

**Pennington Borough Council  
Regular Meeting – March 1, 2021**

Mayor Lawver called the Regular Meeting of the Borough Council to order at 7:03 pm. The meeting was held on Zoom due to the COVID19 pandemic. Borough Clerk Betty Sterling called the roll with Council Members Chandler, Gross, Marciante, Mills and Semple in attendance. Mrs. Gnatt logged into the meeting during the Health Department discussion under Mayor's Business.

Also present were Borough Administrator Eileen Heinzl, Police Chief Pinelli, Public Works Superintendent Rick Smith, Borough Attorney Walter Bliss and Devanji Patel from Montgomery Township Health Department.

Mayor Lawver announced that notice of this meeting has been given to the Hopewell Valley News, Trenton Times and was posted on the door at Borough Hall and on the Borough web-site according to the regulations of the Open Public Meetings Act. Mrs. Heinzl stated that there were eight people logged on to the meeting but no hands were raised.

**Open to the Public – Agenda Items Only**

Mayor Lawver read the following statement.

The meeting is now open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please raise your hand and when the Borough Administrator acknowledges your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.**

Mrs. Heinzl stated that there were eight people logged on to the meeting but no hands were raised.

**Mayor's Business**

Mayor Lawver introduced Devanji Patel from Montgomery Township Health Department to give an update on the latest news regarding the ever changing status of the COVID vaccine. Ms. Patel explained that in the beginning when the vaccines were being distributed through the Counties, many municipalities were able to set up their own vaccine clinics with limited doses of the vaccine. Ms. Patel explained that because the State site for registering was not yet up and running many municipalities started registration wait lists. Ms. Patel stated that many municipalities were able to work with other Health Departments to make sure that clinics were staffed and vaccines were distributed quickly. Ms. Patel stated that as the vaccine supply began to increase, though not by much, the State Health Department made the decision that the Counties would be responsible for distributing the vaccine to municipalities and they would have to order vaccines from the County. Ms. Patel stated that they also made the decision to set up the larger vaccination sites at the Cure Arena and at Mercer County College. Ms. Patel stated that what they are saying now is that the County will be allocating about 1,000 doses per week to the State Registry and another 1,000 to the Municipal waiting lists. Ms. Patel stated that as more vaccines become available, local Health Departments will be able to hold more localized targeted vaccination sites. Ms. Patel stated that this could change over the next couple days. Ms. Patel stated that all residents on the wait list must be registered on the State registry and local Health Departments will be working to help get everyone on the wait lists registered. Ms. Patel stated that residents that do not have e-mail accounts or do not have access to a computer will be registered with the Health Department e-mail account and those residents will be notified by the Health Department as to when and where they should go for their vaccine. Ms. Patel stated that the Cure Arena and the Mercer County College sites will be using a paperless registration system as capacity increases. Ms. Patel stated that the Health Department will be monitoring the e-mails and making sure that all residents are getting vaccinated. Ms. Patel stated that the focus right now is senior residents who cannot register themselves because they do not have access to a computer.

Mayor Lawver stated that the key pieces of information for the Borough to convey is that residents should register on as many sites as possible and if they are having difficulty they should contact the Borough to get on the wait list.

Ms. Patel stated that they are hoping that as more vaccines become available and more sites start opening up, the State site should start moving. Mrs. Chandler stated that the e-mail provides a link when you are notified that you are eligible and she has had success with getting her family members registered. Mr. Marciante expressed concern that the e-mails are not coming out to seniors and seniors are not tech savvy and can't figure out the system. Ms. Patel stated that if you get the e-mail with the link, you have to keep refreshing the link multiple times a day to find a site and time that works for them. Ms. Patel stated that as more doses become available it should get better, but it will take some time. Ms. Patel stated that everyone should try to register on as many sites as possible and just keep trying. Ms. Patel stated that there is a twitter account @c19vaxupdates that is providing good information on sites that open up and where to try to register.

Mayor Lawver stated that focus right now needs to be on residents that don't have access to e-mail or computers. Ms. Patel stated that even if you have an e-mail or a computer, if you are having problems getting registered reach out to your local health department for assistance.

Ms. Patel stated that right now five people from the wait list for Pennington Borough and 5 people from Hopewell Borough can go to the college each week. Ms. Patel stated that they are also hearing that the J&J vaccine will be coming out soon and the Moderna vaccines should also be increasing. Ms. Patel stated that they are also encouraging working with local high school students who are willing to volunteer and help residents get registered.

Ms. Patel stated that the way the vaccination clinic will work is that the local Health Departments will be providing staff at the clinics to make sure that our allotted slots are filled each week. Ms. Patel stated that the goal is to get all residents vaccinated with the people who are most at risk getting vaccinated first.

Mayor Lawver stated that the Cure Arena and Mercer County College clinics are specific to Mercer County residents only and if anyone knows of someone who is struggling to get registered, reach out to the Borough or the Health Department for assistance with getting registered.

Mrs. Chandler suggested using the Borough phone noticing system to get the word out. Mayor Lawver stated that we are not to that point yet because we are so limited in the number of vaccines that we have available. Mayor Lawver stated that the information is constantly changing as more vaccines become available. Mayor Lawver stated that the best approach right now is to get eligible residents who are struggling to get registered. Some discussion took place regarding residents outside of the County coming to the Cure Arena for vaccines which is supposed to be specific to Mercer County residents.

Mayor Lawver reminded people that we cannot afford to let our guard down and everyone should continue to wear masks and practice social distancing at all times.

Ms. Patel stated that from now until March 15<sup>th</sup>, the focus is to get residents over the age of 70 vaccinated so if anyone knows of someone who is over the age of 70, make sure they contact the Health Department for help in getting registered.

Mayor Lawver stated that next under Mayor's Business is a departmental review for systemic bias. Mayor Lawver stated that last year a citizen advisory committee was appointed to do an in depth study of the Police Department and with outstanding cooperation from Chief Pinelli and the Officers in the Police Department that study was completed without any issues being found. Mayor Lawver stated that it is now time to do a review of each department in the Borough. Mayor Lawver stated that rather than appoint a citizen advisory group, they are going to learn from the model created for the review of the Police Department. Mayor Lawver stated that each Council committee will oversee the review of the department that they oversee and where there is overlap, the Personnel Committee will oversee. Mayor Lawver stated that more information will be coming in the next couple of months. Mayor Lawver stated that goal is to have the entire review done by the end of June.

Mayor Lawver announced the resignation of Peter Betaneli from the Environmental Commission.

### **Mayor's Appointments**

Mayor Lawver announced the following appointments to the Environmental Commission.

Nadine Stern – moving from Alternate 1 to an unexpired term ending December 21, 2021

Timothy Schwartz – appointed as Alternate 1 for an unexpired term ending December 31, 2022.

### **Approval of Minutes**

Council Member Chandler made a motion to approve the minutes of the January 4, 2021 Reorganization Meeting and the January 4, 2021 Regular Meeting, second by Council Member Marciante with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the January 25, 2021 Special Meeting, second by Council Member Gnatt with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the February 1, 2021 Regular Meeting, second by Council Member Gnatt. Mrs. Chandler asked that the Green Team be given credit for the CD/Styrofoam collection event that Mrs. Held spoke about. Upon a roll call vote all members present voted in favor.

### **Committee Reports**

**Planning & Zoning / Open Space / Personnel** – Mrs. Gnatt stated that the Personnel Committee and the Planning Board met but there was nothing to report at this time.

**Public Safety /Economic Development / Environmental** – Mrs. Chandler stated that Public Safety met and discussed the budget and capital needs for the department for the next five years.

Mrs. Chandler stated that she attended the Board of Health meeting to try to find out when the Economic Development Commission could start planning things. Mrs. Chandler stated that it looks like it will be the fall before events can start up again.

Mrs. Chandler stated that the Environmental Commission discussed the Carbon Neutral plan that is on for discussion later in the meeting, they discussed Green Week which is coming up soon and they continue to work on the Environmental Resource Inventory.

**Public Works** – Mr. Marciante stated that Public Works met and discussed the budget for 2021 and the next phase of the Burd Street road reconstruction project which will begin hopefully once the snow is gone. Mr. Marciante stated that they discussed replacement of trees on Burd Street. Mrs. Chandler stated that the finance committee did not approve the add alternate for tree replacement. Mr. Marciante stated that trees will be replaced only if there are funds available in the grant once the work is done. Further discussion took place regarding a tree replacement plan and the need to keep tree replacement in the forefront of road projects going forward.

**Finance** – Mr. Gross stated that he checked with Ms. Sterling regarding the budget and we are still waiting for the Annual Financial Statement but then we will be ready to meet on the budget.

Mr. Gross reported that Board of Health discussed the vaccination sites and scheduling and the Health Department will be holding a rabies vaccination clinic in April, appointments will be required. Mr. Gross stated that the Board of Health recommends that the annual yard sale be pushed back to the fall.

**Historic Preservation / Library** – Mrs. Mills reported that Historic Preservation did not meet, but they will be meeting on March 16<sup>th</sup>.

Mrs. Mills stated that she was unable to attend the Library Board meeting but she understands that Mrs. Heinzl attended to update the Board on the renovation of Borough Hall. Mrs. Mills stated that attendance at library programs is good, the Library Director is working on a grant application and the 2021 budget was reviewed. Mrs. Mills reviewed some upcoming library programs.

**Parks and Recreation / Shade Tree** – Ms. Semple stated that Parks and Recreation is working on a plan to use open space funds to clean up and upgrade equipment at the parks. Ms. Semple stated that she has seen some e-mails regarding a Memorial Day Parade and she is wondering if this is even allowed. Mayor Lawver stated that he has been talking to Health Officer Stephanie Carey about this and he has talked to Brett Margulis who will be planning to hold a parade with the understanding that it may be cancelled closer to the event and that there will have to be modifications made regarding social distancing and number of attendees.

Ms. Semple stated that Shade Tree is working on a tree plan to get ahead of tree removal and tree planting.

**Senior Advisory Board** – Mayor Lawver stated that Senior Advisory met and elected new officers. Mayor Lawver stated that Hopewell Township is embarking on a study regarding the proposed community center and the Senior Advisory Board is actively involved in that process.

### **COUNCIL DISCUSSION**

**Kunkel Park Reservations** – Mrs. Heinzl stated that there are several reservation forms that have come in beginning with Art in the Park which has developed very good guidelines and the program was operated last year with no issues. Mrs. Heinzl stated that Green Week is also asking to hold an event on a Saturday and the question arises as to how many people are allowed and who would make sure that guidelines are being enforced. Mrs. Chandler stated that the idea for Green Week was to have events throughout the Borough, but the Environmental Commission is working on that, but in terms of managing crowds and so forth, that has not been discussed. Mrs. Chandler stated that she does not have a problem approving these requests and begin opening up again. Mayor Lawver stated that some of the rules for Art in the Park do not apply so he would like to see a one-page list of rules/regulations for these events and with the caveat that these events could be cancelled if things change. Mr. Bliss stated that it should be on the record that the sense of Council is to begin opening up Kunkel Park and allowing these events provided that a list of regulations is provided to each applicant.

**Land Purchase – Open Space** – Mayor Lawver stated that Alan Hershey and the Open Space Committee brought to his attention the property on Main Street owned by Mr. Schragger. Mayor Lawver stated that he was immediately interested but he was concerned that there were strings attached to the property that were not being disclosed. Mayor Lawver stated that specifically he asked if there was a contingency that the buyer would have to use Mr. Schragger or his company as the builder for the property. Mayor Lawver stated that Mr. Hershey reached out to the realtor for the property who assured Mr. Hershey that no such contingency existed. Mayor Lawver stated that with that information in hand, Council agreed at last month's meeting to put an offer on the property for the full asking price of \$149,000. Mayor Lawver stated that Mr. Schragger has countered with a new asking price of \$250,000,

a full \$101,000 more than the original asking price. Mayor Lawver stated that Mr. Schragger has every right to counter offer and we can wonder about many things, but whatever the motivation of Mr. Schragger is, the Borough has three options, we can accept the counter offer and hope that there are no more surprises, we can reject the counter offer and come up with a new offer of our own, or we can reject the counter offer and walk away. Mayor Lawver stated that he is recommending that Council reject the counter offer and walk away. Mayor Lawver stated that if Mr. Schragger is in fact interested in selling this property for open space he can present a new offer for Council to consider. Mayor Lawver asked for comments from Council.

Mrs. Chandler stated that she would agree with Mayor Lawver. Mrs. Chandler stated that she is extremely disappointed in how things have turned out. Mrs. Chandler stated that she does not feel that doing business with someone who changes the business optics is a good idea and she would recommend that the Borough walk away from this and not offer a counter. Mrs. Chandler stated that if a counter offer is presented it would be considered, but the Borough should not offer a counter.

Mrs. Mills offered some comments. Mr. Bliss cautioned Mrs. Mills that she and Mrs. Gnatt recused themselves from this discussion and therefore should not comment.

Mr. Marciante asked what the property is worth. Mrs. Heinzl stated that right now the sub-division has not been filed yet and that an appraisal would need to be done on the property. Mr. Gross stated that he thought that there were other offers on the property and he asked if the price changed because of other offers or is it just out of nowhere. Mr. Bliss stated that at this time it does not appear that the increase is driven by other offers. Mr. Marciante suggested meeting with Mr. Schragger to discuss this further. Mrs. Mills began to comment again, but was cautioned by Mr. Bliss that she and Council Member Gnatt recused themselves from the discussion and they should not participate. Mr. Gross suggested instead of walking away, the Borough stick with the original asking price. Mrs. Heinzl stated that there are several members of the public who would like to speak. Mayor Lawver stated that they would be willing to speak at the end of the meeting. Mayor Lawver stated that he asked that this discussion be held in open session rather than closed session was so that Mr. Schragger could see how strongly Council Members feel regarding this proposal. Following the discussion it was decided to form a group to meet with Mr. Schragger to discuss this further.

## **ORDINANCES FOR INTRODUCTION**

Mayor Lawver read Ordinance 2021-2 by title.

### **BOROUGH OF PENNINGTON ORDINANCE 2021-2**

#### **AN ORDINANCE ADOPTING BEST MANAGEMENT PRACTICES FOR THE USE OF STORMWATER MANAGEMENT MEASURES, INCLUDING GREEN INFRASTRUCTURE AND NONSTRUCTURAL STORMWATER MANAGEMENT STRATEGIES AMENDING CHAPTER 163 OF THE CODE OF THE BOROUGH OF PENNINGTON.**

**WHEREAS**, the effective management of stormwater has been declared to be the public policy of the State of New Jersey, and various ordinances have been recommended by the New Jersey Department of Environmental Protection for enactment by each municipality in order to further the public policy; and

**WHEREAS**, it is both appropriate and necessary for the Borough of Pennington to establish, consistent with the recommendations of the New Jersey Department of Environmental Protection, best management practices relating to stormwater management as set forth herein;

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

1. Chapter 163, Article IV, of the Code of the Borough of Pennington, concerning Site Plan Review, is hereby amended by the addition of the following new sections:

#### **§163-20.1 – Scope and purpose of stormwater management.**

##### **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 and low impact development (LID) 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 and LID 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 water quality, quantity, and groundwater recharge.**

B. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls for “major development,” as defined herein.

C. Applicability

1. This ordinance shall be applicable to the following major developments:
  - a. Non-residential major developments; and
  - b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
2. This ordinance shall also be applicable to all major developments undertaken by Borough of Pennington.

D. Compatibility with Other Permit and Ordinance Requirements

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

This ordinance 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 ordinance 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.

This ordinance should also be coordinated with other applicable stormwater management ordinance sections including, but not limited to, §159-37 through 159-39 regarding illicit connections, improper disposal of substances into the storm sewer system, and sump pumps.

**§163-20. [1] 2. Definitions.**

~~[As used in this ordinance, the following terms shall have the meanings indicated, unless a modified definition applicable to stormwater management has been adopted by the New Jersey Department of Environmental Protection as part of the Stormwater Management Rules, in which case the definition enacted by the New Jersey Department of Environmental Protection shall apply.]~~

For the purpose of this ordinance, 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 below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

~~["Core" a pedestrian oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.~~

~~"County review agency" an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:~~

- ~~1. A county planning agency; or~~
- ~~2. A county water resource association created under N.J.S.A 58:16A 55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.~~

~~"Department" shall be read within the context of the subject matter. For example, with respect to stormwater and environmental issues, "Department" means the New Jersey Department of Environmental Protection and with respect to transportation and highway issues, "Department" means the New Jersey Department of Transportation.~~

~~"Designated Center," means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.~~

~~"Design engineer" means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.~~

~~"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining or excavation or landfill and any use or change in the use of any building or other structure or land or extension of use of land, for which permission may be required pursuant to this chapter. In the case of development of agricultural lands, development means: any activity that requires a State~~

~~permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.~~

~~“Drainage area” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.~~

~~“Engineer” or “Municipal Engineer” means the Borough Engineer. Board Engineer means the Planning Board Engineer or the Zoning Board of Adjustment Engineer as appropriate.~~

~~“Environmentally critical areas” means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department’s Landscape Project as approved by the Department’s Endangered and Nongame Species Program.~~

~~“Empowerment Neighborhood” means a neighborhood designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.~~

~~“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.~~

~~“Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.~~

~~“Infiltration” is the process by which water seeps into the soil from precipitation.~~

~~“Major development” means any “development” that provides for ultimately disturbing one or more acres of land or increasing impervious surface by one quarter acre or more.~~

~~Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.~~

~~“Minor development” means any “development” not defined as a “major development.”~~

~~“Municipality” means the Borough of Pennington.~~

~~“Node” means an area designated by the State Planning Commission concentrating facilities and activities, which are not organized in a compact form.~~

~~“Nutrient” means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.~~

~~“Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.~~

~~“Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and nonhazardous pollutants.~~

~~“Recharge” means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.~~

~~“Sediment” means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.~~

~~“Site” means the lot or lots upon which a major development is to occur or has occurred.~~

~~“Soil” means all unconsolidated mineral and organic material of any origin.~~

~~“State Development and Redevelopment Plan Metropolitan Planning Area (PA1)” means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state’s future redevelopment and revitalization efforts.~~

~~“State Plan Policy Map” is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.~~

~~“Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.~~

~~“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.~~

~~“Stormwater management basin” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).~~

~~“Stormwater management measure” means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.~~

~~“Tidal Flood Hazard Area” means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.~~

~~“Urban Coordinating Council Empowerment Neighborhood” means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.~~

~~“Urban Enterprise Zone” means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.~~

~~“Urban Redevelopment Area” is defined as previously developed portions of areas:~~

- ~~(1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;~~
- ~~(2) Designated as CAFRA Centers, Cores or Nodes;~~
- ~~(3) Designated as Urban Enterprise Zones; and~~
- ~~(4) Designated as Urban Coordinating Council Empowerment Neighborhoods.~~

~~“Waters of the State” means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.~~

~~“Wetlands” or “wetland” means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.-]~~

~~**“CAFRA Centers, Cores or Nodes” means those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.**~~

~~**“CAFRA Planning Map” means the map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department’s Geographic Information System (GIS).**~~

~~**“Community basin” means an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this chapter.**~~

~~**“Compaction” means the increase in soil bulk density.**~~

~~**“Contributory drainage area” means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.**~~

~~**“Core” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.**~~

~~**“County review agency” means an agency designated by the County Commissioners to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:**~~

- ~~**1. A county planning agency; or**~~

2. A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

“Department” means the Department of Environmental Protection.

“Designated Center” means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

“Design engineer” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

In the case of development of agricultural land, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

“Disturbance” means the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

“Drainage area” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

“Environmentally constrained area” means the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department’s Landscape Project as approved by the Department’s Endangered and Nongame Species Program.

“Environmentally critical area” means an area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats of endangered or threatened species, large areas of contiguous open space or upland forest, steep slopes, and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department’s Landscape Project as approved by the Department’s Endangered and Nongame Species Program.

“Empowerment Neighborhoods” means neighborhoods designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

“Green infrastructure” means a stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

"HUC 14" or "hydrologic unit code 14" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.



“Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“Infiltration” is the process by which water seeps into the soil from precipitation.

“Lead planning agency” means one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

[“Major development” means any “development” that provides for ultimately disturbing one or more acres of land or increasing impervious surface by one-quarter acre or more.]

“Major development” means an 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 one-quarter acre or more of “regulated impervious surface” since February 2, 2004;  
The creation of one-quarter acre or more of “regulated motor vehicle surface” since March 2, 2021 {or the effective date of this ordinance, whichever is earlier}; or
3. A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

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 paragraphs 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” means any development not defined as a major development.

“Motor vehicle” means land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

“Motor vehicle surface” means any pervious or impervious surface that is intended to be used by “motor vehicles” and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

“Municipality” means any city, borough, town, township, or village.

“New Jersey Stormwater Best Management Practices (BMP) Manual” or “BMP Manual” means the manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this chapter. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department’s determination as to the ability of that best management practice to contribute to compliance with the standards contained in this chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with §163-20.4 of this ordinance and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this chapter.

**“Node” means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.**

**“Nutrient” means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.**

**“Person” means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.**

**“Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 *et seq.*)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and nonhazardous pollutants.**

**“Recharge” means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.**

**“Regulated impervious surface” means any of the following, alone or in combination:**

- 1. A net increase of impervious surface;**
- 2. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a “new stormwater conveyance system” is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);**
- 3. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or**
- 4. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.**

**“Regulated motor vehicle surface” means any of the following, alone or in combination:**

- 1. The total area of motor vehicle surface that is currently receiving water;**
- 2. A net increase in motor vehicle surface; and/or  
quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.**

**“Sediment” means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.**

**“Site” means the lot or lots upon which a major development is to occur or has occurred.**

**“Soil” means all unconsolidated mineral and organic material of any origin.**

**“State Development and Redevelopment Plan Metropolitan Planning Area (PA1)” means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State’s future redevelopment and revitalization efforts.**

**“State Plan Policy Map” is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.**

**“Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.**

[“Stormwater management basin” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands). ]

**“Stormwater management BMP” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent**

pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

“Stormwater management measure” means any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Stormwater management planning agency” means a public body authorized by legislation to prepare stormwater management plans.

“Stormwater management planning area” means the geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

[“Tidal Flood Hazard Area” means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.]

“Tidal Flood Hazard Area” means a flood hazard area in which the flood elevation resulting from the two-, 10-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

“Urban Coordinating Council Empowerment Neighborhood” means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

“Urban Enterprise Zones” means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

“Urban Redevelopment Area” is defined as previously developed portions of areas:

1. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
2. Designated as CAFRA Centers, Cores or Nodes;
3. Designated as Urban Enterprise Zones; and
4. Designated as Urban Coordinating Council Empowerment Neighborhoods.

“Water control structure” means a structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, 10-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

“Waters of the State” means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

“Wetlands” or “Wetland” means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

{§163-20.2. Scope and Purpose.

A. Policy Statement

— Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural best management practices (“BMPs”). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans 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 water quality, quantity, and groundwater recharge.

B. Purpose

~~It is the purpose of this section to establish minimum stormwater management requirements and controls for "major development" as defined herein.~~

C. Applicability

- ~~This section shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:~~

~~a. Non residential major developments; and  
b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.~~

- ~~This section shall also be applicable to all major developments undertaken by Pennington Borough.~~

D. Compatibility with Other Permit and Ordinance Requirements

~~Development approvals issued for subdivisions and site plans pursuant to this section are to be considered an integral part of development approvals under the subdivision and site plan review process 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 section. In their interpretation and application, the provisions of this section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This section 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 section 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.]~~

**§163-20.3. Design and Performance Standards for Stormwater Management Measures.**

- Stormwater management measures for major development shall be ~~[developed to meet the]~~ designed to provide erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality treatment as follows: ~~[standards in N.J.A.C. 7:8-5.4 and 5.5, as may be amended from time to time. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.]~~

- The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.**
- The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.**

- The standards in this ~~[section]~~ ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.
- Stormwater management measures shall be required for minor developments, and shall be developed to address erosion control and stormwater run-off.

**§163-20.4. Stormwater Management Requirements for Major Development**

- The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with §163-20.10.
- Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsections ~~[4.F and 4.G of this section]~~ P, Q and R in this Ordinance Section:

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
  2. The construction of an above ground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
  3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance ~~[with the]~~ from the green infrastructure, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsections ~~[4.F and 4.G of this section]~~ O, P, Q and R of this Ordinance Section may be obtained for the enlargement of an existing public roadway or railroad, or the construction or enlargement of a public pedestrian access, provided the following conditions are met:
1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
  2. 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 Subsections ~~[4.F and 4.G of this section]~~ O, P, Q and R of this Ordinance Section to the maximum extent practicable;
  3. The applicant demonstrates that, in order to meet the requirements of Subsections ~~[4.F and 4.G]~~ O,P,Q and R of this Ordinance Section, existing structures currently in use, such as homes and buildings, would need to be condemned; and
  4. 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 IV D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Subsections ~~[4.F and 4.G]~~ O, P, Q and R of this Ordinance Section that were not achievable on-site.

~~[E.—— Nonstructural Stormwater Management Strategies~~

~~1.—— To the maximum extent practicable, the standards in Subsections 4.F and 4.G of this section shall be met by incorporating into the design nonstructural stormwater management strategies set forth in this subsection. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in subparagraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.~~

~~2.—— Nonstructural stormwater management strategies incorporated into site design shall:~~

~~a.—— Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;~~

~~b.—— Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;~~

~~c.—— Maximize the protection of natural drainage features and vegetation;~~

~~d.—— Minimize the decrease in the "time of concentration" from pre construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;~~

~~e.—— Minimize land disturbance including clearing and grading;~~

~~f.—— Minimize soil compaction;~~

~~g.—— Provide low maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;~~

~~h.—— Provide vegetated open channel conveyance systems discharging into and through stable vegetated areas;~~

~~i.—— Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:~~

- (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy §163-20.4.E.3. below;
- (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
- (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and

~~\_\_\_\_\_ (4) \_\_\_\_\_ When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.~~

~~\_\_\_\_\_ 3. \_\_\_\_\_ Site design features identified under §163-20.4.E.2.i. (2) above 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 §163-20.4.E.3.c below.~~

- a. Design engineers shall use either 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:

- (1) 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 (April 1996); or

- (2) 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.

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 basin floors.

~~\_\_\_\_\_ b. \_\_\_\_\_ Whenever design engineers use a curb opening inlet, 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.~~

- c. This standard does not apply:

- (1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

- (2) Where flows from the water quality design storm as specified in §163-20.4.G.1 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 inches long and one and one half inches wide (this option does not apply for outfall netting facilities); or
- (b) A bar screen having a bar spacing of 0.5 inches.

- (3) Where flows are conveyed through a trash rack that has parallel bars with one inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in §163-20.4.G.1; or

- (4) 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(e), 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.

~~\_\_\_\_\_ 4. \_\_\_\_\_ Any land area used as a nonstructural stormwater management measure to meet the performance standards in subsections 4.F and 4.G of this section shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.~~

~~5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in §163-20.7, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org).~~

~~F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards~~

~~1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.~~

~~a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.~~

~~b. The minimum design and performance standards for groundwater recharge are as follows:~~

~~(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at N.J.A.C. 7:8-5.4, as may be amended from time to time, either:~~

~~(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or~~

~~(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.~~

~~(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.~~

~~(3) The following types of stormwater shall not be recharged:~~

~~(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and~~

~~(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.~~

~~(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.~~

~~(5) Subsurface stormwater retention/detention systems shall be designed to provide adequate access structures for inspection and cleaning. Such systems shall not be located on municipal property or within a municipal right-of-way.~~

~~e. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at N.J.A.C. 7:8-5.6a, as may be amended from time to time, complete one of the following:~~

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two-, ten- and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

~~(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;~~

~~(3) Design stormwater management measures so that the post-construction peak runoff rates for the two-, ten- and 100-year storm events are 50, 75 and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or~~

~~(4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damage below the point of discharge.~~

~~2. Any application for a new agricultural development that meets the definition of major development shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.~~

~~G. Stormwater Runoff Quality Standards~~

~~1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4-acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.~~

~~Table 1: Water Quality Design Storm Distribution~~

<del>Time (Minutes)</del>	<del>Cumulative Rainfall (Inches)</del>	<del>Time (Minutes)</del>	<del>Cumulative Rainfall (Inches)</del>
<del>0</del>	<del>0.0000</del>	<del>65</del>	<del>0.8917</del>
<del>5</del>	<del>0.0083</del>	<del>70</del>	<del>0.9917</del>
<del>10</del>	<del>0.0166</del>	<del>75</del>	<del>1.0500</del>
<del>15</del>	<del>0.0250</del>	<del>80</del>	<del>1.0840</del>
<del>20</del>	<del>0.0500</del>	<del>85</del>	<del>1.1170</del>
<del>25</del>	<del>0.0750</del>	<del>90</del>	<del>1.1500</del>
<del>30</del>	<del>0.1000</del>	<del>95</del>	<del>1.1750</del>
<del>35</del>	<del>0.1330</del>	<del>100</del>	<del>1.2000</del>



40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in §163-20.7, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in §163-20.7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.

3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:  $R = A + B - (A \times B) / 100$ , where R = total TSS percent load removal from application of both BMPs; A = the TSS percent removal rate applicable to the first BMP; B = the TSS percent removal rate applicable to the second BMP.

Table 2: TSS Removal Rates for BMPs

<p>Wet Pond</p>	<p>50-90</p>
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~~4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.~~

~~5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in subsections 4.F and 4.G of this section.~~

~~6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in §163-20.7.~~

~~7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.~~

~~8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:~~

~~a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:~~

- (1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.

~~(2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.~~

- b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the “Standards For Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

~~c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the “Standards for Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:~~

- ~~(1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;~~

- ~~(2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;~~

- ~~(3) Temperature shall be addressed to ensure no impact on the receiving waterway;~~

~~(4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;~~

- ~~(5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and~~
- ~~(6) All encroachments proposed under this section shall be subject to review and approval by the Department.~~

~~d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to §163-20.4.G.8 has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in G.8.a.(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.~~

~~e. Subparagraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.~~

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- E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in Subsections O, P, Q and R of this Ordinance Section. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2 (f) Tables 5-1, 5-2 and 5-3 and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table.

The most current version of the BMP Manual can be found on the Department’s website at: [https://njstormwater.org/bmp\\_manual2.htm](https://njstormwater.org/bmp_manual2.htm).

- F. **Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this ordinance the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.**

<b>Table 1                      Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality,                      and/or Stormwater Runoff Quantity</b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Cistern	0	Yes	No	--
Dry Well <sup>(a)</sup>	0	No	Yes	2
Grass	50 or less	No	No	2 <sup>(e)</sup>
Green Roof	0	Yes	No	--
Manufactured Treatment Device <sup>(a) (g)</sup>	50 or 80	No	No	Dependent upon the device
Pervious Paving System <sup>(a)</sup>	80	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Small-Scale Bioretention Basin <sup>(a)</sup>	80 or 90	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Small-Scale Infiltration Basin <sup>(a)</sup>	80	Yes	Yes	2
Small-Scale Sand Filter	80	Yes	Yes	2
Vegetative Filter Strip	60-80	No	No	--

<b>Table 2                      Green Infrastructure BMPs for Stormwater Runoff Quantity                      (or for Groundwater Recharge and/or Stormwater Runoff Quantity                      with a Waiver or Variance from N.J.A.C. 7:8-5.3)</b>
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Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Bioretention System	80 or 90	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Infiltration Basin	80	Yes	Yes	2
Sand Filter <sup>(b)</sup>	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond <sup>(d)</sup>	50-90	Yes	No	N/A

<b>Table 3</b> <b>BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity</b> <b>only with a Waiver or Variance from N.J.A.C. 7:8-5.3</b>				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device <sup>(h)</sup>	50 or 80	No	No	Dependent upon the device
Sand Filter <sup>(c)</sup>	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes Applicable to Tables 1, 2, and 3 in §163-20.4:

- (a) subject to the applicable contributory drainage area limitation specified at §163-20.4.O.2;
- (b) designed to infiltrate into the subsoil;
- (c) designed with underdrains;
- (d) designed to maintain at least a 10-foot wide area of native vegetation along at least 50 percent of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) designed with a slope of less than two percent;
- (f) designed with a slope of equal to or greater than two percent;
- (g) manufactured treatment devices that meet the definition of green infrastructure at §163-20.2;
- (h) manufactured treatment devices that do not meet the definition of green infrastructure at §163-20.2.

**G. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with §163-20.4. Alternative stormwater management measures may be used to satisfy the requirements at §163-20.4.O only if the measures meet the definition of green infrastructure at §163-20.2. Alternative stormwater**

management measures that function in a similar manner to a BMP listed at §163-20.4.O.2 are subject to the contributory drainage area limitation specified at §163-20.4.O.2 for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at §163-20.4.O.2 shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with §163-20.4.D is granted from §163-20.4.O.

- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. Design standards for stormwater management measures are as follows:
1. Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high-water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);
  2. Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of §163-20.8.C;
  3. Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;
  4. Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at §163-20.8; and
  5. The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.
- J. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at §163-20.2 may be used only under the circumstances described at §163-20.4.O.4.
- K. Any application for a new agricultural development that meets the definition of major development at §163-20.2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at §163-20.4 Sections O, P, Q and R and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.
- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §163-20.4 Sections P, Q and R shall be met in each drainage area, unless the runoff from the drainage areas converge onsite and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.

M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the appropriate county clerk’s office. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §163-20.4 Subsections O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to §163-20.10.B.5. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.

N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to §163-20.4 of this ordinance and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the {insert appropriate Office of the County Clerk or the registrar of deeds and mortgages, as applies} and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with M above.

O. Green Infrastructure Standards

1. This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
2. To satisfy the groundwater recharge and stormwater runoff quality standards at §163-20.4 Sections P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at §163-20.4.F. and/or an alternative stormwater management measure approved in accordance with §163-20.4.G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	Maximum Contributory Drainage Area
Dry Well	1 acre
Manufactured Treatment Device	2.5 acres
Pervious Pavement Systems	Area of additional inflow cannot exceed three times the area occupied by the BMP
Small-scale Bioretention Systems	2.5 acres
Small-scale Infiltration Basin	2.5 acres
Small-scale Sand Filter	2.5 acres

3. To satisfy the stormwater runoff quantity standards at §163-20.4.R, the design engineer



shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with §163-20.4.G.

4. If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with §163-20.4.D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with §163-20.4.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §163-20.4.P, Q and R.
5. For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at §163-20.4 Sections P, Q and R, unless the project is granted a waiver from strict compliance in accordance with §163-20.4.D.

**P. Groundwater Recharge Standards**

1. This subsection contains the minimum design and performance standards for groundwater recharge as follows:
2. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at §163-20.5, either:
  - i. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
  - ii. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.
3. This groundwater recharge requirement does not apply to projects within the “urban redevelopment area.” or to projects subject to 4 below.
4. The following types of stormwater shall not be recharged:
  - i. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
  - ii. Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

**Q. Stormwater Runoff Quality Standards**

1. This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
2. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
  - i. Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle

- surface.
3. If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with 2 above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
  4. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4 - Water Quality Design Storm

Distribution

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Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

5. **If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:**

$$R = A + B - (A \times B) / 100,$$

Where

R = total TSS Percent Load Removal from application of both BMPs, and

A = the TSS Percent Removal Rate applicable to the first BMP

B = the TSS Percent Removal Rate applicable to the second BMP.

6. **Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in §163-20.4 Sections P, Q and R.**
7. **In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater**

- runoff to waters classified as FW1.
8. The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c) 1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
  9. Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j) 3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.
  10. This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

**R. Stormwater Runoff Quantity Standards**

1. This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
2. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at §163-20.5, complete one of the following:
  - i. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - ii. Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 10- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
  - iii. Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - iv. In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with 2.i, ii and iii above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.
3. The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

**§163-20.5. Calculation of Stormwater Runoff and Groundwater Recharge.**

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:

- a. ~~[The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4—Hydrology and Technical Release 55—Urban Hydrology for Small Watersheds; or~~
- b. ~~The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.]~~
- i. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as

**described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in *Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55)*, dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at:**

[https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1044171.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf)

or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; or

- ii. **The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a) 3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at:**

<http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>

2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at [subsection A.1.a] §163-20.5.A.1.i and the Rational and Modified Rational Methods at [subsection A.1.b.] §163-20.5.A.1.ii. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

- B. Groundwater recharge may be calculated in accordance with the following:

The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey [, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.] website at:

<https://www.nj.gov/dep/njgs/pricelst/greport/gsr32.pdf>

or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

§163-20.6. [~~Standards for Structural Stormwater Management Measures~~]. Sources for Technical Guidance

- A. [~~Standards for structural stormwater management measures are as follows:~~

1. ~~Structural stormwater management measures shall be designed to take into account the~~

existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

~~2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of §163-20.8.D.~~

~~3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.~~

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

~~5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at §163-20.8.~~

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by §163-20.4.

C. Manufactured treatment devices may be used to meet the requirements of this Chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. ]

**A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at:**

[http://www.nj.gov/dep/stormwater/bmp\\_manual2.htm](http://www.nj.gov/dep/stormwater/bmp_manual2.htm).

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.

2. Additional maintenance guidance is available on the Department's website at:

[https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).

**B. Submissions required for review by the Department should be mailed to:**

The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

**§163-20.7. [Sources for Technical Guidance.**

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

2. The New Jersey Department of Environmental Protection Stormwater Management Facilities

Maintenance Manual, as amended.

B. ~~Additional technical guidance for stormwater management measures can be obtained from the following:~~

- ~~1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)-4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;~~
- ~~2. The Rutgers Cooperative Extension Service, 732-932-9306; and~~
- ~~3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)-4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 2925540.-]~~

#### Solids and Floatable Materials Control Standards:

A. Site design features identified under §163-20.4.F above, or alternative designs in accordance with §163-20.4.G 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 §163-20.7.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.

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 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 N.J.A.C. 7:8 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.**

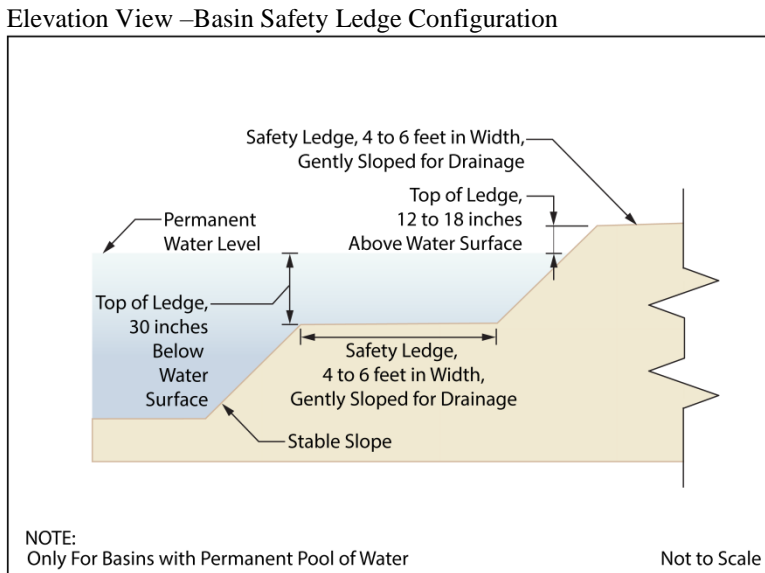
#### **§163-20.8. Safety Standards for Stormwater Management Basins.**

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management [basins] BMPs. This section applies to any new stormwater management [basin] BMP.
- B. **The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in §163-20.8.C.1, §163-20.8.C.2, and §163-20.8.C.3 for trash racks, overflow grates, and escape provisions at outlet structures.**
- C. Requirements for Trash Racks, Overflow Grates and Escape Provisions
  - 1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management [basin] BMP to ensure proper functioning of the [basin] BMP outlets in accordance with the following:
  - 2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
    - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
    - b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
    - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs. /sq. ft.
  - 3. [For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall] Stormwater management BMPs shall include escape provisions as follows:
    - a. If a stormwater management [basin] BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the [reviewing agency identified in] municipality pursuant to §163-20.8C a freestanding outlet structure may be exempted from this requirement;
    - b. Safety ledges shall be constructed on the slopes of all new stormwater management [basins] BMPs having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See [N.J.A.C. 7:8-6, Appendix A,] §163-20.8.E for an illustration of safety ledges in a stormwater management [basin] BMP.
    - c. In new stormwater management [basins] BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical. [If the basin will ultimately be dedicated to the municipality, the maximum slope shall not be steeper than 5 horizontal to 1 vertical].
  - 4. Variance or Exemption from Safety Standards

A variance or exemption from the safety standards for stormwater management [basins] BMPs may be granted only upon a written finding by the [appropriate reviewing agency] (~~municipality, county or Department~~) municipality that the variance or exemption will not constitute a threat to public safety.



E. Safety Ledge Illustration



**§163-20.9. 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 section, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at ~~[subsection C]~~ §163-20.9.C below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ~~[section]~~ ordinance.
3. The applicant shall submit six (6) copies of the materials listed in the checklist for site development stormwater plans in accordance with §163-20.9.C of this section.

B. Site Development Stormwater Plan Approval

1. The applicant's Site Development project shall be reviewed as a part of the [subdivision or site plan] 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 ~~[retained by the Planning and/or Zoning Board (as appropriate)]~~ to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ~~[section]~~ ordinance.
2. A stormwater management plan that incorporates an outfall to any municipally owned storm sewer system, or that will be ultimately dedicated to the Borough, shall be subject to review and approval by the Borough Engineer, as well as the appropriate Board Engineer.

C. ~~[Checklist Requirements]~~ 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 [T] t [he topographic base map of the site [shall extend a] be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1" = [50'] 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 ~~[environs]~~ 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 Plan(s)

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 occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions ~~[may]~~ 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 §163-20.3 through 20. ~~[6]~~ 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.
- 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 §163-20.4 of this ordinance.
- b. When the proposed stormwater management control measures ~~[(e.g., infiltration basins)]~~ depend[s] 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. ~~[A minimum of two (2) soil test pits shall be required for each proposed stormwater management basin and/or recharge area. Soil test pits must be scheduled and witnessed with the Borough Engineer.]~~

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of §163-20.10.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ~~[section]~~ ordinance may, in consultation with the Borough review engineer, waive submission of any of the requirements in subsections §163-20.9.C.1 through §163-20.9.C.6 of this ~~[section]~~ ordinance 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.

**§163-20.10 - Maintenance and Repair:**

A. Applicability

Projects subject to review as ~~[major development]~~ in §163-20.1.C of this ordinance shall comply with the requirements of ~~[this section]~~ §163-20.10.B and §163-20.10.C.

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.] The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.

3. 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.

[3.] 4. 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.

If the person responsible for maintenance identified under § 163-20.10.B. [2] 3 above is not a public agency, the maintenance plan and any future revisions based on § 163-20.10.B.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] functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, 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] party responsible for maintenance identified under [subsection] §163-20.10 B.[2] 3 above shall [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 log shall include but need not be limited to investigation of] perform all of the following requirements:

i. 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.

**a. The inspection report and log shall include but not be limited to investigation of:**

- i. Detention basin outflow structures, escape provisions as outlined in R.S.I.S. 7:8-62, and all components;**
- ii. Storm sewer inlets, cleanouts, manholes, and structures;**
- iii. Manufactured treatment devices;**
- iv. {Stormwater management basins;}**
- v. Vegetation;**
- vi. Trash racks and overflow grates;**
- vii. Embankment erosion;**
- viii. Sediment removal and pond maintenance.**

**ii. Evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed. Submission of the annual report shall be accompanied by certification by the owner.**

**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.**

**iii. 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 §163-20.10.B.6 and §163-20.10.B.7 above.**

[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 requirements of [subsections 10.B.3 and 10.B.4] §163-20.10.B.3 and §163-20.10.B.4 above 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.

~~[7. The [person] party 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.]~~

~~[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 10.B.6 and 10.B.7 above.]~~

8. 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. ~~[Upon notice to the owner, in addition to any penalty or other remedy provided by law, such cost shall be certified to the Tax Assessor and shall become part of the taxes next assessed against the property on which the affected stormwater management measure(s) are located.]~~ Nonpayment of such bill may result in a lien on the property.

**i. Each act or violation and every upon which any violation shall occur or continues to occur shall constitute a separate offense.**

- ii. Failure to provide an annual maintenance records shall be subject to a fine of \$100.
- iii. Notwithstanding the penalties set forth §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 90 days in jail, or both, plus the cost of prosecution.

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.

**§163-20.11. Penalties.**

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the penalties set forth in §181-20 of this Code.

2. If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

3. This ordinance shall take effect after publication and upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the county review agency if the county review agency should fail to act. ]

**§163-20.12 – Severability:**

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**§163-20.13 – Effective Date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

Council Member Marciante made a motion to introduce Ordinance 2021-2. Council Member Chandler stated that she is relying on the Borough professionals to ensure that this is correct and she would like to verify that the Environmental Commission has had a chance to review this ordinance. Mrs. Chandler stated that she was fine introducing this Ordinance tonight, but she would like the Enviromental Commission to review it prior to adoption. Mrs. Chandler stated that the Enviromental Commission reviewed the new regulations to see if there was a need to make the regulations more stringent as some other towns have done, but the Environmental Commission was not in favor of a stricter ordinance based on the data on past applications that they reviewed. Council Member Gnatt seconded the motion to introduce Ordinance 2021-2 with all members present voting in favor.

**NEW BUSINESS**

**BOROUGH OF PENNINGTON  
 RESOLUTION #2021 – 3.1**

**RESOLUTION AUTHORIZING REFUNDS**

**BE IT RESOLVED** that a refund be issued from the COAH Trust Fund to Si Mao Hai, LLC, 24 Oakridge Court, Princeton, NJ 08540 for a refund of overpayment of COAH Fees for Block 703, Lot 13, 208 South Main Street in the amount of \$2,430.00.

**BE IT RESOLVED** that a refund be issued from the Developer’s Escrow Account to Cugino’s Pennington LLC, 147 West Delaware Avenue, Pennington, NJ 08534 for a refund of Planning Board Application P16-005 in the amount of \$361.72.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante	X			
Gnatt	X				Mills	M			
Gross	X				Semple	X			

Council Member Mills made a motion to approve Resolution 2021-3.1, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021 – 3.2**

**AUTHORIZING PAYMENT OF BILLS**

**WHEREAS**, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1,984,079.43 from the following accounts:

Current	\$ 1,747,105.71
W/S Operating	\$ 45,435.81
General Capital	\$ 188,721.44
Animal Control	\$ 639.60
Open Space	\$ 450.00
Developer’s Escrow	\$ 1,726.87
<b>TOTAL</b>	<b>\$ 1,984,079.43</b>

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Marciante	X			
Gnatt	M				Mills	S			
Gross	X				Semple	X			

Council Member Gnatt made a motion to approve Resolution 2021-3.2, second by Council Member Mills. Mr. Marciante asked about the PSE&G bill for street lighting. Ms. Sterling stated that this bill list reflects several months of PSE&G charges as she has been back and forth trying to get some issues resolved. Mr. Marciante also asked about the purchase of a snow blower for \$1,100. Mr. Smith stated that this was an emergency purchase because he had a snow blower go down during the big snowstorm and he needed it replaced quickly. Mr. Smith stated that his department has kept records in the event that money is available for reimbursement for snow emergency expenses. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION #2021-3.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE  
 2021 TEMPORARY BUDGET**

**WHEREAS**, the 2021 Budget for the Borough of Pennington has not been adopted; and

**WHEREAS**, additional funds are necessary to meet various obligations of the Borough of Pennington;

**NOW, THEREFORE, BE IT RESOLVED**, that the following additional appropriations be made in the 2021 Temporary Budget for the Current Account.

Engineering	Other Expense	\$22,000.00
Group Insurance	Other Expense	\$50,000.00
Streets	Salaries	\$50,000.00
Trash	Salaries	\$20,000.00
Trash	Other Expense	\$40,000.00
Library	Salaries	\$20,000.00
Street Lighting	Other Expense	\$10,000.00
Telephone	Other Expense	\$7,000.00
Gas, Fuel, Lubricants	Other Expense	\$5,000.00
Social Security	Other Expense	\$20,000.00
Shared Services – Dispatch	Other Expense	\$74,727.77
Municipal Court	Salaries	\$7,000.00
	<b>Total</b>	<b>\$325,727.77</b>

**BE IT FURTHER RESOLVED**, that the following additional funds be appropriated for the 2021 Temporary Budget for the Water and Sewer Fund:

Water	Salaries	\$20,000.00
Group Insurance	Other Expense	\$20,000.00
	<b>TOTAL</b>	<b>\$40,000.00</b>

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	S				Mills	X			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-3.3, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021 – 3.4**

**RESOLUTION COMMITTING THE BOROUGH OF PENNINGTON TO BECOMING CARBON  
 NEUTRAL IN ALL OF ITS OPERATIONS BY 2035**

**WHEREAS**, the Inter-Governmental Panel on Climate Change has found unequivocally that climate change constitutes a serious and growing threat and that human activities are the primary source of increased atmospheric concentrations of global warming gases; and

**WHEREAS**, global scientific consensus predicts as a consequence of global warming costly and dangerous disruptions, including increased risk of flooding, drought and coastal storms, accelerated spread of disease and invasive species, severe property damage, economic loss, and threat to human life; and

**WHEREAS**, Our changing climate is predicted to worsen the impacts of extreme weather events, such as Hurricane Sandy, which is estimated to have cost the State of New Jersey \$38.6 billion.

**WHEREAS**, The New Jersey Global Warming Response Act (N.J.S.A. 26:2C-37) calls for a reduction of statewide greenhouse gas emissions to 80% below 2006 levels by 2050.

**WHEREAS**, The New Jersey 2019 Energy Master Plan calls for a shift away from energy production that contributes to climate change, and sets a goal of 100 percent clean energy by 2050.

**WHEREAS**, the United States represents less than five percent of the world's population but

contributes more than thirty percent of the world's greenhouse gas emissions; and

**WHEREAS**, climate change calls for national and international responses, but ultimately greenhouse gas emissions are generated locally; and

**WHEREAS**, leading U.S. companies have called for immediate measures to halt and reverse the threat of global warming; and

**WHEREAS**, cities and states throughout the U.S. are adopting greenhouse gas emission reduction targets and strategies including New Brunswick and Jersey City; and

**WHEREAS**, the Borough of Pennington desires to be part of the solution to the problems of climate change;

**NOW, THEREFORE BE IT RESOLVED**, by Mayor and Council of the Borough of Pennington, that:

1. The Environmental Commission will be responsible for reporting to Council on an annual basis the amount of carbon released by the Borough and the amount of carbon offset; and
2. The Environmental Commission will assist the Borough in developing strategies to migrate away from carbon energy sources; and
3. Pennington Borough will become Carbon Neutral in all of its operations by 2035; and
4. The Environmental Commission will use the Borough's efforts to become carbon neutral as a means to educate and encourage Borough residents and businesses to become carbon neutral.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	X				Mills	S			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-3.4, second by Council Member Mills. Mrs. Chandler stated that the Environmental Commission is fully behind this idea and they are excited to lead this effort and hopefully this will encourage other municipalities to take this step. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021 – 3.5**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 4 TO LEVY CONSTRUCTION COMPANY, INC. FOR WORK COMPLETED ON THE PENNINGTON BOROUGH HALL RENOVATION PROJECT (VNHA #43829-210-71)**

**WHEREAS**, Levy Construction Company, Inc. has completed work pursuant to the contract for the Pennington Borough Hall Renovation Project (VNHA #: 43829-210-71); and

**WHEREAS**, Van Note Harvey Associates has reviewed Levy Construction Company, Inc's attached application for payment and recommends payment of same pursuant to the Contractor's Request for Payment No.4 in the amount of \$130,199.35 less 2% retainage in the amount of \$2,603.99; and

**WHEREAS**, this is a partial payment under the contract; and

**WHEREAS**, funds are available under Ordinances 2017-14 in the General Capital Fund;

**NOW, THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that payment to Levy Construction Company, Inc. in the net amount of \$127,595.36 pursuant to payment request No.4 is hereby authorized, upon receipt of fully executed documents and certified payrolls.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante	M			
Gnatt	X				Mills	X			
Gross	X				Semple	X			

Council Member Marciante made a motion to approve Resolution 2021-3.5, second by Council Member Chandler. Mayor Lawver stated that work is progressing nicely, the windows are in and hopefully we will be

able to move back in soon. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021 - 3.6**

**RESOLUTION APPROVING LIST OF ENGINEERING PROJECTS WITH BOROUGH  
ENGINEER FOR THE YEAR 2021**

**WHEREAS**, Borough Council seeks to approve a list for certain engineering projects for 2021 prior to adoption of the budget; and

**WHEREAS**, attached to this resolution is a Project List identifying projects that the Borough Engineer recommends, subject to approval by Borough Council; and

**WHEREAS**, the Project List includes projects that may require engineering services during the year although the estimated costs of the required services has not yet been determined; and

**WHEREAS**, those projects not yet estimated may require further action by Borough Council and certification as to availability of funds by the Chief Financial Officer once an amount is determined; and

**WHEREAS**, although the Project List identifies projects totaling \$30,000.00 payable from the Current Fund, \$43,250.00 payable from Water and Sewer and \$188,000.00 from Capital Ordinances, it is understood that there is no guarantee that all of these projects will be undertaken this year; and

**WHEREAS**, it is further understood and agreed that the Engineer shall not begin work on any project without explicit written direction and a signed purchase order from the Borough Administrator;

**WHEREAS**, the Chief Financial Officer of the Borough has certified that funds are available in the respective engineering budgets and/or Capital Ordinances for the projects identified on the Project List;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the projects on the attached Project List are hereby approved subject to specific authorization to proceed and issuance of one or more signed purchase orders by the Borough Administrator as stated above.

**Record of Council Vote on Passage**

<b>COUNCILMAN</b>	<b>AYE</b>	<b>NAY</b>	<b>N.V.</b>	<b>A.B.</b>	<b>COUNCILMAN</b>	<b>AYE</b>	<b>NAY</b>	<b>N.V.</b>	<b>A.B.</b>
Chandler	X				Marciante	M			
Gnatt	X				Mills	X			
Gross	S				Semple	X			

Council Member Marciante made a motion to approve Resolution 2021-3.6, second by Council Member Gross. Mrs. Chandler asked about discretionary items listed. Mrs. Chandler stated that she has already reached out for a Natural Heritage Study which is only going to cost the Borough \$140.00 not \$2,750. Mrs. Chandler briefly explained what the Natural Heritage Study consist of. Mrs. Heinzl stated that the item on the list of engineering projects are estimates because the scope of the work is not yet defined. The discretionary items were removed from the list. Mayor Lawver questioned the Asset Management amount listed under capital which will likely not be needed this year as there are funds still available under the original purchase order that was issued. That item was also removed from the list. Mayor Lawver stated that he would like to see engineering costs for road projects brought back into the operating budget. Mayor Lawver stated it is much easier to lose track of expenses when items are capitalized. Mr. Bliss asked for corrections to the resolution with regard to the changes that were discussed. Upon a roll call vote all members present voted in favor of the Resolution as amended.

Mayor Lawver asked Council to consider Resolutions 2021-3.7 and 2021-3.8 as a consent agenda. Mr. Bliss brought to the attention of Council new language in these annual resolutions related to garbage generated by outdoor diners. Mrs. Chandler stated that this was a significant issue this past year and she is glad to see this change. Some discussion took place with regard to how many times the receptacles should be emptied. Mr. Bliss stated that was considered when the Resolution was being crafted but since this is a new condition it was thought that it would be best to go slow and see how it works for this year. Mayor Lawver asked about extension of outdoor dining as was approved last year. Mr. Bliss stated that those requests could be considered as they come in.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021 – 3.7**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR EMILY’S CAFE TO  
MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC  
RIGHT- OF- WAY IN 2021**

**WHEREAS**, Emily Matticoli is the principal owner of Emily’s Café and Catering, LLC, a



restaurant known as Emily’s Café located at 9 N. Main Street in the Borough of Pennington;

**WHEREAS**, Ms. Matticoli and Emily’s Café and Catering, LLC, have applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 3 tables and up to 6 chairs on the Main Street side of the restaurant, as shown in the attached sketch;

**WHEREAS**, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

**WHEREAS**, Borough Council determines that approval of the proposed outdoor dining area for Emily’s Cafe, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Emily Matticoli and Emily’s Café and Catering, LLC, are hereby granted permission to locate 3 tables and up to 6 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met:

- A. The tables and chairs shall be arranged as shown on the attached sketch.
- B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.
- C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.
- D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.
- E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.
- F. Owners must provide receptacles for collection of all garbage generated by outdoor diners and insure that these receptacles are emptied as frequently as needed to avoid overflow.
- G. The outdoor dining area shall not obstruct access to upstairs apartments or Kriegner Travel Services.
- H. Emily Matticoli and Emily’s Café and Catering, LLC, shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

I. Emily Matticoli and Emily’s Café and Catering, LLC, shall at all times have on file with the Borough Clerk a current Certificate of Insurance which certifies that:

- (1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;
- (2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and
- (3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.
- (4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

I. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Emily Matticoli or Emily’s Café and Catering, LLC. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2021.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Marciante	M			
Gnatt	X				Mills	S			
Gross	X				Semple	X			

Council Member Marciante made a motion to approve Resolutions 2021-3.7 and 2021-.3.8, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021 – 3.8**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR VITO’S PIZZA TO  
 MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE  
 PUBLIC RIGHT- OF- WAY IN 2021**

**WHEREAS**, Egnazio (Nat) Casano is the owner of Vito’s Pizza, a restaurant located at 2 N. Main Street on the corner of North Main Street and West Delaware Avenue in the Borough of Pennington;

**WHEREAS**, Mr. Casano has applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 4 tables and 16 chairs on the Main Street side of the restaurant and 2 tables and 8 chairs on the Delaware Avenue side of the restaurant, as shown in the attached sketch;

**WHEREAS**, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

**WHEREAS**, Borough Council determines that approval of the proposed outdoor dining area for Vito’s Pizza, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Vito’s Pizza is hereby granted permission to locate up to 6 tables and 24 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met;

A. The tables and chairs shall be arranged as shown on the attached sketch with no more than 4 tables and 16 chairs on the Main Street side of the restaurant and no more than 2 tables and 8 chairs on the Delaware side of the restaurant.

B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.

C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.

D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.

E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.

F. Owners must provide receptacles for collection of all garbage generated by outdoor diners and insure that these receptacles are emptied as frequently as needed to avoid overflow.

G. Egnazio Casano and Vito’s Pizza shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

H. The outdoor dining area approved by this resolution shall not operate until Mr. Casano and Vito’s Pizza has filed with the Borough Clerk a current Certificate of Insurance which certifies that:

(1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;

(2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

(3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.

(4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

I. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates outdoor dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Mr. Casano or Vito’s Pizza. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2021.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Marciante	M			
Gnatt	X				Mills	S			
Gross	X				Semple	X			

Council Member Marciante made a motion to approve Resolutions 2021-3.7 and 2021-3.8, second by Council Member Mills with all members present voting in favor.

Mayor Lawver asked that Resolutions 2021-3.9, 2021-3.10 and 2021-3.11 be considered as a consent agenda as they all relate to Shared Services. Mayor Lawver pointed out that the Shared Service Agreement for Cleaning the Senior Center is being amended from the one approved at the last meeting because the rates are being held constant with no increase at the request of Hopewell Township. Mayor Lawver stated that the Police Dispatch agreement also reflects no increase.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021-3.9**

**RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO  
 A SHARED SERVICES AGREEMENT WITH HOPEWELL TOWNSHIP FOR  
 EMERGENCY AND POLICE DISPATCH SERVICES  
 FOR THE YEARS 2021 AND 2022**

**WHEREAS**, the Borough of Pennington desires to contract with Hopewell Township for the provision of emergency and police dispatch services; and

**WHEREAS**, the Uniform Shared Services and Consolidation Act permits a local unit to enter into a contract with another local unit for the provision of any services which any party to the agreement is empowered to render within its own jurisdiction; and

**WHEREAS**, the term of the proposed contract, entitled “Shared Services Agreement Police Dispatching And Emergency Communication Services Between The Township Of Hopewell And Borough Of Pennington”, shall be for two years beginning January 1, 2021 and continue through December 31, 2022; and

**WHEREAS**, the cost to the Borough for police dispatch services as outlined in the Shared Services agreement would be \$74,727.77 for 2021 and \$74,727.77 for 2022;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the aforesaid Shared Services Agreement with Hopewell Township for the provision of emergency and police dispatch services during the period January 1, 2021 through December 31, 2022; and

**BE IT FURTHER RESOLVED** that the aforesaid Agreement shall be substantially in the form attached to this Resolution, subject to approval by the Borough Attorney.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	X				Mills	S			

Gross	X				Semple	X			
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Council Member Chandler made a motion to approve Resolutions 2021-3.9, 2021-3.10 and 2021-3.11, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021 – 3.10**

**A RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH THE BOARD OF FIRE COMMISSIONERS OF HOPEWELL TOWNSHIP FIRE DISTRICT NO. 1 TO PROVIDE ALL REQUIRED FIRE INSPECTION SERVICES FOR THE PERIOD JANUARY 1, 2021 THROUGH DECEMBER 31, 2022**

**WHEREAS**, the Borough of Pennington (“Borough”) is responsible for certain fire inspection services pursuant to the Uniform Fire Safety Act (N.J.S.A. 52:27D-195, et. seq.) (the “Fire Safety Act”); and

**WHEREAS**, pursuant to the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1, et seq.) the Borough desires to contract with the Board of Fire Commissioners of Hopewell Township Fire District No. 1 (the “Board”) for the provision of fire inspection services and other certain services required by the Fire Safety Act; and

**WHEREAS**, the Borough and the Board are both “local units” and the fire inspection services and other certain services required by the Fire Safety Act are “shared services” within the meaning of N.J.S.A. 40A:65-3;

**WHEREAS**, the term of this Shared Services Agreement shall be two years, from January 1, 2021 through December 31, 2022;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor of the Borough, with the attestation of the Borough Clerk, is hereby authorized to enter into and execute on behalf of the Borough a Shared Services Agreement providing for the aforesaid services in substantially the form annexed to this Resolution, subject to final approval as to form by the Borough Attorney.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	X				Mills	S			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolutions 2021-3.9, 2021-3.10 and 2021-3.11, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021 – 3.11**

**RESOLUTION AMENDING SHARED SERVICES AGREEMENT FOR USE, MAINTENANCE AND CLEANING OF THE SENIOR CENTER**

**WHEREAS**, by Resolution 2021-2.9, Borough Council approved a shared services agreement for 2021 among Hopewell Township, Hopewell Borough and Pennington for use, maintenance and cleaning of the Senior Center on Reading Street in Pennington (“2021 Agreement”);

**WHEREAS**, Resolution 2021-2.9 provided among other things that under the 2021 Agreement, Hopewell Township would pay Pennington the sum of \$5,068.00 and Hopewell Borough would pay Pennington \$1,266.00, representing two-percent increases for both municipalities over the prior year;

**WHEREAS**, Borough Council seeks to reduce these charges under Resolution 2021-2.9 from \$5,068.00 to \$4,969.00 for Hopewell Township and from \$1,266.00 to \$1,241.00 for Hopewell Borough, thereby rescinding what would have been the two-percent increase over 2020;

**WHEREAS**, this rescission of the increase over 2020 is in line with Hopewell Township holding the cost of its emergency and police dispatch services agreement with Pennington at no increase over last year;

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

1. the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into an amended 2021 Agreement with Hopewell Township and Hopewell Borough reducing the 2021 annual cash contributions of each as set forth above; and
2. all other terms and conditions of the 2021 Agreement shall remain unchanged.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	X				Mills	S			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolutions 2021-3.9, 2021-3.10 and 2021-3.11, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021 – 3.12**

**RESOLUTION AUTHORIZING MAYOR TO EXERCISE DISCRETION IN EXECUTING AGREEMENT FOR PROVISION OF ELECTRICITY GENERATION SUPPLY SERVICES FOR RESIDENTIAL GOVERNMENT ENERGY AGGREGATION**

**WHEREAS**, pursuant to Ordinance 2019-9 adopted by Borough Council on October 7, 2019, the Borough publicly declared its intent to commence a government energy aggregation program (“GEA Program”);

**WHEREAS**, the Borough has begun the process of effectuating the Program by entering into or authorizing the following agreements:

1. Agreement between Borough of Pennington and the energy agents and consultants Concord Engineering Group, Inc. d/b/a Concord Energy Services (“CES”) and Commercial Utility Consultants, Inc., d/b/a Commercial Utility Consultants (“CUS”);
2. Electric Company Aggregation Agreement with PSE&G;
3. Cooperative Pricing Agreement with Hunterdon Area Energy Cooperative (HAEC);

**WHEREAS**, a bid process is underway through HAEC and an online energy auction is scheduled for on or after March 17, 2021;

**WHEREAS**, in the Agreement with CES/CUC, it is provided in pertinent part that on the day of the auction, upon receipt of the bid pricing, the Borough may accept or reject the bid provided it does so on the same day the bid pricing is received, and for this purpose CES/CUC will provide timely comparisons of pertinent rates to assist the Borough in evaluating the bid pricing.

**WHEREAS**, if the Borough wishes to accept the bid pricing it will be required to enter into an agreement with the successful third-party energy supplier that same day as well;

**WHEREAS**, the form of the third-party supplier agreement pertinent to the upcoming online auction, entitled “Agreement For Provision of Electricity Generation Supply Services for Residential Government Aggregation” (“Third-Party Supplier Agreement”) is attached to this Resolution;

**WHEREAS**, in light of the short turnaround times, effective participation in the bidding process requires exercise of discretion on the part of Borough Administration as to whether or not to accept the bid pricing and enter into the Third-Party Supplier Agreement without specific prior approval by Borough Council;

**WHEREAS**, the purpose of this Resolution is to authorize the Mayor to participate in the bidding process on behalf of the Borough, and to further authorize the Mayor, with the advice of CES/CUC, to exercise discretion to enter into an applicable Third-Party Supplier Agreement on behalf of the Borough in accordance with the criteria below;

**WHEREAS**, in the event the Mayor is out of state on March 17, 2021 and Council President Catherine Chandler is serving as Acting Mayor, this grant of authority is extended to her;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into a Third-Party Supplier Agreement on behalf of the Borough without prior approval by Borough Council provided:

1. prior approval by Council is not practicable at the time bidding is received;
2. acceptance of the bid pricing is recommended by CES/CUC; and

- 3. in the Mayor’s judgment, acceptance of the bid pricing is in the best interests of Borough ratepayers, price and other factors considered, subject to the right of the ratepayers to opt-out.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	S				Mills	X			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-3.12, second by Council Member Gnatt. Mr. Bliss asked for a minor amendment to include the words “on or after” March 17<sup>th</sup> in case the receipt of bids date is changed or postponed. Mayor Lawver indicated that this will be the last shot at this and if it does not work out the Borough is done with it. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2021-3.13**

**RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH NEW JERSEY ANALYTICAL LABORATORIES FOR THE PERIOD JANUARY 1, 2021 TO JUNE 30, 2021**

**WHEREAS**, the Borough of Pennington requires professional services for routine sampling, analysis and consulting services related to operation of the Borough’s potable water system;

**WHEREAS**, New Jersey Analytical Laboratories, having its office at 812 Silvia Street, Ewing, NJ 08628, is a laboratory licensed by the New Jersey Department of Environmental Protection and is able to provide the professional services required;

**WHEREAS**, New Jersey Analytical Laboratories has submitted a proposal for the work dated February 11, 2021 for a contract price of \$2,730.00 per month;

**WHEREAS**, Borough Council accepts this monthly rate but elects to limit the contract term to six (6) months from January 1, 2021 to June 30, 2021 requiring total payments of up to \$16,380.00 invoiced at \$2,730.00 per month;

**WHEREAS**, the work shall include all routine laboratory sampling and analysis as set forth in the proposal, a copy of which is attached;

**WHEREAS**, the aforesaid proposal also provides that if additional sampling and analysis services are required by the New Jersey Department of Environmental Protection (NJDEP) they shall be invoiced separately;

**WHEREAS**, a condition of any agreement must include a requirement that New Jersey Analytical Laboratories shall file all analytical reports with the appropriate regulatory agency within the time prescribed by law and shall be responsible for any untimely filings, including all fines and penalties;

**WHEREAS**, before the agreement may be effective, New Jersey Analytical Laboratories shall supply proof of general and contract liability insurance and professional liability insurance with minimum limits of \$1,000,000 respectively, naming the Borough of Pennington as an additional insured;

**WHEREAS**, approval of this contract complies with the Code of the Borough of Pennington as well as, N.J.S.A. 19:44A-20.5, effective January 1, 2006, which prohibit the award of certain professional services contracts to any person or business entity which makes reportable contributions to local political or candidate committees representing members of the governing body;

**WHEREAS**, such political contributions are permitted by the statute only if the municipality has elected to award the contract through a competitive process involving a publicly advertised request for proposals and a review process based on written procedures and criteria prescribed in advance by the governing body or as otherwise provided by law;

**WHEREAS**, Borough Council awards this contract without resort to such a process because the appointee has made no such political contribution and shall be prohibited from making any such contribution during the term of the contract;

**WHEREAS**, this contract is being awarded as a professional services contract in compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., without advertising for proposals or competitive bidding;

**WHEREAS**, New Jersey Analytical Laboratories has completed and submitted a sworn Business

Entity Disclosure Certification which certifies that the firm has not made and shall not make any political contribution prohibited by the relevant provisions of either statute or the Borough Code concerning pay-to-play;

**WHEREAS**, New Jersey Analytical Laboratories shall comply with requirements for Anti-Discrimination and Affirmative Action as set forth in the annexed Exhibit A;

**WHEREAS**, the Chief Financial Officer of the Borough has certified that funds are available for the purpose of this contract in the Water/Sewer Operating Budget – Account #: 1-05-55-501-000-256;

**WHEREAS**, the Local Public Contracts Law requires that a resolution authorizing an award of contract for professional services without competitive bid be publicly advertised following adoption;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to issue an appropriate purchase order and accept as a binding contract the attached proposal by New Jersey Analytical Laboratories dated February 11, 2021 for a contract price not to exceed \$16,380.00 for a period of six months from January 1, 2021 through June 30, 2021, provided such agreement shall be further subject to such amendments for supplemental services required by NJDEP as may hereafter be agreed upon, and provided further that such agreement shall state explicitly that New Jersey Analytical Laboratories shall indemnify and hold harmless the Borough from all negligent acts and omissions in connection with performance of the agreement by New Jersey Analytical Laboratories, including but not limited to the timely filing of all analytical reports required by law.

**BE IT FURTHER RESOLVED**, that a copy of this resolution shall be published in the official newspaper as required by law.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante	X			
Gnatt	X				Mills	M			
Gross	X				Semple	X			

Council Member Mills made a motion to approve Resolution 2021-3.13, second by Council Member Chandler. Mayor Lawver asked why this is not a full year and Mr. Smith responded that he is exploring some other options. Upon a roll call vote all members present voted in favor.

**Professional Reports**

Mrs. Heinzl stated that as we come up on the one year anniversary of moving out of the building due to COVID she would just like to thank the staff for all of their hard work during a difficult time.

**Public Comment**

Mrs. Gabrielle Shamsey of 110 Rolling Hill Road, Skillman, NJ stated that she would like to address the topic of the land purchase that was discussed earlier. Mrs. Shamsey stated that this is a rare opportunity to use that land properly. Mrs. Shamsey strongly urged the Borough to counter offer, but she also asked if private citizens could contribute towards the purchase. Mayor Lawver stated that he believes it would be possible but he does not know the details. Mrs. Shamsey stated that they are in the process of forming a non-profit called PAC- ED – Pennington African Cemetery Education Foundation which will be a 503c Corporation and she believes that they can raise funds prior to getting official approval as a non-profit. Mayor Lawver thanked Mrs. Shamsey and stated that the Borough will look into this idea. Mrs. Shamsey stated that a price would need to be locked in first before soliciting for donations.

Ms. Angela Wicher of 204 Hopewell Wertzville Road and a member of the Pennington African American Cemetery stated that they are glad that the Borough is considering this and she understands that the Borough needs to negotiate a reasonable price for the property.

At 8:31 P.M with no further business to address, Council Member Chandler made a motion to adjourn, second by Council Member Marciante.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk