

## ORDINANCE 2011-19

### AN ORDINANCE AMENDING CHAPTER 262 (STORM WATER CONTROL), SECTION 10 (STORM WATER MANAGEMENT REQUIREMENTS FOR MAJOR DEVELOPMENT) OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY, TO CLARIFY THE RESPONSIBILITIES FOR THE MAINTENANCE OF DETENTION/RETENTION/RECHARGE BASINS

**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 10 F of the Code of the Township of Hillsborough shall be amended as follows:

#### F. Maintenance of Detention/Retention/Recharge Basins.

- (1) All detention/retention basins for storm water drainage, and recharge basins for water quality, also known as storm water facilities:
  - a. In any multi-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 and 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) **Prior to the issuance to a developer of any certificate of occupancy and where a homeowners' association or other private entity is to assume maintenance responsibilities, for a detention/retention/recharge basin,**
  - (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 shall post with the homeowners' association or other private entity, as appropriate, an amount to be determined in accordance with the formula set forth below, for the maintenance of said basin for twenty-five (25) years, and**
- (c) **the amount deposited shall be dedicated solely for the uses and purpose described in this Ordinance.**

(4) Maintenance Fees

- (a) The fees required by Schedule A, as set forth below, shall be for the purpose of reimbursing the Township **or homeowners' association or other private entity, as appropriate**, 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 amount required in Schedule A shall be deposited with the Township **or homeowners' association or other private entity, as appropriate**, 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 **or homeowners' association or other private entity, as appropriate**, 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 **or homeowners' association or other private entity, as appropriate**, will conduct maintenance programs at its discretion and shall maintain liability insurance on the basin out of the funds so created. The maintenance programs **are based on Township labor and equipment costs and** may include:
  - i. Routine mowing of the **detention/retention/recharge basin**. 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. A base number shall also be included for the mobilization and maintenance of the equipment.
  - ii. Maintenance of Landscaping **of Detention/Retention/Recharge Basins**. 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 **of Detention/Retention/Recharge Basins**. 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 **of Detention/Retention/Recharge Basins**. 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 **of Detention/Retention/Recharge Basins**. The Township **or homeowners' association or other private entity, as appropriate**, 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 **of Detention/Retention/Recharge Basins**. 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 **or homeowners' association or other private entity, as appropriate**, 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 the 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 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  
Acting Township Clerk

\_\_\_\_\_  
Gloria McCauley  
Mayor

*Introduced: 09/27/2011  
Published: 10/06/2011  
Public Hearing: 11/22/2011  
Adopted: 11/22/2011  
Published: 12/01/2011*