

9 Erosion, Water management and Land Alteration

9.1 General Provisions

- 9.1.1** Whenever possible, natural vegetation shall be retained and protected. The impacts of land alteration and development on the existing wildlife and plant habitats shall be minimized through site design, restoration, and by maintaining continuity with those habitats on adjacent sites.
- 9.1.2** Land alteration and development shall not encroach on rare plant communities or endangered species identified in the Minnesota Department of Natural Resources County Biological Survey for Natural Communities and Rare Species.
- 9.1.3** Land alteration and development shall minimize the impacts on the hydrological regime and water quality of surface water by using best management practices.
- 9.1.4** All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion.
- 9.1.5** Erosion and siltation measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- 9.1.6** Land shall be developed in increments of workable size such that erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
- 9.1.7** The drainage system shall be constructed and operational as quickly as possible during construction.
- 9.1.8** Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the disturbed area. The soil shall be restored to a depth of four (4) inches and shall be of quality at least equal to the soil quality prior to development.
- 9.1.9** When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed sixty (60) days. Said time period may be extended with approval of the Zoning Administrator provided measures have been established for erosion and sedimentation control.
- 9.1.10** The natural drainage system shall be used as far as feasible for the storage and flow of runoff. Storm water drainage shall be discharged to sediment, detention or retention basins or other treatment facilities. Prior to discharge to wetlands, diversion of stormwater to marshlands or swamps shall be considered for existing and planned surface drainage. Wetlands used for stormwater shall provide for natural or artificial water level control. Storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost.

9.2 Permit requirements

- 9.2.1** Land alteration and grading of two hundred (200) cubic yards or more and/or the disturbance of land area of 1,000 square feet or more shall be permitted with a grading permit. A permit is not required for the following: agricultural activities, grading activities associated with a construction project provided a building permit is

issued and there is a minimal amount of land disturbance, subdivisions that have received final plat approval and driveways permitted in conjunction with a building permit.

- 9.2.2** The application for a permit shall include an existing and a finished grade plan. The finished grade plan shall show no adverse effects on adjacent land. The Town may require information in addition to this plan, including but not limited to, a plan for fire control, general maintenance of site, control of vehicle ingress and egress, drainage and control of material disbursed from wind or hauling of material to or from the site.
- 9.2.3** Grading permit applications will be reviewed by the Middle St Croix Water Management Organization for areas disturbed over 10,000 sq ft in areas under Middle St Croix Water Management Organization jurisdiction and reviewed by the Valley Branch Watershed District for areas of 1 acre or greater disturbed in Valley Branch Watershed District jurisdiction. Grading applications may be reviewed, as deemed necessary or in accordance with other rules, by the Minnesota Department of Natural Resources, the Community Engineer, and either the Middle St. Croix Watershed Management Organization or the Valley Branch Watershed District.
- 9.2.4** A grading, drainage, and erosion control plan may be required if significant soil erosion, vegetation destruction or drainage damage may occur during the land alteration process. This plan shall be prepared by the Soil and Water Conservation District and shall contain specific recommendations regarding soil protection, preservation of vegetation and drainage patterns during the land alteration process.
- 9.2.5** The Town Board may require the applicant to post a bond or other financial guarantee to ensure compliance with the grading permit.

9.3 Erosion Control

The following measures shall be taken to control erosion during the construction process:

- 9.3.1** Exposed slopes shall not be steeper in grade than four (4) feet horizontal to one (1) foot vertical (25%). Slopes over twenty five percent (25%) (4:1) shall not be altered. Development on slopes with a grade between thirteen (13%) (8:1) and twenty five (25%) (4:1) percent shall be carefully reviewed to ensure adequate measures have been taken to prevent soil erosion, sedimentation, vegetative, and structural damage.
- 9.3.1** Exposed slopes shall be protected by whatever means effective to prevent erosion considering the degree of the slope, soil material, and expected length of exposure. Slope protection may consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses, or temporary seeding of annual grasses.
- 9.3.1** Control measures, other than those stated above may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

9.4 Sediment Control

- 9.4.1** Temporary barriers shall be constructed to prevent sediment from leaving the site. These barriers may consist of silt fences or straw bale sediment traps.

- 9.4.2 Temporary sediment basins or traps may be required to remove medium and large sized sediment particles from runoff and reduce discharge velocity.
- 9.4.3 The Zoning Administrator may require a temporary rock driveway at the site entrance to prevent sediment from leaving the site on the tires of vehicles.

9.5 Restoration

- 9.5.1 All permits shall contain a restoration plan providing for the use of land after project completion.
- 9.5.2 The following are minimum standards for restoration. All disturbed areas shall be restored at the completion of the project. All restoration shall include the application of a minimum of four (4) inches of a mineral topsoil or similar material that will support plant growth. Final grades shall be in conformity with the permit and topography of the surrounding land. If the land is to be restored to crop production, no slope shall exceed five (5) feet horizontal to one (1) foot vertical (20%). If the restoration is not for crop production, no grade shall exceed four (4) feet horizontal to one (1) foot vertical (25%).
- 9.5.3 All restored areas shall be seeded with a mixture recommended by the soil and water conservation district or returned to crop production. The standards above may be modified to accommodate a specific restoration plan.

9.6 Drainage

- 9.6.1 No land shall be developed or altered and no use shall be permitted that results in surface water runoff causing unreasonable flooding, erosion, or deposit of materials on adjacent properties or water bodies. Such runoff shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility.
- 9.6.2 Upon inspection of any site which has created drainage problems or could create a drainage problem with proposed new development, the owner of said site or contractor may be required to complete a grading plan and apply for a grading permit.
- 9.6.3 The owner or contractor of any natural drainage improvement or alteration may be required to obtain a grading permit.
- 9.6.4 On any slope in excess of thirteen percent (13%) (8:1) where the natural drainage pattern may be disturbed or altered, the owner or contractor may be required to obtain a grading permit.

9.7 Wetland and Water Preservation

- 9.7.1 **Floodplains.** Land alteration in floodplains shall also be in accordance with floodplain regulations.
- 9.7.2 **Public waters.** No public water area shall be filled, partially filled, dredged, altered by grading, mining or disturbed in any manner without first securing a permit from the Minnesota Department of Natural Resources, the United States Army Corps of Engineers and a grading permit from the zoning administrator.

9.7.3 Wetlands. The alteration of wetlands shall comply with the rules and regulations of federal, state, and local agencies.

9.8 Preservation of natural drainageways/ waterways

- 9.8.1** The regulation of this subsection shall be administered by the zoning administrator unless the watershed management organization has permitting authority. In that event, the regulations of the watershed management organization shall take precedence.
- 9.8.2** Storm sewers may be used where it can be demonstrated that the use of the above-ground natural drainage system will inadequately dispose of runoff. Surface water drainage systems may be constructed to augment the natural drainage system.
- 9.8.3** The width of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- 9.8.4** No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- 9.8.5** The banks of the waterway shall be protected with permanent turf vegetation.
- 9.8.6** The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical.
- 9.8.7** The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks and waterway.
- 9.8.8** The bed of the waterway should be protected with turf or sod. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone or field stone (if random rip rap is used). The rip rap shall be no smaller than two (2) inches square nor larger than two (2) feet square.
- 9.8.9** The flow velocity of runoff waterways shall be controlled to a velocity that will not cause erosion of the waterway. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Rip rap would be allowed to prevent erosion at these points.
- 9.8.10** Flow velocity should be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.
- 9.8.11** To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- 9.8.12** Temporary pervious sediment traps could consist of a construction of hay bales with a low spillway embankment section of sand and gravel that permits slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of the development. Development of housing and other structures shall be restricted from the area on either side of the waterway necessary to channel a twenty five (25) year storm.
- 9.8.13** Permanent impervious sediment control structures consist of sediment basins (debris basins, desiltation basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

- 9.8.14 The erosion and velocity control structures shall be maintained in a condition that will ensure continuous functioning according to the provisions of this Zoning Ordinance.
- 9.8.15 Sediment basins shall be maintained as the need occurs to insure continuous desilting action.
- 9.8.16 The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basin shall be landscaped.
- 9.8.17 Prior to the approval of a plat for development, the developer shall make provisions for continued maintenance on the erosion and sediment control system.

9.9 Other Storm Water Management Provisions

Steel culvert. Whenever any culvert is needed for drainage under a driveway, the culvert shall be a minimum of twenty-four (24) feet long and the material shall be sixteen (16) gauge steel or thicker. Plastic culverts will not be accepted.

9.10 Land Clearing

- 9.10.1 **Required Permits.** Land clearing on an area of 20,000 square feet or more is permitted in all Districts, except the "C" Conservancy District, provided a Certificate of Compliance is issued. A permit is not required for clearing trees and other woody plants in an area less than 20,000 square feet, clearing activities associated with a construction project provided a building permit is issued and there is minimal amount of clearing, and subdivisions that have received final plat approval.
- 9.10.2 **Other Requirements.** Land clearing must comply with all rules and regulations of federal, state, county, and local agencies.
- 9.10.3 **Performance Standards.** Land clearing shall comply with the following:
 - 9.10.3.1 There shall be no removal of trees located on slopes greater than 25%, or in wooded floodplains, wooded wetlands, and stream corridors. Trees and woodlands within the Shoreland Overlay District and the St. Croix River District are subject to the requirements as stated in Chapter Six, Shoreland Management Regulations and Chapter Five, Lower St. Croix River Bluffland and Shoreland Management Regulations in addition to the regulations of this Chapter.
 - 9.10.3.2 Construction fences or barricades may be required to be placed at the perimeter of the area to be cleared.
 - 9.10.3.3 Erosion and siltation measures shall be coordinated with the different stages of clearing. Appropriate control measures shall be installed prior to land clearing when necessary to control erosion.
 - 9.10.3.4 Land shall be cleared in increments of a workable size such that erosion and siltation controls can be provided as the clearing progresses. The smallest practical area of land shall be exposed at any one period of time.
- 9.10.4 **Restoration.** All permits shall contain a restoration plan providing for the use of the land after project completion. The following are minimum standards for restoration:
 - 9.10.4.1 All disturbed areas shall be restored at the completion of the project.
 - 9.10.4.2 All restoration shall include the application of a minimum of four (4) inches of mineral soil or similar material that will support plant growth.

- 9.10.4.3 All restored areas shall be seeded with a mixture recommended by the Soil and Water Conservation District unless it is put into forest or row crop production.
- 9.10.4.4 Final grades shall be in conformity with the permit and topography of the surrounding land.
- 9.10.4.5 The standards above may be modified to accommodate a specific restoration plan.
- 9.10.5 **Bond.** The Zoning Administrator may require the applicant to post a bond or other financial guarantee to ensure compliance with the Certificate of Compliance.

9.11 Illicit Discharge and Connection Stormwater Ordinance

- 9.11.1 **Purpose.** The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of West Lakeland Township through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:
 - 9.11.1.1 To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
 - 9.11.1.2 To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system;
 - 9.11.1.3 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.
- 9.11.2 **Defintions.** For the purposes of this ordinance, the following definitions apply:
 - 9.11.2.1 **Authorized Enforcement Agency.** Employees or designees of the Town Board of West Lakeland Township designated to enforce this ordinance.
 - 9.11.2.2 **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
 - 9.11.2.3 **Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
 - 9.11.2.4 **Construction Activity.** Activities subject to NPDES Construction Permits include construction projects resulting in land disturbance of 5 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
 - 9.11.2.5 **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to,

a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

- 9.11.2.6 Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in 9.11.6.2 of this ordinance.
- 9.11.2.7 Illicit Connections.** An illicit connection is defined as either of the following:
- 9.11.2.7.1** Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or;
 - 9.11.2.7.2** Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- 9.11.2.8 Industrial Activity.** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- 9.11.2.9 National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- 9.11.2.10 Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water.
- 9.11.2.11 Person.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- 9.11.2.12 Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- 9.11.2.13 Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 9.11.2.14 Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage

systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

- 9.11.2.15 Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- 9.11.2.16 Stormwater Pollution Prevention Plan.** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practical.
- 9.11.2.17 Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- 9.11.3 Applicability.** This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.
- 9.11.4 Responsibility for Administration.** The Town Board of West Lakeland Township shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Chairman of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the township. .
- 9.11.5 Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.
- 9.11.6 Prohibition of Illegal Discharges**
 - 9.11.6.1** No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.
 - 9.11.6.2** The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
 - 9.11.6.2.1** The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing Pollutants.

- 9.11.6.2.2 Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health.
- 9.11.6.2.3 Dye testing is an allowable discharge, but requires a verbal notification to the West Lakeland Board or authorized enforcement agency prior to the time of the test.
- 9.11.6.2.4 The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- 9.11.6.3 **Prohibition of Illicit Connections**
 - 9.11.6.3.1 The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
 - 9.11.6.3.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - 9.11.6.3.3 A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- 9.11.7 **Suspension of MS4 Access**
 - 9.11.7.1 **Suspension due to Illicit Discharges in Emergency Situations.** The West Lakeland Township Board or authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.
 - 9.11.7.2 **Suspension due to the Detection of Illicit Discharge.** Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
 - 9.11.7.3 A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.
- 9.11.8 **Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a

form acceptable to the West Lakeland Township Board or authorized enforcement agency prior to the allowing of discharges to the MS4.

9.11.9 Monitoring of Discharges

9.11.9.1 Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

9.11.9.2 Access to Facilities

- 9.11.9.2.1** The West Lakeland Township Board or authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- 9.11.9.2.2** Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- 9.11.9.2.3** The West Lakeland Township Board or authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- 9.11.9.2.4** The West Lakeland Township Board or authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- 9.11.9.2.5** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the West Lakeland Board or authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- 9.11.9.2.6** Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility are a violation of the storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- 9.11.9.2.7** If the West Lakeland Board or authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling

program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

9.11.10 Requirement To Prevent, Control, And Reduce Storm Water Pollutants By The Use Of Best Management Practices

West Lakeland Township Board or authorized enforcement agency will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

9.11.11 Watercourse Protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

9.11.12 Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the West Lakeland Township Board or authorized enforcement agency within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also

retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

9.11.13 Enforcement

9.11.13.1 Notice of Violation. Whenever the West Lakeland Township Board or authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

9.11.13.1.1 The performance of monitoring, analyses, and reporting;

9.11.13.1.2 The elimination of illicit connections or discharges;

9.11.13.1.3 That violating discharges, practices, or operations shall cease and desist;

9.11.13.1.4 The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

9.11.13.1.5 Payment of a fine to cover administrative and remediation costs;

9.11.13.1.6 The implementation of source control or treatment BMPs.

9.11.13.2 If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the West Lakeland Board or a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

9.11.14 Appeal of Notice Of Violation. Any person receiving a Notice of Violation may appeal the determination of the West Lakeland Board or authorized enforcement agency. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

9.11.15 Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within thirty (30) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

9.11.16 Cost Of Abatement Of The Violation

9.11.16.1 Within sixty (60) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within thirty (30) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a

special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

9.11.16.2 Any person violating any of the provisions of this article shall become liable to the township by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of six (6) percent shall be assessed on the balance beginning thirty (30) days after receipt of notice of assessment for the cost of abatement.

9.11.17 Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the West Lakeland Board or authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

9.11.18 Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the West Lakeland Board or authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

9.11.19 Violations Deemed A Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

9.11.20 Criminal Prosecution

9.11.20.1 Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty for a misdemeanor under state law.

9.11.20.2 The West Lakeland Board or authorized enforcement agency may recover all attorney fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

9.11.21 Remedies Not Exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the West Lakeland Board or authorized enforcement agency to seek cumulative remedies.