

ORDINANCE 2011-04

AN ORDINANCE AMENDING CHAPTER 262 (STORMWATER CONTROL), SECTION 4 (STORMWATER MANAGEMENT REQUIREMENTS FOR MAJOR DEVELOPMENT) OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY, TO AMEND THE STORMWATER MANAGEMENT WAIVER REQUIREMENTS

BE IT ORDAINED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey, as follows:

Section 1. Chapter 262, Section 4D of the Code of the Township of Hillsborough shall be amended to read as follows:

D. Waivers.

- (1) A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity and stormwater runoff quantity and stormwater runoff quality requirements of Section 262-4F and G may be obtained for the enlargement of an existing public roadway or railroad or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
- (i) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 - (ii) The applicant demonstrates through an alternatives analysis that, through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Section 262-4F and G to the maximum extent practicable;
 - (iii) The applicant demonstrates that, in order to meet the requirements of Section 262-4F and G, existing structures currently in use, such as homes and buildings, would need to be condemned; and
 - (iv) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under Subsection D (1) (iii) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Section 262-4F and G that were not achievable on site.

(2) A waiver from strict compliance with the requirements of Section 262-4F and g may be granted for those projects where an applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in these subsections. Such a waiver can be only obtained if the applicant agrees to undertake a suitable mitigation measure as included in the Township's Stormwater Management Plan or as identified by the Township Engineer and approved by the Township. In such cases, the applicant must submit a written waiver request that presents the reasons why strict compliance cannot be achieved by the project.

Section 2. Chapter 262, Section 10 (Implementation of plan) of the Code of the Township of Hillsborough shall be amended by adding Section 10F as follows:

F. Maintenance of Detention/ Retention/ Recharge Basins.

- (1) All detention/retention basins for storm water drainage , and recharge basin for water quality, also known as storm water facilities:
 - a. In any mulit-family residential development or nonresidential development, shall be owned and maintained by a condominium, homeowners' association or other private entity; and
 - b. In or as a part of a solely single-family residential development, shall be
 - i. Owned and maintained by a homeowners' association or other private entity, until and unless specifically accepted by the Township of Hillsborough for compelling reasons of public health, safety or welfare; and
 - ii. Situated on a lot or lots that are separate from any lots that contain single-family dwellings.
- (2) Prior to the issuance to a developer of any certificate of occupancy, or prior to the acceptance by the Township of any existing basin, for compelling reasons of public health, safety, and welfare, from a homeowners' association or other private entity, (a) the storm water facility shall be certified by the Township Engineer to have been constructed in accordance with the requirements and specifications of this section, with any deficiencies thus noted to be corrected by the developer, homeowners' association or other private entity currently holding ownership, and (b) the developer or homeowners' association or other private entity currently holding ownership shall post with the Township of Hillsborough an amount to be determined in accordance with the formula set forth below, for maintenance of said basin for twenty-five (25) years, to be placed in an escrow account which funds shall be utilized for the maintenance of such detention/retention/recharge basin.
- (3) Maintenance Fees
 - (a) The fees required by Schedule A, as set forth below, shall be for the purpose of reimbursing the Township for direct fees, costs, charges and expenses for the maintenance of a detention/retention facility including, but not limited to, routine mowing, maintenance of landscaping, general maintenance

concerning inlets, cleaning of property and long range maintenance on a periodic basis.

(b) The escrow amount required in Schedule A shall be deposited with the Township prior to the issuance of any certificates of occupancy. All funds shall remain in an interest bearing escrow account. The entire amount of any interest shall be applied to the purposes for which it was originally deposited.

(c) All costs, expenses charges and fees incurred by the Township for the maintenance of a detention/retention basin shall be charged against the escrow fund established for the maintenance of such a basin.

(d) The Township will conduct maintenance programs at its discretion and shall maintain liability insurance on the basin out of the funds so created. The maintenance programs may include:

- i. Routine mowing of the property. Mowing costs shall be estimated at the rate of one acre per hour. The cost per hour for the Township labor and equipment shall be multiplied by the number of acres to be mowed.
- ii. Maintenance of Landscaping. The cost shall be based upon the number of hours for landscape maintenance multiplied by a rate per hour of labor and equipment. Any and all additional stock which shall be necessary to replace approved landscaping shall also be charges against the fund.
- iii. General Maintenance. The cost for general maintenance shall be based upon a one-hour mobilization time together with the total number of hours expended times the rate per hour for Township labor and equipment.
- iv. Long-term Maintenance. The long-term maintenance shall be calculated on a cost per acre and applied against the assumption that a residential detention/retention basin needs rejuvenation every fifteen (15) years. These amounts are reduced thereto an annualized cost.
- v. Insurance. The Township shall assume liability for the property and a portion of the fund shall be used for purchase of insurance for the detention/retention basin.

(e) Calculation of the maintenance fund. The amount of money to be placed in escrow shall be calculated in accordance with the worksheet set forth in Schedule A. The first year costs are multiplied by the factor of 26.48. Said calculation provides for the Township to receive sufficient funding for twenty-five (25) years based upon an assumption of a six percent increase per year and one half percent return on investment earnings added to the account. The cost for maintenance by the Township employees shall be based upon the amount of time services are performed and the unit (i.e., per diem or hourly fee) of the professional, expert, employee or staff member in accordance with the contracts or as prescribed by the salary ordinance of the Township of Hillsborough.

SCHEDULE A

**WORKSHEET FOR DETERMINING DEVELOPER CONTRIBUTION FOR
THE TOWNSHIP MAINTENANCE OF DETENTION BASINS**

Name of Developer: _____

Number of Acres Included as Part of Detention Basin: _____

1. Mowing

	LAWN	NATURALIZED
A. Rate per hour for labor and equipment	_____	_____
B. Number of acres in excess of one acre	_____	_____
C. Base number of hours for labor and equipment	_____	_____
D. B + C	_____	_____
E. Cost per mowing (A x D)	_____	_____
F. Number of mowings per year	_____	_____
G. Annual mowing cost per year (E x F)	_____	_____
H. Materials	_____	_____
I. Total (G + H)	_____	_____

2. Landscaping Maintenance

A. Rate per hour for labor and equipment	_____	_____
B. Number of hours landscape maintenance required per year	_____	_____

- C. Annual landscape maintenance cost (A x B) _____
- D. Materials _____
- E. Total (C + D) _____

3. General Maintenance

- A. Rate per hour for labor and equipment _____
- B. Number of hours general maintenance required
Per occurrence _____
- C. A x B _____
- D. Number of times maintenance anticipated to be performed _____
- E. General maintenance annual cost _____

4. Periodic Maintenance

- A. Cost per acre _____
- B. Number of acres _____
- C. Cost per time of maintenance (A x B) _____
- D. Duration Factor:
Commercial – 0.126 (8 years) _____
Residential – 0.066 (15 years) _____
- E. Periodic maintenance annual cost (C x D) _____

5. Insurance

- Insurance cost per year _____

TOTAL FIRST YEAR COST:

- 1. Mowing _____
- 2. Landscape Maintenance _____
- 3. General Maintenance _____
- 4. Periodic Maintenance _____
- 5. Insurance (5) _____

Total First Year Maintenance Cost _____

CALCULATION OF DEVELOPER CONTRIBUTION:

- A. First year maintenance cost _____
- B. For twenty-five (25) years _____
(A x 26.48)
- C. Total Developer contribution _____
for detention basin maintenance

Section 3. Severability. If any provisions of this ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions, which shall be deemed severable there from.

Section 4. Effective Date. This ordinance shall take effect immediately upon passage and publication according to law.

ATTEST:

TOWNSHIP OF HILLSBOROUGH:

Michael Merdinger, Township Clerk

Gloria McCauley, Mayor

Introduced: 01/25/11
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Adopted: 2/22/11
Published: 3/3/11