



Borough of Chatham

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ORDINANCE #24-09

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 165, ARTICLE XIV “STORMWATER MANAGEMENT AND CONTROL,” OF THE CODE OF THE BOROUGH OF CHATHAM TO ADOPT THE SIMPLIFIED MODEL ORDINANCE DEVELOPED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

WHEREAS, Chapter 165 of the Code of the Borough of Chatham, “Stormwater Management and Control” was last amended by the Borough Council in 2021; and,

WHEREAS, in 2023, the New Jersey Department of Environmental Protection (NJDEP) issued a simplified model stormwater management and control ordinance as part of its Best Management Practices (BMP) Manual, which addresses regulatory developments in this area; and,

WHEREAS, the purpose of stormwater management is to minimize pollution caused by stormwater in order to restore, enhance and maintain the integrity of waters of the State; and,

WHEREAS, the Borough’s professionals have advised that adoption of this updated ordinance is required in order to remain in full compliance with NJDEP regulatory mandates.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of Chatham Borough, in the County of Morris, State of New Jersey, as follows:

Section 1:

Chapter 165 of the Code of the Borough of Chatham (“Borough Code”) is hereby amended to delete in its entirety Article XIV, “Stormwater Management and Control,” more specifically § 165-110 through § 165-123, and to be replaced with the following new language:

§ 165-110 Scope and purpose.

- A. Policy Statement. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (“GI BMPs”) and nonstructural stormwater management strategies. GI BMPs should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for green infrastructure, water quality, quantity, and groundwater recharge.
- B. Purpose. The purpose of this ordinance is to establish minimum stormwater management requirements and controls for “major development,” as defined in § 165-111.

C. Applicability.

1. This ordinance shall be applicable to the following major developments:
 - i. Non-residential major developments and redevelopment projects; and
 - ii. Aspects of residential major developments and redevelopment projects that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21 et seq.
2. This ordinance shall also be applicable to all major developments undertaken by the Borough of Chatham.
3. Applicability of this ordinance to major developments shall comply with last amended N.J.A.C. 7:8-1.6, incorporated herein by reference.

D. Compatibility with Other Permit and Ordinance Requirements. Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 165-111 Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions used in this ordinance shall be the same as the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2, incorporated herein by reference.

§ 165-112 Design and Performance Standards for Stormwater Management Measures.

This section establishes design and performance standards for stormwater management measures for major development intended to minimize the adverse impact of stormwater runoff on water quality and water quantity and loss of groundwater recharge in receiving water bodies. Design and performance standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.

§ 165-113 Solids and Floatable Materials Control Standards.

A. Site design features identified under § 165-112, or alternative designs in accordance with § 165-112, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means

sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 165-113A.2.

1. Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - i. The New Jersey Department of Transportation (“NJDOT”) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
 - ii. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.
 - iii. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
2. The standard in § 165-113A.1 does not apply:
 - i. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
 - ii. Where the Borough agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
 - iii. Where flows from the water quality design storm as specified in the last amended Stormwater Management rules at N.J.A.C. 7:8 et seq. are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - b. A bar screen having a bar spacing of 0.5 inches.

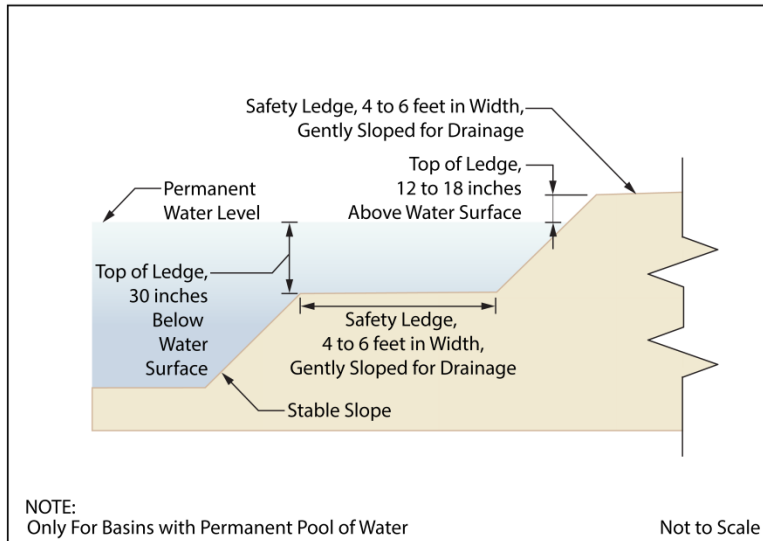
Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- v. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§ 165-114 Safety Standards for Stormwater Management Basin.

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin. Safety standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-6, incorporated herein by reference.

B. Safety Ledge Illustration:



§ 165-115 Requirements for a Site Development Stormwater Plan.

A. Submission of Site Development Stormwater Plan.

1. Whenever an applicant seeks Borough approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 165-115C as part of the submission of the application for approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit fourteen (14) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section § 165-115C.

- B. Site Development Stormwater Plan Approval. The applicant's Site Development project shall be reviewed as a part of the review process by the Borough board or official from which municipal approval is sought. That Borough board or official shall consult the Borough's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.
- C. Submission of Site Development Stormwater Plan. The following information shall be required:
1. Topographic Base Map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
 2. Environmental Site Analysis. A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
 3. Project Description and Site Plans. A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.
 4. Land Use Planning and Source Control Plan. This plan shall provide a demonstration of how the goals and standards of Section § 165-115 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
 5. Stormwater Management Facilities Map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - i. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - ii. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet

at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations.
 - i. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section § 165-115.
 - ii. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.
7. Maintenance and Repair Plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 165-115.
8. Waiver from Submission Requirements. The Borough official or board reviewing an application under this ordinance may, in consultation with the Borough's review engineer, waive submission of any of the requirements in Section § 165-115C.1 through § 165-115C.6 when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 165-116 Maintenance and Repair.

- A. Applicability. Projects subject to review as in §165-110 shall comply with the requirements contained in § 165-116B.
- B. General Maintenance.
 1. Maintenance for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5.8, incorporated herein by reference.
 2. Applicants shall be required to post performance and maintenance guarantees in accordance with N.J.S.A. 40:55D-53, incorporated herein by reference.
 3. The following requirements of N.J.A.C. 7:8-5.8 do not apply to stormwater management facilities that are dedicated to and accepted by the Borough or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department of Environmental Protection:
 - i. If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation; and

- ii. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
4. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it needs maintenance or repair, the Borough shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the Borough engineer or designee. The Borough, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the Borough or the County of Morris may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.

§ 165-117 Penalties.

- A. Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the penalties set forth in §165-173 and § 1-14 of the Code of the Borough of Chatham.
- B. Each instance of engaging in a separate regulated activity in violation of this article shall be deemed a separate offense.
- C. In addition, the Borough may institute civil action for injunctive or other relief to enforce the provisions of this article.

§ 165-118 Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

§ 165-119 Effective Date.

This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

Section 2:

All other provisions of Chapter 165 of the Borough Code that have not been amended or replaced herein remain in full force and effect.

Section 3:

Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 4:

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5:

Codification. This Ordinance shall be a part of the Borough Code as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Borough Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Borough Code in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Borough Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Section 6:

This Ordinance shall take effect upon passage, adoption, and publication in the manner prescribed by law.

Name	Motion	Second	Yes	No	Abstain	Absent
Mathiasen						
Hargrove						
Hay						
Koronkiewicz						
Strickland						
Treloar						

Introduced: May 13, 2024

Adopted: May 28, 2024

Attest:

BOROUGH OF CHATHAM

Vanessa L. Nienhouse, RMC, CMC
Borough Clerk

Carolyn Dempsey
Mayor

CERTIFICATION

I, Vanessa L. Nienhouse, Borough Clerk for the Borough of Chatham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of an Ordinance that was read on second reading and approved by the Borough Council at its Regular Meeting held on May 28, 2024.

Vanessa L. Nienhouse, Borough Clerk