

# Home Rule Resolution Regulating Storm Water Retention/Detention Systems

## BOARDMAN TOWNSHIP TRUSTEES, MAHONING COUNTY, OHIO HOME RULE RESOLUTION #05-06

### ENACTING AND CODIFYING A HOME RULE RESOLUTION FOR BOARDMAN TOWNSHIP REGULATING THE MAINTENANCE OF STORM WATER RETENTION/DETENTION SYSTEMS.

The Board of Trustees of Boardman Township, Mahoning County, Ohio met in Regular Session at the Boardman Township Government Center on the 25<sup>th</sup> day of April 2005, with the following members present: Elaine R. Mancini, Thomas P. Costello, Kathy Miller.

**Mr. Costello moved to approve the Second Reading and Adoption of Home Rule Resolution #05-06 as follows:**

**WHEREAS**, the Boardman Township Board of Trustees adopted a Limited Home Rule Government in accordance with the Ohio Revised Code Section 504.01(B) by Resolution duly adopted and approved on October 12, 1999; and,

**WHEREAS**, Boardman Township thus constitutes an Urban Township with Limited Home Rule Authority as provided in Ohio Revised Code Section 504.01(B)1, vested with the powers, rights and immunities granted therein; and,

**WHEREAS**, it is the desire of the Boardman Township Board of Trustees to address the need for providing for regulations governing the maintenance of storm water retention/detention systems located within agricultural, residential, business, commercial and industrial districts for the general health, safety and welfare of the general public and community:

**NOW, THEREFORE, BE IT RESOLVED, THAT THE FOLLOWING REGULATIONS BE AND HEREBY ARE ADOPTED AND APPROVED UPON FIRST AND SECOND READINGS, PUBLICATION AND CODIFICATION:**

#### **SECTION 1: NOTICES AND ORDERS**

Notice to owner or owners or to person or persons responsible: whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, a Notice of Violation shall be given to the owner or the person or persons responsible therefore in the manner prescribed herein. For purposes of this Home Rule Resolution, the "code official" shall be deemed as the Boardman Township Zoning Inspector and/or his designee:

##### **A. Notices of Violation:**

1. Shall be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the reason or reasons why the notice is being issued; and,
4. Include a correction order allowing a reasonable time as determined by the code official, not to exceed thirty (30) days, for the repair, improvement, and general maintenance functions required to bring the storm water retention/detention system into compliance with the original, pre-approved design criteria.

**B. Method of Service:** Notice shall be deemed to be properly served if a copy thereof is (a) delivered to the owner personally; or, (b) sent certified mail, with return receipt requested, addressed to the owner at

the last known address. If the letter/notice is returned showing that the letter/notice was not delivered, a copy thereof shall be posted in a conspicuous place on or about the property affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the storm water retention/detention systems shall constitute service of notice upon the owner.

## **SECTION 2: EXTERIOR PROPERTY MAINTENANCE**

### **A. GENERAL REQUIREMENTS:**

1. **SCOPE:** The provisions of this section shall govern the minimum conditions and the responsibilities of persons for maintenance of storm water retention/detention systems.
2. **RESPONSIBILITY:** The owner(s) of the premises shall maintain the storm water retention/detention systems in compliance with this Home Rule Resolution.

**B. DEFINITIONS:** The following words and terms shall, for the purpose of this section and as stated elsewhere in this Resolution, have the meanings shown herein.

1. **EXTERIOR PROPERTY:** The open space on the premises and on adjoining property or properties under the control of owners or operators of such premises.
2. **OPERATOR:** Any person who has charge of, or care of control of, a storm water retention/detention system.
3. **OWNER:** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
4. **PERSON:** An individual, corporation, partnership or any other group acting as a unit.
5. **PREMISES:** A lot, plot or parcel of land including any structures thereon.
6. **RETENTION SYSTEM:** A storm water system that is designed to hold water continuously.
7. **DETENTION SYSTEM:** A storm water system that is designed to hold water temporarily.
8. **PUBLIC NUISANCE:** Includes the following that represents or reflects the physical condition of any storm water retention/detention system regarded as a public nuisance at common law, or post-inspection modifications;
  - a. Any storm water retention/detention system that is littered with rubbish, garbage, sedimentation or that has an uncontrolled growth of weeds in excess of ten (10) inches;
  - b. Any structures including, but not limited to, headwalls, inlet-outlet pipes and control structures, orifices, catch basins, and curbing that are in a state of disrepair;
  - c. Any storm water retention/detention system with reduced capacity/volume due to sedimentation deposits;
  - d. Any swale ditch or ditches determined to be part of the storm water detention /retention system that is littered with rubbish or garbage, or has an uncontrolled growth of plant materials/weeds in excess of ten (10) inches;
  - e. Any underground/vault storm water detention system in a state of disrepair or littered with rubbish or garbage

### **C. NOTHING IN THIS RESOLUTION SHALL:**

1. Require or prohibit a property owner from constructing, installing or locating a storm water retention and/or detention system on their property;
2. Proscribe design, engineering and/or construction standards for storm water retention and/or detention systems installed or located on an owner's property.

D. The sole purpose and intent of this Resolution is to require the owner(s) of storm water and/or detention systems located in the township to maintain said systems free and clear of obstructions, to promote free flow and drainage of property located within the township, and to avoid flooding and related nuisances within the township.

### **SECTION 3: MAINTENANCE**

- A. A storm water retention/detention system must be free of rubbish, garbage, sedimentation or uncontrolled growth of plant materials/weeds in excess of ten (10) inches.
- B. All structures including, but not limited to, headwalls, inlet-outlet pipes and control structures, orifices, catch basins, paving and curbing shall be in good repair and functioning at an optimal level as stipulated in the pre-approved design.
- C. Storm water retention/detention systems must maintain the original capacity/volume requirements at an optimal level as stipulated in the pre-approved design.
- D. Swale ditch or ditches determined to be part of the storm water detention/retention system must be free of debris, rubbish, obstructions and excessive plant growth in excess of ten (10) inches so as to promote positive drainage flow.
- E. Underground/vault storm water retention/detention systems must be free of litter or rubbish and shall be in good repair and functioning at an optimal level as stipulated in the pre-approved design. Surface grading must be maintained, to include filling of sinkholes, and any surface undulations that could pose a trip hazard to foot traffic if the affected area is open to public access.

### **SECTION 4: PENALTIES**

A violation of this Resolution shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

- (1) First Offense: \$250.00
- (2) Second Offense: \$500.00
- (3) Third Offense: \$750.00
- (4) Fourth and Subsequent Offenses: \$1,000.00

### **SECTION 5: EFFECTIVE DATE OF RESOLUTION**

This Resolution shall be effective thirty (30) days from the date of adoption upon both First and Second Readings, and publication thereof:

**Mrs. Miller seconded the motion to approve the Second Reading and Adoption of Home Rule Resolution #05-06 as follows:**

The Roll Call resulted as follows:

Mrs. Elaine R. Mancini: Aye  
Mr. Thomas P. Costello: Aye

Mrs. Kathy Miller: Aye

**Home Rule Resolution #05-06 declared adopted upon Second Reading this 25<sup>th</sup> day of April 2005**

**Date of First Reading: April 11, 2005**

**Date of Second Reading: April 25, 2005**

**Effective Date of Resolution: May 25, 2005**

**BY ORDER OF THE BOARDMAN TOWNSHIP BOARD OF TRUSTEES, MAHONING COUNTY, OHIO:**

Elaine R. Mancini, Chair

Thomas P. Costello, Vice-Chair

Kathy Miller, Trustee

**ATTEST:**

William D. Leicht, Clerk

**Prepared by:**

Attorney Mark S. Finamore

Home Rule Legal Counsel

**Approved as to form by:**

Attorney Paul J. Gains

Mahoning County Prosecutor / Boardman Township Law Director

**CERTIFICATION**

I, William D. Leicht, Clerk of Boardman Township, do hereby that the foregoing is taken and copied from the Minutes of Boardman Township, that the same has been compared by me with Home Rule Resolution #05-06 of said Minutes, and that same is a true copy thereof.

William D. Leicht, Clerk