

ORDINANCE No. RO-07-24

**AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF MORRIS,
STATE OF NEW JERSEY, AMENDING CHAPTER 170 OF THE CODE OF THE
TOWNSHIP OF WASHINGTON IN ACCORDANCE WITH THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION REQUIREMENTS**

WHEREAS, the Township Code contains regulations and definitions associated with stormwater management throughout the Township in accordance with the New Jersey Department of Environmental Protection’s regulations, recommendations and guidelines; and

WHEREAS, the New Jersey Department of Environmental Protection (“NJ DEP”) has developed a model stormwater control ordinance to ensure municipalities have adopted ordinances which are consistent with the NJ DEP’s amended stormwater management statutes and regulations; and

WHEREAS, a review of the Code determined that the Township should amend the Code to adopt the NJ DEP’s model ordinance; and

WHEREAS, the Township Planner and Engineer have reviewed and recommended that the Code be amended; and

WHEREAS, the Township Committee has reviewed and approved of the recommended amendment.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Washington, County of Morris, State of New Jersey, as follows:

SECTION ONE. Chapter 170 “Stormwater Control” shall be repealed in its entirety and replaced with the model ordinance.

SECTION TWO. The new Chapter 170 “Stormwater Control shall read as follow:

§170-1. 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 in Section 170-2.

C. Applicability

1. This Chapter 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 Chapter shall also be applicable to all major developments undertaken by Washington Township.
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.

D. Compatibility with Other Permit and Ordinance Requirements

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.

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.

§170-2. 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 Chapter 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 Chapter shall be the same as the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2, incorporated herein by reference.

EXEMPT DEVELOPMENT

Any development that creates an increase of less than 2,000 square feet of impervious area and disturbs less than 5,000 square feet of land. Further, an exempt development shall not meet the definition of "minor development."

MAJOR DEVELOPMENT

A. Any individual development, as well as multiple developments that individually or collectively result in:

- (1) The disturbance of one or more acres of land since February 2, 2004;
- (2) The creation of 1/4 acre or more of "regulated impervious surface" since February 2, 2004;
- (3) The creation of 1/4 acre or more of "regulated motor vehicle surface" since March 2, 2021; or
- (4) A combination of (2) and (3) above that totals an area of 1/4 acre or more.

The same surface shall not be counted twice when determining if the combination area equals 1/4 acre or more.

B. Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of conditions (1), (2), (3) or (4) above. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

MINOR DEVELOPMENT

Any development that results in the creation of an increase of 2,000 square feet or more of impervious area or one that disturbs more than 5,000 square feet of land area. Further, a minor development shall not meet the definition of "major development."

§170-3. Design and Performance Standards for Stormwater Management Measures:

A. Exempt developments. Any project meeting the definition of "exempt development" shall be exempt from the provisions of this section.

B. Minor developments. Minor developments shall be designed to include the following stormwater management measures:

(1) Water quality. Soil erosion and sediment control measures shall be installed in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.

(2) Rate/volume control. Seepage pits or other infiltration measures shall be provided with a capacity of three inches of runoff for each square foot of new impervious area. Stone used in the infiltration devices shall be 2 1/2 inches clean stone and design void ratio of 33% shall be used. The infiltration measures shall be designed with an overflow to the surface which shall be stabilized and directed to an existing stormwater conveyance system or in a manner to keep the overflow on the developed property to the greatest extent feasible. If the new impervious surface is not roof area, an equivalent area of existing roof may be directed to the infiltration system. This shall be permitted where the existing roof is not already directed to infiltration devices.

C. Major developments. All major developments shall have their stormwater management designed in accordance with the Residential Site Improvement Standards (RSIS, N.J.A.C. 5:21) and the NJDEP Stormwater Rule (N.J.A.C. 7:8) including all requirements for green infrastructure outline therein. These standards shall apply to all projects, residential and nonresidential as well as projects by the Township, Board of Education and other agencies subject to review by the Township.

Additionally, design and performance standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.

§ 170-3.1 Review fees for minor developments.

[An escrow review fee shall be required in the amount of \$700 for review of the design plan for a minor development by the Township Engineer or any other professional retained by the Township in connection with the above design. The balance of the escrow fee deposit, if any, shall be refunded to the applicant upon completion and final inspection of the applicable stormwater control measure. The escrow fee deposit shall be administered by the Township in accordance with the requirements set forth in the Municipal Land Use Law, N. J. S.A. 40:55D-53.1.

§170-4. Solids and Floatable Materials Control Standards:

A. Site design features identified under Section 170-3 above, or alternative designs in accordance with Section 170-3 above, 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 Section 170-4.A.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:
 - 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 Section 170-4.A.1. above 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 municipality 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.

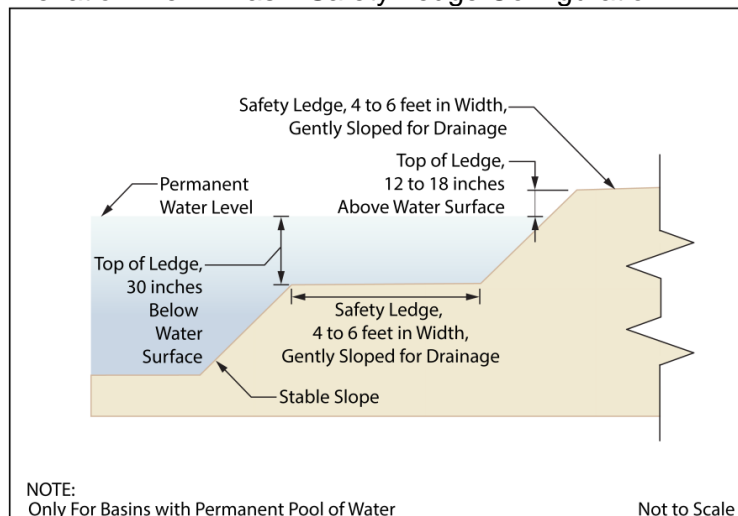
Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- 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.

§170-5. 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**



§170-6. 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
2. , the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 170-6.C below as part of the submission of the application for approval.
3. The applicant shall demonstrate that the project meets the standards set forth in this Chapter.
4. The applicant shall submit three (3) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 170-6.C of this Chapter.

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 Section 170-3 is 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 170-3 of this Chapter.
- 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 Section 170-7.

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 Section 170-6.C.1 through 170-6.C.6 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.

§170-7. Maintenance and Repair:

A. Applicability

Projects subject to review as in Section 170-1.C of this Chapter shall comply with the requirements of Section 170-7.B and 170-7.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:
 - 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.
3. In the event that 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 fourteen (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.

§ 170-8. Waivers and exceptions

A. Standards for relief. Waivers from strict compliance with the major development design standards shall only be granted upon showing that meeting the standards would result in an exceptional hardship on the applicant or that the benefits to the public good of the deviation from the standards would outweigh any detriments of the deviation. A hardship will not be considered to exist if reasonable reductions in the scope of the project would eliminate the noncompliance.

B. Mitigation. If the reviewing agency for the project determines that a waiver is appropriate, the applicant must execute a mitigation plan. The scope of the mitigation plan shall be commensurate with the size of the project and the magnitude of the relief required. The mitigation project may be taken from the list of projects in the Municipal Stormwater Management Plan. All mitigation projects are subject to the approval of the Township Engineer.

C. Reviewing agency. All applications subject to the review of the Land Use Board shall be reviewed by the Board concurrently with subdivision or site plan review. Applications not subject to Land Use Board review shall be reviewed by the Township Engineer.

D. Appeals. The appeal of the determination of the Township Engineer shall be made in accordance with N.J.S.A. 40:55D-70a.

§ 170-9. Application and review fees.

There shall be no additional fees for stormwater review for applications to the Land Use Board. Minor development applications to the Township Engineer shall be accompanied by a review fee in the amount of \$700. Major development applications shall be accompanied by a review fee in the amount of \$1,000. If a project is approved, an inspection escrow deposit shall be made in an amount to be determined by the Township Engineer.

§170-10. 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 following penalties:

Imprisonment for a term not exceeding 90 days;

A fine not exceeding \$2,000; and
A period of community service not to exceed 90 days.

SECTION THREE. RENUMBERING. This Ordinance may be renumbered for codification purposes.

SECTION FOUR. SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION FIVE. REPEALER. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

NOTICE OF FINAL ADOPTION

Notice is hereby given that the Ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Committee of Washington Township, in the County of Morris, New Jersey, held on the 20th of May, 2024, and the same came up for final passage at a meeting of said Township Committee on the 17th day of June 2024 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Township according to law. By order of the Township Committee of the Township of Washington, County of Morris and State of New Jersey.

Adopted: June 17, 2024

ATTEST:

TOWNSHIP OF WASHINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY

Township Official

By: _____
Matthew Murello, Mayor

Attest: I herein certify that the foregoing Ordinance was duly adopted by the Washington Township Committee at a regular meeting held by the Township Committee on June 17, 2024.

Denean Probasco, RMC, Township Clerk