

ORDINANCE NO. _____

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING PART 2, STORMWATER MANAGEMENT, OF CHAPTER 26, WATER, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, TO CONFORM THE BOROUGH'S STORMWATER MANAGEMENT REGULATIONS TO THOSE SET FORTH WITHIN AND REQUIRED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S 2022 MODEL MUNICIPAL STORMWATER MANAGEMENT ORDINANCE.

NOW, THEREFORE, by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, it is hereby **ENACTED** and **ORDAINED** as follows:

SECTION 1. Section 202, Statement of Findings, of Article A, General Provisions, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§ 202 **Statement of Findings.**

The governing body of the Borough of Pottstown finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases runoff volumes, flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases non-point-source pollution of water resources.
- B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of the commonwealth, their resources, and the environment.
- C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.

- D. 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).
- E. 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) infiltrate and recharge, 2) evapotranspire, and/or 3) harvest and use precipitation near where it falls to earth. Green infrastructure practices and LID contribute to the restoration or maintenance of pre-development hydrology.

SECTION 2. Section 203, Purpose, of Article A, General Provisions, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§ 203. **Purpose.**

The purpose of this Part 2 is to promote health, safety, and welfare within the municipality and its watershed by minimizing the harms and maximizing the benefits described in § 202 of this Part through provisions designed to:

- A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93, to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this commonwealth.
- B. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source, reduce runoff volumes and mimic predevelopment hydrology.
- D. Provide procedures and performance standards for stormwater planning and management.
- E. Maintain groundwater recharge to prevent degradation of surface water and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and stream beds.
- G. Provide proper operation and maintenance of all SWM BMPs that are implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements

SECTION 3. Section 204, Statutory Authority, of Article A, General Provisions, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§ 204 **Statutory Authority.**

The municipality is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended, ~~and the Act of May 17, 2012, P.L. 262, No. 43, the Borough Code – Reenactment and Omnibus Amendments, the Borough Code, 8 Pa.C.S. § 101 et seq., as amended, and/or the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1, et seq., as amended, The Stormwater Management Act.~~

SECTION 4. Article A, General Provisions, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended create a new § 210, Waivers, which shall read as follows:

- A. If the municipality determines that any requirement under this Part cannot be achieved for a particular regulated activity, the municipality may, after an evaluation of alternatives, approve measures other than those in this Part, subject to § 210(B)-(C).
- B. Waivers or modifications of the requirements of this Part 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 Part 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 Part. 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 Part involved and the proposed modification.
- C. No waiver or modification of any regulated stormwater activity involving earth disturbance greater than or equal to one acre may be granted by the municipality unless that action is approved in advance by the Department of Environmental Protection (DEP) or the delegated county conservation district.

SECTION 5. Section 211, Definitions, of Article B, Definitions, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to include the following new definitions:

GREEN INFRASTRUCTURE

Systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated.

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.

RIPARIAN BUFFER

A permanent area of trees and shrubs located adjacent to streams, lakes, ponds and wetlands.

SECTION 6. The first sentence in § 223, Volume Controls, of Article C, Stormwater Management Standards, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§ 223 **Volume Controls.**

The green infrastructure and low-impact development practices provided in the BMP Manual shall be utilized for all regulated activities to the maximum extent practicable.

[This space is intentionally left blank]

SECTION 7. Section 224, Rate Controls, of Article C, Stormwater Management Standards, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§ 224 Rate Controls.

For areas not covered by a release rate map from an approved Act 167 Stormwater Management Plan, post-development discharge rates shall not exceed the predevelopment discharge rates for the one-, two-, five-, ten-, twenty-five-, fifty-, and one-hundred-year, twenty-four-hour storms. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the predevelopment analysis for one-, two-, five-, ten-, twenty-five-, fifty-, and one-hundred-year, twenty-four-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.

SECTION 8. Section 237, As-Built Plans, Completion Certificate, and Final Inspection, of Article D, Stormwater Management (SWM) Site Plan Requirements, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§ 237 As-Built Plans, Completion Certificate, and Final Inspection.

1. The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM site plan. The as-built plans and an explanation of any discrepancies with the construction plans shall be submitted to the municipality.
2. The as-built submission shall include a certification of completion signed by a qualified professional verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications. The latitude and longitude coordinates for all permanent SWM BMPs must also be submitted, at the central location of the BMPs. If any licensed, qualified professionals contributed to the construction plans, then a licensed, qualified professional must sign the completion certificate.
3. After receipt of the completion certification by the municipality, the municipality may conduct a final inspection.

SECTION 9. Section 271, Right of Entry, of Article H, Enforcement and Penalties, of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to read as follows:

§ 271 **Right of Entry.**

Upon presentation of proper credentials, the municipality or its designated agent may enter at reasonable times upon any property within the municipality to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Part.

SECTION 10. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any part of the remaining ordinance provisions, sentences, clauses, sections. It is the intent of the Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, had not been included herein.

SECTION 11. Reenactment. All other parts of Part 2, Stormwater Management, of Chapter 26, Water, of the Code of Ordinances of the Borough of Pottstown, as amended, are hereby re-enacted and reordained and shall remain in effect as previously adopted.

SECTION 4. Effective Date. This ordinance is effective immediately upon enactment.

ENACTED and **ORDAINED** this ____ day of _____, 2022.

**THE BURGESS AND TOWN COUNCIL
OF THE BOROUGH OF POTTSTOWN**

BY: _____
Dan Weand, President

ATTEST: _____
Virginia L. Takach, Secretary

Approved this ___ day of
_____, A.D., 2022.

Stephanie Henrick, Mayor