

ORDINANCE NO. 205

STORMWATER REGULATION ORDINANCE

AN ORDINANCE TO AMEND THE LAKETOWN TOWNSHIP CODE OF ORDINANCES BY ADDING ARTICLE IV, STORMWATER, TO CHAPTER 34, UTILITIES; AND TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

THE TOWNSHIP OF LAKETOWN, COUNTY OF ALLEGAN, AND STATE OF MICHIGAN, ORDAINS AS FOLLOWS.

Section 1. Article IV, Stormwater. Article IV, Stormwater, is added to Chapter 34, Utilities, of the Laketown Township Code of Ordinances, to state as follows.

ARTICLE IV. - STORMWATER

DIVISION 1 – GENERALLY

Sec. 34-800. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

ALLEGAN COUNTY DRAIN COMMISSIONER (ACDC)

The County agency charged with the management of county and intercounty drains established pursuant to the Michigan Drain Code of 1956, Public Act 40 of 1956 (MCL 280.1 et seq.), and responsible for site plan drainage review pursuant to the Land Division Act No. Act 288 of 1967, as amended by Act 591 of 1996 (MCL 560.101 et seq.), and the Mobile Home Commission Act No. 96, of 1987 (MCL 125.2301 et seq.).

AUTHORIZED ENFORCEMENT AGENCY

Employees of the Township designated by the Township Board to enforce this article.

BASE FLOOD

The 100-year flood with a magnitude which has a one percent chance of occurring or being exceeded in any given year.

BEST MANAGEMENT PRACTICES (BMPs)

A practice, or combination of practices and design criteria, to minimize stormwater runoff and prevent the discharge of pollutants into stormwater discharged from a site, and designed in accordance with county stormwater standards.

BUILDING OPENING

Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.

CLEAN WATER ACT

The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

CONSTRUCTION SITE STORMWATER RUNOFF

Stormwater runoff from a development site following an earth change.

COUNTY ENFORCING AGENCY

A county agency or a conservation district designated by a county board of commissioners under Section 9105 of Part 91, Soil Erosion and Sedimentation Control, of the Natural Resource and Environmental Protection Act, Public Act 451 of 1994 (MCL 324.9101 et seq.)

COUNTY STORMWATER STANDARDS

The most current version of the *Allegan County Drain Commissioner Site Development Rules*.

DESIGN ENGINEER

A registered and licensed professional engineer in the state responsible for the design of a drainage plan.

DETENTION

A system that is designed to capture stormwater and release it over a given period of time through an outlet structure at a controlled rate.

DEVELOPED or DEVELOPMENT

The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the Township's approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures.

DEVELOPER

Any person proposing or implementing the development of land.

DEVELOPMENT SITE

Any land that is being or has been developed, or that a developer proposes for development.

DISCHARGER

Any person or entity who directly or indirectly discharges stormwater from any property. The term "discharger" also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this article.

DRAIN

Any drain as defined in the Michigan Drain Code of 1956, Public Act 40 of 1956 (MCL 280.1 et seq.), other than an established county or intercounty drain.

DRAINAGE

The collection, conveyance, or discharge of groundwater and/or surface water.

DRAINAGEWAY

The area within which surface water or groundwater is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

EARTH CHANGE

A human made change in the natural cover or topography of land, including cut and fill activities.

- (1) The term "earth change" includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.
- (2) The term "earth change" does not include the practice of plowing and tilling soil for the purpose of crop production.

EROSION

The process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof.

EXEMPTED DISCHARGES

Discharges other than stormwater as specified in Section 34-892.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

The agency of the federal government charged with emergency management.

FLOOD or FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.

FLOOD PROTECTION ELEVATION (FPE)

The base flood elevation plus one foot at any given location.

FLOODPLAIN

Any land area subject to periodic flooding.

FLOODPROOFING

Any structural and/or nonstructural additions, changes, or adjustments to structures or property that reduce or eliminate flood damage to land or improvements, including utilities and other structures.

FLOODWAY

The channel of any watercourse and the adjacent land areas that must be reserved to carry and discharge a base flood without cumulatively increasing the water surface elevation more than 1/10 of a foot due to the loss of flood conveyance or storage.

GRADING

Any stripping, clearing, stumping, excavating, filling, leveling, or stock-piling of soil or any combination thereof and the land in its excavated or filled condition.

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.

ILLICIT CONNECTION

Any method or means for conveying an illicit discharge into water bodies or the Township's stormwater system.

ILLICIT DISCHARGE

Any discharge to water bodies that does not consist entirely of stormwater, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this article.

IMPERVIOUS SURFACE

A surface, such as a paved or gravel driveway, roof, parking area, or road, that prevents the infiltration of water into the soil.

LIVESTOCK PRODUCTION FACILITY

An agricultural activity, in which 100 or more livestock are fed, bred, and/or raised within a confined area, other than an open pasture either inside or outside an enclosed building.

LOWEST FLOOR

The lowest floor or the lowest enclosed area, including a basement, but not including an unfinished or flood-resistant enclosure which is usable solely for parking of vehicles or building access.

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, & ENERGY (EGLE)

The State department charged with protection of the environment.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A publicly owned conveyance system designed or used for collecting or conveying stormwater; may also be referred to as "stormwater drainage system."

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

A permit issued by EPA, or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b), that authorizes the discharge of pollutants to waters of the United States. The permit may be applicable on an individual, group, or general area-wide basis.

NONSTORMWATER DISCHARGE

Any discharge to the storm drain system that is not composed entirely of stormwater.

OVERLAND FLOW-WAY

Surface area that conveys a concentrated flow of stormwater runoff.

PLAN

Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these, which contain information pursuant to this article.

POLLUTANT

A substance discharged which includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

PREMISES

Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

PROPERTY OWNER

Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

REDEVELOPMENT

Projects that change the existing footprint (e.g. increase impervious surface), or offer new opportunities for stormwater control (e.g. reconstruction to the subbase layer of a roadway). Projects that do not disturb the underlying or surrounding soil (e.g. overlays), remove surrounding vegetation, or increase the area of impervious surface are not considered redevelopment projects.

RETENTION

A system which is designed to capture stormwater and contain it until it infiltrates the soil or evaporates.

SOIL EROSION

The stripping of soil and weathered rock from land creating sediment for transportation by water, wind, or ice, and enabling formation of new sedimentary deposits.

STATE WATER QUALITY STANDARDS

All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 (MCL 324.3106).

STORM DRAIN

Any portion of the stormwater drainage system, including any natural outlet, which carries storm and surface waters and drainage or unpolluted industrial process water, such as permitted by Section 34-347; may also be referred to as “storm sewer.”

STORMWATER MANAGEMENT FACILITY

The method, structure, area, system, or other equipment or measures which are designed to receive, control, store, or convey stormwater.

STORMWATER MANAGEMENT SYSTEM

All of the stormwater management facilities used on a site.

STORMWATER PERMIT

A permit issued by the Allegan County Drain Commissioner pursuant to state law.

STORMWATER POLLUTION PREVENTION PLAN

A document which describes the best management practices and activities to be implemented by a person 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 practicable.

STORMWATER REVIEW AND APPROVAL

Review and approval of a site stormwater management system conducted by the Township pursuant to this article.

STORMWATER RUNOFF

The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.

STREAM

A river, stream, or creek which may or may not be serving as a drain, or any other water body that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA)

The agency of the federal government charged with environmental protection.

WASTEWATER

Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATER BODY

A river, lake, stream, creek, or other watercourse or wetlands.

WATERSHED

A region draining into a water body.

WETLANDS

Land characterized by the presence of hydric soils and water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

Sec. 34-801. - Findings.

The Township finds that:

- (1) Water bodies, roadways, structures, and other property within and downstream of the Township are at times subjected to flooding;
- (2) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the Township and the region;
- (3) Land development alters the hydrologic response of watersheds, which may result in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
- (4) Stormwater runoff produced by land development may contribute to increased quantities of waterborne pollutants;
- (5) Increases of stormwater runoff, soil erosion, and nonpoint source pollution may have occurred as a result of land development, and may cause deterioration of the water resources of the Township and downstream municipalities;
- (6) Stormwater runoff, soil erosion, and nonpoint source pollution may have resulted in a deterioration of the water resources of the Township and downstream municipalities;
- (7) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff, absent reasonable regulation and control, can adversely affect the Township's water bodies and water resources, and those of downstream municipalities;
- (8) Stormwater runoff, soil erosion, and nonpoint-source pollution can be controlled and minimized by the regulation of stormwater runoff from development;
- (9) Post-Construction Storm Water Runoff Program requirements for new and redevelopments within the Township are set forth in the *State of Michigan National Pollutant Discharge Elimination System Permit Application for Discharge of Storm Water to Surface Waters of the State from a Municipal Separate Storm Sewer System* (MDEQ, 2013, Rev. 10/2014, as updated from time to time);
- (10) Adopting the standards, criteria, and procedures contained in this article and implementing the same can address many of the deleterious effects of stormwater runoff;
- (11) Adopting these standards is necessary for the preservation of the public health, safety, and welfare;
- (12) Adopting these standards is necessary to comply with the NPDES MS4 Permit;
- (13) Illicit discharges may contain pollutants that can significantly degrade the Township's water bodies and water resources;
- (14) Illicit discharges enter the municipal separate storm sewer system (MS4) through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or

spills connected by drain inlets);

- (15) Establishing the measures for controlling illicit discharges and connections contained in this article and implementing the same will address many of the deleterious effects of illicit discharges.

Sec. 34-802. - Purpose.

It is the purpose of this article to establish minimum stormwater management requirements and controls to accomplish, among others, the following objectives:

- (1) To reduce artificially induced flood damage;
- (2) To minimize increased stormwater runoff rates and volumes from identified new land development;
- (3) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures;
- (4) To encourage water recharge into the ground where geologically favorable conditions exist;
- (5) To prevent an increase in nonpoint-source pollution;
- (6) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;
- (7) To minimize the impact of development upon stream bank and streambed stability;
- (8) To reduce erosion from development or construction projects;
- (9) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution;
- (10) To reduce stormwater runoff rates and volumes, soil erosion, and nonpoint source pollution, wherever practicable, from lands that were developed without stormwater management controls meeting the purposes and standards of this article;
- (11) To reduce the adverse impact of changing the land use along water bodies and, to that end, this article establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient stormwater management controls;
- (12) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user;
- (13) To prohibit illicit discharges and connection to the MS4; and
- (14) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this article.

Sec. 34-803. - Applicability, exemptions, and general provisions.

- (1) This article shall apply to all new development and all redevelopment projects, including private, commercial, and public projects that disturb one acre or more, and projects less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more as required by the NPDES MS4 Permit.
- (2) Further, this article shall apply to any development site which:
 - (a) requires approval of a plat under Chapter 18; or
 - (b) requires approval of a site plan under Chapter 38, Article II, Division 2; building permit; or any other permit for work which will alter stormwater drainage characteristics of the development site.

However, this article shall not apply to the following:

1. The construction of, or addition, extension, or modification to, an individual single family dwelling or a two-family detached dwelling;
 2. Non-motorized improvements (sidewalk, pathway) within public rights-of-way that disturb less than one acre;
 3. The installation or removal of individual mobile homes within a mobile home park - this exemption shall not be construed to apply to the construction, expansion, or modification of a mobile home park;
 4. Farm operations and buildings, except dwellings, directly related to farm operations - this exemption shall not apply to livestock production facilities as defined in this article, greenhouses, and other similar structures;
 5. Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of the ordinance from which this article is derived, where such approvals remain in effect.
- (3) Redevelopment and additions requiring stormwater review shall comply with County Development Standards for the redeveloped or newly constructed portion of the site, except that the Township reserves the right to require the entire site be brought up to the current standards. The Township also reserves the right to define the last land use for a redevelopment site as the interim vacant condition.
 - (4) This article shall apply to all discharges entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.

Sec. 34-804 through Sec. 34-829. (Reserved)

DIVISION 2 – STORMWATER REVIEW AND APPROVAL

Sec. 34-830. - Required.

- (a) Unless otherwise provided in division 7 of this article, a developer shall not engage in any development without first receiving approval of the stormwater management system from the ACDC in consultation with the Township pursuant to this article via the Township's site plan approval process contained in the zoning regulations in Chapter 38, and without first receiving a stormwater permit from the ACDC as required by state law.
- (b) The granting of approval shall authorize only such development for which the approval is issued, subject to the terms of the approval, and it shall not be deemed to approve other development or other land use activities.

Sec. 34-831. - Review procedures.

- (1) The Township shall consider the stormwater management system approval from the ACDC as part of the site plan approval process (see Article II, Division 2, of Zoning Chapter 38), which may include terms and conditions in accordance with Section 34-837, only upon compliance with all of the following requirements.
 - (a) The developer has completed the stormwater review application form.
 - (b) The developer has submitted a site (drainage) plan complying with Section 34-832 for the approval of post-construction stormwater runoff BMPs.
 - 1. The drainage plan contains a description of an adequate, temporary stormwater management facilities to control construction site stormwater runoff and prevent offsite sedimentation, satisfying the requirements of Section 34-866, and the developer has obtained a soil erosion permit from the ACDC, if necessary.
 - 2. The drainage plan contains permanent onsite stormwater management facilities complying with the County Stormwater Standards, and the performance and design standards as set forth in Division 8 of this article.
 - (c) The developer has submitted restrictive covenant language for review and subsequent recording at the County Register of Deeds, if required for the development.
 - (d) Written construction plan approval has been obtained from the ACDC.
 - (e) The developer has paid or deposited the stormwater permit review fee pursuant to Section 34-833.
 - (f) The developer has paid or posted the applicable financial guaranty pursuant to Section 34-834.
 - (g) The developer provides to the ACDC all easements necessary to implement the approved drainage plan and to otherwise comply with this article, including but not limited to Section 34-972. All easements shall be acceptable to the ACDC and the Township in form and substance and shall be recorded with the Allegan County Register of Deeds.
 - (h) The developer provides the required maintenance agreement for routine, emergency,

and longterm maintenance of all structural and vegetative BMPs installed and implemented to meet the performance standards. This agreement shall be in compliance with the approved drainage plan and this article, including but not limited to Section 34-973. The maintenance agreement shall be acceptable to the Township in form and substance, shall be made with the ACDC, and shall be recorded with the Allegan County Register of Deeds.

Sec. 34-832. - Drainage plan.

During the site plan approval process, the developer shall provide a drainage plan to the Township for review and approval by the Township and ACDC. The drainage plan shall identify and contain all of the information required in the County Stormwater Standards.

Sec. 34-833. - Review fees.

- (1) All expenses and costs incurred by the Township and/or the ACDC directly associated with processing, reviewing, and approving or denying a stormwater review application shall be paid or reimbursed to the Township or the ACDC from the funds paid directly to the ACDC. The Township reserves the right to request a separate escrow account be established by the developer, as provided in subsection (2) of this section. The Township may draw funds from a developer's escrow account to reimburse the Township and/or the ACDC for out-of-pocket expenses incurred by the Township and/or the ACDC relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:
 - (a) Services of the Township Attorney directly related to the application;
 - (b) Services of the Township Engineer directly related to the application;
 - (c) Services of other independent contractors working for the Township, which are directly related to the application; and
 - (d) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.
- (2) At the time a developer applies for a stormwater review through the site plan approval process, the developer shall pay the required fees established by the ACDC for a stormwater review. The developer may also be required to deposit with the Township, as an escrow deposit, an initial amount as determined by resolution of the Township Board for such matters and shall provide additional amounts as requested by the Township in such increments as are specified in the resolution. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final Township approval and acceptance of the development has occurred will be refunded to the developer with no interest to be paid on those funds. At no time prior to the Township's final decision on an application shall the balance in the escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the developer shall deposit into the account an additional amount as determined by Township Board resolution, before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the developer, at the discretion of the Township.

Sec. 34-834. - Financial guaranty.

- (1) Neither the Township nor the ACDC shall approve a stormwater management system until the developer submits to the Township, in a form and amount satisfactory to the Township, a letter of credit or other financial guaranty for the timely and satisfactory construction of all stormwater management facilities and site grading in accordance with the approved drainage plan. Upon (a) certification by a registered professional engineer that the stormwater management facilities have been completed in accordance with the approved drainage plan, including but not limited to the implementation plan required to be submitted in Section 34-832, and (b) receipt of construction record drawings for all private drainage systems meeting the minimum requirements of the ACDC, the Township may release the letter of credit or other financial guaranty, subject to final Township acceptance and approval.
- (2) Except as provided in subsection (3) of this section, the amount of the financial guaranty shall be equal to the construction cost estimate provided by the developer of all stormwater management facilities and site grading, unless the Township, in consultation with the ACDC, determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the developer in writing. In determining whether an amount greater is appropriate, the Township shall consider the size and type of the development, the size and type of the on-site stormwater system, and the nature of the off-site stormwater management facilities the development will utilize.
- (3) The Township Manager may waive the financial guaranty for a development if the ACDC or the Allegan County Road Commission, as part of its review process, requires a letter of credit or other financial guaranty for the satisfactory construction of all stormwater management facilities.
- (4) The Township Manager may reduce or waive the amount of the financial guaranty for a development that will not increase the percentage of impervious surface of the development site by more than 10 percent.
- (5) This article shall not be construed or interpreted as relieving a developer of the obligation to pay all costs associated with onsite private stormwater runoff facilities as well as those costs arising from the need to make other drainage improvements in order to reduce a development's impact on a drain consistent with County Stormwater Standards.

Sec. 34-835. - Certificate of occupancy.

No certificate of occupancy shall be issued until stormwater management facilities have been completed in accordance with the approved drainage plan, all applicable restrictive covenants and construction record drawings have been submitted and approved, and the executed maintenance agreement is recorded with the Allegan County Register of Deeds. However, the Township may issue a temporary certificate of occupancy if an acceptable letter of credit or other financial guaranty has been submitted to the Township, ACDC, or the Allegan County Road Commission for the timely and satisfactory construction of all stormwater management facilities and site grading in accordance with the approved drainage plan.

Sec. 34-836. - No change in approved facilities.

Stormwater management facilities, after construction and approval, shall be maintained in

good condition, in accordance with the approved drainage plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved drainage plan, or in accordance with approved amendments or revisions in the plan.

Sec. 34-837. - Terms and conditions.

- (1) In granting approval to a stormwater management system, the Township and/or the ACDC may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this article. A developer shall comply with such terms and conditions.
- (2) Approval is considered to be granted by the Township when site plan approval is granted to a development and all conditions of that approval have been met and fully satisfied by the developer, unless authorization is required to be granted by the ACDC under state law and this approval has not been offered.

Sec. 34-838 through Sec. 34-860. (Reserved)

**DIVISION 3 – STORMWATER SYSTEM, FLOODPLAIN,
AND OTHER STANDARDS; SOIL EROSION CONTROL**

Sec. 34-861. - Responsibility for stormwater system.

The Township is not responsible for providing drainage facilities on private property for the management of stormwater on such property. It shall be the responsibility of the property owner to provide for, and maintain, private stormwater management facilities serving the property and to prevent or correct the accumulation of debris that interferes with the drainage function of a water body.

Sec. 34-862. - Stormwater management system.

All stormwater management facilities shall be constructed and maintained in accordance with all applicable federal, state, and local ordinances, and rules and regulations.

Sec. 34-863. - Public health, safety, and welfare.

Protection of the public health, safety, and welfare shall be a primary consideration in the design of all stormwater management facilities.

Sec. 34-864. - Protection of environmentally sensitive areas.

- (1) Environmentally sensitive areas shall be identified on the site plan with measures shown for protection of these areas as defined and in accordance with County Stormwater Standards.
- (2) The Township may include provisions for the acceptable replacement of floodplain storage volume, where such storage volume is lost or diminished as a result of approved development.

Sec. 34-865. - Flood protection and building openings.

- (1) All new buildings and substantial improvements to existing buildings shall be protected from flood damage up to the flood protection elevation (FPE) and shall be in accordance with all applicable federal, state, and local ordinances. In the event of any conflict between the flood protection provisions in this article and any flood protection provisions in the zoning chapter, chapter 38, the provisions in this article shall control.
- (2) No building opening/lowest floor shall be constructed below the following elevations:
 - (a) One foot above the 100-year floodplain;
 - (b) One foot above the design high water level of stormwater management facilities;
 - (c) Two feet above the highest known groundwater elevation; and
 - (d) The building opening/lowest floor elevation established at the time of plat or development approval and on file in the Township and/or ACDC.
- (3) A waiver from elevations stated in subsection (1) of this section may be granted by the Township Manager following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding. Floodproofing measures must be in accordance with FEMA Technical Bulletins and Michigan Building Codes.
- (4) Land Survey and Elevation Certificate. If the ACDC has specified a minimum building opening at the time of plat or development approval, or if construction occurs within the 100-hundred year floodplain, upon completion of construction of the structure's foundation and/or slab on grade, a registered land surveyor shall certify any minimum building opening elevation specified by this article. This certificate shall attest that the building opening elevation complies with the standards of this article. The permittee for the building permit shall submit the certificate to the Township building official prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in subsection (1) of this section, that opening must be raised using a method that meets with the approval of the Township. After reconstruction, a registered land surveyor or engineer shall recertify that the minimum building opening elevation complies with the standards of this article prior to the commencement of framing and/or structural steel placement.
- (5) Waiver of Land Survey. The Township building official may grant a waiver of the required land survey under subsection (4) of this section if the minimum building opening appears to be at or above the elevation of adjacent buildings that have already been certified, or if a grade map shows that the low opening elevation of the building is at least three feet higher than the minimum building opening established pursuant to subsection (2) of this section.

Sec. 34-866. - Soil erosion and sedimentation control.

- (1) All persons who cause, in whole or in part, any earth change to occur shall provide soil erosion and sedimentation control so as to adequately prevent soils from being eroded

and discharged or deposited onto adjacent properties or into a stormwater drainage system, a public street or right-of-way, wetland, creek, stream, water body, or floodplain.

- (2) Prior to making any earth change on a development site regulated by this article, the property owner or developer shall first obtain a soil erosion permit from the County Enforcing Agency issued in accordance with Part 91, Soil Erosion and Sedimentation Control, of the Natural Resource and Environmental Protection Act, Public Act 451 of 1994 (MCL 324.9101 et seq.), if one is required.
- (3) A soil erosion and sedimentation control permit is required for any earth change that is greater than one acre or less than 500 feet from any lake or stream. Permits are obtained from the County Enforcing Agency.
- (4) The property owner and other persons causing or participating in the earth change shall comply with the terms of the SESC permit.
- (5) During earth change activities on the development site, the Township may inspect the site to ensure compliance with the approved construction site runoff controls.
- (6) During any earth change which exposes soil to an increased risk of erosion or sediment tracking, the property owner and other persons causing or participating in the earth change shall do the following:
 - (a) Comply with the stormwater management standards of this article;
 - (b) Prevent damage to any public utilities or services within the limits of grading and within any routes of travel or areas of work of construction equipment;
 - (c) Prevent damage to or impairment of any water body on or near the location of the earth change or affected thereby;
 - (d) Prevent damage to adjacent or nearby land;
 - (e) Maintain all required soil erosion and sedimentation control measures, including but not limited to measures required for compliance with the terms of this article;
 - (f) Promptly remove all soil, sediment, debris, or other materials applied, dumped, tracked, or otherwise deposited on any lands, public streets, sidewalks, or other public ways or facilities, including catch basins, storm sewers, ditches, drainage swales, or water bodies (removal of all such soil, sediment, debris, or other materials within 24 hours shall be considered prima facie compliance with this requirement, unless such materials present an immediate hazard to public health and safety); and
 - (g) Refrain from grading lands at locations near or adjoining lands, public streets, sidewalks, alleys, or other public or private property without providing adequate support or other measures so as to protect such other lands, streets, sidewalks, or other property from settling, cracking, or sustaining other damage.

Sec. 34-867 through Sec. 34-890. (Reserved)

DIVISION 4 – PROHIBITIONS AND EXEMPTIONS

Sec. 34-891. - Prohibited discharges.

- (1) Prohibition of Illicit Discharges. No person shall discharge or cause to be discharged to a water body, directly or indirectly, any materials, including but not limited to pollutants or waters containing any pollutants, other than stormwater or an exempted discharge pursuant to Section 34-347, or discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (2) Any person discharging stormwater shall effectively prevent pollutants from being discharged with the stormwater, except in accordance with best management practices.
- (3) The Township is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the Township's stormwater drainage system.
- (4) Prohibition of illicit connections.
 - (a) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
 - (b) 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.
 - (c) A person is considered to be in violation of this article if the person connects a line conveying wastewater to the MS4, or allows such a connection to continue.

Sec. 34-892. - Exempted discharges.

The following nonstormwater discharges shall be permissible, provided that they do not result in a violation of state water quality standards:

- (1) Water supply line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising groundwater;
- (5) Uncontaminated groundwater infiltration to storm drains;
- (6) Uncontaminated pumped groundwater;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensate;

- (10) Individual residential car washing;
- (11) Dechlorinated swimming pool water;
- (12) Street wash water;
- (13) Discharges or flows from emergency firefighting activities; and
- (14) Discharges for which a specific federal or state permit has been issued.

Sec. 34-893. - Interference with natural or artificial drains.

- (1) It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with, any natural or constructed drain or drainageway without first submitting a drainage plan to the Township and receiving approval of that plan. Any deviation from the approved plan is a violation of this article. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment or the public health, safety, or welfare. When any of the activities mentioned in this section involves an established county drain, a drain use permit is required from the ACDC.
- (2) No filling, blocking, fencing, or above-surface vegetation planting may take place within a floodplain/floodway.
- (3) For an overland flow-way:
 - (a) Silt fence shall not be permitted below the top of the bank of a water body;
 - (b) Chain-link fences shall be permitted if the Township and the ACDC determine that the fence will not obstruct or divert the flow of water;
 - (c) If a fence is removed by the Township or ACDC for drain access or drain maintenance, the fence shall be replaced by the owner of the fence at the owner's expense, as long as the owner complies with subsection (3)(b) of this section; and
 - (d) No shrubs or trees shall be planted below the top of the bank of a water body, or within an easement for a waterway (for example, a backyard swale).
- (4) Shrubs, trees, or other above-ground vegetation shall not be planted over the top of an underground storm sewer or over the top of the easement within which the storm sewer has been installed.

Sec. 34-894. - Storage of hazardous or toxic materials in drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a drainageway.

Sec. 34-895 through Sec. 34-920. (Reserved)

DIVISION 5 – INSPECTION, MONITORING,

REPORTING, AND RECORDKEEPING

Sec. 34-921. - Inspection and sampling.

To ensure compliance with the standards in this pervasively regulated area, the Township may inspect and/or obtain stormwater samples from stormwater management facilities of any discharger to determine compliance with the requirements of this article. Upon request, the discharger shall allow the Township's or ACDC's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Township shall provide the discharger reasonable advance notice of such inspection and/or sampling. The Township or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

Sec. 34-922. - Stormwater monitoring facilities.

A discharger of stormwater runoff shall provide and operate equipment or devices for the monitoring of stormwater runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a stormwater runoff facility, when directed in writing to do so by the Township. The Township may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances, and regulations.

Sec. 34-923. - Accidental discharges.

- (1) Any discharger who accidentally discharges into a water body any substance other than stormwater or an exempted discharge shall immediately inform the Township and/or ACDC concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the Township and ACDC within five days. The written report shall specify:
 - (a) The composition of the discharge and its cause;
 - (b) The exact date, time, and estimated volume of the discharge;
 - (c) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence; and
 - (d) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.
- (2) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this article against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs, or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of subsection (1) of this section.

Sec. 34-924. - Recordkeeping requirement.

Any person subject to this article shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling, and chemical analysis of any discharge or stormwater runoff from any property.

Sec. 34-925 through Sec. 34-950. (Reserved)

DIVISION 6 – ENFORCEMENT

Sec. 34-951. - Sanctions for violation.

- (1) Any person violating any provision of this article other than Sections 34-866 and 34-891, and except as provided in subsection (2) of this section, shall be responsible for a municipal civil infraction and subject to a fine of not less than \$500 for a first offense, and not less than \$ 1,000 for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including without limitation equitable relief. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this article.
- (2) For purposes of this section, "subsequent offense" means a violation of the provisions of this article committed by the same person within 12 months of a previous violation of the same provision of this article for which the person admitted responsibility or was adjudicated to be responsible.
- (3) Any person who neglects or fails to comply with a stop work order issued under Section 34-952 shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.
- (4) Any person who aids or abets a person in a violation of this article shall be subject to the sanctions provided in this section.
- (5) A person who violates Sections 34-866 or 34-891 shall be guilty of a misdemeanor, subject to penalties set forth in this code.
- (6) Nothing in this section will in any way negatively impact or take away from the enforcement authority of the ACDC or any other governmental entity with enforcement authority.

Sec. 34-952. - Stop work order.

Where there is work in progress that causes or constitutes, in whole or in part, a violation of any provision of this article, the Township is authorized to issue a stop work order so as to

prevent further or continuing violations or adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order, shall fully and promptly comply therewith. The Township may also undertake, or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this article or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work was performed.

Sec. 34-953. - Failure to comply.

In addition to any other remedies, should any owner fail to comply with the provisions of this article, the Township may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the Township for all costs of such work.

Sec. 34-954. - Emergency measures.

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury, or damage to property, the Township is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this article and shall promptly reimburse the Township for all of such costs.

Sec. 34-955. - Cost recovery for damage to storm drain system.

A discharger shall be liable for all costs incurred by the Township as the result of causing a discharge that produces a deposit or obstruction, or causes damage to or impairs a storm drain, or violates any of the provisions of this article. Costs include but are not limited to those penalties levied by the EPA or EGLE for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 34-956. - Collection of costs; lien.

Costs incurred by the Township and the ACDC pursuant to Sections 34-952, 34-953, 34-954, and 34-955 shall be a lien on the premises which shall be enforceable in accordance with the Revenue Bond Act, Public Act 94 of 1933 (MCL 141.101 et seq.). Any such charges which are delinquent for six months or more may be certified annually to the Township Treasurer, who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Township and the ACDC shall have all remedies authorized by the Act.

Sec. 34-957. - Appeals.

Any person to whom any provision of this article has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Township Board the action or decision whereby any such provision was so applied. Such appeal shall identify the

matter being appealed, and the basis for the appeal. The Township Board shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the Township Board may consider the recommendations of the Township Manager and the comments of other persons having knowledge of the matter. In considering any such appeal, the Township Board may grant a variance from the terms of this article so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the article provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the article; and
- (2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this article, nor result in less effective management of stormwater runoff.

Sec. 34-958. - Suspension of MS4 access.

- (1) Suspension due to illicit discharges in emergency situations. The ACDC, with or without consultation with the Township, and without prior notice, may 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. If the violator fails to comply with a suspension order issued in an emergency, the Township and the ACDC may take such steps as deemed necessary to prevent or minimize damage to the MS4 or the environment, or to minimize danger to the health or welfare of persons.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have the person's MS4 access terminated if such termination would abate or reduce an illicit discharge. The ACDC will notify a violator and the Township of the proposed termination of the violator's MS4 access. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the ACDC and the prior acknowledgement of the Township.

Sec. 34-959. - Tracking enforcement.

The ACDC shall implement a method for tracking instances of non-compliance. The tracking procedure shall ensure that detailed information about non-compliance and follow up enforcement action is adequately documented, including at a minimum:

- (1) Name of the person responsible for violating the ordinance;
- (2) Date and location of violation;
- (3) Description of the violation, including how the violation was identified;
- (4) Description of the enforcement response;

- (5) Schedule for returning to compliance; and
- (6) Date the violation was resolved.

Sec. 34-960 through Sec. 14-970. (Reserved)

**DIVISION 7 – STORMWATER EASEMENTS
AND MAINTENANCE AGREEMENTS**

Sec. 34-971. - Applicability of requirements.

The requirements of this division concerning stormwater easements and maintenance agreements shall apply to all persons required to submit a drainage plan to the Township for review and approval.

Sec. 34-972. - Stormwater management easements.

The developer shall provide all stormwater management easements necessary to implement the approved drainage plan and to otherwise comply with this article in form and substance required by the ACDC and the Township and shall record such easements as directed by the ACDC and the Township. The easements shall ensure access for proper inspection and maintenance of stormwater management facilities and shall provide adequate emergency overland flow-ways. Easements for private stormwater management systems shall be conveyed by each landowner to the entity responsible for operation and maintenance of the stormwater management system. The ACDC will not accept easements over private stormwater management systems.

Sec. 34-973. - Maintenance agreements and other documents.

- (1) Maintenance agreement required. The developer shall provide all stormwater maintenance agreements necessary to implement and maintain the approved drainage plan and to otherwise comply with this article in form and substance as required by the ACDC and the Township. The maintenance agreement shall be signed and submitted to the ACDC for review and approval, and to the Township for review only, at the time of stormwater review. After construction of the stormwater management system has been verified and approved or accepted by the Township, the developer shall execute a final maintenance agreement with the ACDC, record the agreement with the County Register of Deeds, and provide a copy of the recorded document to the ACDC and to the Township. The maintenance agreement requirement in this subsection shall not apply if the ACDC requires, on its own or in consultation with the Township, that the developer shall instead sign an agreement that satisfies the requirements for an agreement subject to MCL 280.433, Section 433 of Michigan Public Act 40 of 1956, the Drain Code of 1956 (“Section 433 agreement”).
- (2) Maintenance agreement provisions. The maintenance agreement shall, among other matters, ensure access for proper inspection by the ACDC and the Township, or their designees, allow for maintenance or corrective actions of stormwater BMPs, and include provisions for tracking the transfer of operation and maintenance responsibility to ensure the performance standards are met in perpetuity.

- (3) **Tracking Operation and Maintenance.** The ACDC shall implement a tracking system to include procedures for filing and retrieval of all recorded maintenance agreements, Section 433 agreements, maintenance plans, and stormwater management system maps to document location and ages of stormwater BMPs. The ACDC shall also track annual inspection reports required to be submitted from the developer, and any inspection conducted by the ACDC or the Township to document condition of stormwater BMPs and maintenance performed.

Sec. 34-974. - Prohibition of orphan drains.

Prior to final approval, all stormwater management systems must have a single entity responsible for long-term operation and maintenance, unless otherwise provided in this section. The Township will not approve an “orphan” drainage system serving multiple landowners without recorded stormwater easements and either a maintenance agreement or a Section 433 agreement, unless the Township finds on the basis of a report from a licensed engineer that a particular stormwater management system can be approved without adversely affecting the drainage for property in the area, and that achieving the requirements of this section is not practically possible.

Sec. 34-975 through Sec. 34-985. (Reserved)

DIVISION 8 – PERFORMANCE AND DESIGN STANDARDS

Sec. 34-986. - Performance standards.

In order to achieve the goals and purposes of this article, sites shall meet the stormwater management performance standards for water quality treatment, flood control, and other site-specific standards as published in the County Stormwater Standards.

Sec. 34-987. - Alternatives for meeting performance standards.

- (1) The ACDC may establish programs and procedures for alternative means to meet the performance standards if onsite retention of the entire stormwater volume is determined to be not feasible.
- (2) Requirements for programs and procedures acceptable to the ACDC are given in the County Stormwater Standards.

Sec. 34-988. - Design standards.

Stormwater BMPs shall be designed to meet the performance standards as described in Sec. 34-987. Stormwater system design shall be in accordance with the current version of the County Stormwater Standards.

Sec. 34-989. - Resolution to implement performance and design standards.

The ACDC may establish more detailed design and performance standards for stormwater runoff facilities, consistent with the terms of this article, and in order to further implement the goals and purposes set forth in this article.

Sec. 34-990. - Responsibility to implement best management practices (BMPs).

The owner or operator of a commercial or industrial establishment shall provide, at the owner's or operator's 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 nonstructural BMPs. Further, any person responsible for a property or premises, which is or may be the source of an illicit discharge, may be required to implement, at the responsible person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater 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 (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section 2. Effective Date. This amendment to the Laketown Township Code of Ordinances was approved and adopted by the Township Board of Laketown Township, Allegan County, Michigan, on February 8, 2023. This Ordinance shall be effective 30 days after the publication of a Notice of Adoption for this Ordinance.

Linda S. Howell,
Township Supervisor

Amber Davis,
Township Clerk

CERTIFICATE

I, Amber Davis, the Clerk for the Township of Laketown, Allegan, County, Michigan, certify that the foregoing Laketown Township Ordinance was adopted at a regular meeting of the Township Board held on February 8, 2023. The following members of the Township Board were present at that meeting: Howell, Dewey, Davis, Johnson and Delaney. The following members of the Township Board were absent: none. The Ordinance was adopted by the Township Board with members of the Board Howell, Dewey, Davis, Johnson and Delaney voting in favor and no members of the Board voting in opposition. Notice of Adoption of the Ordinance was published in the Holland Sentinel on February 15, 2023.

Amber Davis,
Township Clerk