**Pennington Borough Council**
**Regular Meeting – April 5, 2021**

Mayor Lawver called the Regular Meeting of the Borough Council to order at 7:00 pm. The meeting was held on Zoom due to the COVID19 pandemic. Borough Clerk Betty Sterling called the roll with Council Members Chandler, Gnatt, Gross, Marciante and Mills in attendance. Ms. Semple arrived at 7:07 pm.

Also present were Borough Administrator Eileen Heinzel, Police Chief Pinelli, Public Works Superintendent Rick Smith, Chief Financial Officer Sandra Webb, 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.

## 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.**

There were no comments from the public.

## Mayor's Business

Mayor Lawver announced the resignation of Steve Molinelli from the Historic Preservation Commission.

Mayor Lawver stated that he had two Proclamations to present, the first one for Arbor Day.

**PROCLAMATION**

**WHEREAS,** in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

**WHEREAS,** this holiday, called Arbor Day, was the first observed with the planting of more than a million trees in Nebraska, and

**WHEREAS,** Arbor Day is now observed throughout the nation and the world, and

**WHEREAS**, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

**WHEREAS,** trees are renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

**WHEREAS**, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

**WHEREAS**, trees, wherever they are planted, are a source of joy and spiritual renewal, and

**WHEREAS,** Pennington, N.J. has been recognized as Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

**NOW, THEREFORE**, I, Joseph Lawver, Mayor of the Borough of Pennington do hereby proclaim Friday, April 30th , 2021 as ARBOR DAY in Pennington, New Jersey, and I urge all citizens to support efforts to protect our trees and woodlands and to support our urban forestry program, and

**FURTHER,** I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

Mayor Lawver read the following Proclamation.

**PROCLAMATION**

**WHEREAS**, public health organizations use National Public Health Week to educate the public, policymakers and public health professionals about issues that are important to improving the health of the people of the United States; and

**WHEREAS**, this year's theme is "Building Bridges to Better Health" and each day highlights a key public health priority, including Rebuilding, Advancing Racial Equity, Strengthening Community, Galvanizing Climate Justice, Constructing COVID-19 Resilience, Uplifting Mental Health and Wellness, and Elevating the Essential and Health Workforce; and

**WHEREAS**, across these health priorities, equity in access and in outcomes is paramount to achieving meaningful population health; and

**WHEREAS**, federal, state, county and local public health professionals help communities prevent, prepare for, withstand and recover from the impact of a full range of health threats including disease outbreaks and natural or man-made disasters by collaborating with traditional partners such as healthcare providers, healthcare facilities, community organizations and first responders, and non-traditional partners such as city planners, transportation and education officials and private sector businesses; and

**WHEREA**S, the Borough of Pennington is grateful for the service provided by public health professionals and partners during the COV1D-19 epidemic as well as every day; and

**WHEREAS**, studies show that small strategic investments in prevention could result in significant savings in health care costs; and

**WHEREAS**, in communities across New Jersey, more people are changing the way they care for their health by avoiding tobacco use, eating healthier, becoming more physically active and preventing unintentional injuries at home and in the workplace; and

**WHEREAS,** by adequately supporting health and prevention, we can continue to transform a health system focused on treating illness to one which focuses on preventing disease, promoting wellness and ensuring health equity and access to care for all populations;

**NOW, THEREFORE, I,** Joseph Lawver, Mayor of Pennington Borough, do hereby proclaim **APRIL 5 THROUGH APRIL 11, 2021** AS **PUBLIC HEALTH WEEK.**

Mayor Lawver introduced Devangi Patel from Montgomery Township Health Department to present a COVID update. Mayor Lawver stated that he can't say enough about our Health Department sourced through Montgomery Township has done a phenomenal job through this COVID crisis. Mayor Lawver stated that they have been knowledgeable and fact based and they have kept us on the ball and looking forward. Mayor Lawver stated that we can't thank them enough for the countless hours they have put in.

Ms. Patel stated that she will be discussing the past, present and future as it relates to the historic year we have had and the challenges we face going forward. Ms. Patel stated that they are currently dealing with pandemic fatigue, a wave of variant cases and short supplies of vaccines. Ms. Patel stated that though many people are getting vaccinated there are many people who are still vaccine hesitant and they are working on getting information out and trying to ease people's concerns. Ms. Patel stated that mental health was a problem pre-Covid and now it is more of a problem. Ms. Patel stated that they are working on keeping employers informed and keeping employees safe. Ms. Patel stated that they have a business outreach packet that they are distributing. Ms. Patel stated that they are working on climate resilience and community resilience. Ms. Patel encouraged everyone to thank their Public Health Workers as they often work long hours and particularly so through this pandemic year.

Ms. Patel stated that they are proud of the accreditation that they earned and they continue to ensure that everything they do is with that accreditation in mind. Ms. Patel stated that they are working on opening up programs again and working on digital ways to reach out to the community. Ms. Patel stated that they have held drive through Flu clinics. Ms. Patel stated that they are working with Mercer County College Nursing Students to help with vaccination clinics. Ms. Patel stated that they are offering additional COVID testing with residents returning from spring break in mind. Ms. Patel stated that the Health Department website is continually being updated with information on COVID vaccination and testing information. Ms. Patel stated that they are working with school district partners to assist with full in person learning. Ms. Patel stated that the vaccination process is still challenging but they are working hard to make sure that everyone can get the vaccine.

Mayor Lawver thanked Ms. Patel for the update.

## Approval of Minutes

Council Member Chandler made a motion to approve the minutes of the March 1, 2021 Regular meeting, second by Council Member Gnatt with all members present voting in favor.

## Committee Reports

**Planning & Zoning / Open Space / Personnel –** Mrs. Gnatt stated that the Personnel Committee met and Betty had decided not to take the Land Use position which also includes secretary to the Historic Preservation Committee which means it will have to be posted. Mrs. Gnatt stated that the position will

be advertised at 15 to 20 hours per week. Mrs. Gnatt stated that other duties are being discussed to include in the position. Mrs. Gnatt stated that the salary will be about half of the full time salary so $27,000 to $31,000. Mrs. Gnatt stated that there is a resolution on the agenda and if approved, Gab Canavera will become full-time and she will be taking on the Water Utility account management which will raise her salary to $40,000 effective July 1st. Mrs. Chandler stated that she has questions about this. Mayor Lawver stated she should wait until the resolution. Mrs. Gnatt stated that previous Land Use Administrator also served as Court Secretary and the Court Administrator Meg Umbro has indicated that this position will need to be filled before September when it is anticipated that Court will return to in person.

Mrs. Gnatt reported on a report from Rick Smith regarding Public Works employees. Mrs. Gnatt reported that all five police officers are back in rotation and patrolling independently. Mrs. Gnatt also spoke about Construction employees.

Mrs. Gnatt stated that she missed the Planning Board meeting but she recused herself as she had a conflict with the discussion of the Schragger property. Mrs. Heinzel stated that the Planning Board considered an application for a new house on King George Road and the application was approved. Ms. Heinzel stated that with respect to the Schragger property, the board extended the time frame for getting sub-division approvals because there were some difficulties last year due to COVID.

**Public Safety /Economic Development / Environmental –** Mrs. Chandler stated that she did not have anything to report in addition to the report supplied by Chief Pinelli.

Mrs. Chandler reported that Economic Development discussed the new Cannabis Legislation. Mrs. Chandler stated that they are hoping to have a speaker at the next meeting. Mrs. Chandler stated that Economic Development is seeking two new members, they continue to work on the Business Inventory and Fall and Winter Activities.

Mrs. Chandler stated that the Environmental Commission is putting together a sub-committee to begin working on the Carbon Neutral Initiative. Mrs. Chandler stated that the first step will be to get a base line. Mrs. Chandler stated that they are working on updates for the website and they are working on the possibility of a rain garden. Mrs. Chandler stated that they reviewed the Planning Board application for King George Road, they had some questions about drainage but found out that those concerns were addressed by the engineer.

**March 29, 2021**

**Memo To: Catherine (Kit) Chandler, Councilperson**

**Subject: Monthly Police Report (March 2021)**

**Please find attached the monthly report of statistical information for the month of March 2021.**

**Operations Report:**

**1. Planning for the Memorial Day Parade has started.**

**2. Myself and Will are working on completing the CJIS audit paperwork. This audit is conducted every two years by the State Police.**

**COVID Report:**

**1. We had Two (2) different situations where officers were exposed to COVID. No time was lost due to the exposures and minimum OT was generated.**

**Vehicle Report:**

**1. All vehicles are currently up and running. Regular maintenance is being completed on the fleet.**

**2. The hybrid vehicle which was ordered in 2020 is still on back order. Update: We may see the vehicle in June or July.**

**Computer Report:**

**1. Nothing to report this Month**

**Training Report:**

**1. Myself and Officer Burroughs will be attending Alcho-test Recertification in July.**

**2. I am in The New Chiefs Executive Leadership program which will run from March 28, 2021 Thru June 17, 202. Classes are held on Fridays**

**3. Officer Thomas has been enrolled in the New Operators class for the Alcho-test 7110. This class is scheduled for May 3 – 7, 2021. Once Officer Thomas completes this class there will be three (3) Certified Officers to utilize the Alcho-test machine.**

**Body Worn Camera (BWC):**

**1. I have applied for the grant that the state release for the Body Worn Cameras (BWC). I am hoping to hear sometime in the near future as to what if any money we may be granted. I am waiting on moving forward with replacing our current system till I see if we get any assistance. As stated in the previous report out current system has met its life expectancy and is in need of replacement.**

**Overtime Report:**

**The report is being worked on and data is being gathered for a OT comparison.**

**Update on Marijuana Legalization:**

**The have been several discussions about the new law which was signed by the governor last month. AAs of the date of this report there have been some changes to the law specifically with law enforcement (LE) contacting the minor's guardians if caught with Marijuana or Alcohol on the first offense. It now reads that on the first offense LE can advise the parents about the situation.**

**There are also two other changes or fixes to the current law that have been submitted for review and eventually approval. I have received no information on the status of those yet.**

**Respectfully Submitted,**

**Douglas M. Pinelli**
**Chief of Police**

**Public Works –** Mr. Marciante stated that Public Works discussed automated garbage collection. Mr. Marciante stated that they are talking to Public Safety regarding narrow streets and car placement. Mr. Marciante stated that they also discussed distribution of cans. Mr. Marciante stated that they discussed the holiday schedule and reviewed Mr. Smith's report on employees.

**PENNINGTON BOROUGH PUBLIC WORKS**

**TO:** Eileen Heinzel, Administrator

**FROM:** Rick Smith, Superintendent

**DATE:** April 1, 2021

**RE: REPORT FOR THE MONTH OF MARCH 2021**

**WATER**

6,363,000 gallons were treated and pumped into the distribution system and water tower; this is an average of 205,258 gallons per day. There were 11,000 less gallons pumped in the month of 2021 verses 2020. All required DEP reporting has been performed by the Licensed Operator.

4 House Inspections were performed and 28 water meters were installed/replaced.

DPW performed 30 Utility Markouts per New Jersey One Call.

Most recent lab results for hot topic contaminants are as follows:

**ARSENIC:** typically dissolves out of certain rock formations
Maximum Contaminant Level (MCL): 5 UG/L
Well 6: 3.5 UG/L Well 8: 4.5 UG/L
Well 7: 4.7 UG/L Well 9: 4.9 UG/L

**PFOS:** typically, Teflon, Stainmaster, Scotchgard, etc…
Maximum Contaminant Level (MCL): 13 NG/L
Well 6: 7.2 NG/L Well 8: 10.2 NG/L

Well 7: 6.86 NG/L Well 9: 5 NG/L

**PFOA:** typically, Teflon
Maximum Contaminant Level (MCL): 14 NG/L
Well 6: 8.5 NG/L Well 8: 10.3 NG/L
Well 7: 7.98 NG/L Well 9: 6.27 NG/L

**PFNA:** typically, a processing aid in the manufacture of high performance plastics
Maximum Contaminant Level (MCL): 13 NG/L
Well 6: less than 2 NG/L Well 8: 3.65 NG/L
Well 7: less than 2 NG/L Well 9: less than 2 NG/L

**TRASH**

73.88 tons of trash was collected in March, versus 70.98 tons collected for the month of March 2020. This resulted in a 2.90 ton increase. There were 9 curbside collection days.

1 weekend truck rental was delivered.

**YARD WASTE / CHIPPING**

2.86 tons of chipping were collected via wood chipper. These were taken to Hopewell Valley Vineyards.

16.44 tons of recyclable yard waste were collected and tipped for a total of $574.58 versus a trash transfer station charge of $1,939.92 for a savings of $1,365.34 in tipping fees. Since its inception in Mid-November of 2014 the diversion of yard waste from the regular trash stream has shown a savings of ***$97,375.28*** in tipping fees.

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**During the month of January:**

- Personnel attended the annual required audiometric test on March 9th
- MCIA hosted "Household Hazardous Waste Collection and Electronics Recycling Event" on March 27th. The DPW delivered items to the site the previous day.
- Spring materials and supply planning: planters, mulch, playground chips, etc…
- Regularly scheduled maintenance on VOC treatment, wells, motors, pumps, etc. performed by DPW.
- Regularly scheduled maintenance at Pump Stations performed by DPW.
- Read water meters per our new quarterly schedule (end of the month)

**For the month of March, tasks of importance beyond our typical assignments:**

- Change Pump Station Bio-Blocks
- Rototill mulch beds and playground areas
- Remove/Review snow equipment and snow shovels at the Police Department and Borough Hall
- Prep Kunkel Park the Friday before the annual Easter Egg Hunt on April 3rd
- DPW personnel will attend First Aid and CPR training on April 7th
- Prep DPW Building for the Rabies Clinic on April 10th
- Superintendent and Assistant will be attending DER Training on April 22nd
- Prepare for Arbor Day on April 30th

**Finance / Board of Health** – Mr. Gross stated that Board of Health did not meet. Mr. Gross stated that the Finance Committee met to discuss the budget introduction for later in the meeting.

**Historic Preservation / Library** – Mrs. Mills stated that Historic Preservation met to discuss and application from 11 East Delaware to demolish and restore the porch. Mrs. Mills stated that the application was approved. Mrs. Mills stated that inquiries about 241 South Main have come in, one inquiry stated that the building was not structurally sound and should be demolished. Mrs. Mills stated that Mr. Holtermann explained that the house is in the Historic District and that would not be an option.

Mrs. Mills stated that the Library Board got an update on the construction project and programming continues. Mayor Lawver stated that the Library is interested in opening up to patrons when we move back into the building and they are looking at safety protocols to make that happen.

**Parks and Recreation / Shade Tree –** Ms. Semple stated that Shade Tree is working on a letter of support for purchase of a new bucket truck and they are working on the tree inventory. Ms. Semple stated that there is still interest in replacing trees on Burd Street.

Ms. Semple stated that Parks and Recreation discussed replacement of equipment in the parks.

**Senior Advisory Board** – Mayor Lawver stated that the Senior Advisory Board continues to meet, but nothing new to report.

## COUNCIL DISCUSSION

**Hopewell Valley Arts Council Mural –** Mayor Lawver stated that a letter was received by the Hopewell Valley Arts Council to put a mural on the side of Erwin Harbat's building on North Main Street. Mayor Lawver stated that Zoning Officer John Flemming stated that this qualifies as a sign and Council can approve this as a temporary sign. Mrs. Gnatt stated that she loves this idea. Mrs. Chandler asked if there is a time limit for this. Mrs. Chandler states that she thinks this is a good idea, but the time frame should be defined. Mayor Lawver stated that it would be three to five years and this mural was done on large panels that would be installed on the building. Mayor Lawver asked for a motion to approve this as a temporary art installation. Council Member Chandler made a motion to approve this as a temporary art installation, second by Council Member Semple with all members present voting in favor by a voice vote.

**Little Free Library at Sked -** Mayor Lawver stated that there are several little library locations in town. Mayor Lawver stated that Mrs. Lea White has volunteered to take this on and her family will maintain the little library. Mrs. Heinzel invited Lea White to speak. Mrs. White stated that she is the Media Specialist at the Tollgate School. Mrs. White stated that it is also National Libraries and Librarians week and she would be happy to answer any questions. Mrs. Chandler stated that she likes the idea. Mayor Lawver asked for a voice vote. All members present voiced their vote in favor.

**Cannabis Legislation –** Mayor Lawver stated that he just wanted to keep this on the table because there is a time line for the Borough to comply with this legislation. Mayor Lawver stated that next month we should have more information for discussion. Mrs. Chandler stated that if Council does nothing and essentially says yes, we cannot go back and then say no. Mrs. Chandler stated that if the Borough does an ordinance to say no, then the Borough cannot then go back and say yes.

**American Recovery Act Funds –** Mayor Lawver stated that this too is still evolving. Mayor Lawver asked Council Members to consider ideas for use of these funds when they come in. Mayor Lawver stated that there is no guidance on this yet other than the funds cannot be used for tax relief.

**Tax Collector Report –** Mayor Lawver asked Tax Collector, Sandy Webb if she had anything to add to the report. Mrs. Webb stated that collections were a little higher than the year before and we are grateful for that.

## Ordinances for Introduction

Mayor Lawver read Ordinance 2021-3 by title.

**BOROUGH OF PENNINGTON**
**ORDINANCE # 2021-3**

**AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14 IN THE BOROUGH OF PENNINGTON, NEW JERSEY**

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 1% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

**WHEREAS,** N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

**WHEREAS**, the Mayor and Council of the Borough of Pennington, Mercer County hereby determines that it is advisable and necessary to increase its CY 2021 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Pennington, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2021 budget year, the final appropriations of the Borough of Pennington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %,

amounting to a total increase of $96,368.27 said amount being $68,834.48 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2021 municipal budget for the Borough of Pennington be approved and adopted in accordance with this ordinance; and,

**BE IT FURTHER ORDAINED,** that the Mayor and Council of the Borough of Pennington hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

**BE IT FURTHER ORDAINED,** that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

**BE IT FURTHER ORDAINED** that a certified copy of this ordinance upon adoption, with the recorded vote included thereon be filed with said Director within 5 days after such adoption.

Council Member Chandler made a motion to introduce Ordinance 2021-3, second by Council Member Gnatt. Chief Financial Officer Sandy Webb explained the purpose of this Ordinance. Upon a roll call vote all members present voted in favor.

Mayor Lawver read Ordinance 2021-4 by title.

**BOROUGH OF PENNINGTON**
**ORDINANCE 2021 – 4**

**BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO EAST WELLING AVENUE IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING $710,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF $100,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of $710,000, including a grant in the amount of $610,000 from the State of New Jersey Department of Transportation (the “State Grant”). No down payment is required pursuant to N.J.S.A. 40A:2-11(c) as the improvement or purpose referred to in Section 3(a) is being partially funded by the State Grant.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of $100,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is improvements to East Welling Avenue, including, but not limited to, the reconstruction of East Welling Avenue from South Main Street to the eastern border of the Borough, curb and sidewalk replacement, the installation of handicap ramps and related sewer structure upgrades and further including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as

to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by $100,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding $100,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or, if other than the State Grant referred to in Section 1 hereof, to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Marciante made a motion to introduce Ordinance 2021-4, second by Council Member Gnatt with all members present voting in favor.

## Ordinances for Public Hearing and Adoption

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~~

1. ~~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.~~

2. ~~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.**

A. 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.~~]

1. **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.**
2. **The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.**

B. 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.

C. 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**

A. 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.

B. 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 muhlnebergi (bog turtle).

C. 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(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.

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.

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.~~

~~c. 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~~

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

| | |
|---|---|
| | |
| | |
| | |
| | |

| | |
|---|---|
| Wet Pond | 50-90 |

~~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.~~
]

**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.**

**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.**

**Table 1**
**Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity**

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

**Table 2**
**Green Infrastructure BMPs for Stormwater Runoff Quantity**
**(or for Groundwater Recharge and/or Stormwater Runoff Quality with a Waiver or Variance from N.J.A.C. 7:8-5.3)**

| **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[(b)]<br>No[(c)] | 2[(b)]<br>1[(c)] |
| Infiltration Basin | 80 | Yes | Yes | 2 |
| Sand Filter[(b)] | 80 | Yes | Yes | 2 |
| Standard Constructed | 90 | Yes | No | N/A |
| Wet Pond[(d)] | 50-90 | Yes | No | N/A |

**Table 3**
**BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity**
**only with a Waiver or Variance from N.J.A.C. 7:8-5.3**

| 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[h] | 50 or 80 | No | No | Dependent upon the device |
| Sand Filter[c] | 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:**

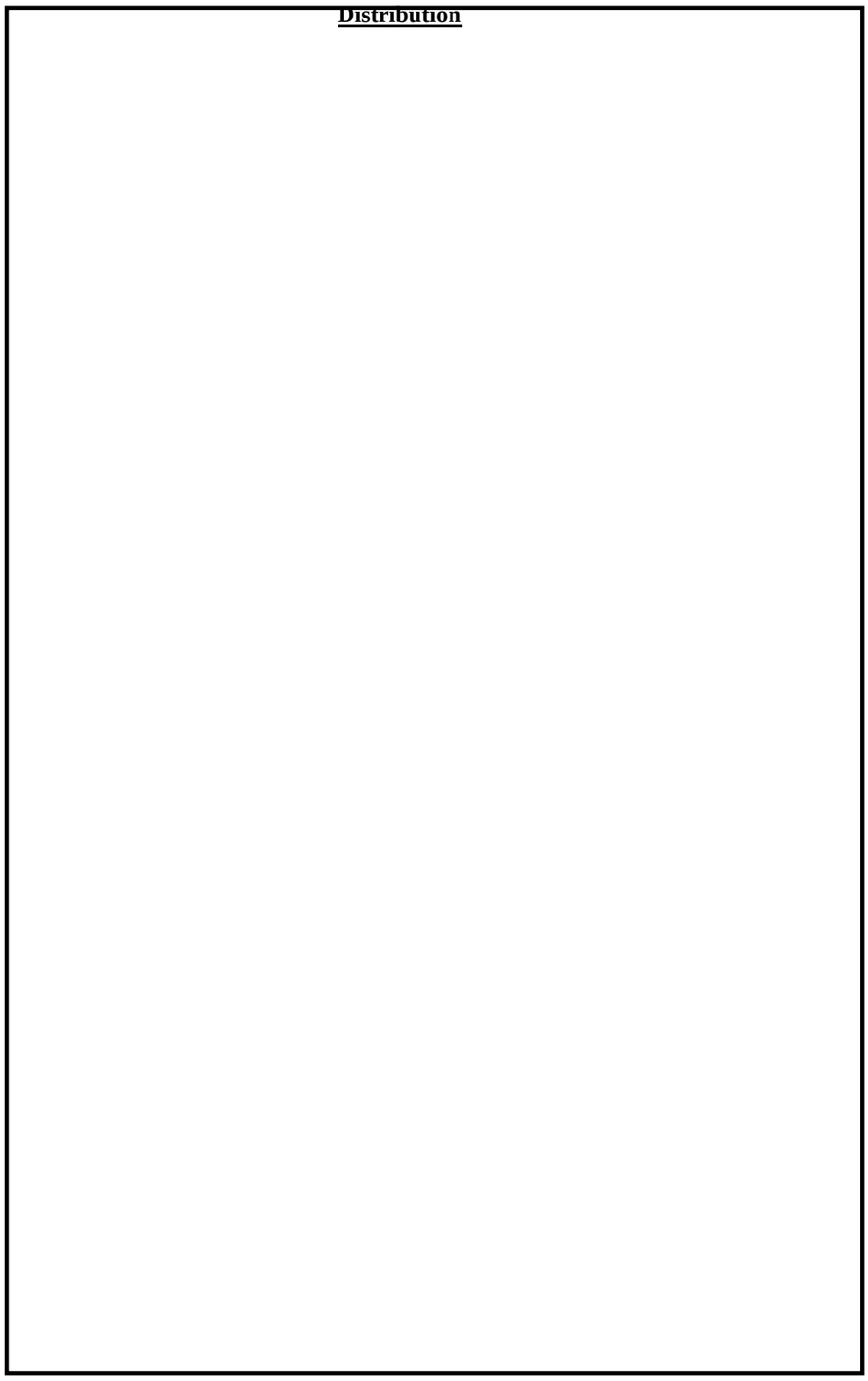
   i. **Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle**

**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**



| 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 *x* 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

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/gsreport/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.

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.

**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:

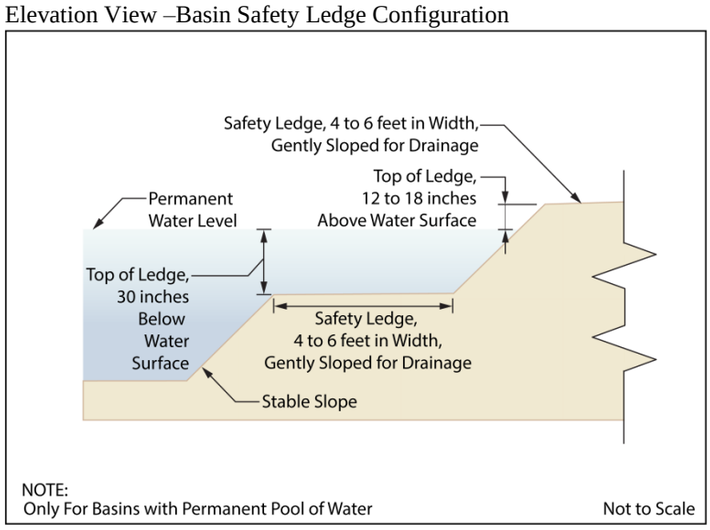
    a. If a stormwater management [basin] BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management 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

Elevation View –Basin Safety Ledge Configuration




**§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 Chandler made a motion to open the Public Hearing on Ordinance 2021-2, second by Council Member Mills. Mayor Lawver asked for comments from the public. There were none. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Marciante with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2021-2, second by Council Member Mills. Council Member Chandler stated that this Ordinance a been reviewed several times by the Environmental Commission in addition to the Borough Engineer so she feels confident in voting in favor. Upon a roll call vote all members present voted in favor.

## BUDGET INTRODUCTION

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 – 4.11**

**RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE 2021 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PENNINGTON**

**WHEREAS,** N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, for conducting the annual budget examination; and

**WHEREAS,** N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

**WHEREAS,** pursuant to N.J.A.C. 5:30-7-2 through 7-5, the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer of the Borough has determined that the local government meets the necessary conditions to participate in the program for the 2021 budget year.

**NOW THEREFORE BE IT RESOLVED,** by the governing body of the Borough of Pennington that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body finds as follows:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
    a. Payment of interest and debt redemption charges
    b. Deferred charges and statutory expenditures
    c. Cash deficit of preceding year
    d. Reserve for uncollected taxes
    e. Other reserves and non-disbursement items
    f. Any inclusions of amounts required for school purposes

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (comply with CAP law).

3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:
    a. All estimates of revenue are reasonable, accurate and correctly stated.
    b. Items of appropriation are properly set forth
    c. In itemization, form arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

5. That the budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

**BE IT FURTHER RESOLVED** that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

**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 2021-4.11, second by Council Member Gnatt. Mr. Marciante stated that he has some questions on the budget. Mayor Lawver stated that the budget introduction is the next resolution. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION #2021 – 4.12**

**RESOLUTION TO INTRODUCE BUDGET FOR 2021**

Section 1.

Municipal Budget of the Borough of Pennington, County of Mercer for the Fiscal Year 2021.

**BE IT RESOLVED**, that the attached statement of revenues and appropriations shall constitute the Municipal Budget for the year 2021;

**BE IT FURTHER RESOLVED**,that said Budget be published in The Hopewell Valley News in the issue of April 16, 2021.

The Governing Body of the Borough of Pennington does hereby approve the attached as the Budget for the year 2021.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Pennington, County of Mercer, on April 5, 2021. A hearing on the Budget and Tax Resolution will be held at the Borough Hall, on May 3, 2021 at 7:00 pm at which time and place objections to said Budget and Tax Resolution for the year 2021 may be presented by taxpayers or other interested persons.

**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 | | | |

Chief Financical Officer Sandy Webb stated that before the motion she would like to read in a couple of changes to the budget. Mrs. Webb stated that under the revenues she is recommended a decrease of $40,000 from the Construction Permit Fees and an increase of $40,000 to surplus. Mrs. Webb stated that we were told when the budget was being put together that the permit fee for the Mercer Mutual building would be quite high, but today when the permit was actually calculated it is significantly lower than what was anticipated. Mrs. Webb stated that the other change is in the Water/Sewer Utility which is an increase of $25,000 to Group Insurance and an increase to surplus of $25,000 on the revenue side. Council Member Chandler made a motion to approve Resolution 2021-4.12, second by Council Member Gnatt. Mayor Lawver asked Mr. Gross to walk Council through the budget.

Mr. Gross stated that the 2021 budget is $4.49 million, an increase of $689,431 which is eighteen percent increase but $515,000 is a road reconstruction grant so the actual increase is about $174,000 over last year's budget. Mr. Gross stated that the bottom line is a two cent tax increase which for the average assessed property amounts to $96.89. Mr. Gross stated that to offset some of the increases, we are utilizing a portion of the bond premium and the liquor license, both of which will offset tax increases for the next two years. Mr. Gross stated that this budget utilizes surplus of just under $400,000, roughly 57% of surplus as opposed to 68% utilized last year, although this will increase slightly with the changes presented earlier. Mr. Gross stated that pensions, insurance and debt service amount to about twenty percent of the budget. Mr. Gross stated that the budget includes an increase of $86,500 in engineering which is for construction costs for Burd Street, this will save the Borough money over time by not capitalizing engineering costs and having to borrow funds. Mr. Gross stated that the budget also includes capital expenses for the Police Department in the amount of $56,000, recommended by the Public Safety Committee. Mr. Gross stated that the Public Hearing on the budget will be held on May 3rd. Mr. Gross stated that we are still waiting for guidance on the $250,000 American Recovery funds.

Mr. Marciante stated that there are things in the budget he does not understand for instance Public Defender costs. Mrs. Webb stated that the Public Defender gets a set amount for each court session. Mrs. Webb stated that last year court was not in session so those funds were not spent. Mr. Marciante questioned the increase in engineering. Mayor Lawver stated that the increase brings the construction costs for Burd Street into the budget as opposed to capitalizing those costs. Mayor Lawver stated that over the past several years we have been capitalizing engineering costs but it is time to bring those expenses back into the operating budget. Mayor Lawver stated that we are bringing in one time revenues to offset these capital costs. Mr. Marciante stated that this is not the time to raise taxes, the school is not raising taxes. Mr. Marciante stated that people are moving out of town and it is crazy to be raising taxes. Mr. Marciante stated that if this is the budget, he is voting no.

Mayor Lawver asked that the Finance Committee pull out expenses that are in the budget that would otherwise be capitalized. Mrs. Chandler stated that The Rodgers Group expense which was recommended by the Police Review Committee and the Public Safety Committee. Mr. Marciante stated that as head of Public Works he had very little opportunity to look at the budget and then it went to the Finance

Committee with very little input from the Public Works Committee. Mrs. Heinzel stated that the budget was reviewed by the Public Works Committee. Mrs. Chandler stated that no cuts were made to the Public Works budget. Mr. Gross stated that he is on both Public Safety and the Finance Committee and the budget was reviewed in both places. Mayor Lawver stated that this is how the budget process always works, the department heads submit budgets, the committees review them and then the finance committee puts the budget together. Mrs. Semple asked about Shade Trees funds because they are meeting tomorrow. Mrs. Webb stated that there was $7,500 added into the Shade Tree budget. Mayor Lawver stated that this relates to tree removal during road projects. Mrs. Semple asked how it works to spend these finds. Mayor Lawver stated that Shade Tree should work with Public Works on spending these funds.

Upon a roll call vote all members present voted in favor of introduction of the budget with the exception of Mr. Marciante who voted no.

## NEW BUSINESS

**BOROUGH OF PENNINGTON**
**RESOLUTION #2021 – 4.1**

**RESOLUTION AUTHORIZING REFUNDS**

**BE IT RESOLVED** that a refund be issued from the Current Fund to SSG Barco, Inc., 122 Waters Avenue, Ewing, NJ 08638 for a refund of a sidewalk permit paid in error in the amount of $50.00.

**BE IT RESOLVED** that a refund be issued from the Current Fund to Bobbie Jean Huff, 173 E. Delaware Avenue, Pennington, NJ 08534 for a refund of overpayment of 1st Quarter Taxes in the amount of $3,339.98.

**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 2021-4.1, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 – 4.2**

**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 $ 1,395,316.50 from the following accounts:

| | |
|---|---|
| Current | $ 1,085,250.01 |
| W/S Operating | $ 103,710.89 |
| General Capital | $ 202,953.24 |
| COAH Trust Fund | $ 2,430.00 |
| Animal Control | $ 22.20 |
| Grant Fund | $ 588.44 |
| Developer's Escrow | $ 361.72 |
| TOTAL | $ 1,395,316.50 |

**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 2021-4.2, second by Council Member Chandler. Mr. Marciante and Mr. Gross questioned a couple of bills on the bill list. Upon a roll call vote all members present voting in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION #2021 – 4.3**

**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.

| | | |
|---|---|---|
| Administration | Salaries | $5,000.00 |
| Administration | Other Expense | $2,000.00 |
| Finance | Salaries | $5,000.00 |
| Engineering | Other Expense | $77,000.00 |
| Group Insurance | Other Expense | $25,000.00 |
| Library | Other Expense | $20,000.00 |
| Natural Gas | Other Expense | $2,000.00 |
| Gas, Fuel, Lubricants | Other Expense | $7,500.00 |
| Shared Services – Senior Coordinator | Other Expense | $5,000.00 |
| | | |
| **Total** | | **$148,500.00** |

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

| | | |
|---|---|---|
| Water | Other Expense | $30,000.00 |
| Sewer | Other Expense | $15,000.00 |
| | | |
| **TOTAL** | | **$45,000.00** |

**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 2021-4.3, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 – 4.4**

**RESOLUTION SUPPORTING S-3522 CREATING LOCAL PART OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)**

**WHEREAS,** county, municipal, and other local governments have met their pension obligations as employers for more than a decade while the State of New Jersey has continued to underfund the pension systems in varying degrees since 1996 and thus created one of the worst publicly funded retirement systems in the entire nation; and,

**WHEREAS,** despite fulfilling their fiduciary duties in meeting their pension obligations, local governments across the State will experience double digit percentage increases in total employer pension contributions in 2021 as determined in figures recently published by the Division of Pension and Benefits in the State Department of Treasury; and,

**WHEREAS,** even more alarming for local government employers is the fact that the unfunded

accrued liability once again increased in 2021 to a staggering $26.6 billion for the Public Employee's Retirement System ("PERS") alone, causing in part, a decrease in the funded ratio for the Local Part of PERS to 65.4%, the State Part to 31.2%, and the combined rate to a disconcerting 52.2% far below the target funded ratio of 75.0%; and,

**WHEREAS,** S-3522 would divide PERS into two parts; A State Part for state employees, and a Local Part for all other employees; and

**WHEREAS**, the legislation creates a seven member board consisting of; three labor employee representatives, three management representatives, and one determined by the Board, tasked with operating the retirement system and directing policies and investments to achieve and maintain full funding; and

**WHEREAS**, S-3522 would protect local governing bodies from the State of New Jersey further directing property taxpayer dollars to subsidize its long mismanagement and underfunding of the pension systems as it would provide the new balanced board of trustees of PERS with the ability to determine or modify member benefits, direct policies and investments to achieve full funding, and serve as fiduciary of the system;

**NOW, THEREFORE, BE IT RESOLVED** that the governing body of the Borough of Pennington does in fact hereby support S-3522, which would establish a new board of trustees for the Local Part of PERS to preserve the structure and integrity of the more solvent Local Part.

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to Governor Phil Murphy, Senate President Stephen M. Sweeney, Speaker of the General Assembly Craig Coughlin, Senator Shirley Turner, Assemblywoman Verlina Reynolds-Jackson, Assemblyman Anthony S. Verrelli and the New Jersey League of Municipalities.

**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 2021-4.4, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 – 4.5**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 5 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.5 in the amount of $182,847.73 less 2% retainage in the amount of $3,656.95; 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 $179,190.78 pursuant to payment request No. 5 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 | M | | | | Marciante | X | | | |
| Gnatt | S | | | | Mills | X | | | |
| Gross | X | | | | Semple | X | | | |

Council Member Chandler made a motion to approve Resolution 2021-4.5, second by Council Member Gnatt. Mr. Marciante stated that Chief Pinelli and Will Mullen took the initiative and ran wires in the Police Department and he would like to thank Chief Pinelli because this saved the Borough a ton of money. Mr. Marciante thanked Doug Pinelli. Mayor Lawver stated that the Public Works Department will be painting

the offices which will also save money for the Borough. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 - 4.6**

**RESOLUTION AUTHORIZING EXTENSION OF BROOKSIDE LEASE DURING COMPLETION OF BOROUGH HALL RENOVATION PROJECT**

**WHEREAS,** by Resolution 2020-9.5 Borough Council authorized the lease of office space at 19 Brookside Avenue in Pennington suitable for relocation of the Borough's municipal offices during renovations to Borough Hall;

**WHEREAS**, a copy of the executed lease authorized by Resolution 2020-9.5 ("the Lease') is attached;

**WHEREAS,** the term of the Lease is for six months at net rent of $2,000 per month ending on March 31, 2021;

**WHEREAS,** Borough Council now seeks to extend the term of the Lease for two months to permit completion of the renovations and an orderly move back into Borough Hall;

**WHEREAS**, the owner and landlord under the Lease, Graywacke LLC, has agreed to extend the Lease until the end of May 2021 at the present rent and with all other terms of the Lease remaining unchanged;

**WHEREAS,** a form of Addendum to the Lease consistent with these terms is also attached;

**WHEREAS,** the Chief Financial Officer of the Borough has certified that the funds needed for undertaking this obligation are available in Account No. 1-01-26-30-000-277 (Borough Property - Building Maintenance);

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the attached Addendum to the Lease with Graywacke LLC, extending the term of the Lease to May 31, 2021 at the present rent and with all other terms of the Lease remaining 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 | S | | | | Mills | X | | | |
| Gross | X | | | | Semple | X | | | |

Council Member Chandler made a motion to approve Resolution 2021-4.6, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 – 4.7**

**RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT REVISING OPERATION OF THE HOPEWELL VALLEY MUNICIPAL ALLIANCE**

**WHEREAS,** the Hopewell V alley Municipal Alliance ("Alliance") is part of a state-wide network aimed at the prevention of alcoholism and drug addiction, primarily for youth;

**WHEREAS**, the Alliance supports and administers over 20 programs and activities in the three municipalities of Hopewell Valley geared toward drug and alcohol awareness, positive youth development and overall public safety including the Healthy Communities Healthy Youth Program which since 1996 has created a partnership with all sectors of the community including municipal governments, businesses, schools, police, clergy, civic organizations, senior citizens, health professionals, recreation organizations, parents and students, working together to make Hopewell Valley healthier and safe for its youth;

**WHEREAS,** a principal sources of funding for the Alliance has been monies received annually by Hopewell Township through the Governor's Council on Alcoholism and Drug Abuse Grant ("GCADA Grant"), subject to adjustment over fiscal cycles of the grant program;

**WHEREAS**, another source of funds is fundraising for the administration of various drug and alcohol prevention programs, deposited in a trust fund ("Trust Fund") established by Hopewell Township

Resolution #97-34 and administered by Hopewell Township, with a present balance of approximately $29,000;

**WHEREAS**, future funds will also be provided from an agreement among Hopewell Township, Hopewell Borough and Pennington Borough to make annual "Cash Match" contributions in the respective amounts of $14,000 from Hopewell Township, $2,300. from Hopewell Borough, and $1,500. from Pennington Borough;

**WHEREAS,** the three municipalities, Hopewell Township, Hopewell Borough, Pennington Borough, together with the Hopewell Valley Regional School District ("School District") seek to revise the operations of the Alliance by entering into the attached shared services agreement ("Shared Services Agreement") that would: (1) shift the center of Alliance operations to the School District with the District hiring the necessary personnel; (2) make the School District responsible for hiring, training, supervising, compensating with salary and benefits and providing office and instruction space for the personnel needed to run the Alliance, who will be employees of the District; (3) providing that the three municipalities, Hopewell Township, Hopewell Borough and Pennington Borough, shall reimburse the District for the cost of personnel hired by the District to run the Municipal Alliance Program by turning over to the School District the full amount of their respective shares of the Cash Match, the grant allocation from the Mercer County GCADA Grant, and the entire amount of the Trust Fund to the School District;

**WHEREAS**, the term of the Shared Services Agreement shall be three (3) years from the start of services but may be terminated by any party upon sixty (60) days written notice;

**WHEREAS**, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., authorizes local units to enter into agreements with each other for shared services;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of The Borough of Pennington, that the Mayor is hereby authorized to enter into the attached Shared Services Agreement on behalf of the Borough.

## 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 2021-4.7, second by Council Member Gnatt. Some discussion took place with regard to this agreement and why this is needed. Mr. Marciante stated that the Health Department has similar programs. Mayor Lawver encouraged Council Members to attend Municipal Alliance meetings, they do a lot of work but much of it is done by third parties. Mrs. Mills asked if there was a partnership with the Police Department. Mayor Lawver stated that he has raised this with the other towns and they are not willing to fight this fight. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 – 4.8**

**RESOLUTION AUTHORIZING PROMOTION OF GABRIELLE R. CANAVERA TO FULL-TIME CONFIDENTIAL ASSISTANT TO SUPERINTENDENT OF PUBLIC WORKS**

**WHEREAS,** the Superintendent of Public Works has recommended the appointment of Gabrielle R. Canavera as full-time Confidential Assistant to support current needs relating to management of the Department;

**WHEREAS**, creation of the position of Confidential Assistant to the Superintendent of Public Works and the hiring of Ms. Canavera on a part-time basis was authorized by Resolution 2017-4.3;

**WHEREAS**, Ms. Canavera has served for 4 years on a part-time basis, 18 hours per week;

**WHEREAS,** as a full-time Confidential Assistant Ms. Canavera will continue at her hourly rate established by the Borough salary ordinance, effective with the pay period beginning April 13, 2021;

**WHEREAS**, this personnel action has been reviewed and recommended by the Personnel Committee as consistent with the needs of the Public Works Department;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the appointment of Gabrielle R. Canavera to full-time Confidential Assistant to the Superintendent of Public Works effective with the pay period beginning April 14, 2021 is hereby approved; and the Borough Administrator is hereby authorized to take such additional steps as necessary to effect this change of status.

**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 | X | | | |
| Gross | S | | | | Semple | X | | | |

Council Member Marciante made a motion to approve Resolution 2021-4.8, second by Council Member Gross. Mrs. Chandler asked what the difference is between a full time assistant and a full time confidential assistant. Mrs. Heinzel stated that this is a confidential position because she works side by side with Rick Smith and is privy to confidential information and therefore not part of the union. Mrs. Chandler stated that she gets a little concerned when people are brought on to positions that are only part time and there seems to be a pattern that these part time positions then become full time. Mr. Marciante stated it is good testing ground to start part time, see what they can do then if they work out, you bring them on full time. Mrs. Chandler stated it was never presented to Council that this was a test position and was going to be full time. Mrs. Heinzel stated that the reason that Gab is being brought on full time is because she is going to be working full time and taking on more tasks that were not part of her original job description. Mrs. Chandler asked where these duties lived before. Mrs. Heinzel stated that this is work that was previously done by the water/utility collector and that Betty Sterling has been doing. Mr. Smith congratulated Gab and stated that he would like to thank Betty for all of her hard work and he looks forward to her continued support as it takes a team. Mrs. Heinzel stated that Council may recall that Wayne Blauth left with little notice and Betty stepped up and took on the utility and other responsibilities handled by Wayne Blauth. Mr. Marciante stated that Betty Sterling will still be collecting the funds. Mayor Lawver stated that there are more personnel changes coming. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION #2021 – 4.9**

**RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO A SHARED SERVICES AGREEMENT WITH HOPEWELL BOROUGH AND HOPEWELL TOWNSHIP FOR SENIOR SERVICES COORDINATOR FOR THE YEAR 2021**

**WHEREAS**, the Borough of Pennington desires to contract with Hopewell Borough and Hopewell Township for the provision of Senior 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 "Senior Services Agreement Between Borough of Hopewell, Borough of Pennington and the Township of Hopewell", shall be for one year beginning January 1, 2021 and continue through December 31, 2021; and

**WHEREAS**, the cost to the Borough for senior services coordinator services as outlined in the Shared Services agreement would be $5,000.00, which represents no increase over the previous year;

**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 Borough and Hopewell Township for the services of a senior services coordinator during the period January 1, 2021 through December 31, 2021; and

**BE IT FURTHER RESOLVED** that the aforesaid Agreement shall be substantially in the form attached to this Resolution, subject to 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 | S | | | |
| Gnatt | X | | | | Mills | X | | | |
| Gross | X | | | | Semple | X | | | |

Mrs. Chandler made a motion to approve Resolution 2021-9, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON**
**RESOLUTION 2021 - 4.10**

**RESOLUTION AUTHORIZING APPLICATION FOR 2021 ANJEC OPEN SPACE STEWARDSHIP GRANT AND EXECUTION OF GRANT AGREEMENT**

Mrs. Heinzel stated that his resolution has been removed from the agenda. Mrs. Heinzel explained that the idea was to put a rain garden at the Senior Center but they have since found out that ANJEC would only approve a project on preserved land.

**Professional Reports**

There were no comments from the public.

Mrs. Heinzel reminded Council of the Closed Session. Mrs. Gnatt and Mrs. Mills recused themselves from the Closed Session.

**Public Comment**

Mr. Dan Pace of 9 Railroad Place stated that Council often mentions reports submitted by Department Heads. Mr. Pace stated that back in the day, Department Heads would read their reports at the meeting. Mr. Pace suggested that these reports be available or made part of the minutes. Mayor Lawver stated that was a good idea.

## Closed Session

**AT, 8:33 PM, BE IT RESOLVED,** that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

- Land Purchase – Open Space

AT, 8:55 PM, Mayor and Council returned to open session.

With no further business to address, Council Member Chandler made a motion to adjourn, second by Council Member Semple.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk