prior to discharge through detention, bioretention, direct discharge, or other structural control.

### Section 305. Infiltration Volume Requirements

**Providing for infiltration consistent with the natural hydrologic regime is required.** Design of the infiltration facilities shall consider infiltration to compensate for the reduction in the recharge that occurs when the ground surface is disturbed, or impervious surface is created.

If it cannot be physically accomplished, then the design professional shall be responsible for demonstrating to the satisfaction of the municipality that this **cannot be physically accomplished on the site** (e.g., shallow depth to bedrock or limiting zone, open voids, steep slopes, etc. per the PA BMP Manual. A financial hardship as defined in Section 202 is not acceptable to avoid implementing infiltration facilities. If infiltration can be physically accomplished, the volume of runoff to be infiltrated shall be determined from Section 305.A.2 depending on demonstrated site conditions and shall be the greatest volume that can be physically infiltrated or alternative methods consistent with the PA BMP Manual (as amended) or other PADEP guidance, such as the Managed Release Concept, may be used to manage this volume with approval from the Municipal Engineer. For example:

- Any applicant (developer or redeveloper) shall first attempt to infiltrate the volume required in Section 305.A.2.a.

- If the Section 305.A.2.a requirement cannot be physically accomplished, then the applicant is required to attempt to infiltrate the volume required in Section 305.A.2.b.
- Finally, if the 305.A.2.b infiltration volume cannot be physically accomplished, the applicant must, at a minimum, infiltrate the volume required in 305.A.2.c

A. Infiltration BMPs shall meet the following minimum requirements:

1. Infiltration BMPs intended to receive runoff from developed or redeveloped areas shall be selected based on suitability of soils and site conditions and shall be constructed on soils that have the following characteristics:
  - a. A minimum depth of twenty-four (24) inches between the bottom of the BMP and the top of the limiting zone.
  - b. An infiltration rate sufficient to accept the additional stormwater volume and dewater completely as determined by field tests conducted by the Applicant's design professional.
  - c. The infiltration facility shall be capable of completely draining the retention (infiltration) volume (Rev) within three (3) days (72 hours) from the end of the design storm.
2. The size of the infiltration facility and **Rev** shall be based upon the following volume criteria:
  - a. Modified Control Guideline One (MCG-1) of the PA BMP Manual – The retention (infiltration) volume (**Rev**) to be captured and infiltrated shall be the net 2-year 24-hour volume. The net volume is the difference between the post-development runoff volume and the pre-development runoff volume. The post-development total runoff volume for all storms equal to or less than the 2-year 24-hour duration precipitation shall not be increased. For modeling purposes, existing (pre-development) non-forested pervious areas must be considered meadow in good condition or its equivalent, and twenty (20) percent of existing impervious area, when present, shall be considered meadow in good condition.
  - b. Infiltrating the entire Rev volume in Section 305.A.2.a (above) may not be feasible on every site due to site-specific limitations such as shallow depth to bedrock or the water table. If it **cannot be physically accomplished**, then the following criteria from Modified Control Guideline Two (MCG-2) of the PA BMP Manual must be satisfied:

At least the **first one inch (1.0")** of runoff from new or replacement impervious surfaces shall be infiltrated.

$$Rev = 1 \text{ (inch)} * \text{impervious area (square feet)} \div 12 \text{ (inches)} = \text{cubic feet (cf)}$$

An asterisk (\*) in equations denotes multiplication.

- c. Only if infiltrating the entire Rev volume in Section 305.A.2.b (above) **cannot be physically accomplished**, then the following minimum criteria from Modified Control

Guideline Two (MCG-2) of the PA BMP Manual must be satisfied:

Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire water quality volume (WQv) (Section 306.A); however, in all cases at least the **first one-half inch (0.5")** of the WQv shall be infiltrated. The minimum infiltration volume (Rev) required would, therefore, be computed as:

$$Rev = I * \text{impervious area (square feet)} \div 12 \text{ (inches)} = \text{cubic feet (cf)}$$

An asterisk (\*) in equations denotes multiplication.

Where:

I = The maximum equivalent infiltration amount (inches) that the site can physically accept or 0.50 inch, whichever is greater.

The retention volume values derived from the methods in Section 305.A.2.a, 305.A.2.b, or 305.A.2.c is the minimum volume the Applicant must control through an infiltration BMP facility. If site conditions preclude capture of runoff from portions of the impervious area, the infiltration volume for the remaining area should be increased an equivalent amount to offset the loss.

Only if the minimum of 0.50 inch of infiltration requirement **cannot be physically accomplished**, a waiver from Section 305, Infiltration Volume Requirements is required from the Municipality.

- B. Soils - A detailed soils evaluation of the project site shall be required to determine the suitability of infiltration facilities. The evaluation shall be performed by a qualified design professional and at minimum address soil permeability, depth to bedrock, and subgrade stability. The general process for designing the infiltration BMP shall be:
1. Analyze hydrologic soil groups as well as natural and man-made features within the site to determine general areas of suitability for infiltration practices. In areas where development on fill material is under consideration, conduct geotechnical investigations of sub-grade stability; infiltration may not be ruled out without conducting these tests.
  2. Provide field tests as required in the PA BMP Manual
  3. Design the infiltration structure for the required retention (Rev) volume based on field determined capacity at the level of the proposed infiltration surface.
  4. If on-lot infiltration structures are proposed by the Applicant's design professional, it must be demonstrated to the Municipality that the soils are conducive to infiltrate on the lots identified.
- C. Infiltration facilities should, to the greatest extent practicable, be located to avoid introducing contaminants via groundwater, and be in conformance with an approved source water protection assessment or source water protection plan.
- D. Roadway drainage systems should provide an opportunity to capture accidental spills. Road de-icing material storage facilities shall be designed to avoid salt and chloride runoff from entering

waterways and infiltration facilities. The qualified design professional shall evaluate the possibility of groundwater contamination from the proposed infiltration facility and perform a hydrogeologic justification study if necessary.

- E. The antidegradation analysis found in Chapter 93 shall be applied in HQ or EV streams.
- F. An impermeable liner will be required in detention basins where the possibility of groundwater contamination exists. The Municipality may require a detailed hydrogeologic investigation.
- G. The applicant should provide safeguards against groundwater contamination for land uses that may cause groundwater contamination should there be a mishap or spill.

### **Section 306. Water Quality Requirements**

The Applicant shall comply with the following water quality requirements of this Article.

To control post-construction stormwater impacts from regulated activities and conform to state water quality requirements, BMPs which replicate pre-development stormwater infiltration and runoff conditions must be provided in the site design such that post-construction stormwater discharges do not degrade the physical, chemical, or biological characteristics of the receiving waters. The green infrastructure and Low Impact Development (LID) practices provided in the PA BMP Manual, as well as the guidance on green infrastructure and LID provided in Appendix E shall be utilized for all regulated activities wherever possible. This may be achieved by the following:

1. Infiltration: replication of pre-construction stormwater infiltration conditions,
  2. Treatment: use of water quality treatment BMPs to provide filtering of chemical and physical pollutants from the stormwater runoff, and
  3. Stream bank and stream bed protection: management of volume and rate of post-construction stormwater discharges to prevent physical degradation of receiving waters (e.g., from scouring).
- A. Developed areas shall provide adequate storage and treatment facilities necessary to capture and treat stormwater runoff. The infiltration volume computed under Section 305 may be a component of the water quality volume if the Applicant chooses to manage both components in a single facility. If the calculated water quality volume (WQv) is greater than the volume required to be infiltrated as described in Section 305.A.2, then the difference between the two volumes shall be treated for water quality by an acceptable stormwater management practice(s). The required water quality volume (WQv) is the storage capacity needed to capture and treat a portion of stormwater runoff from the developed areas of the site.

To achieve this requirement, the following criterion is established:

The Post-construction total runoff volume shall not exceed the Predevelopment total runoff volume for all storms equal to or less than the two-year, 24-hour duration precipitation (design storm). If the Municipal Engineer concurs that this criterion cannot be met, a minimum of one half (0.5)-inches of runoff from all Regulated Impervious Surfaces shall be managed. For



modeling purposes, existing (pre-development) non-forested pervious areas must be considered meadow in good condition or its equivalent, and twenty (20) percent of existing impervious area, when present, shall be considered meadow in good condition.

This volume requirement can be managed by the permanent volume of a wet basin or the detained volume from other BMPs. Where appropriate, wet basins shall be utilized for water quality control and shall follow the guidelines of the PA BMP Manual referenced in Ordinance Appendix G.

Release of water can begin at the start of the storm (i.e., the invert of the water quality orifice is at the invert of the facility). The design of the facility shall provide for protection from clogging and unwanted sedimentation.

- B. The temperature of receiving waters shall be protected through the use of BMPs that moderate temperature.

### **Section 307. Stream Bank Erosion Requirements**

- A. In addition to controlling the water quality volume (in order to minimize the impact of stormwater runoff on downstream stream bank erosion), the primary requirement to control stream bank erosion is to design a BMP to detain the proposed conditions 2-year, 24-hour design storm to the existing conditions 1-year flow using the SCS Type II distribution. Additionally, provisions shall be made (such as adding a small orifice at the bottom of the outlet structure) to release the proposed conditions 1-year storm for a minimum of twenty-four (24) hours from a point in time when the maximum volume of water from the 1-year storm is stored in a proposed BMP (i.e., the maximum water surface elevation is achieved in the facility). Release of water can begin at the start of the storm (i.e., the invert of the water quality orifice is at the invert of the facility).
- B. The minimum orifice size in the outlet structure to the BMP shall be three (3) inches in diameter where possible, and a trash rack shall be installed to prevent clogging. On sites with small drainage areas contributing to this BMP that do not provide enough runoff volume to allow a 24-hour attenuation with the 3-inch orifice, the calculations shall be submitted showing this condition. When the calculated orifice size is below three (3) inches, gravel filters (or other methods) are recommended to discharge low-flow rates subject to the municipal engineer's satisfaction. When filters are utilized, maintenance provisions shall be provided to ensure filters meet the design function. All facilities shall make use of measures to extend the flow path and increase the travel time of flows in the facility.

### **Section 308. Stormwater Peak Rate Control**

- A. Each watershed has been divided into either stormwater management districts or release rate districts as shown on the respective Management District or Release Rate Maps in Appendix A.
  - 1. In addition to the watershed-specific requirements specified in Tables 308.1, 308.2, etc. for each of the watersheds] below, the erosion and sedimentation control (Section 303), the nonstructural project design (Section 304), the infiltration (Section 305), the water quality (Section 306), and the stream bank erosion (Section 307) requirements shall be implemented.

2. Standards for managing runoff from each subarea in a watershed for the 2-, 5-, 10-, 25-, 50-, and 100-year design storms are shown in Tables 308.1, and 308.2. Development sites located in each of the management/release rate districts must control proposed conditions runoff rates to existing conditions runoff rates for the design storms in accordance with the Tables.
- B. General - Proposed conditions rates of runoff from any regulated activity shall not exceed the peak release rates of runoff from existing conditions for the design storms specified on the Stormwater Management District Watershed Map (Ordinance Appendix A) and this section of the Ordinance.
  - C. District Boundaries - The boundaries of the stormwater management districts are shown on an official map that is available for inspection at the municipal and County Planning offices. A copy of the official map at a reduced scale is included in Ordinance Appendix A. The exact location of the stormwater management district boundaries as they apply to a given development site shall be determined by mapping the boundaries using the 2-foot topographic contours (or most accurate data required) provided as part of the SWM site plan.
  - D. Sites Located in More than One (1) District or Watershed - For a proposed development site located within two (2) or more stormwater management district subareas, the peak discharge rate from any subarea shall meet the management district criteria for which the discharge is located. The natural hydrology of each respective subarea shall be maintained, and drainage shall not be redirected from one subarea to another. Under circumstances where the Applicant shows this cannot be accomplished, a waiver is required by the Municipality.

**TABLE 308.1**

**PEAK RATE CONTROL STANDARDS BY STORMWATER MANAGEMENT DISTRICT IN  
THE DARBY-COBBS CREEK WATERSHED**

<b>District</b>	<b>Proposed Condition Design Storm</b>	<b>Existing Condition Design Storm</b>
A	2 - year	1 - year
	5 - year	5 - year
	10 - year	10 - year
	25 - year	25 - year
	100-year	100-year
B-1	2 - year	1- year
	10 - year	5 - year
	25 - year	10 - year
	50- year	25- year
	100-year	100-year
B-2	2 - year	1- year
	5 - year	2 - year
	25 - year	5 - year

50- year  
100 - year

10- year  
100 - year

C Conditional Direct Discharge District

**TABLE 308.2 [Delaware River/Other]**

**PEAK RATE CONTROL STANDARDS IN THE  
DELAWARE RIVER/DARBY DISTRICT "C"/RIDLEY CREEK WATERSHEDS**

<b>Proposed Condition Design Storm</b>	<b>Reduce to</b>	<b>Existing Condition Design Storm</b>
2 - year		1 - year
5 - year		5 - year
10 - year		10 - year
25 - year		25 - year
50 - Year		50 - year
100 - year		100 - year

- For the Ridley Creek Watershed: the Delaware Direct table should be used for all subareas listed as 100% release rate. However, for subareas below 100%, the Municipal Engineer should decide as to the correct requirement.
- For the Chester Creek Watershed: watershed subareas with a 100% should confirm that the peak rate control requirement is at least as stringent as the Delaware Direct requirement.

Off-site Areas - Off-site areas that drain through a proposed development site are not subject to release rate criteria when determining allowable peak runoff rates. On-site drainage facilities shall be designed to safely convey off-site flows through the development site.

- E. Site Areas - Where the site area to be impacted by a proposed development activity differs significantly from the total site area, only the proposed impact area utilizing stormwater management measures shall be subject to the peak rate control standards noted above. Unimpacted areas for which the discharge point has not changed are not subject to the peak rate control standards.
- F. Hardship Option for regulated activities less than one acre of earth disturbance - There may be certain instances, where the peak rate criteria are too restrictive for a particular landowner or Applicant. The existing drainage network in some areas may be capable of safely transporting slight increases in flows where deemed acceptable by the Municipal Engineer. This must be demonstrated as per Section 308.H below for the hardship option to be considered. If an Applicant or homeowner cannot meet the stormwater standards due to lot conditions or if conformance would become a hardship to an owner, the hardship option may be applied. The

Applicant would have to plead his/her case to the Governing Body with the final determination made by the Municipality upon evaluation by the Municipal Engineer. Any landowners pleading the "hardship option" will assume all liabilities that may arise due to exercising this option. Cost or financial burden cannot be considered as a hardship. The Applicant may consider off-site management controls or contributing to the Municipal Stormwater Control and BMP Operation and Maintenance Fund (Section 708) if the stormwater management controls are within the same subwatershed.

- G. "Downstream Hydraulic Capacity Analysis" - Any downstream capacity hydraulic analysis conducted in accordance with this Ordinance shall use the following criteria for determining adequacy for accepting increased peak flow rates:
1. Natural or man-made channels or swales must be able to convey the increased runoff associated with a 2-year storm event within their banks at velocities consistent with protection of the channels from erosion. Velocities shall be based upon criteria and methodologies acceptable to the municipality.
  2. Natural or man-made channels or swales must be able to convey increased 25-year storm event runoff without creating any increased hazard to persons or property.
  3. Culverts, bridges, storm sewers or any other hydraulic facilities which must pass or convey flows from the tributary area must be designed in accordance with PADEP Chapter 105 regulations (if applicable) and, at a minimum, pass the increased 25-year storm event runoff. A 100-year storm event design shall be required for the draining of all low points.
  4. Water quality requirements defined in Section 307 must be met.
  5. Post construction peak rates shall not exceed the existing peak rates for the respective subarea.
- J. Alternate Criteria for Redevelopment Sites - For redevelopment sites, one of the following minimum design parameters shall be accomplished, whichever is most appropriate for the given site conditions as determined by Upper Darby Township.
1. Meet the full requirements specified by Tables 308.1 and 308.2 and Sections 308.A through 308.H, or
  2. Reduce the total pre-development impervious surface on the site by at least twenty percent (20%); based upon a comparison of existing impervious surface to regulated impervious surface. In this case, calculations must be provided that show the peak rate has not increased.

### **Section 309. Calculation Methodology**

- A. Stormwater runoff from all development sites with a drainage area of greater than five (5) acres shall be calculated using a generally accepted calculation technique that is based on the NRCS Soil Cover Complex Method. Table 309.1 summarizes acceptable computation methods. The method selected by the design professional shall be based on the individual limitations and

suitability of each method for a particular site. The use of the Rational Method to estimate peak discharges for drainage areas greater than five (5) acres shall be permitted only upon approval of the Municipal Engineer.

**TABLE 309.1**

**ACCEPTABLE COMPUTATION METHODOLOGIES FOR  
SWM SITE PLAN**

<b>METHOD</b>	<b>DEVELOPED BY</b>	<b>APPLICABILITY</b>
TR-20 (or commercial computer package based on TR-20)	USDA NRCS	Applicable where use of full hydrology computer model is desirable or necessary.
TR-55 (or commercial computer package based on TR-55)	USDA NRCS	Applicable for land development plans where limitations described in TR-55.
HEC-1/HEC-HMS	US Army Corps of Engineers	Applicable where use of a full hydrologic computer model is desirable or necessary.
Rational Method (or commercial computer package based on Rational Method)	Emil Kuichling (1889)	For sites up to five (5) acres, or as approved by the Municipality and/or municipal Engineer.
Other Methods	Varies	Other computation methodologies approved by the Municipality and/or municipal Engineer.

- B. All calculations consistent with this Ordinance using the Soil Cover Complex Method shall use the appropriate design rainfall depths for the various return period storms. Rainfall depths shall be according to NOAA Atlas 14 values consistent with a partial duration series. When stormwater calculations are performed for routing procedures or water quality functions, the duration of rainfall shall be twenty-four (24) hours.

- C. The following criteria shall be used for peak rate runoff calculations:

1. For development sites not considered redevelopment, the ground cover used in determining the existing conditions flow rates shall be as follows:

- a. Wooded sites shall use a ground cover of "woods in good condition." Portions of a site having more than one viable tree measuring a diameter at breast height (DBH) of six (6)

inches or greater per fifteen hundred (1,500) square feet shall be considered wooded where such trees existed within three (3) years of application.

- b. The undeveloped portion of the site including agriculture, bare earth, and fallow ground shall be considered as "meadow in good condition," unless the natural ground cover generates a lower curve (CN) number or Rational "c" value (i.e., woods) as listed in Tables F-1 or F-2 in Appendix F of this Ordinance.
2. For redevelopment sites, the ground cover used in determining the existing conditions flow rates for the developed portion of the site shall be based upon actual land cover conditions.
- D. All calculations using the Rational Method shall use rainfall intensities consistent with appropriate times-of-concentration (duration) and storm events with rainfall intensities obtained from NOAA Atlas 14 partial duration series estimates, or the latest version of the PennDOT Drainage Manual (PDM Publication 584). Times-of-concentration shall be calculated based on the methodology recommended in the respective model used. Times of concentration for channel and pipe flow shall be computed using a minimum of 5 minutes.
  - E. Runoff curve numbers (CN) for both existing and proposed conditions to be used in the Soil Cover Complex Method shall be obtained from Table F-1 in Appendix F of this Ordinance.
  - F. Runoff coefficients (c) for both existing and proposed conditions for use in the Rational Method shall be obtained from Table F-2 in Appendix F of this Ordinance.
  - G. Hydraulic computations to determine the capacity of pipes, culverts, and storm sewers shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Design Series Number 5 (Publication No. FHWA-NHI-01-020 HDS No. 5). Hydraulic computations to determine the capacity of open channels shall be consistent with methods and computations contained in the Federal Highway Administration Hydraulic Engineering Circular Number 15 (Publication No. FHWA-NHI-05-114 HEC 15). Values for Manning's roughness coefficient (n) shall be consistent with Table F-3 in Appendix F of the Ordinance.
  - H. Outlet structures for stormwater management facilities shall be designed to meet the performance standards of this Ordinance using any generally accepted hydraulic analysis technique or method.
  - I. The design of any stormwater detention facilities intended to meet the performance standards of this Ordinance shall be verified by routing the design storm hydrograph through these facilities using an acceptable method. The design storm hydrograph shall be computed using a calculation method that produces a full hydrograph. The Municipality may approve the use of any generally accepted full hydrograph approximation technique that shall use a total runoff volume that is consistent with the volume from a method that produces a full hydrograph.

### **Section 310. Other Requirements**

- A. All wet basin designs shall incorporate biologic controls consistent with the West Nile Guidance found in Appendix H, PADEP document 363-0300-001 "Design Criteria – Wetlands

Replacement/Monitoring,” or contact the Pennsylvania State Cooperative Wetland Center ([www.wetlands.psu.edu/](http://www.wetlands.psu.edu/)) or the Penn State Cooperative Extension Office ([www.extension.psu.edu/extmap.html](http://www.extension.psu.edu/extmap.html)).

- B. Any stormwater basin required or regulated by this Ordinance designed to store runoff and requiring a berm or earthen embankment shall be designed to provide an emergency spillway to handle flow up to and including the 100-year proposed conditions. The height of embankment must provide a minimum of 1.0 foot or more of freeboard between the bottom elevation of the spillway and the top of the berm and shall be capable of conveying the 100-year frequency post development storm entering the basin or, from the top of the 100-year design conveyance over the spillway whichever is greater. Should any stormwater management facility require a dam safety permit under PADEP Chapter 105, the facility shall be designed in accordance with Chapter 105 and meet the regulations of Chapter 105 concerning dam safety. Chapter 105 may require the passing of storms larger than 100-year event.
- C. Any drainage conveyance facility and/or channel not governed by Chapter 105 regulations must be able to convey, without damage to the drainage structure or roadway, runoff from the 25-year storm event. The larger the events (50-year and 100-year) must also be safely conveyed in the direction of natural flow without creating additional damage to any drainage structures, nearby structures, or roadways.
- D. Conveyance facilities transporting flow to or exiting from stormwater management facilities (i.e., detention basins) shall be designed to convey the 100-year frequency storm.
- E. Roadway crossings or structures located within designated floodplain areas must be able to convey runoff from a 100-year design storm consistent with Federal Emergency Management Agency National Flood Insurance Program – Floodplain Management Requirements.
- F. Any facility located within a PennDOT right-of-way must meet PennDOT minimum design standards and permit submission requirements.
- G. Adequate erosion protection and energy dissipation shall be provided along all open channels and at all points of discharge. Design methods shall be consistent with the Federal Highway Administration Hydraulic Engineering Circular Number 11 (Publication No. FHWA-IP-89-016) and the PADEP Erosion and Sediment Pollution Control Program Manual (Publication No. 363-2134-008).

### **Section 311. Riparian Buffers**

- A. Except as required by Chapter 102, if a perennial or intermittent stream passes through, or a waterbody (i.e., lake, pond, wetland) is present on the site, the Applicant shall create a Riparian Buffer extending a minimum of 50 feet, to either side of the top-of-bank of the channel, lake, or wetland
- B. The Riparian Buffer shall be planted with native vegetation and maintained in a vegetated state (Refer to Appendix B, Pennsylvania Native Plant List, contained in the PA BMP Manual or latest guidance document from PADEP).

1. The following provisions also apply to Riparian Buffers on lots in existence at the time of adoption of this Ordinance:
  - a. If the applicable rear or side yard setback is less than 50 feet, the buffer width may be reduced to twenty-five (25) percent of the setback or twenty-five (25) feet, whichever is greater.
  - b. If a stream traverses a site in a manner that significantly reduces the use of the site, the buffer may be either:
    - i. Reduced to twenty-five (25) feet on either side, with municipal approval, or
    - ii. Reduced to ten (10) feet with municipal waiver.
2. Permitted uses within the Riparian Buffer include the following, subject to municipal approval and provided that they comply with all federal, state, and local regulations:
  - a. Recreational trails. See Ordinance Appendix J Riparian Buffer Trail Guidelines.
  - b. Utility rights-of-way
  - c. Bridges
  - d. Other uses subject to municipal approval
3. If an existing buffer is legally prescribed (i.e., deed, covenant, easement, etc.) and it exceeds the requirements of this Ordinance, the existing buffer shall be maintained.

C. In order to protect and improve water quality, a Riparian Buffer Easement shall be created and recorded as part of any subdivision or land development that encompasses a Riparian Buffer.

D. Minimum Management Requirements for Riparian Buffers.

1. Existing native vegetation shall be protected and maintained within the Riparian Buffer Easement.
2. Whenever practicable, invasive vegetation shall be actively removed and the Riparian Buffer Easement shall be planted with native trees, shrubs and other vegetation to create a diverse native plant community appropriate to the intended ecological context of the site.

E. The Riparian Buffer Easement shall be enforceable by the municipality and shall be recorded in the Delaware County Recorder of Deeds Office, so that it shall run with the land and shall limit the use of the property located therein. The easement shall allow for the continued private ownership and shall count toward the minimum lot area as required by Zoning, unless otherwise specified in the municipal Zoning Ordinance. 3800-PM-BCW0100j Rev. 4/2018 Model Ordinance

F. Any permitted use within the Riparian Buffer Easement shall be conducted in a manner that will maintain the extent of the existing 100-year floodplain, improve or maintain the stream stability, and preserve and protect the ecological function of the floodplain.

G. The following conditions shall apply when public and/or private recreation trails are permitted within Riparian Buffers:

1. Trails shall be for non-motorized use only.
2. Trails shall be designed to have the least impact on native plant species and other sensitive environmental features.



H. Septic drainfields and sewage disposal systems shall not be permitted within the Riparian Buffer Easement and shall comply with setback requirements established under 25 Pa. Code Chapter 73.

## **ARTICLE IV – STORMWATER MANAGEMENT (SWM) SITE PLAN REQUIREMENTS**

### **Section 401. General Requirements**

For any of the activities regulated by this Ordinance, the preliminary or final approval of subdivision and/or land development plans, the issuance of any building or occupancy permit, or the commencement of any earth disturbance activity may not proceed until the property owner, Applicant, or his/her agent has received written approval of a SWM site plan from the Municipality and an adequate erosion and sediment control plan review by the Conservation District unless the project qualifies for an exemption in Section 106.

### **Section 402. SWM Site Plan Contents**

The SWM site plan shall consist of a general description of the project including sequencing items described in Section 304, calculations, maps, and plans. A note on the maps shall refer to the associated computations and erosion and sediment control plan by title and date. The cover sheet of the computations and erosion and sediment control plan shall refer to the associated maps by title and date. All SWM site plan materials shall be submitted to the Municipality in a format that is clear, concise, legible, neat, and well organized; otherwise, the SWM site plan shall not be accepted for review and shall be returned to the Applicant.

The following items shall be included in the SWM site plan, when applicable:

#### **A. General**

1. General description of the project, including those areas described in Section 304.B.
2. General description of proposed permanent stormwater management techniques, including construction specifications of the materials to be used for stormwater management facilities.
3. Complete hydrologic, hydraulic, and structural computations for all stormwater management facilities.
4. An erosion and sediment control plan, including all reviews and letters of adequacy from the Conservation District.
5. A general description of proposed nonpoint source pollution controls.
6. The SWM Site Plan Application and completed fee schedule form and associated fee (Ordinance Appendix C-1).
7. The SWM Site Plan Checklist (Appendix C-2).

#### **B. Maps or Plan Sheets**

Map(s) or plan sheets of the project area shall be submitted on 24-inch x 36-inch sheets and/or shall be prepared in a form that meets the requirements for recording at the offices of the Recorder of Deeds of

Delaware County. If the SALDO has more stringent criteria than this Ordinance, then the more stringent criteria shall apply. The contents of the map(s) shall include, but not be limited to:

1. The location of the project relative to highways, municipal boundaries, or other identifiable landmarks.
2. Existing contours at intervals of two (2) feet.
3. Existing streams, lakes, ponds, or other waters of the Commonwealth within the project area.
4. Other physical features including flood hazard boundaries, stream buffers, existing drainage courses, areas of natural vegetation to be preserved, and the total extent of the upstream area draining through the site.
5. The locations of all existing and proposed utilities, sanitary sewers, and water lines within fifty (50) feet of property lines.
6. An overlay showing soil names and boundaries.
7. Limits of earth disturbance, including the type and amount of impervious area that would be added.
8. Proposed structures, roads, paved areas, and buildings.
9. Final contours at intervals of two (2) feet.
10. The name of the development, the name and address of the owner of the property, and the name of the individual or firm preparing the plan.
11. The date of submission.
12. A graphic and written scale of one (1) inch equals no more than fifty (50) feet; for tracts of twenty (20) acres or more, the scale shall be one (1) inch equals no more than one hundred (100) feet.
13. A north arrow.
14. The total tract boundary and size with distances marked to the nearest hundredth of a foot and bearings to the nearest second.
15. Existing and proposed land use(s).
16. A key map showing all existing man-made features beyond the property boundary that would be affected by the project.
17. Location of all open channels.

18. Overland drainage patterns and swales.
19. A 15-foot-wide access easement around all stormwater management facilities that would provide ingress to and egress from a public right-of-way.
20. The location of all erosion and sediment control facilities.
21. A note on the plan indicating the location and responsibility for maintenance of stormwater management facilities that would be located off site. All off-site facilities shall meet the performance standards and design criteria specified in this Ordinance.
22. A statement, signed by the Applicant, acknowledging that any revision to the approved SWM site plan must be approved by the Municipality, and that a revised erosion and sediment control plan must be submitted to the Conservation District for a determination of adequacy.
23. The following signature block signed and sealed by the qualified Licensed Professional responsible for the preparation of the SWM Site Plan:

“I, (Licensed Professional), on this date (date of signature), hereby certify that the SWM site plan meets all design standards and criteria of the Upper Darby Township Stormwater Management Ordinance.” *[Note: license stamp should be included here]*

C. Supplemental information to be submitted to the Municipality:

1. A written description of the following information shall be submitted by the Applicant and shall include:
  - a. The overall stormwater management concept for the project designed in accordance with Section 304.
  - b. Stormwater runoff computations as specified in this Ordinance.
  - c. Stormwater management techniques to be applied both during and after development.
  - d. Expected project time schedule.
  - e. Development stages or project phases, if so proposed.
  - f. An operations and maintenance plan in accordance with Section 702 of this Ordinance.
2. An erosion and sediment control plan.
3. A description of the effect of the project (in terms of runoff volumes and peak flows) on adjacent properties and on any existing municipal stormwater collection system that may receive runoff from the project site.

4. A Declaration of Adequacy and Highway Occupancy Permit from the Pennsylvania Department of Transportation (PennDOT) District office when utilization of a PennDOT storm drainage system is proposed.

D. Stormwater Management Facilities

1. All stormwater management facilities must be located on a plan and described in detail.
2. The locations of existing and proposed septic tank infiltration areas and wells must be shown.
3. All calculations, assumptions, loading ratios (guidelines presented in the PA BMP Manual), and criteria used in the design of the stormwater management facilities must be shown.

**Section 403. Plan Submission**

The Municipality shall require receipt of a complete SWM site plan, as specified in this Ordinance.

- A. Proof of application or documentation of required permit(s) or approvals for the programs listed below shall be part of the plan, if applicable:
  1. NPDES Permit for Stormwater Discharges from Construction Activities
  2. PADEP permits as needed
    - a. PADEP Joint Permit Application
    - b. Chapter 105 (Dam Safety and Waterway Management)
    - c. Chapter 106 (Floodplain Management)
  3. PennDOT Highway Occupancy Permit
  4. Any other permit under applicable state or federal regulations
- B. The plan shall be coordinated with the state and federal permit process and the municipal SALDO review process. The process implementing the provisions in this Ordinance is illustrated in Appendices D-1 and D-2.
- C. For projects that require SALDO approval, the SWM site plan shall be submitted by the Applicant as part of the preliminary plan submission where applicable for the regulated activity.
- D. For regulated activities that do not require SALDO approval, see Section 301, General Requirements.
- E. Five (5) copies of the SWM site plan shall be submitted by the applicant for review in accordance with established criteria and procedures:

1. Two (2) copies to the Municipality accompanied by the requisite municipal review fee, as specified in this Ordinance.
  2. Two (2) copies to the County Conservation District.
  3. One (1) copy to the Municipal Engineer along with any and all backup data for stormwater and erosion control calculations.
- F. Any submissions to the agencies listed above that are found to be incomplete shall not be accepted for review and shall be returned to the Applicant with a notification in writing of the specific way the submission is incomplete.

#### **Section 404. Stormwater Management (SWM) Site Plan Review**

- A. SWM plans shall be submitted to the municipality for review by the municipal engineer for consistency with this Ordinance and the respective Act 167 Stormwater Management Plan. Any plan found incomplete may not be accepted for review and may be returned to the Applicant. The municipal Engineer will review the SWM site plan for any subdivision or land development against the municipal SALDO provisions not otherwise superseded by this Ordinance.
- B. The applicant shall respond to the Conservation District comments on the SWM site plan prior to being considered for final approval by the Municipality.
- C. For activities regulated by this Ordinance (Section 105), the municipal Engineer will notify the Applicant and the Municipality in writing, with a copy to the Building Permit Officer, within 30 calendar days, whether the SWM site plan is consistent with the stormwater management plan.
1. If the municipal Engineer determines that the SWM site plan is consistent with the stormwater management ordinance, the municipal Engineer will forward a letter of consistency to the municipality, who will then forward a copy to the Applicant.
  2. If the municipal Engineer determines that the SWM site plan is inconsistent or noncompliant with the stormwater management ordinance, the municipal Engineer will forward a letter to the municipality, with a copy to the Applicant citing the reason(s) and specific Ordinance sections for the inconsistency or noncompliance. Inconsistency or noncompliance may be due to inadequate information to make a reasonable judgment as to compliance with the stormwater management plan. Any SWM site plans that are inconsistent or noncompliant may be revised by the Applicant and resubmitted when consistent with this Ordinance.
- D. For regulated activities under this Ordinance that require an NPDES Permit Application, the Applicant shall forward a copy of the municipal Engineer's letter stating that the SWM site plan is consistent with the stormwater management ordinance to the Conservation District. PADEP and the Conservation District may consider the municipal Engineer's review comments in determining whether to issue a permit.
- E. The Municipality will not grant preliminary or final approval to any subdivision or land development for regulated activities specified in this Ordinance if the SWM site plan has been found by the municipal Engineer to be inconsistent with the stormwater management ordinance.

All required permits from PADEP must be obtained prior to approval of any subdivision or land development.

- F. No building permits for any regulated activity specified in this Ordinance will be approved by the Municipality if the SWM site plan has been found to be inconsistent with the stormwater management ordinance, as determined by the municipal Engineer and Conservation District. All required permits from PADEP must be obtained prior to issuance of a building permit.
- G. The Applicant shall be responsible for completing record drawings of all stormwater management facilities included in the approved SWM site plan. The record drawings and an explanation of any discrepancies with the design plans shall be submitted to the municipal Engineer for final approval. In no case will the Municipality approve the record drawings until the Municipality receives a copy of an approved Declaration of Adequacy and/or Highway Occupancy Permit from the PennDOT District office, NPDES Permit, and any other applicable permits or approvals from PADEP or the Conservation District. The above permits and approvals must be based on the record drawings.
- H. The Municipality's approval of a SWM site plan shall be valid for a period not to exceed 5 years commencing on the date that the Municipality signs the approved SWM site plan. If stormwater management facilities included in the approved SWM site plan have not been constructed, or if constructed, record drawings of these facilities have not been approved within this 5-year time period, then the Municipality may consider the SWM site plan inconsistent or noncompliant and may revoke any and all permits. SWM site plans that are determined to be inconsistent or noncompliant by the Municipality shall be resubmitted in accordance with Section 406 of this Ordinance.

#### **Section 405. Revision of Plans**

- A. A revision to a submitted SWM site plan under review by the Municipality for a development site that involves the following shall require a resubmission to the Municipality of a revised SWM site plan consistent with Section 403 of this Ordinance and be subject to review as specified in Section 404 of this Ordinance:
  - 1. Change in stormwater management facilities or techniques,
  - 2. Relocation or redesign of stormwater management facilities, or
  - 3. Is necessary because soil or other conditions are not as stated on the SWM site plan as determined by the municipal Engineer.
- B. A revision to an already approved or inconsistent or noncompliant SWM site plan shall be submitted to the Municipality, accompanied by the applicable municipal review and inspection fee. A revision to a SWM site plan for which a formal action has not been taken by the Municipality shall be submitted to the Municipality accompanied by the applicable municipal review and inspection fee.

#### **Section 406. Resubmission of Inconsistent or Noncompliant SWM Site Plans**

An inconsistent or noncompliant SWM site plan may be resubmitted with the revisions addressing the municipal Engineer's concerns documented in writing. It must be addressed to the municipality in accordance with Section 403 of this Ordinance, distributed accordingly, and be subject to review as specified in Section 404 of this Ordinance. The applicable municipal review and inspection fee must accompany a resubmission of an inconsistent or noncompliant SWM site plan.



## **ARTICLE V – INSPECTIONS**

### **Section 501. Inspections**

- A. The municipal Engineer or his municipal designee shall inspect all phases of the installation of the permanent BMPs and/or stormwater management facilities as deemed appropriate by the municipal Engineer.
- B. During any stage of the work, if the municipal Engineer or his municipal designee determines that the permanent BMPs and/or stormwater management facilities are not being installed in accordance with the approved stormwater management plan, the Municipality may revoke any existing permits or other approvals and issue a cease and desist order until a revised SWM site plan is submitted and approved, as specified in this Ordinance, and until the deficiencies are corrected.

A final inspection of all BMPs and/or stormwater management facilities shall be conducted by the municipal Engineer or his municipal designee to confirm compliance with the approved SWM site plan prior to the issuance of any occupancy permit.

### **Section 502. As-built Plans, Completion Certificate, and Final Inspections**

- A. The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM site plan for activities involving regulated impervious surfaces 1,000 sq. ft. or greater and for earth disturbances 5,000 sq. ft. or greater. The as-built plans and all explanation of any discrepancies with the construction plans shall be submitted to the Municipality within three (3) months of the completion of construction of the SWM BMPs.
- B. As-built plans shall show the location and as-built conditions of all SWM BMPs and include the following information: impervious surfaces included in the approved SWM site plan; topographic contours; and existing, proposed, and built impervious surfaces shown in the as- built drawings.
- C. The as-built submission shall include a certification of completion signed by a Design Professional verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications.
- D. The municipality will review the as-built submission for consistency with the approved SWM site plan as well as actual conditions at the project site. After receipt of the completion certification by the Municipality, the Municipality may conduct a final inspection.
- E. If an NPDES Permit for Stormwater Discharges Associated with Construction Activities was required for the Regulated Activity, a Notice of Termination (NOT) approval must be obtained upon completion of construction prior to final approval of the project by the Municipality.

## **ARTICLE VI – FEES AND EXPENSES**

### **Section 601. Municipality SWM Site Plan Review and Inspection Fee**

Fees have been established by the Municipality to defray plan review and construction inspection costs incurred by the Municipality. All fees shall be paid by the Applicant at the time of SWM site plan submission. A review and inspection fee schedule will be established by resolution of the municipal Governing Body based on the size of the regulated activity and based on the Municipality's costs for reviewing SWM site plans and conducting inspections pursuant to Section 501. The Municipality shall periodically update the review and inspection fee schedule to ensure that review costs are adequately reimbursed.

### **Section 602. Expenses Covered by Fees**

The fees required by this Ordinance shall at a minimum cover:

- A. Administrative costs.
- B. The review of the SWM site plan by the Municipality and the municipal Engineer.
- C. The site inspections.
- D. The inspection of stormwater management facilities and drainage improvements during construction.
- E. Attendance at meeting.
- F. The final inspection upon completion of the stormwater management facilities and drainage improvements presented in the SWM site plan.
- G. Any additional work required to enforce any permit provisions regulated by this Ordinance, correct violations, and assure proper completion of stipulated remedial actions.

## **ARTICLE VII – OPERATION AND MAINTENANCE (O&M) RESPONSIBILITIES AND EASEMENTS**

### **Section 701. Performance Guarantee**

- A. For all activities requiring submittal of a SWM site plan, the Applicant shall provide a financial guarantee to the Municipality for the timely installation and proper construction of all stormwater management facilities as:
  - 1. Required by the approved SWM site plan equal to or greater than the full construction cost of the required facilities, or
  - 2. The amount and method of payment provided for in the SALDO.
- B. For other regulated activities, the Municipality may require a financial guarantee from the Applicant.

### **Section 702. Responsibilities for Operations and Maintenance (O&M) of Stormwater Controls and BMPs**

- A. The SWM site plan shall include a BMP operations and maintenance plan that describes how the permanent (e.g., post-construction) stormwater controls and BMPs will be properly operated, inspected, and maintained.
- B. Establish access easements that include all significant stormwater controls, conveyances, and BMPs, and indicate a 15-foot perimeter area surrounding these features that will provide the municipality sufficient ingress to and egress from a public right-of-way.
- C. The following items shall be included in the stormwater control and BMP operations and maintenance plan, as applicable:
  - 1. Map(s) of the project area, in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Delaware County, shall be submitted on 24-inch x – 36-inch sheets. The contents of the maps(s) shall include, but not be limited to:
    - a. Clear identification of the location and nature of permanent stormwater controls and BMPs,
    - b. The location of the project site relative to highways, municipal boundaries, or other identifiable landmarks,
    - c. Existing and final contours at intervals of two (2) feet, or others as appropriate,

- d. Existing streams, lakes, ponds, or other bodies of water within the project site area,
  - e. Other physical features including flood hazard boundaries, sinkholes, streams, existing drainage courses, and areas of natural vegetation to be preserved,
  - f. The locations of all existing and proposed utilities, sanitary sewers, and water lines within fifty (50) feet of property lines of the project site,
  - g. Proposed final changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added,
  - h. Proposed final structures, roads, paved areas, and buildings, and
  - i. Access easement boundaries
- 2. A description of how each permanent stormwater control and BMP will be operated and maintained,
  - 3. The identity and contact information associated with the person(s) responsible for operations and maintenance,
  - 4. The name of the project site, the name and address of the owner of the property, and the name of the individual or firm preparing the plan, and
  - 5. A statement, signed by the landowner, acknowledging that the stormwater controls and BMPs are fixtures that can be altered or removed only after approval by the Municipality.
- D. The stormwater control and BMP operations and maintenance plan for the project site shall establish responsibilities for the continuing operation and maintenance of all permanent stormwater controls and BMPs, as follows:
- 1. If a plan includes structures or lots that are to be separately owned and in which streets, sewers, and other public improvements are to be dedicated to the Municipality, stormwater controls and BMPs may, at the Municipality's discretion, also be dedicated to and maintained by the Municipality.
  - 2. If a plan includes operations and maintenance by a single owner or if sewers and other public improvements are to be privately owned and maintained, the operations and maintenance of stormwater controls and BMPs shall be the responsibility of the landowner.

- E. The Municipality will make the final determination on the continuing operations and maintenance responsibilities. The Municipality reserves the right to accept or reject the operations and maintenance responsibility for any or all of the stormwater controls and BMPs.

### **Section 703. Municipal Review of a Stormwater Control and BMP Operations and Maintenance Plan**

- A. The Municipality will review the stormwater control and BMP operations and maintenance plan for consistency with this Ordinance and any permits issued by PADEP.
- B. The Municipality will notify the Applicant in writing whether or not the stormwater control and BMP operations and maintenance plan is approved.
- C. The Municipality will require an as-built plan per Section 502 showing all constructed stormwater controls and BMPs and an explanation of any discrepancies with the approved operations and maintenance plan.

### **Section 704. Adherence to an Approved Stormwater Control and BMP Operations and Maintenance Plan**

It shall be unlawful to alter or remove any permanent stormwater control and BMP required by an approved stormwater control and BMP operations and maintenance plan or to allow the property to remain in a condition which does not conform to an approved stormwater control and BMP operations and maintenance plan.

### **Section 705. Operations and Maintenance Agreement for Privately Owned Stormwater Controls and BMPs**

- A. Prior to final approval of the site's SWM site plan (including plans for private facilities constructed under the simplified method), the Applicant shall sign and record an operations and maintenance agreement with the Municipality covering all stormwater controls and BMPs that are to be privately owned (refer to Appendix I). The maintenance agreement shall be transferred with transfer of ownership in perpetuity. The agreement shall be substantially the same as the agreement in Appendix I of this Ordinance.
- B. 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.

### **Section 706. Stormwater Management Easements**

- A. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Municipality.

- B. Stormwater management easements shall be provided to the municipality by the Applicant or property owner for access for inspections and maintenance, the preservation of stormwater runoff conveyance, infiltration, and detention areas, and for other stormwater controls. The purpose of the easement shall be specified in any agreement under Section 705.

**Section 707. Recording of an Approved Stormwater Control and BMP Operations and Maintenance Plan and Related Agreements**

- A. The owner of any land upon which permanent stormwater controls and BMPs will be placed, constructed, implemented, or permanently maintained, as described in the stormwater control and BMP operations and maintenance plan, shall record the following documents in the Office of the Recorder of Deeds for *[insert]* County, within fifteen (15) days of approval of the stormwater control and BMP operations and maintenance plan by the Municipality:
1. The operations and maintenance plan, or a summary thereof,
  2. Operations and maintenance agreements under Section 705, and
  3. Easements under Section 706.
- B. The Municipality may suspend or revoke any approvals granted for the project site upon discovery of failure on the part of the owner to comply with this section.

**Section 708. Municipal Stormwater Control and BMP Operation and Maintenance Fund and Inspection and BMP Operations and Maintenance Requirements**

- A. The municipality 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. Persons installing stormwater controls or BMPs shall be required to pay a specified amount to the Municipal Stormwater Control and BMP Operation and Maintenance Fund to help cover the costs of periodic inspections and maintenance expenses. This is to be paid in a manner specified by the Municipality. The amount of the deposit shall be determined as follows:
1. If the BMP or Conveyance is to be privately owned and maintained, the deposit shall cover the cost of periodic inspections performed by the Municipality, as estimated by the Municipal Engineer, for a period of ten (10) years, at the following minimum frequencies:
    - 1) Annually for the first 5 years.
    - 2) Once every 3 years thereafter
    - 3) During or immediately after the cessation of a 25-year or greater storm, as determined by the Municipal Engineer.

2. If the BMP or Conveyance is to be owned and maintained by the Municipality, the deposit shall cover the estimated costs for maintenance and inspections for ten (10) years. The Municipality will establish the estimated costs utilizing information submitted by the Applicant. Inspections shall be conducted at the minimum frequencies listed in above referenced section.
  3. The above referenced inspections shall be conducted during or immediately following precipitation events or in dry weather conditions if the BMP design parameters include dewatering with a specified period. 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, Stormwater Management Facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable.
  4. The amount of the deposit to the fund shall be converted to present worth of the annual series values. The Municipality shall determine the present worth equivalents, which shall be subject to the approval of the Governing Body.
- B. If a BMP or Conveyance is proposed that also serves as a recreational facility (e.g., ball field or lake), the Municipality may reduce or waive the amount of the maintenance fund deposit based upon the value of the land for public recreational purpose.
- C. If at some future time, a BMP or Conveyance (whether publicly or privately owned) is eliminated due to the installation of storm sewers or other storage facility, the unused portion of the maintenance fund deposit will be applied to the cost of abandoning or demolishing the facility and connecting to the storm sewer system or other facility. Any amount of the deposit remaining after the costs of abandonment or demolition will be used for inspection, maintenance, and operation of the receiving stormwater management system.
- D. If a BMP or Conveyance is accepted by the Municipality for dedication, the Municipality may require persons installing the BMP or Conveyance to pay a specified amount to the Municipal Stormwater Control and BMP Operation and Maintenance Fund to help cover the costs of operations and maintenance activities. The amount may be determined as follows:
1. The amount shall cover the estimated costs for operations and maintenance for ten (10) years, as determined by the Municipality, and
  2. The amount shall then be converted to present worth of the annual series values.
- E. The Municipality may require Applicants to pay a fee to the Municipal Stormwater Control and BMP Operation and Maintenance Fund to cover:

1. Inspections
2. Long-term maintenance of BMP(s) or Conveyance(s), and
3. Stormwater-related problems which may arise from the land development and Earth Disturbance.

## **ARTICLE VIII -- PROHIBITIONS**

### **Section 801. Prohibited Discharges**

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge including sewage, process wastewater, and wash water to enter the Municipality's separate storm sewer system, riparian buffers, wetlands, or other Waters of the Commonwealth is prohibited.
- B. No person shall allow, or cause to allow, stormwater discharges into the Municipality's separate storm sewer system that are not composed entirely of stormwater, except as provided in subsection C below, and discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of the Commonwealth:
  1. Discharges from firefighting activities.
  2. Potable water sources including water line and fire hydrant flushings if such discharges do not contain detectable concentrations of Total Residual Chlorine (TRC).
  3. Non-contaminated irrigation drainage water.
  4. Routine external building washdown (which does not use detergents or other compounds).
  5. Non-contaminated HVAC condensation and water from geothermal systems;
  6. Residential (i.e., not commercial) vehicle wash water where agents are not utilized.
  7. Springs and water from crawl space pumps.



8. Uncontaminated water from foundation or from footing drains.
  9. Flows from riparian habitats and wetlands.
  10. Lawn watering.
  11. 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.
  12. Uncontaminated groundwater.
  13. Non-contaminated hydrostatic test water discharges if such discharges do not contain detectable concentrations of TRC.
  14. Diverted stream flows.
- D. If the Municipality determines that any of the discharges identified in Section 801.C significantly contribute to pollution of waters of the Commonwealth, or is so notified by PADEP, the Municipality will notify the responsible person to cease the discharge.
- E. Upon notice provided by the Municipality under Section 801.D, the discharger will have a reasonable time, as determined by the Municipality, to cease the discharge consistent with the degree of pollution caused by the discharge.
- F. Nothing in this section shall affect a discharger's responsibilities under state law.

### **Section 802. Prohibited Connections**

The following connections are prohibited, except as provided in Section 801.C above:

- A. Any drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge, including sewage, process wastewater, wash water entering the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks. Any drain or Conveyance that delivers non-stormwater discharges directly into wetlands, Riparian Buffers, or other Waters of the Commonwealth is prohibited.

### **Section 803. Roof Drains and Sump Pumps**

- A. Roof drains and sump pumps shall not be connected to sanitary sewers.
- B. Roof drains and sump pumps shall not be connected to streets, storm sewers, or roadside ditches except on a case-by-case basis as determined by the municipality.

- C. Roof drains and sump pumps shall discharge to infiltration areas or vegetative BMPs to the maximum extent practicable where advantageous to do so.

**Section 804. Alteration of BMPs**

- A. No person shall modify, remove, fill, landscape, or alter any existing stormwater control or BMP unless it is part of an approved maintenance program without the written approval of the Municipality.
- B. No person shall place any structure, fill, landscaping, or vegetation into a stormwater control or BMP or within a drainage easement that would limit or alter the functioning of the stormwater control or BMP without the written approval of the Municipality.

## **ARTICLE IX – ENFORCEMENT AND PENALTIES**

### **Section 901. Right-of-Entry**

- A. Upon presentation of proper credentials, duly authorized representatives of the Municipality may enter at reasonable times upon any property within the Municipality to inspect the implementation, condition, or operation and maintenance of all erosion and sediment controls and permanent stormwater BMPs, Conveyances, or other stormwater management facilities both during and after completion of a Regulated Activity, or for compliance with any requirement of this Ordinance.
- B. Persons working on behalf of the Municipality shall have the right to temporarily locate on or in any stormwater control or BMP in the Municipality such devices as are necessary to conduct monitoring and/or sampling of the discharges from such stormwater control or BMP.
- C. If the property owner or representative does not grant access to the Municipality within 24 hours of notification, it will be a violation of this Ordinance.

### **Section 902. Public Nuisance**

- A. The violation of any provision of this Ordinance is hereby deemed a public nuisance.
- B. Each day that a violation continues shall constitute a separate violation.

### **Section 903. Enforcement Generally**

- A. Whenever the Municipality finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Municipality may order compliance by written notice to the responsible person. Such notice may, without limitation, require the following remedies:
  - 1. Performance of monitoring, analyses, and reporting.
  - 2. Elimination of prohibited connections or discharges.
  - 3. Cessation of any violating discharges, practices, or operations.
  - 4. 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. Implementation of stormwater controls and BMPs; and

7. Operation and maintenance of stormwater controls and BMPs.
- B. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violations(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the Municipality or designee, and the expense thereof shall be charged to the violator.
- C. 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 Municipality from pursuing all other remedies available in law or equity.

#### **Section 904. Suspension and Revocation of Permits and Approvals**

- A. Any building, land development, or other permit or approval issued by the Municipality may be suspended or revoked by the Municipality for:
1. Noncompliance with or failure to implement any provision of the permit.
  2. A violation of any provision of this Ordinance or any other law or regulation applicable to the regulated activity.
  3. The creation of any condition or the commission of any act during construction or development that constitutes or creates a hazard or nuisance, pollution, or endangers the life, health, or property of others.
- B. Prior to revocation or suspension of a permit and at the request of the Applicant, the Governing Body shall schedule a hearing to discuss the noncompliance if there is no immediate danger to life, public health, or property. The expense of a hearing shall be the Applicant's responsibility.
- C. A suspended permit or approval may be reinstated by the Municipality when:
1. The municipal Engineer or designee has inspected and approved the corrections to the stormwater controls and BMPs or the elimination of the hazard or nuisance, and/or
  2. The Municipality is satisfied that the violation has been corrected.
- D. A permit or approval that has been revoked by the Municipality cannot be reinstated. The Applicant may apply for a new permit in accordance with this Ordinance.

### **Section 905. Penalties**

- A. Any person violating the provisions of this Ordinance shall be subject to a fine as established by the Municipality for each violation, recoverable with costs. Each day that the violation continues shall constitute a separate offense and the applicable fines are cumulative.
- B. In addition, the Municipality 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, mandamus, or other appropriate forms of remedy or relief.

### **Section 906. Notification**

In the event that a person fails to comply with the requirements of this Ordinance or fails to conform to the requirements of any permit issued hereunder, and the Municipality chooses to pursue enforcement action, the Municipality will provide written notification of the violation. Such notification will state the nature of the violation(s) and establish a time limit for correction of these violation(s). Failure to comply within the time specified will subject such person to the penalty provisions of this Ordinance. All such penalties will be deemed cumulative and shall not prevent the Municipality from pursuing any and all remedies. It shall be the responsibility of the owner of the real property on which any regulated activity is proposed to occur, is occurring, or has occurred to comply with the terms and conditions of this Ordinance.

### **Section 907. Enforcement**

The municipal Governing Body is hereby authorized and directed to enforce all of the provisions of this Ordinance. All inspections regarding compliance with the SWM site plan shall be the responsibility of the municipality or its designee.

- A. A set of design plans approved by the Municipality shall be on file and available for viewing at the site throughout the duration of the construction activity. Periodic inspections may be made by the Municipality or its designee during construction.
- B. It shall be unlawful for any person, firm, or corporation to undertake any regulated activity under Section 105 on any property except as provided for in the approved SWM site plan and pursuant to the requirements of this Ordinance. It shall be unlawful to alter or remove any control structure required by the SWM site plan pursuant to this Ordinance or to allow the property to remain in a condition that does not conform to the approved SWM site plan.

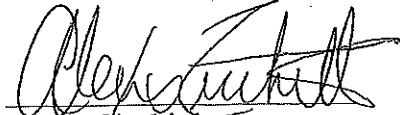
- C. At the completion of the project and as a prerequisite for the release of the performance guarantee, the owner or his representatives shall:
  - 1. Provide a certification of completion from an engineer, architect, surveyor, or other qualified person verifying that all stormwater facilities have been constructed according to the plans and specifications and approved revisions thereto.
  - 2. Provide a set of as-built (record) drawings per Section 502.
- D. After receipt of the certification by the Municipality, a final inspection shall be conducted by the municipality or its designee to certify compliance with this Ordinance.
- E. An occupancy permit will not be issued unless the certification of completion pursuant to Section 907.C.1 has been secured. The occupancy permit shall be required for each lot owner and/or Applicant for all subdivisions and land developments in the Municipality.

#### **Section 908. Appeals**

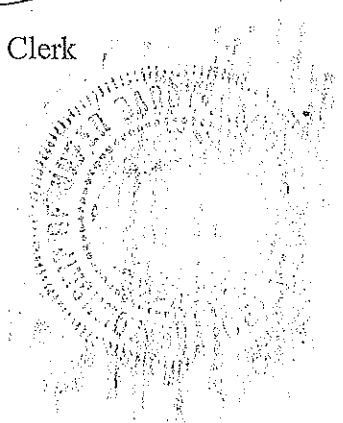
- A. Any person aggrieved by any action of Upper Darby Township or its designee relevant to the provision of this Ordinance may appeal to Upper Darby Township Board of Commissioners within thirty (30) days of that action.
- B. Any person aggrieved by any decision of Upper Darby Township Board of Commissioners relevant to the provision of this Ordinance may appeal to the County Court of Common Pleas in the County where the activity has taken place within thirty (30) days of the municipal decision.

**ATTESTATION**

I hereby certify that the foregoing Ordinance was advertised in the Delaware County Daily Times on September 12, 2022, a newspaper of general circulation in the Municipality and was duly enacted and approved as set forth at a regular meeting of the Municipality's Governing Body held on September 21, 2022.



Alexis Cicchitti  
Chief Municipal Clerk



**ATTESTATION**

I hereby certify that the foregoing Ordinance was advertised in the Delaware County Daily Times on September 12, 2022, a newspaper of general circulation in the Municipality and was duly enacted and approved as set forth at a regular meeting of the Municipality's Governing Body held on September 21, 2022.

A handwritten signature in black ink, appearing to read 'Alexis Cicchitti', written over a horizontal line.

Alexis Cicchitti  
Chief Municipal Clerk



**UPPER DARBY TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 39-22**

**A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, REQUIRING THE TAX COLLECTOR TO WAIVE ADDITIONAL CHARGES FOR REAL ESTATE TAXES WHERE NOTICE OF THE REAL ESTATE TAXES WAS NOT RECEIVED BEGINNING IN TAX YEAR 2023; REPEALING ALL INCONSISTENT RESOLUTIONS OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the General Assembly of the Commonwealth of Pennsylvania amended the Local Tax Collection Law in Act 2022-57 (the "Act") to require that local tax collectors waive additional Charges for real estate taxes for tax years 2023 and later provided that the taxpayer meets certain conditions (the "Act"); and,

**WHEREAS**, the Act requires municipalities to adopt a resolution or ordinance requiring the Tax Collector to waive Additional Charges for real estate taxes under certain circumstances beginning in 2023; and,

**WHEREAS**, Upper Darby Township, by Resolution, hereby requires the Tax Collector to waive Additional Charges for real estate taxes following the transfer of real property where such notice was not received; and,

**NOW, THEREFORE, BE IT RESOLVED** by Upper Darby Township Council that the Tax Collector waive Additional Charges for real estate taxes following the transfer of real property where such taxes were not received in certain circumstances, as follows:

**SECTION 1.** The Tax Collector shall waive Additional Charges for real estate taxes in the then current tax year, if the taxpayer does all of the following:

- A. Provides a waiver request of Additional Charges to the Tax Collector in possession of the claim within twelve (12) months of a Qualifying Event;
- B. Attests that a notice was not received;
- C. Provides the Tax Collector in possession of the claim with any one of the following:
  - 1. A copy of the deed showing the date of real property transfer; or
  - 2. A copy of the title following the acquisition of a mobile or manufactured home subject to taxation as real estate showing the date of issuance or a copy of an executed lease agreement between the owner of a mobile or manufactured home and the owner of a parcel of land on which the mobile or manufactured home will be situated showing the date the lease commences; and,

3. Pays the face value amount of the tax notice for the real estate tax with the waiver request.

**SECTION 2.** A form providing for the waiver of Additional Charges will be made available from the Tax Collector and the Township.

**SECTION 3.** The taxpayer granted a waiver and paying real estate tax as provided in this subsection shall not be subject to an action at law or in equity for an Additional Charge, and any claim existing or lien filed for an Additional Charge shall be deemed satisfied.

**SECTION 4.** The Tax Collector accepting a waiver and payment in good faith in accordance with this resolution and Act 57 of 2022 shall not be personally liable for any amount due or arising from the real estate tax that is subject in the waiver.

**SECTION 5.** As used in this Resolution, the following words and phrases shall have the following meanings given to them unless the context clearly indicates otherwise:

**ADDITIONAL CHARGE-** Any interest, fee, penalty, or charge accruing to and in excess of the face amount of the real estate tax as provided in the real estate tax notice.

**QUALIFYING EVENT-** For the purposes of real property, the date of transfer of ownership. For the purposes of manufactured or mobile homes, the date of transfer of ownership or the date a lease agreement commences for the original location or relocation of a mobile or manufactured home on a parcel of land not owned by the owner of the mobile or manufactured home. The term does not include the renewal of a lease for the same location.

**TAX COLLECTOR-** A tax collector as defined in Section 2 of the Local Tax Collection Law (72 P.S. §5511.1, *et seq.*), a delinquent tax collector as provided in section 26.1 of the Local Tax Collection Law, the tax claim bureau or an alternative collector of taxes as provided in the Real Estate Tax Sale Law (72 P.S. §5860.101, *et seq.*), an employee, agent or assignee authorized to collect the tax, a purchaser of claim for the tax or any other person authorized by law or contract to secure collection of, or take any action at law or in equity against, the person or property of the taxpayer for the real estate tax or amounts, liens or claims derived from the real estate tax.

**SECTION 6. REPEALER.** All Resolutions or parts thereof inconsistent with the provisions of this Resolution are hereby repealed to the extent of the inconsistency.

**SECTION 7. SEVERABILITY.** If any provision of this Resolution is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Resolution.

**SECTION 8. EFFECTIVE IMMEDIATELY.** This Resolution shall become effective immediately following its legal enactment and shall remain in effect hereafter until revised, amended, or revoked by action of the Upper Darby Township Council.

**ADOPTED and RESOLVED this 21<sup>st</sup> day of September, 2022**

BY:   
BRIAN K. BURKE  
President of Council

ATTEST:   
MICHELLE BILLUPS  
Secretary of Council

**Resolution No. 39-22 is hereby approved this 21<sup>st</sup> day of September, 2022**

BY:   
BARBARANN KEFFER  
Mayor

ATTEST:   
ALEXIS CICCITTI  
Chief Municipal Clerk

**UPPER DARBY TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 40-22**

**A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, ACKNOWLEDGING THE FUNDING REQUIREMENTS FOR THE UPPER DARBY TOWNSHIP POLICE PENSION PLAN, FIREFIGHTERS' PENSION PLAN, AND MUNICIPAL EMPLOYEES PENSION PLAN; MAKING PROVISIONS FOR PAYMENT OF THESE COSTS AS PART OF THE UPPER DARBY TOWNSHIP BUDGET FOR FISCAL YEAR 2023; REPEALING ALL INCONSISTENT RESOLUTIONS OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

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**WHEREAS**, Pennsylvania's Act 205 of 1984 created the Minimum Municipal Obligation ("MMO"), a statutorily mandated actuarial funding standard for pension obligations, which the Township is required to calculate and pay every year; and

**WHEREAS**, the financial obligation of each pension plan and the minimum obligation of the Township with respect to the pension plan, with appropriate documenting detail, shall be submitted to the governing body of the Township on or before the last day of September;

**WHEREAS**, the Township shall provide for the full amount of the minimum obligation of the Township in its annual budget; and

**NOW, THEREFORE, BE IT RESOLVED** by the Upper Darby Township Council that the Minimum Municipal Obligation for the 2023 Police, Fire, and Municipal Employees Pension Plans shall be budgeted in fiscal year 2023 as follows:

- |   |    |           |
|---|----|-----------|
| 1. Upper Darby Police Pension Plan              | \$ | 5,169,270 |
| 2. Upper Darby Fire Fighters Pension Plan       | \$ | 2,168,813 |
| 3. Upper Darby Municipal Employees Pension Plan | \$ | 998,771   |

**REPEALER.** All Resolutions or parts thereof inconsistent with the provisions of this Resolution are hereby repealed to the extent of the inconsistency.

**SEVERABILITY.** If any provision of this Resolution is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Resolution.

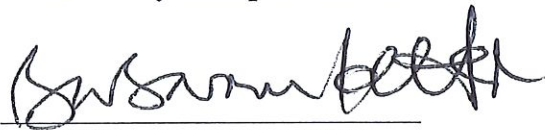
**EFFECTIVE IMMEDIATELY.** This Resolution shall become effective immediately following its legal enactment and shall remain in effect hereafter until revised, amended, or revoked by action of the Upper Darby Township Council.

**ADOPTED** and **RESOLVED** by the Upper Darby Township Council this 21<sup>st</sup> day of September, 2022.

BY:   
BRIAN K. BURKE  
President of Council

ATTEST:   
MICHELLE BILLUPS  
Secretary of Council

**Resolution No. 40-22 is hereby approved this 21<sup>st</sup> day of September 2022**

BY:   
BARBARANN KEFFER  
Mayor

ATTEST:   
ALEXIS CICCCHITTI  
Chief Municipal Clerk

Firm Relationships Build Success. **Partner With Us.**



CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS



610.544.5900

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# UPPER DARBY TOWNSHIP

## *Financial Presentation*

Donna Stilwell, CPA, CFE, Partner

September 21, 2022





# PURPOSE OF THE PRESENTATION

- ❑ Comment on Special Solicitor's Report issued September 14, 2022
- ❑ Finance Update
  - ❑ New Hire – Diane Scutti
  - ❑ ERP Update
  - ❑ Audit update
- ❑ Moving Forward

# ARPA/COMINGLING OF FUNDS

- ☐ Reports states Violation 3: Failure to Segregate ARPA Proceeds.
- ☐ There was/is NO REQUIREMENT from the United States Treasury to establish a separate fund or to put the funds in a separate bank account.
- ☐ FIFO analysis is not an accounting methodology for cash.
- ☐ Report states that there could have been violations if a different accounting method is used? What is the different accounting method?




# PAYROLL ACCOUNT

- ❑ Purpose of a separate payroll account is for internal controls, fraud prevention, and to separate the payroll transactions from other business expenses.
- ❑ The funds in the Payroll account are from the General Fund.
- ❑ There is no restriction on using money in the payroll fund

## **HIGHWAY ACCOUNTS WELLS FARGO 9427/SANTANDER 5202**

- ☐ The entire section VI.C on page 19 of the Special Solicitor's Report is not correct.
- ☐ The accounts referenced DID NOT contain LFF from PADot.
- ☐ The funds in these accounts had no restrictions and were reimbursements from grants and from Aqua
- ☐ The LFF from PADot are deposited into TD Bank.

# SNAPSHOT of the MS-965 REPORT

 <p><b>pennsylvania</b> DEPARTMENT OF TRANSPORTATION BUREAU OF MUNICIPAL SERVICES (Rev 9/13)</p>		<p><b>DEPOSITORIES CONTACT AND BONDING</b></p>	<p><b>MS-965</b></p> <p>2021 YEAR</p>
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ACCOUNT NUMBER	DEPOSITORY NAME	YEAR END BALANCE
1. [REDACTED] 043	TD Bank	\$1,328,834.59
2. [REDACTED] 043	TD Bank	\$0.00
3.		



# Overspending the 2021 Budget

- ☐ This statement is premature and has not been confirmed.
- ☐ The \$6M of lost revenue will be recognized in 2021; therefore there will be a surplus.
- ☐ The presentation states that “CAO Rongione had worked with Council to authorize budgetary changes in November 2021 to resolve overspending in several departments, but without authorization to increase overall spending.”
  - ☐ Most employees received 3% increases
  - ☐ There were no real estate tax increases
  - ☐ Still recovering from a pandemic
  - ☐ Purpose of the ARPA funds was to assist municipalities in recovering from the pandemic
- ☐ \$1.7M deficit on a \$90M budget is 1.9%.

# FINANCE UPDATES

- ☐ Diane Scutti – Controller
  - ☐ Over 30 years experience in finance and accounting operations, previously serving as the Controller at Cabrini University.
  - ☐ Manages the day to day accounting and finance operations and helping with the ERP implementation.
  - ☐ Currently focused on internal training, documentation, updating policies and procedures and implementing efficiencies.
- ☐ ERP Implementation
  - ☐ On target for January 1<sup>st</sup> go live date
  - ☐ Enable greater transparency and reporting
  - ☐ Will improve internal controls
- ☐ Audit
  - ☐ We are continuing to work with Chris Herr to finalize the 2021 audit and hope to have it completed asap.
  - ☐ Audits will be more timely, especially when we are using the new ERP system.
- ☐ Budget
  - ☐ We are working on finalizing the 2023 budget so the Mayor can give her budget address.
  - ☐ The 2023 budget will not have a deficit in the General Fund that is funded by the Sewer Fund as it did in 2021 and 2022.

# Moving Forward

- ▶ Continue to work with the ERP Implementation team to ensure the January 1, 2023 live date is accomplished.
- ▶ Work with Council and the Administration to approve a realistic and accurate budget.
- ▶ Work with Council and the Administration to approve a Budget Amendment for 2022 based on changes that occurred during the year.
- ▶ Work with Council and the Administration to approve the lost revenue and the use of the ARPA funds outlined in the previous presentation.



**Contact:**  
**upperdarby@brinkersimpson.com**



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**BRINKER  
SIMPSON**  
CERTIFIED PUBLIC ACCOUNTANTS