

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2019 – 12**

**ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF  
THE BOROUGH OF PENNINGTON, CHAPTER 163, CONCERNING  
SITE PLAN REVIEW, INCLUDING A REQUIREMENT THAT OWNERS  
OF MAJOR DEVELOPMENTS REPORT AND ANNUALLY CERTIFY REGULAR  
MAINTENANCE AND REPAIR OF THEIR STORMWATER MANAGEMENT  
MEASURES**

**WHEREAS**, the Borough of Pennington seeks to update its stormwater management requirements with respect to the maintenance and repair of stormwater management measures for major developments;

**WHEREAS**, as part of the changes, the Borough will require annual certification that the owner has performed the maintenance and repairs required by the maintenance plan for the development;

**WHEREAS**, the changes also include amendment of checklist requirements for site plan review to include disclosure of State and Federal environmental enforcement actions affecting the site;

**WHEREAS**, the proposed changes require amendment of Chapter 163 of the Borough Code, concerning site plan review, in particular present sections 163-20.10 and 163-10;

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Pennington, as follows:

1. Section 163-20.10 of the Code of the Borough of Pennington, is amended as follows:

163-20.10. Maintenance and repair.

- A. Applicability. Projects subject to review as major development shall comply with the requirements of this section.
- B. General maintenance.
  - (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
  - (2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
  - (3) 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.
  - (4) If the person responsible for maintenance identified under § 163-20.10B(2) above is not a public agency, the maintenance plan and any future revisions based on § 163-20.10B(7) below shall be recorded in the title of each property on which the maintenance described in the maintenance plan must be undertaken.
  - (5) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.

- (6) ~~The person responsible for maintenance identified under Subsection B(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders submit to the Borough by January 1 of each year an annual inspection report and related log prepared by a Professional Engineer licensed in New Jersey or by a New Jersey Certified Stormwater Inspector. The inspection report and log shall include but need not be limited to investigation of:~~
- a. Detention Basin outflow structures, escape provision as outlined in R.S.I.S. 7:8-62, and all components;
  - b. Storm sewer inlets, cleanouts, manholes, and structures;
  - c. Manufactured Treatment Devices;
  - d. Stormwater management basins;
  - e. Vegetation;
  - f. Trash racks and overflow grates;
  - g. Embankment erosion;
  - h. Sediment removal and pond maintenance.

Submission of the annual report shall be accompanied by the certification of the owner of the stormwater measure(s) that it has performed all maintenance and repairs required by the maintenance plan or otherwise by notice from the Borough. The certification shall be made on a form supplied by the Borough. Filing of the report and certification shall require an annual fee of \$100.

- (7) ~~The person responsible for maintenance identified under Subsection B(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed. The owner of the stormwater management measure shall complete minor repairs of the facility within 14 days from notice of maintenance issues.~~
- (8) ~~The person responsible for maintenance identified under Subsection B(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Subsections B(6) and B(7) above. Each act or violation, and every day upon which any violation shall occur or continues to occur shall constitute a separate offense.~~
- (9) ~~The requirements of Subsections B(3) and B(4) above do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency. Failure to provide annual maintenance records shall be subject to a fine of \$100.~~
- (10) ~~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 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. Notwithstanding the penalties set forth in Section 163-20, any person who has not complied with this section and who, after notice, refuses to implement and maintain soil erosion control and stormwater runoff control measures and facilities in conformance with these regulations shall be subject to a fine of not more than \$1,000. or ninety days in jail, or both, plus the cost of prosecution.~~
- (11) The requirements of Subsections B(3) and B(4) above do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency. In all other cases in which the municipality does not take responsibility for repair and maintenance of any stormwater management resources, the applicant shall post a two-year maintenance guarantee in accordance with N.J.S.A. 40:559-53.
- (12) 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 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

C. Nothing in this section 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.

C. No application for preliminary site plan review shall be deemed complete in the absence of (a) proof that a plan for soil erosion and sedimentation control has been submitted to the Mercer County Soil Conservation District, pursuant to the requirements of N.J.S.A. 4:24-39, et seq., or proof that such a plan is not required for the particular application; and (b) a statement whether any State or Federal environmental investigation or enforcement action affecting the site has been initiated or ongoing within the most recent five (5) years. Nothing in the latter statement shall be construed to authorize any action by the Board which conflicts with preemptive State or Federal jurisdiction.

4. This Ordinance shall be effective upon passage and publication as required by law.

Advertised: \_\_\_\_\_

Joseph Lawver, Mayor

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2019 - 12**

**ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF  
THE BOROUGH OF PENNINGTON, CHAPTER 163, CONCERNING  
SITE PLAN REVIEW, INCLUDING A REQUIREMENT THAT OWNERS  
OF MAJOR DEVELOPMENTS REPORT AND ANNUALLY CERTIFY REGULAR  
MAINTENANCE AND REPAIR OF THEIR STORMWATER MANAGEMENT  
MEASURES**

**RECORD OF COUNCIL VOTE ON INTRODUCTION**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler					Marciante				
Gnatt					Mills				
Griffiths					Semple				

**RECORD OF COUNCIL VOTE ON ADOPTION**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler					Marciante				
Gnatt					Mills				
Griffiths					Semple				