

ARTICLE VII

ADMINISTRATION

SECTION 701 WAIVERS

1. The provisions of this Ordinance are the minimum standards for the protection of the public welfare.
2. If the Developer demonstrates to the satisfaction of the Board of Supervisors that any mandatory provision of this Ordinance is unreasonable and causes unique and undue hardship as it applies to his proposed Project, the Board of Supervisors upon obtaining the comments and recommendations of the Township Engineer may grant a Waiver so that substantial justice may be done and the public interest secured; provided that such Waiver will not have the effect of nullifying the intent and purpose of this Ordinance.
3. The Developer shall make all requests for Waivers in writing and include such requests as a part of the Application for Development. The Developer shall state in full the grounds and facts, of unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved and the minimum Waiver necessary. The Developer shall state how the requested Waiver and Developer's proposal shall result in an equal or better means of complying with the intent of this Ordinance as stated in Article I.
4. The Board of Supervisors shall keep a written record of all action on all Waiver requests.
5. In granting Waivers, the Board of Supervisors may impose conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so modified.
6. The Developer shall address all of the following in its application for a Waiver.
 - A. Are there existing Stormwater problems on downstream properties or at Streets? The Developer shall demonstrate that the requested Waiver shall improve any such problems.
 - B. Will the increased peak flows and/or volume of Runoff create a problem to downstream properties or Streets? Examples of problems may include but are not limited to:
 - (1) Increased Flooding or ponding on off-site properties or roadways.
 - (2) Potential icing conditions.

- (3) Erosive conditions due to increased peak flows or volume.
 - (4) Decreased water quality.
 - (5) Proposed concentrated flows.
 - (6) Increased 100-Year Floodplain levels.
- C. Is Runoff being diverted to a different Watershed to accomplish the goal of no or minimal increase of peak flow from the site?

SECTION 702 AMENDMENT

The Board of Supervisors may, from time to time, amend this Ordinance by appropriate action taken at a scheduled public meeting. Amendments to the Ordinance shall be advertised and enacted in accordance with the Township Code.

SECTION 703 VIOLATIONS

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

- 1. To commence Regulated Activities prior to obtaining unconditional approval of a Stormwater Management plan or in violation of the terms or conditions of a Stormwater Management plan approved under this Ordinance.
- 4. To install, repair, modify or alter Stormwater Management Facilities prior to obtaining Approvals under this Ordinance, or, in a manner which violates the terms and conditions of any Approval issued under this Ordinance.
- 5. To misuse or fail to maintain any Stormwater Management Facility installed upon a property.
- 6. To construct any Improvements upon, Grade, Fill or take any other action which will impair the proper functioning of any Stormwater Management Facility.
- 7. To place false information on, or, omit relevant information from an application for Approval under this Ordinance.
- 8. To fail to comply with any other provisions of this Ordinance.

SECTION 704

PENALTIES AND REMEDIES FOR VIOLATION

1. For each violation of the provisions of this Ordinance, the owner, agent, lessee, or contractor or any other person who commits, takes part in, or assists in any such violation shall be liable upon conviction thereof in a summary proceeding to pay a fine of not less than \$200.00 nor more than \$1,000.00 for each offense, together with the costs of prosecution, which fines and penalties may be collected as provided by law. All fines and penalties collected for violation of this Article shall be paid over to the Township Treasurer. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Ordinance, and each Section of this Ordinance which is violated shall be considered a separate violation.

2. The Township may also institute suits to restrain, prevent, or abate a violation of this Ordinance in equity or at law. Such proceedings in equity or at law may be initiated before any court of competent jurisdiction. In cases of emergency where, in the opinion of the court, the circumstances of the case require immediate abatement of the unlawful conduct, the court may, in its decree, fix a reasonable time during which the person responsible for the unlawful conduct shall correct or abate the same. The expense of such proceedings shall be recoverable from the violator in such manner as may now or hereafter be provided by law.

SECTION 705

NOTIFICATION OF NON-COMPLIANCE WITH STORMWATER MANAGEMENT PLAN

Any activity conducted pursuant to a Stormwater Management plan Approved by Township shall be performed in strict compliance with the provisions of the plan. Violations shall be treated in the following manner:

1. Any non-compliance with the provisions of the Stormwater Management plan that is identified by the Township Engineer, the Code Enforcement Officer or designee of the Township in the course of inspections as specified in this Ordinance shall be remedied by the Developer according to the terms in this Ordinance.

2. If at any time work does not conform to the Approved Stormwater Management Plan, including all conditions and specifications and Modifications thereof, the Township Engineer or the Code Enforcement Officer shall issue a written notice to comply to the Developer. Such notice shall set forth the nature of corrections required and the time within which corrections shall be made. Upon failure to comply within the time specified, the Developer shall be considered in violation of this Ordinance, and the Township shall issue a cease and desist order on all work on the site, including any Building or other Construction, until corrections are made. If corrections are not undertaken within a specified time or the Developer violates the cease and desist order: (1) penalties shall be imposed

and/or (2) the work shall be completed by the Township and the costs charged to the Developer.

SECTION 706 REPEALER

Any Ordinance inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

SECTION 707 SEVERABILITY

In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 708 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

Approvals issued pursuant to this Ordinance do not relieve the Developer of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, regulation or laws (federal, state, and local). If more stringent requirements concerning regulation of Stormwater or Erosion and sedimentation control are contained in these permits or approvals, the more stringent regulation shall apply.

Developers shall comply with all applicable provisions of the Zoning Ordinance. If the terms of the Zoning Ordinance concerning agriculture, forestry, landscaping, steep slopes or karst hazards areas are more stringent than the terms of this Ordinance, the Developer shall comply with those more stringent requirements.

SECTION 709 TOWNSHIP LIABILITY

The making of any administrative decision by the Township or any of its officials, agents, or employees shall not constitute a representation, guarantee or warranty of any kind by the Township of the practicability or safety of any proposed Structure or use with respect to damage from Erosion, sedimentation, storm water Runoff, Flood, or any other matter, and shall create no liability upon or give rise to any cause of action against the Township and its officials and employees. The Board of Supervisors, by enacting this Ordinance, does not waive or limit any immunity granted to the Township and its officials and employees by the Governmental Immunity Act of October 5, 1980, P.L. 693, No. 142, as amended, 42 Pa. C.S. §8541 et seq., and does not assume any liabilities or obligations.

SECTION 710

CHALLENGE AND APPEALS

Appeals from any action of the Township or Township Agents under this Article shall be made in writing to the Board of Supervisors within fifteen (15) days from the date of the written determination of the Township. All appeals shall be accompanied by the appeal fee established by resolution of the Board of Supervisors.

- A. The written appeal shall specify the precise action from which the appeal is taken and shall set forth in concise terms the reason for the appeal and any legal authorities supporting the appeal period.
- B. If the appellant desires a hearing before the Board, the appellant must request a hearing in the written appeal.
- C. If a hearing is requested in writing, the Board shall conduct the hearing at a regular or special public meeting which occurs not less than thirty (30) days after receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of the Local Agency Law, 2 Pa. C.S. §551 et seq.
- D. The Board shall render a decision on the appeal in accordance with the provisions of the Local Agency Law.

SECTION 711

EFFECTIVE DATE

This Ordinance shall become effective following its enactment by the Board of Supervisors of Carroll Township, York County, Pennsylvania, as provided by law.

DULY ORDAINED AND ENACTED the 12th day of December, 2011, by the Board of Supervisors of Carroll Township, York County, Pennsylvania, in lawful session duly assembled.

CARROLL TOWNSHIP
York County, Pennsylvania

Attest: Faye L. Romberger
Faye L. Romberger, Secretary

By: Nancy L. Livingston
Nancy L. Livingston, Chairman

Paul A. Walters
Paul A. Walters, Vice Chairman

[TOWNSHIP SEAL]

Bruce Trostle
Bruce Trostle, Member

Mark R. McCurdy
Mark R. McCurdy, Member

William Turner
William Turner, Member

CERTIFICATE

I, the undersigned, Secretary of the Township of Carroll, York County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township (the "Board"), which duly was enacted by affirmative vote of a majority of the members of the Board at a meeting held on December 12, 2011; said Ordinance duly has been recorded in the Ordinance Book of the Township; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 12th day of December, 2011.



Faye L. Romberger, Secretary

(SEAL)