

ORDINANCE 2024-20

ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING CHAPTER 9, WHICH PERTAINS TO STORMWATER REGULATIONS AND STORMWATER CONTROL

STATEMENT OF PURPOSE

The purpose of this ordinance is to repeal and replace §9-10 and §9-11 to adopt the revised and required State regulations relating to stormwater control.

SECTION I

§9-10 is repealed and replaced with the following.

§9-10 STORMWATER CONTROL

§9-10.1 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 Chapter is to establish minimum stormwater management requirements and controls for “major development,” as defined below.

§9-10.2 Applicability.

1. This Chapter shall be applicable to the following major developments:
 - (a) Non-residential major developments and redevelopment projects; and
 - (b) 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 Chapter shall also be applicable to all major developments undertaken by the Borough of Harvey Cedars.
3. Applicability of this Chapter to major developments shall comply with last amended N.J.A.C. 7:8-1.6, incorporated herein by reference.

§9-10.3 Compatibility with Other Permit and Code Requirements.

1. Development approvals issued pursuant to this Chapter 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 Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
2. This Chapter 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 Chapter 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.

§9-10.4 Definitions.

For the purpose of this Chapter, 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.

§9-10.5 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.

§9-10.6 Solids and Floatable Materials Control Standards.

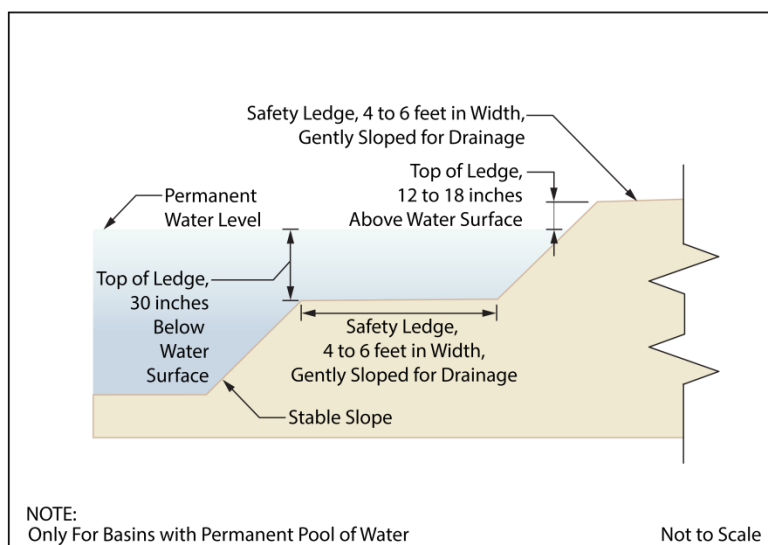
- a. Site design features identified under §9-10.5, or alternative designs in accordance with same, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection 2 below.
 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:
 - (a) 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
 - (b) A different grate, if each individual clear space in that grate has an area of no more than 7 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.
 - (c) 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 7 square inches, or be no greater than 2 inches across the smallest dimension.
 2. The standard in Subsection 1 above does not apply:
 - (a) Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than 9 square inches;

- (b) Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practically be overcome by using additional or larger storm drain inlets;
- (c) 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:
 - (1) A rectangular space 4.625 inches long and one and 1.5 inches wide (this option does not apply for outfall netting facilities); or
 - (2) A bar screen having a bar spacing of 0.5 inches.
- (d) Where flows are conveyed through a trash rack that has parallel bars with 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
- (e) 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.
- (f) 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).

§9-10.7 Safety Standards for Stormwater Management Basins.

- 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.

Elevation View –Basin Safety Ledge Configuration



§9-10.8 Requirements for a Site Development Stormwater Plan.

- a. Submission of Site Development Stormwater Plan.
 - 1. Whenever an applicant seeks municipal approval of a development subject to this Chapter, the applicant shall submit all of the required components of the Checklist

for the Site Development Stormwater Plan at §9-10.8 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 Chapter.
 3. The applicant shall submit 4 copies of the materials listed in the checklist for site development stormwater plans in accordance with §9-10.2c.
- b. Site Development Stormwater Plan Approval. The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality'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 Chapter.
- 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 §9-10.5 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:
 - (a) 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; and

- (b) 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.
- (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in §9-10.5.
 - (b) 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 §9-10.9.
8. Waiver from Submission Requirements. The municipal official or board reviewing an application under this Chapter may, in consultation with the municipality's review engineer, waive submission of any of the requirements in §9-10.8c1 through c6 of this Chapter 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.

§9-10.9 Maintenance and Repair.

- a. Applicability. Projects subject to review as in §9-10.2 of this Chapter shall comply with the requirements of §9-10.9b and c.
- 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. 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 municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department:
 - (a) 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
 - (b) 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.
 - 3. In the event the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall

so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, 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 municipality or County 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.

- c. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§9-10.10 Penalties.

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure, or land in violation of this Chapter shall be subject to the penalties set forth in §3-9, Penalty, and a fine not to exceed \$2,000.

SECTION II

§9-11 is repealed in its entirety and designated as “(Reserved)”.

SECTION III

All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV

If any word, phrase, clause, section, or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

Effective date.

This ordinance shall take effect after final adoption and publication as required by law.

NOTICE

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a regular meeting of the Board of Commissioners of the Borough of Harvey Cedars, County of Ocean, State of New Jersey, held on Monday, June 17th 2024, at 4:30 p.m.

Further public notice is hereby given that said ordinance shall be considered for final passage and adoption at a regular meeting of the Board of Commissioners to be held on Monday, June 17th, 2024, at 4:30 p.m. at the Borough Hall, 7606 Long Beach Blvd., Harvey Cedars, NJ 08008, at which time and place any person desiring to be heard will be given an opportunity to be so heard.

Christine Lisiewski
Municipal Clerk

CERTIFICATION

I, CHRISTINE LISIEWSKI, Acting Municipal Clerk for the Borough of Harvey Cedars do hereby certify that the foregoing Ordinance 2024-20 was duly adopted by the Board of Commissioners at their meeting held on Monday, June 17th 2024, at 4:30 p.m.

Christine Lisiewski
Acting Municipal Clerk