MS4 PROHIBITED DISCHARGE ORDINANCE

ORDINANCE NO. 5-2015

TOWNSHIP OF

ROBINSON

WASHINGTON COUNTY, PENNSYLVANIA

Adopted at a Public Meeting Held on

July 13, 2015

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ARTICLE I - GENERAL PROVISIONS

Section 101. Short Title

This Ordinance shall be known and may be cited as the "Robinson Township MS4 Prohibited Discharge Ordinance."

Section 102. Statement of Findings

The governing body of the municipality finds that:

A. Inadequate maintenance of stormwater facilities contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, increases the cost of public facilities to carry and control stormwater, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases pollution of water resources.

B. Reasonable regulation of connections and discharges to municipal separate stormsewer systems 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 obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES). Permittees are required to enact, implement, and enforce a prohibition of non-stormwater discharges to the permittee's regulated small municipal separate stormsewer systems (MS4s).

Section 103. Purpose

The purpose of this Ordinance is to promote health, safety, and welfare within the municipality and its watershed by minimizing the harms and maximizing the benefits described in Section 102 of this Ordinance, through provisions designed to:

A. Provide standards to meet NPDES permit requirements.

B. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this Commonwealth.

C. Preserve the natural drainage systems as much as possible.

D. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.

E. Prevent scour and erosion of stream banks and streambeds.

F. Provide proper operation and maintenance of all facilities and all SWM BMPs that are implemented within the municipality.

Section 104. Statutory Authority

The municipality also 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.

Section 105. Applicability

All activities related to proper operation and maintenance of approved stormwater management BMPs and all activities that may contribute non-stormwater discharges to a regulated small MS4 are subject to regulation by this Ordinance.

Section 106. Repealer

Any other ordinance provision(s) or regulation of the municipality inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

Section 107. Severability

In the event that a court of competent jurisdiction declares any section or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

Section 108. Compatibility with Other Requirements

Actions taken under this Ordinance do not affect any responsibility, permit or approval for any activity regulated by any other code, law, regulation, or ordinance.

ARTICLE II - DEFINITIONS

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 words "shall" and "must" are mandatory; the words "may" and "should" are permissive.

Best Management Practice (BMP) – Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, 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 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 project site.

Conservation District – A conservation district, as defined in Section 3(c) of the Conservation District Law (3 P. S. § 851(c)) that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the regulations promulgated under 25 Pa. Code 102.

DEP – The Pennsylvania Department of Environmental Protection.

Earth Disturbance Activity – A construction or other human activity which disturbs the surface of the land, including, but not limited to: clearing and grubbing; grading; excavations; embankments; road maintenance; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials. Earth disturbance activity is subject to regulation under 25 Pa. Code 92, 25 Pa. Code 102, or the Clean Streams Law.

Municipality – Robinson Township, Washington County, Pennsylvania.

NRCS – USDA Natural Resources Conservation Service (previously SCS).

Regulated MS4 Activities – Any activities that may affect stormwater runoff and any activities that may contribute non-stormwater discharges to a regulated small MS4.

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

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

USDA – United States Department of Agriculture.

Waters of this 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 this Commonwealth.

ARTICLE III – STORMWATER MANAGEMENT REQUIREMENTS

Section 301. General Requirements

A. In conjunction with meeting the requirements of the Ordinance, the Applicant shall refer to and meet all conditions and requirements set forth in the Robinson Township's Stormwater Management Ordinance as adopted and revised.

ARTICLE IV – OPERATION AND MAINTENANCE

Section 401. Responsibilities of Developers and Landowners

A. Facilities, areas, or structures used as Stormwater Management BMPs shall be enumerated as permanent real estate appurtenances and recorded as conservation easements that run with the land.

B. O&M Plans for stormwater management approved pursuant to 25 Pa. Code §102 after the date of this Ordinance shall be recorded as a restrictive deed covenant that runs with the land.

C. The municipality may take enforcement actions against an owner for any failure to satisfy the provisions of this Ordinance.

Section 402. Operation and Maintenance Agreements

A. Prior to completing construction of a SWM Site Plan, the property owner shall sign and record an Operation and Maintenance (O&M) Agreement (see Appendix A) covering all stormwater control facilities which are to be privately owned.

   1. The owner, successor and assigns shall operate and maintain all facilities in accordance with the approved schedule(s) in the O&M Plan.

   2. The owner shall convey to the Municipality conservation easements to assure access for periodic inspections by the Municipality and maintenance, as necessary.

   3. The owner shall keep on file with the Municipality the name, address, and telephone number of the person or company responsible for operation and maintenance activities. In the event of a change, new information shall be submitted by the owner to the Municipality within ten (10) working days of the change.

B. The owner is responsible for operation and maintenance (O&M) of the SWM BMPs. If the owner fails to adhere to the O&M Agreement, the municipality may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

ARTICLE V - PROHIBITIONS

Section 501. Prohibited Discharges and Connections

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 regulated small MS4 or to enter the waters of this Commonwealth is prohibited.

B. No person shall allow, or cause to allow, discharges into a regulated small MS4, or discharges into waters of this Commonwealth, which 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 to be significant contributors to pollution a regulated small MS4 or to the waters of this Commonwealth:

- Discharges from firefighting activities	- Flows from riparian habitats and wetlands
- Potable water sources including water line flushing	- Uncontaminated water from foundations or from footing drains
- Irrigation drainage	- Lawn watering
- Air conditioning condensate	- Dechlorinated swimming pool discharges
- Springs	- Uncontaminated groundwater
- Water from crawl space pumps	- Water from individual residential car washing
- 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	- Routine external building wash down (which does not use detergents or other compounds)
Diverted stream flows	

D. In the event that the municipality or DEP determines that any of the discharges identified in Subsection C significantly contribute pollutants to a regulated small MS4 or to the waters of this Commonwealth, the municipality or DEP will notify the responsible person(s) to cease the discharge.

Section 502. Roof Drains and Sump Pumps

The following applies to new construction commenced after the effective date of this Ordinance and which result in the creation of over 2,500 square feet of impervious surface area. Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs or to a drainage system ultimately discharging into such BMPs.

Section 503. Prohibited Acts

It is unlawful for any person to modify, remove, fill, landscape, or alter any approved SWM BMPs, facilities, areas, or structures without the written approval of DEP or a delegated County Conservation District, and the Municipality.

ARTICLE VI – ENFORCEMENT AND PENALTIES

Section 601. Right-of-Entry

Upon presentation of proper credentials, duly authorized representatives of the Township may enter at reasonable times, upon any property within the Township, to inspect the implementation, condition, or operations and maintenance of the stormwater BMPs in regard to any aspect governed by this Ordinance.

Stormwater BMP owners and operators shall allow persons working on behalf of the Township ready access to all parts of the premises for the purposes of determining compliance with this Ordinance.

Persons working on behalf of the Municipality shall have the right to temporarily locate on any stormwater BMP in the Township such devices, as are necessary, to conduct monitoring and/or sampling of the discharges from such stormwater BMP.

Unreasonable delay in allowing the Township access to a stormwater BMP is a violation of this Ordinance.

Section 602. Inspection

SWM BMPs should be inspected by the landowner, or the owner's designee (including the municipality for dedicated and owned facilities), according to the the schedule set forth in the Robinson Township Stormwater Management Ordinance.

Section 603. Enforcement

The Township's governing body is hereby authorized and directed to enforce all of the provisions of this Ordinance

Section 604. Suspension and Revocation

A. Any approval or permit issued by the municipality may be suspended or revoked for:

   1. Non-compliance with or failure to implement any provision of an approved SWM Site Plan or O&M Agreement.

   2. A violation of any provision of this Ordinance or any other applicable law, ordinance, rule, or regulation relating to a Regulated Activity.

   3. The creation of any condition or the commission of any act which constitutes or creates a hazard, nuisance, pollution, or endangers the life or property of others.

B. A suspended approval may be reinstated by the municipality when:

   1. The municipality has inspected and approved the corrections to the violations that caused the suspension.

2. The municipality is satisfied that the violation has been corrected.

C. An approval that has been revoked by the municipality cannot be reinstated. The applicant may apply for a new approval under the provisions of this Ordinance.

D. If a violation causes no immediate danger to life, public health, or property, at its sole discretion, the municipality may provide a limited time period for the owner to correct the violation. In these cases, the municipality will provide the owner, or the owner's designee, with a written notice of the violation and the time period allowed for the owner to correct the violation. If the owner does not correct the violation within the allowed time period, the municipality may revoke or suspend any, or all, applicable approvals and permits pertaining to any provision of this Ordinance.

Section 605. Penalties

A. Anyone violating the provisions of this Ordinance shall be guilty of a summary offense and upon conviction, shall be subject to a fine of not less than $500.00 nor more than $ 5,000.00 for each violation, recoverable with costs. Each day that the violation continues shall be a separate offense and penalties shall be 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 606. Appeals

A. Any person aggrieved by any action of the Township or its designee, relevant to the provisions of this Ordinance, may appeal to the Township within thirty (30) days of that action.

B. Any person aggrieved by any decision of the Township, relevant to the provisions of this Ordinance, may appeal to the Washington County Court of Common Pleas within thirty (30) days of the Township's decision.

ARTICLE VII – REFERENCES

1. Pennsylvania Department of Environmental Protection. No. 363-0300-002 (December 2006), as amended and updated. *Pennsylvania Stormwater Best Management Practices Manual.* Harrisburg, PA.

2. Pennsylvania Department of Environmental Protection. No. 363-2134-008 (April 15, 2000), as amended and updated. *Erosion and Sediment Pollution Control Program Manual.* Harrisburg, PA.

MS4 Prohibited Discharge

(Ordinance Name)

(Ordinance Number) 5-2015

ENACTED and **ORDAINED** at a regular meeting of the

Board of Supervisors

on this 13th day of July, 2013

This Ordinance shall take effect immediately.

Stephen Hassan	Chairman
(Name)	(Title)
Rodger Merrill	
(Name)	(Title)
(Name)	(Title)

ATTEST:

~~Secretary~~ Manager

APPENDIX A

OPERATION AND MAINTENANCE (O&M) AGREEMENT
STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICES (SWM BMPs)

THIS AGREEMENT, made and entered into this ___ day of _____, 20___, by and between _____, (hereinafter the "Landowner"), and _____ County, Pennsylvania, (hereinafter "Municipality");

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property as recorded by deed in the land records of _____ County, Pennsylvania, Deed Book _____ at page _____, (hereinafter "Property").

WHEREAS, the Landowner is proceeding to build and develop the Property; and

WHEREAS, the SWM BMP Operation and Maintenance (O&M) Plan approved by the Municipality (hereinafter referred to as the "O&M Plan") for the property identified herein, which is attached hereto as Appendix A and made part hereof, as approved by the Municipality, provides for management of stormwater within the confines of the Property through the use of BMPs; and

WHEREAS, the Municipality, and the Landowner, his successors and assigns, agree that the health, safety, and welfare of the residents of the Municipality and the protection and maintenance of water quality require that on-site SWM BMPs be constructed and maintained on the Property; and

WHEREAS, the Municipality requires, through the implementation of the SWM Site Plan, that SWM BMPs as required by said SWM Site Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner, successors, and assigns.

NOW, THEREFORE, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The Landowner shall construct the BMPs in accordance with the plans and specifications identified in the SWM Site Plan.

2. The Landowner shall operate and maintain the BMPs as shown on the SWM Plan in good working order in accordance with the specific operation and maintenance requirements noted on the approved O&M Plan.

3. The Landowner hereby grants permission to the Municipality, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper credentials, to inspect the BMPs whenever necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.

4. In the event the Landowner fails to operate and maintain the BMPs per paragraph 2, the Municipality or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). It is expressly understood and agreed that the Municipality is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Municipality.

5. In the event the Municipality, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Municipality for all expenses (direct and indirect) incurred within 10 days of receipt of invoice from the Municipality.

6. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMPs by the Landowner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.

7. The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Municipality from all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or Municipality.

8. The Municipality intends to inspect the BMPs at a minimum of once every three years to ensure their continued functioning.

This Agreement shall be recorded at the Office of the Recorder of Deeds of _____ County, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable servitude, and shall be binding on the Landowner, his administrators, executors, assigns, heirs, and any other successors in interests, in perpetuity.

ATTEST:

WITNESS the following signatures and seals:

(SEAL)

For the Municipality:

_____

For the Landowner:

_____

ATTEST:

_____ (City, Borough, Township)

County of _____, Pennsylvania

I, _____, a Notary Public in and for the county and state aforesaid, whose commission expires on the ___ day of _____, 20___, do hereby certify that _____ whose name(s) is/are signed to the foregoing Agreement bearing date of the ___ day _____, 20___, has acknowledged the same before me in my said county and state.

GIVEN UNDER MY HAND THIS _____ day of _____, 20___.

_____ _____

NOTARY PUBLIC **(SEAL)**

Subject: Fw: MS4 Newsletter article

From: Erin Sakalik (robinsontownshipmanager@yahoo.com)

To: robinsontwpsecretary@yahoo.com;

Date: Monday, May 18, 2015 3:17 PM

Susan: Please open the attachments.

Can you please print out both; the ordinance AND the resolution. These are samples that other townships used to adopt their MS4 plans. Please prepare the same advertisement for us to use. Then send me an electronic copy for review.

Please also prepare the Resolution for us to adopt at our June township meeting. Send me an electronic copy for me to review upon my return from vacation. Thank you!

~ Erin

----- Forwarded Message -----
From: Johnna Zona <jzona@lsse.com>
To: Erin Sakalik <robinsontownshipmanager@yahoo.com>
Sent: Monday, May 18, 2015 3:04 PM
Subject: RE: MS4 Newsletter article

You're welcome! I'll help in any way that I can. I have attached an ad that another municipality did as well as a resolution example that you can use for the MCM resolution.

Let me know if you need anything else

Johnna

From: Erin Sakalik [mailto:robinsontownshipmanager@yahoo.com]
Sent: Monday, May 18, 2015 2:50 PM
To: Johnna Zona
Subject: Re: MS4 Newsletter article

Thank you Johnna.
I am in receipt of your letter dated May 13, 2015, with enclosures. Do you have a sample advertisement that you could send me to advertise the adoption of the Stormwater Management Ordinance and the MS4 Prohibited Discharge Ordinance. Honestly, I wouldnt know where to begin.

Thanks!

~ Erin Sakalik
ROBINSON TOWNSHIP

From: Johnna Zona <jzona@lsse.com>

To: Erin Sakalik <robinsontownshipmanager@yahoo.com>
Sent: Tuesday, May 12, 2015 3:08 PM
Subject: MS4 Newsletter article

Erin,

I have attached a couple paragraphs about MS4 that you could use for a newsletter. There are attachments with it (you don't have to use them). Feel free to edit it if you want.

Let me know if there is anything else I can help you with

Johnna Zona
Lennon, Smith, Souleret Engineering, Inc.
846 Fourth Avenue, Coraopolis, PA 15108
(412) 264-4400 ext 209
www.lsse.com

Ad Content Proof

ORDINANCE ADOPTION CENTER TOWNSHIP STORMWATER MANAGEMENT And MS4 PROBHIBITED DISCHARGE

TAKE NOTICE that on October 20, 2014 at 7:00 p.m. in the Center Township Assembly Hall, Center Township Municipal Building, situated at 224 Center Grange Road, Aliquippa, PA 15001, the Township of Center Board of Supervisors will consider the adoption of two Ordinances, each of which relate to Stormwater Management in Center Township.

The first Ordinance, identified as the Center Township Stormwater Management Ordinance, will amend and/or delete the Township's current Stormwater Management provisions set forth in Chapter 608 of the Township's Land Use Code. The terms of this Ordinance will require all properties in Center Township to comply with updated Stormwater management criteria to achieve the following general purposes and objectives:

i. To manage Stormwater runoff resulting from land alterations and disturbance activities in accordance with the Pennsylvania Stormwater Management Act (Act 167 of 1978), as amended;

ii. To utilize and preserve the desirable existing natural drainage systems and to preserve the flood-carrying capacity of streams;

iii. To encourage natural infiltration of rainfall to preserve ground water supplies and stream flows; and

iv. To provide for adequate maintenance of all permanent Stormwater management facilities in the Township.

v. Provide review procedures and performance standards for Stormwater planning and management.

vi. Manage Stormwater impacts close to the runoff source, which requires a minimum of structures and relies on natural processes.

vii. Maintain existing flows and quality of streams and watercourses.

The second Ordinance to be considered for adoption is identified as the Center Township MS4 Prohibited Discharge Ordinance. The purpose of this Ordinance is to promote health, safety, and welfare within Center Township and its watershed by minimizing the harms and maximizing the benefits associated with stormwater management through provisions designed to:

i. Provide standards to meet NPDES permit requirements.

ii. Meet legal water quality requirements under state

law, including regulations at 25 Pa. Code 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this Commonwealth.

iii. Preserve the natural drainage systems as much as possible.

iv. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.

v. Prevent scour and erosion of stream banks and streambeds.

vi. Provide proper operation and maintenance of all facilities and all SWM BMPs that are implemented within the municipality.

Both Ordinances, in their entirety, will be available for inspection at the Center Township Municipal Building located at 224 Center Grange Road, Aliquippa, PA 15001 from 8:30 a.m. to 4:30 p.m. Monday through Friday up to the date of Adoption.

Center Township Board
of Supervisors
Dale M. Fouse
Solicitor

10/8,15

ACCOUNT #	INVOICE DATE	DESCRIPTION	LINES	TIMES	PROOF	TOTAL CHARGES
7247740271	10/22/2014	ORDINANCE ADOPTION CENTER T	1.00 x 123Lines	1	$ 18.00	$ 1,122.70
10/6/2014, 10/15/2014						
DATES APPEARED						

PROOF OF PUBLICATION

The **Beaver County Times, Allegheny Times, Ellwood City Ledger**
a daily newspaper of general circulation, published by BEAVER NEWSPAPERS, INC.,
a Pennsylvania corporation, 400 Fair Avenue, West Bridgewater, Beaver County, Pennsylvania,
was established in 1946, and has been issued regularly, except legal holidays since said date.

400311

The attached advertisement, which is exactly as printed and published,
appeared in the regular issue on
10/6/2014, 10/15/2014

BEAVER NEWSPAPERS, INC.

By Tina Bequeath

STATE OF PENNSYLVANIA,
COUNTY OF BEAVER, } **SS:**

Before me, a Notary Public in and for such county and state, personally appeared
TINA BEQUEATH , who being duly sworn according to law says that she is
CONTROLLER of BEAVER NEWSPAPERS, INC.; that neither affiant
nor said corporation is interested in the subject matter of the attached advertisement;
and that all of the allegations of the foregoing statement including those as to the time,
place and character of publication are true.

Sworn to and subscribed before me
this 22nd day of October 2014

Susan K. Miller

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Susan K. Miller, Notary Public
Bridgewater Boro, Beaver County
My Commission Expires Oct. 1, 2018
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

The costs of advertising and proof,
has been paid. **$ 1,122.70**
BEAVER NEWSPAPERS, INC.

By _____

BEAVER NEWSPAPERS INC. **400 FAIR AVE.** **BEAVER, PA. 15009**