

**Heidelberg Township
Berks County, Pennsylvania**

ORDINANCE NO. 174

AND NOW, this 30th day of Mar., 2017, the Board of Supervisors of Heidelberg Township hereby enacts and ordains as follows:

This Ordinance shall be known as and may be referred to as the Heidelberg Township Prohibitions Ordinance.

SECTION 1. PURPOSE

- A. The purpose of this Ordinance is to prohibit certain discharges to the Municipality's separate storm sewer system and to waters of the Commonwealth, and to prohibit alteration of stormwater management facilities and best management practices.
- B. Federal and State regulations require the Municipality to implement a program of stormwater controls. The Municipality is required to obtain a permit and comply with its provisions for stormwater discharges from its Separate Storm Sewer System under the National Pollutant Discharge Elimination System (NPDES).
- C. Non-stormwater discharges to municipal or other storm sewer systems can contribute to pollution of the Waters of the Commonwealth

SECTION 2. 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. Second Class Township Code, 53 P.S. Sections 66501 et seq., 66601 et seq.;
- B. Act of July 31, 1968, P.L. 805, No. 247, Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 3. APPLICABILITY/REGULATED ACTIVITIES

All activities related to proper operation and maintenance of approved stormwater management facilities and best management practices and all activities that may contribute non-stormwater discharges to a municipal separate storm sewer system or Waters of the Commonwealth are subject to regulation by this Ordinance.

SECTION 4. DEFINITIONS

BMP (Best Management Practice) – Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from Regulated Activities, to provide water quality treatment, infiltration, volume reduction, and/or peak rate control, to promote groundwater recharge, and to otherwise meet the purposes of this Ordinance. Stormwater BMPs are commonly grouped into one (1) of two (2) broad categories or measures: “structural” or “nonstructural.” In this Ordinance, nonstructural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff whereas structural BMPs or measures are those that consist of a physical device or practice that is installed 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, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the Site.

Channel – A natural or artificial open drainage feature that conveys, continuously or periodically, flowing water and 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.

Commonwealth – Commonwealth of Pennsylvania.

Conveyance – A natural or manmade, existing or proposed 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.

Groundwater – Water that occurs in the subsurface and fills or saturates the porous openings, fractures and fissures of under-ground soils and rock units.

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.

Intermittent Stream – A defined channel in which surface water is absent during a portion of the year, in response to seasonal variations in precipitation or groundwater discharge.

Landowner – The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if they are authorized under the lease to exercise the rights of the Landowner, or other person having a proprietary interest in the land.

MS4 - Municipal Separate Storm Sewer System.

Maintenance - The action taken to restore or preserve the as-built functional design of any facility or system.

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 – Heidelberg Township, Berks County, Pennsylvania.

Nonpoint Source Pollution – Pollution that enters a water body 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.

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.

PADEP – Pennsylvania Department of Environmental Protection.

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.a.1.

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 vegetation to protect the integrity of stream channels and shorelines, to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover and thermal protection to fish and other aquatic species and wildlife.

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

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.

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

Stormwater Management Facility – Any feature, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff quality, rate, or quantity. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and Infiltration Facilities.

Stream – A natural watercourse.

Swale – An artificial or natural waterway or low-lying stretch of land that gathers and conveys stormwater or runoff, and is generally vegetated for soil stabilization, stormwater pollutant removal, and infiltration.

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.

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.

SECTION 5. 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 or the Waters of the Commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into the Municipality's separate storm sewer system or the Waters of the Commonwealth that are not composed entirely of stormwater, except:
 - 1. As provided in Subsection C below; and
 - 2. Discharges allowed under a State or Federal permit.
- C. The following discharges are authorized unless they are determined by the Municipality to be significant contributors to pollution to the Municipality's separate storm sewer system or to the Waters of the Commonwealth:
 - 1. Discharges from fire fighting activities;
 - 2. Potable water sources including water line and fire hydrant flushing;
 - 3. Irrigation drainage;
 - 4. Air conditioning condensate;
 - 5. Springs;
 - 6. Water from crawl space pumps;
 - 7. Pavement wash waters 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;
 - 8. Diverted stream flows;
 - 9. Flows from riparian habitats and wetlands;
 - 10. Uncontaminated water from foundations or from footing drains;

11. Lawn watering;
 12. Dechlorinated swimming pool discharges;
 13. Uncontaminated groundwater;
 14. Water from individual residential car washing; and
 15. Routine external building washdown (which does not use detergents or other compounds).
- D. In the event that the Municipality determines that any of the discharges identified in subsection C above, significantly contribute pollutants to the Municipality's separate storm sewer system or to the Waters of the Commonwealth, or is notified of such significant contribution of pollution by PADEP, the Municipality will notify the responsible person to cease the discharge.
- E. Upon notice provided by the Municipality under subsection D above, the discharger shall, within a reasonable time period, as determined by the Municipality consistent with the degree of pollution caused by the discharge, cease the discharge.
- F. Nothing in this section shall affect a discharger's responsibilities under State law.

SECTION 6. PROHIBITED CONNECTIONS

The following connections are prohibited, except as provided in Section 5.C above:

- 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 a separate storm sewer system, and any connections to the separate storm sewer system from indoor drains and sinks.
- B. Any drain or conveyance connected from a commercial or industrial land use to a separate storm sewer system, which has not been documented in plans, maps, or equivalent records and approved by the Municipality.

SECTION 7. ROOF DRAINS AND SUMP PUMPS

- A. Roof drains and sump pump discharges shall not be connected to sanitary sewers.
- B. Roof drain, sump pump, foundation and footing drain discharges:
 1. To the maximum extent practicable, shall discharge to infiltration or vegetative BMPs, or to vegetated or other areas with sufficient capacity;
 2. May be connected to streets, storm sewers, or roadside ditches only if determined necessary or acceptable on a case-by-case basis by the Municipal Engineer; and

3. Must be considered in stormwater management calculations to demonstrate that conveyance and receiving facilities have adequate capacity.

SECTION 8. ALTERATION OF BMPS

- A. No person shall modify, remove, fill, landscape, or alter any existing stormwater facilities, controls or BMPs, 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, vegetation, yard waste, brush cuttings, or other waste or debris 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.

SECTION 9. ENFORCEMENT

- A. Whenever the Municipality finds that a person has violated a provision of this article or failed to meet a requirement of this article, the Municipality may order compliance by written notice to the responsible party. Such a notice may require, without limitation:
 1. The performance of monitoring, analyses, and reporting;
 2. The elimination of prohibited connections or discharges;
 3. Cessation of any violating discharges, practices, or operations;
 4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and/or
 5. Payment of a fine to cover administrative and remediation costs.
- B. Such notice shall set forth the nature of the violation(s) and establish a time limit for correction of these violation(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work may be done by the Municipality or its designee and the expense thereof, including reasonable attorneys' fees and costs, shall be charged to the violator and shall be a lien against the property in question and shall be collected in the manner provided by law for the filing and collection of such liens.
- C. Failure to comply within the time specified in the notice shall also subject such responsible person or party to the provisions of Section 11 and Section 12 of this Ordinance. All such penalties shall be deemed cumulative and shall not prevent the Municipality from pursuing any and all other remedies available in law or equity.

SECTION 10. SUSPENSION AND REVOCATION OF PERMITS AND APPROVALS.

- A. Any building, land development or other permit(s) or approval(s) issued by the Municipality may be suspended or revoked by the Municipality for:
 - 1. A violation of any provision of this article; or
 - 1. The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others.
- B. A suspended permit or approval shall be reinstated by the Municipality when:
 - 1. The Municipal Engineer or his or her designee has inspected and approved the corrections or elimination of the hazard or nuisance; and/or
 - 2. The Municipality is satisfied that the violation of this article, law, or rule and regulation has been corrected.

SECTION 11. VIOLATIONS AND PENALTIES; ENFORCEMENT REMEDIES.

- A. A violation of the terms of this article shall be enforced in a summary criminal proceeding before the District Justice. Any person violating the terms of this article shall be subject to a fine of not more than \$500 for each violation, plus the Municipality's attorney fees and costs. Each day that the violation continues shall be a separate offense.
- B. In addition, the Municipality, through its solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this article. A 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 12. APPEALS.

Any person aggrieved by any action of the Municipality, under this article, may appeal to the Berks County Court of Common Pleas pursuant to the Local Agency Law, within the time period allowed by law.

SECTION 13. RIGHT OF ENTRY.

Authorized representatives of the Municipality may enter at reasonable times any property within the Municipality to inspect any drain, conveyance, discharge or stormwater facility under this article, consistent with federal and state laws.

SECTION 14. EFFECTIVE DATE.

This ordinance shall be effective five (5) days from the date of adoption.

ENACTED and ORDAINED this 30th day of March, 2017.

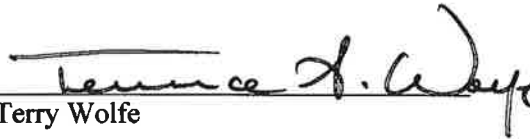
**BOARD OF SUPERVISORS
OF HEIDELBERG TOWNSHIP**



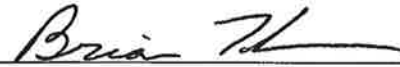
David P. Randler, Chairman



David L. Manbeck



Terry Wolfe



Brian Thumm



Thomas L. Schoener

ATTEST: 
Cheryl Bowers, Secretary