TOWNSHIP OF CEDAR GROVE
ESSEX COUNTY NEW JERSEY

PUBLIC COUNCILMEETING MINUTES NOVEMBER 6, 2023

1. ROLL CALL, INVOCATION AND FLAG SALUTE

Mayor Peterson called the meeting to order at 7:00 PM.

Present: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson

Also Present: Township Manager Zichelli, Township Attorney Nabbie and Township Clerk Forde

The flag salute was led by Mayor Peterson.

Mayor Peterson made the required announcement concerning the Open Public Meetings Act as follows: Adequate notice of this meeting was duly provided to the Verona-Cedar Grove Times and the Star Ledger on December 22, 2022, filed with the Township Clerk, and posted on the public bulletin board in the Municipal Building Lobby in accordance with the Open Public Meetings Act.

2. APPROVAL OF MINUTES

a) To consider approval of minutes of regular public meeting – October 2, 2023.

Councilman Zazzali moved approval of the minutes as presented, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

3. PUBLIC HEARING

a) To consider adoption of Pending Ordinance #23-919 An Ordinance Providing Funding for Budget Software for the Township of Cedar Grove and Appropriating $100,000 for such Purpose.

The ordinance was read by title only as follows:

AN ORDINANCE PROVIDING FUNDING FOR BUDGET SOFTWARE FOR THE TOWNSHIP OF CEDAR GROVE AND APPROPRIATING $100,000 FOR SUCH PURPOSE.

Mayor Peterson opened the public hearing on this item. There being no one present wishing to be heard, Mayor Peterson closed the public hearing.

Deputy Mayor Skabich moved that the ordinance be adopted at second reading, published in the Verona-Cedar Grove Times as a passed ordinance to take effect as prescribed by law, seconded by Councilman Maceri and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

4. AWARD OF BID

a) To consider resolution awarding bid for Removal, Pruning and Spraying of Trees.

The following resolution had been posted on the bulletin board and a brief synopsis was given by the Township Clerk:

WHEREAS pursuant to advertising duly made, proposals were received for Removal, Pruning and Spraying of Trees, and were publicly opened and read by the Township Clerk on September 13, 2023 as follows:

	Alternate 1	**Alternate 2**
	12 months	**24 months**
Caputo Bros. Tree Service	$83,300.00	$166,600.00
Rich Tree Service	$140,000.00	$296,000.00
Looks Great Services of MS., Inc.	$143,200.00	$273,600.00

WHEREAS, the Municipal Engineer and Township Attorney have reviewed the bids and recommend awarding the bid to Caputo Bros. Tree Service of Cedar Grove, NJ, the apparent low bidder; and

WHEREAS, funds are available for this purpose through the Shade Tree account; and

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Cedar Grove that the award of bid be made to Caputo Bros. Tree Service of Cedar Grove, NJ, New Jersey for the Removal, Pruning and Spraying of Trees in the amount of $166,600.00; and

BE IT FURTHER RESOLVED that the proper township officials be instructed to execute a contract on behalf of the Township.

The Township Manager reported Caputo Brothers Tree Service had provided this service to the Township for years and the Township's experts recommended awarding the company a two (2) year contract for $166,600.

Councilwoman Mega moved adoption of the resolution, seconded by Councilman Maceri and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

b) To consider resolution awarding bid for Furnishing of Snow Plowing Equipment, Personnel and Related Services.

The following resolution had been posted on the bulletin board and a brief synopsis was given by the Township Clerk:

WHEREAS pursuant to advertising duly made, a sole bid was received for Furnishing of Snow Plowing Equipment, Personnel and Related Services was publicly opened and read by the Township Clerk on October 26, 2023 as follows:

BIDDER	ITEM #1 TRUCK, PLOW & OPERATOR	ITEM #2 TRUCK H/D PLOW & OPERATOR	ITEM #3 TRUCK, S/SPREADER & OPERATOR	ITEM #4 4-WHEEL DRIVE LOADER	ITEM #5 TANDEM DUMP TRUCK
K. Torluccio Property Services	$250	$300	$55	$65	$65

WHEREAS, the Director of DPW, the Township Attorney and the Township Manager have reviewed the bid and recommend awarding the bid to K. Torluccio Property Services, West Caldwell, NJ, the apparent low bidder, for a one-year term; and

WHEREAS, funds are available for this purpose in the 2023 Snow Removal Budget; and

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Cedar Grove that the award of bid be made to K. Torluccio Property Services, West Caldwell, New Jersey for furnishing equipment and personnel for Snow Plowing for a one-year contract term; and

BE IT FURTHER RESOLVED that the proper township officials be instructed to execute a contract on behalf of the Township.

The Township Manager reported the Township's experts conducted an inventory of the bidder's machinery and equipment and recommended awarding the bid to K. Torluccio Property Services.

Deputy Mayor Skabich moved adoption of the resolution, seconded by Councilman Maceri and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

5. MEETING OPEN TO RESIDENTS OF THE TOWNSHIP WISHING TO BE HEARD ON ANY ITEM ON THE AGENDA

Mayor Peterson opened this portion of the meeting to anyone wishing to be heard on any item on the agenda.

There being no one present wishing to be heard, Mayor Peterson closed this portion of the meeting.

6. REPORTS OF TOWNSHIP OFFICIALS

a) Township Manager – The Township Manager reported the contractors completely milled and repaved the playing surface at the Little Falls Road Basketball Courts. He reported the courts

were properly pitched and the proper drainage installed. The Township Manager reported the Township received $398,390 from the NJDOT Local Aid grant that would provide for the entire reconstruction of Carlson Parkway and Smith Place. The Township Manager reported the Township met with officials from PSE&G and both agencies have agreed to work together with regard to road paving and repair of major gas mains. The Township Manager reported the Township was prepared to go out to bid for replacement of the water meters throughout the Township. The Township Manager reported the Annual Christmas Tree Lighting will occur on Friday, December 1, 2023 at 6:00 pm at Community Park. The Township Manager requested an Executive Session to discuss potential litigation.

b) Township Clerk – The Township Clerk reported polls for the General Election were open at 6AM to 8PM. The Township Clerk reported Districts 2 and 9 were relocated to new polling locations.

c) Township Attorney – No Report.

d) Other Reports

Councilman Zazzali – Councilman Zazzali reported the Breast Cancer Walk at Panther Park was well-attended.

Councilman Maceri – Councilman Maceri asked residents and visitors to be mindful of keeping the parks clean. Councilman Maceri announced UNICO was sponsoring a Turkey Drive until November 22nd in order to feed 500 families in Newark.

Councilwoman Mega – Councilwoman Mega congratulated the Recreation Volleyball Team on an undefeated season. Councilwoman Mega congratulated the CGHS Volleyball Team for making the North 2 Group 1 State Section Finals Championship against Verona. Councilwoman Mega reported Morgan's Farm and the Historical Society hosted a successful Apple and Pumpkin Sale.

Deputy Mayor Skabich – Deputy Mayor Skabich reported the Community Garden was officially closed and thanked all who volunteered. Deputy Mayor Skabich asked residents to be vigilant with the influx of crime.

Mayor Peterson – Mayor Peterson wished Councilwoman Mega a Happy Birthday.

7. NEW BUSINESS

a) To consider introduction of Pending Ordinance #23-920 – An Ordinance Setting the 2024 Maximum Allowable Rent Increase Pursuant to Chapter 208 of the Code of the Township of Cedar Grove.

The Clerk read the ordinance by title only:

PENDING ORDINANCE NO. 23-920

AN ORDINANCE SETTING THE 2024 MAXIMUM ALLOWABLE RENT INCREASE PURSUANT TO CHAPTER 208 OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE

BE IT ORDAINED by the Township Council of the Township of Cedar Grove that the maximum allowable rent increase in the Township for the year 2024 pursuant to Chapter 208 of the Code of the Township of Cedar Grove is hereby set at 4.0%.

This Ordinance shall take effect upon final reading, adoption, and publication in accordance with the law.

Councilman Maceri moved that the ordinance be passed on first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of December 4, 2023, seconded by Councilwoman Mega, and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

b) To consider introduction of Pending Ordinance #23-921 – An Ordinance of the Township of Cedar Grove, County of Essex, State of New Jersey, Adding Chapter 210 to the Code of the Township Concerning Privately-Owned Salt Storage.

The Clerk read the ordinance by title only:

PENDING ORDINANCE NO. 23-921

AN ORDINANCE OF THE TOWNSHIP OF CEDAR GROVE, COUNTY OF ESSEX, STATE OF NEW JERSEY, ADDING CHAPTER 210 TO THE CODE OF THE TOWNSHIP CONCERNING PRIVATELY-OWNED SALT STORAGE

SECTION I. Purpose:
The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in the Township of Cedar Grove to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

SECTION II. Definitions:
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 consistent 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.

A. "De-icing materials" means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

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

C. "Storm drain inlet" means the point of entry into the storm sewer system.

D. "Permanent structure" means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;

2. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;

3. The structure shall be erected on an impermeable slab;

4. The structure cannot be open sided; and

5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

E. "Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

F. "Resident" means a person who resides on a residential property where de-icing material is stored.

SECTION III. Deicing Material Storage Requirements:

A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:

1. Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;

2. Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;

3. Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;

4. Loose materials shall be covered as follows:

    a. The cover shall be waterproof, impermeable, and flexible;

b. The cover shall extend to the base of the pile(s);

c. The cover shall be free from holes or tears;

d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and

e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.

(1) Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;

5. Containers must be sealed when not in use; and

6. The site shall be free of all de-icing materials between April 16th and October 14th.

B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 -April 15.

C. All such temporary and/or permanent structures must comply with all other local ordinances, including building and zoning regulations.

D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.

1. Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

SECTION IV. Exemptions:

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in Section III above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

SECTION V. Enforcement:
This ordinance shall be enforced by the Zoning Officer and/or Code Enforcement Officer of the Township during the course of ordinary enforcement duties.

SECTION VI. Violations and Penalties:
Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Any violation of this ordinance shall be punishable by a fine of up to $2,000 or by imprisonment for term not exceeding 90 days, or both. Each day the violation exists shall constitute a separate violation.

SECTION VII. Severability:
Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and 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.

SECTION VIII. Effective Date:
This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

The Township Manager reported the ordinance established requirements for the storage of salt and other solid de-icing materials on privately owned properties and prescribed penalties for failure to comply.

Deputy Mayor Skabich moved that the ordinance be passed on first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of December 4, 2023, seconded by Councilman Zazzali, and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

c) To consider introduction of Pending Ordinance #23-922 – An Ordinance Amending Chapter 228 of the Code of the Township of Cedar Grove Regarding Stormwater Management.

The Clerk read the ordinance by title only:

PENDING ORDINANCE NO. 23-922

AN ORDINANCE AMENDING CHAPTER 228 OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE REGARDING STORMWATER MANAGEMENT

WHEREAS, the Township Council for the Township of Cedar Grove adopted Ordinance #06-646 on April 3, 2006 entitled Chapter 228 Stormwater Control; and

WHEREAS, the State of New Jersey Department of Environmental Protection recommends modifications to the current Township Stormwater Ordinance in order to be in compliance with Stormwater Regulations; and

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Cedar Grove in the County of Essex, State of New Jersey that Chapter 228 of the Code of the Township of Cedar Grove is replaced to read as follows:

CHAPTER 228
STORMWATER CONTROL

Section 1: Scope and Purpose

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 below in Section II.

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 the Township of Cedar Grove.
3. Subdivisions not meeting the definition of a Minor Subdivision described in Chapter 234-3 of the Township Code.
4. Major Site Plans.
5. Any area of documented existing flooding conditions, which would be exacerbated by any increase in peak flows of stormwater runoff for the 1, 2, 10, and 100-year return frequency storm events. The existence of this condition requires the full force and effect of this ordinance.
6. Single family lot development and subdivisions of not more than four (4) total lots shall comply with the intent of the ordinance to the degree possible and appropriate and specifically to those sections identified as single-family lot development or subdivisions of not more than four (4) lots.

7. An application required by ordinance pursuant to (b)1 above that has been submitted prior to December 4, 2023, shall be subject to the stormwater management requirements in effect on December 3, 2023.
8. An application required by ordinance for approval pursuant to (b)1 above that has been submitted on or after March 2, 2021, but prior to December 4, 2023, shall be subject to the stormwater management requirements in effect on {December 3, 2023.
9. Notwithstanding any rule to the contrary, a major development for any public roadway or railroad project conducted by a public transportation entity that has determined a preferred alternative or reached an equivalent milestone before July 17, 2023, shall be subject to the stormwater management requirements in effect prior to July 17, 2023.

D. Compatibility with Other Permit and Ordinance Requirements.

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 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 articles, 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.

Section 2: Definitions:

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 Ordinance 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.

“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 ordinance.

“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 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" 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 sub-watershed, 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 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;
3. The creation of one-quarter acre or more of "regulated motor vehicle surface" since March 2, 2021; or
4. 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" Any development that results in an increase in impervious surface of 250 or more square feet but does not meet the definition of "major development." Minor development includes both private and public projects or activities.

"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 ordinance. 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 ordinance. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this ordinance, provided the design engineer demonstrates to the municipality, in accordance with Section IV.F. 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 ordinance.

"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.

"Public roadway or railroad" means a pathway for use by motor vehicles or trains that is intended for public use and is constructed by, or on behalf of, a public transportation entity. A public roadway or railroad does not include a roadway or railroad constructed as part of a private development, regardless of whether the roadway or railroad is ultimately to be dedicated to and/or maintained by a governmental entity.

"Public transportation entity" means a Federal, State, county, or municipal government, an independent State authority, or a statutorily authorized public-private partnership program pursuant to P.L. 2018, c. 90 (N.J.S.A. 40A:11-52 et seq.), that performs a public roadway or railroad project that includes new construction, expansion, reconstruction, or improvement of a public roadway or railroad.

"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
3. 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 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 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.

Section 3: Design and Performance Standards for Stormwater Management Measures:

A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:

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 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.

Section 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 Section 10.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's 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 P, Q, and R of this section:

1. The construction of an underground utility line provided that the disturbed areas are re-vegetated upon completion;

2. The construction of an aboveground 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 fourteen (14) feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of subsections O, P, Q, and R of this 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 that 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 stormwater management measures, the option selected complies with the requirements of subsections O, P, Q, and R of this section to the maximum extent practicable;

3. The applicant demonstrates that, in order to meet the requirements of subsections O, P, Q, and R of this 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 subsection D.3 of this section within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of subsections O, P, Q, and R of this section that were not achievable on-site.

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 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://dep.nj.gov/stormwater/bmp-manual/.

F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this section 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 Swale	50 or less	No	No	2[e] 1[f]
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] No[c]	2[b] 1[c]
Small-Scale Bioretention Basin[a]	80 or 90	Yes	Yes[b] No[c]	2[b] 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	--

(Notes corresponding to annotations [a] through [g] are found after table 3)

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

(Notes corresponding to annotations [(b)] through [(d)] are found after table 3)

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 (percent)**	**Stormwater Runoff Quantity**	**Groundwater Recharge**	**Minimum Separation from Seasonal High Water Table (feet)**
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 to Tables 1, 2, and 3:

a. subject to the applicable contributory drainage area limitation specified at Section 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 Section 2;

h. manufactured treatment devices that do not meet the definition of green infrastructure at Section 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 Section 6.B. Alternative stormwater management measures may be used to satisfy the requirements at Section 4.O only if the measures meet the definition of green infrastructure at Section 2. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section 4.O.2 are subject to the contributory drainage area limitation specified at Section 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 Section 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 Section 4.F is granted from Section 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 Section 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 Section 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 subsection, 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 Section 2 may be used only under the circumstances described at Section 4.O.4.

K. Any application for a new agricultural development that meets the definition of major development at Section 2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Section 4.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 Section 4.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 Office of the County Clerk of the county in which the development, project, project site, or mitigation area containing the stormwater management measure is located, as appropriate, to the municipality. 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 Section 4.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 Section 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 Section 4 of this section 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 Office of the County Clerk 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 Subsection M of this Section 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 Section 4.P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Section 4.F and/or an alternative stormwater management measure approved in accordance with Section 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
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 Section 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 Section 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 Section 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 Section 4.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 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 Section 4(P), (Q) and (R), unless the project is granted a waiver from strict compliance in accordance with Section 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 Section 5, 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 projected 2-year storm, as defined and determined pursuant to Section 5.D of this ordinance, is infiltrated.

3. This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to Section 4.P.4 below.
4. 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 approved pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, or Department 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.

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:

a. 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.

b. 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.

3. 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 eighty percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

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

Where:
R = Total TSS percent load removal from application of both BMPs
A = The TSS percent removal rate applicable to the first BMP
B = The TSS percent removal rate applicable to the second BMP

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 nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in subsections P, Q and R of this section.
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 Section 5, complete one of the following:
   a. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the <u>current and projected</u> 2-, 10-, and 100-year storm events<u>, as defined and determined in Section 5.C and D, respectively, of this ordinance,</u> do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

b. 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 current and projected 2-, 10-, and 100-year storm events, as defined and determined pursuant to Section 5.C and D, respectively, of this ordinance, 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;

c. Design stormwater management measures so that the post-construction peak runoff rates for the current and projected 2-, 10-, and 100-year storm events, as defined and determined in Section V.C and D, respectively, of this ordinance, 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

d. In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with 2.a, b and c 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.

Section 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 method~~s~~:

a. 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://directives.sc.egov.usda.gov/viewerFS.aspx?hid=21422

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

~~b. 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~~ curve numbers 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~~ curve number" applies to ~~both~~ the NRCS methodology above at Section 5.A.1~~.i and the Rational and Modified Rational Methods at Section V.A.1.ii~~. A ~~runoff coefficient~~ curve number 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~~ has 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 preconstruction 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 preconstruction 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 previous 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 or 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 Groundwater-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 the New Jersey Geological Survey 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.

C. The precipitation depths of the current two-, 10-, and 100-year storm events shall be determined by multiplying the values determined in accordance with items 1 and 2 below:

1. The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service's Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at:

https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj; and

2. The applicant shall utilize Table 5: Current Precipitation Adjustment Factors below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 5: Current Precipitation Adjustment Factors

County	Current Precipitation Adjustment Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Atlantic	1.01	1.02	1.03
Bergen	1.01	1.03	1.06
Burlington	0.99	1.01	1.04
Camden	1.03	1.04	1.05
Cape May	1.03	1.03	1.04
Cumberland	1.03	1.03	1.01
Essex	1.01	1.03	1.06
Gloucester	1.05	1.06	1.06
Hudson	1.03	1.05	1.09
Hunterdon	1.02	1.05	1.13
Mercer	1.01	1.02	1.04
Middlesex	1.00	1.01	1.03
Monmouth	1.00	1.01	1.02
Morris	1.01	1.03	1.06
Ocean	1.00	1.01	1.03
Passaic	1.00	1.02	1.05
Salem	1.02	1.03	1.03
Somerset	1.00	1.03	1.09
Sussex	1.03	1.04	1.07

Union	1.01	1.03	1.06
Warren	1.02	1.07	1.15

D. Table 6: Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, 10-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, 10-, and 100-year storm events determined from the National Weather Service's Atlas 14 Point Precipitation Frequency Estimates pursuant to (c)1 above, by the change factor in the table below, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 6: Future Precipitation Change Factors

County	Future Precipitation Change Factors		
	2-year Design Storm	10-year Design Storm	10-year Design Storm
Atlantic	1.22	1.24	1.39
Bergen	1.20	1.23	1.37
Burlington	1.17	1.18	1.32
Camden	1.18	1.22	1.39
Cape May	1.21	1.24	1.32
Cumberland	1.20	1.21	1.39
Essex	1.19	1.22	1.33
Gloucester	1.19	1.23	1.41
Hudson	1.19	1.19	1.23
Hunterdon	1.19	1.23	1.42
Mercer	1.16	1.17	1.36
Middlesex	1.19	1.21	1.33
Monmouth	1.19	1.19	1.26
Morris	1.23	1.28	1.46
Ocean	1.18	1.19	1.24
Passaic	1.21	1.27	1.50
Salem	1.20	1.23	1.32
Somerset	1.19	1.24	1.48
Sussex	1.24	1.29	1.50
Union	1.20	1.23	1.35

Warren	1.20	1.25	1.37

Section 6: Sources for Technical Guidance:

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:

https://dep.nj.gov/stormwater/bmp-manual/.

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://dep.nj.gov/stormwater/maintenance-guidance/.

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

The Division of Watershed Protection and Restoration, New Jersey Department of Environmental Protection, Mail Code 501-02A, PO Box 420, Trenton, New Jersey 08625-0420.

Section 7: Solids and Floatable Materials Control Standards:

A. Site design features identified under Section 4.F above, or alternative designs in accordance with Section 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 Section 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:

   a. 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

   b. 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.

      i. 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.

c. 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:

a. 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;

b. 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;

c. 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:

i. 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

ii. A bar screen having a bar spacing of 0.5 inches.

d. 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

e. 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.

Section 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 BMPs. This section applies to any new stormwater management 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 Section 8.C.1, C.2, and 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 BMP to ensure proper functioning of the BMP outlets in accordance with the following:

a. The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.

b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of three hundred (300) pounds per square foot.

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~~ greater 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 three hundred (300) pounds per square foot.

3. Stormwater management BMPs shall include escape provisions as follows:

a. If a stormwater management 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 municipality pursuant to Section 8.C, a free-standing outlet structure may be exempted from this requirement;

b. Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. 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 Section 8.E for an illustration of safety ledges in a stormwater management BMP; and

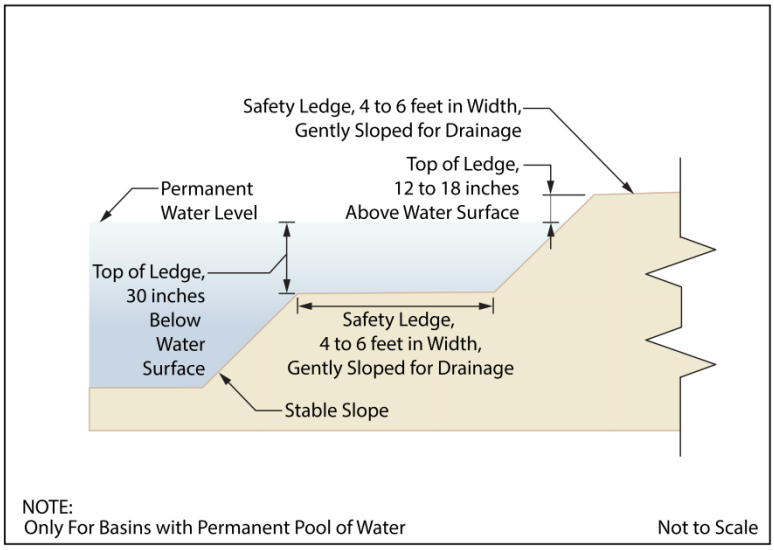
c. In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontals to one vertical.

D. Variance or exemption from safety standards.

A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

E. Safety Ledge Illustration

Elevation View – Basin Safety Ledge Configuration



Section 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 ordinance, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at subsection C of this section 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 ordinance.
3. The applicant shall submit eighteen (18) copies of the materials listed in the checklist for site development stormwater plans in accordance with subsection C of this ordinance.

B. Site Development Stormwater Plan Approval.

i. The applicant's site development project shall be reviewed as a part of the subdivision, site plan, or development application review process by the planning board, zoning board of adjustment or official from which municipal approval is sought. The board and/or zoning officer shall consult the township engineer or other such engineer (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 ordinance.

C. 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 the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=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 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 Plans

   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 will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions 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 Section 3 through Section 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 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 Section 4 of this ordinance.

   b. When the proposed stormwater management control measures depend 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.

7. Maintenance and Repair Plan.

   The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 10.

8. Waiver from Submission Requirements.

   The municipal official or board reviewing an application under this section may, in consultation with the municipality's review engineer, waive submission of any of the requirements in Section 9.C.1 through C.6 of this section 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.

Section 10: Maintenance and Repair:

A. Applicability. Projects subject to review as in Section 1.C of this ordinance shall comply with the requirements of Subsection B and C of this section.

B. General Maintenance.

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). 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.
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.
5. If the person responsible for maintenance identified under subsection B.3 of this section is not a public agency, the maintenance plan and any future revisions based on subsection B.7 of this section shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

6. Preventative and corrective maintenance shall be performed to maintain 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.
7. The person responsible for maintenance identified under subsection B.3 of this section shall preform all of the following requirements:
    a. 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;
    b. Evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
    c. 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 Section 10.B.6 and B.7 above.
8. The requirements of Section 10.B.3 and B.4 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.

    https://dep.nj.gov/stormwater/maintenance-guidance/.
9. 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. Nonpayment of such bill may result in a lien on the property.

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.

D. General Maintenance - Existing Facilities

1. Any detention/retention or infiltration basin hereinafter constructed shall be regularly maintained in order to preserve its function, capacity and appearance. Minimum standards for maintenance shall be as follows:
    a. If intended to be a maintained bottom basin, then all grass or other ground cover in the basin shall be kept mowed or otherwise cut so as not to exceed a height of eight (8) inches at any time. The basin shall be kept clean and free of debris, litter and leaves.

b. All inlet and outlet structures, spillways and other appurtenances shall at all times be kept free of any debris or foreign material in order to prevent clogging or reduction in performance.

c. All embankments, dams and other lateral supports shall be kept in a sound condition at all times.

d. Any fence installed around the perimeter of the basin shall be maintained in sound condition and shall be repaired or replaced whenever needed.

2. Each detention/retention or infiltration basin shall be inspected periodically, but not less than once in each calendar year, in order to determine that adequate maintenance is being performed.

3. It is the intent of this ordinance to treat the existence of swales in a similar fashion to that of storm piping, in that they shall not be altered, relocated, filled, or damaged by any individual. Swales, within easements either private or public, shall enjoy the same protection in order to ensure that they function for their intended purpose. Private storm water easements on lots shall be maintained by the individual property owner or designated homeowners' association. Said maintenance includes normal mowing, cleaning of debris, lawn clippings and leaves, etc. as appropriate and necessary to allow the drainage component to function as designed. Storm water easements shall be filed with the County Clerk and run with the land as an ongoing obligation to successors in title. The Township of Cedar Grove shall be named as a party with rights to enter upon and provide such maintenance only should the property owner fail to do so and cause a public nuisance or safety concern. In such event, the costs incurred by the Township of Cedar Grove shall be assessed against the property.

4. Once every five (5) years, the property owner and /or responsible party of any detention/retention or infiltration basin shall cause to be performed an inspection of the basin and the preparation of a written report by a professional engineer licensed in the State of New Jersey and qualified in the field of hydrology and hydraulic engineering and such other qualified persons as may be appropriate. The time of inspection and the deadline for submission of the written report shall be determined by the Township Engineer. The written report shall be submitted to the Township Engineer and shall address the following:

   a. The original storage volume or infiltration capacity and an estimate of any change in storage volume or capacity, if any.

   b. A statement as to the structural integrity of embankments and a description of any settlement or erosion on embankments or in the basin and any siltation in the basin.

   c. The condition of all appurtenant structures and supports.

   d. Any changes in the tributary area upstream of the basin.

   e. Any changes in impervious coverage within the drainage area upstream of the basin.

   f. Any changes in time of concentration of stormwater entering the basin.

   g. An inspection of embankments for holes by burrowing animals.

   h. An inspection of inlet and outlet structures for obstructions.

   i. The condition of fencing.

j. Testing of movable structures and control devices, such as gates, valves and mechanical and electrical equipment.

k. Determination of any erosion downstream of the basin.

l. Evidence of any significant health factors, including, but not limited to, water pollution, excessive algae growth and insect growth.

m. Such other matters as the Township Engineer may direct.

5. The five-year inspection report shall be reviewed by the Township Engineer and the Township Health Officer, who may then make an inspection of the detention/retention or infiltration basin. Any deficiencies in the basin or any conditions found which are in violation of this section shall be corrected within a reasonable period of time, as specified by the Township Engineer, but not to exceed ninety (90) days. Any health violations or health problems shall be corrected within a period not to exceed thirty (30) days.

6. If a property owner fails to take corrective action within the specified period of time, the Township Engineer or Health Officer, as the case may be, shall serve notice on the property owner and shall notify the Governing Body, in which case the Council shall take such action as it deems appropriate in the circumstances.

Nothing in this section shall preclude the municipality in which a major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:550-53.

Section 11: Minor Developments:

A. The stormwater runoff requirements applicable to minor developments are as follows:

a. For each square foot of new impervious surface, two gallons of stormwater shall be managed using green infrastructure practices set out in Table 1 below, or such other measures as may be required by the reviewing engineer, of which the 95th percentile storm must be retained on site utilizing green infrastructure.

b. All such development shall be subject to review by the reviewing engineer to determine that all stormwater runoff created by the development is adequately controlled and does not cause an adverse impact to adjoining property owners.

c. In such cases where it is determined that the outflow from the stormwater management system will impact an adjacent property, the outflow shall be directed to a storm sewer, gutter, swale, or other suitable stormwater runoff conveyance measure.

d. If the reviewing engineer determines that the outflow from the stormwater management system will damage or negatively impact an adjacent property, and the outflow cannot be safety directed to a storm sewer, gutter, swale, or other suitable stormwater runoff conveyance measure, the stormwater runoff from the development shall be retained on site at the rate of three gallons of storage for each square foot of new impervious surface using green infrastructure practices or such other measures as may be required by the Township Engineer.

e. If the applicant cannot comply with Subsection A(4) above, the proposal shall be redesigned, or reduced in scope so that the stormwater management measures do not damage or negatively impact an adjoining property.

Table 1: Minor Development BMP	
Grass Swale	Green Roof
Pervious Paving System	Small-Scale Bioretention Basin
Small-Scale Infiltration Basin	Small-Scale Sand Filter
Vegetative Filter Strip	Cistern
Dry Well*	

* The use of dry wells is allowed only where the other listed methods cannot feasibly meet the requirements of this section.

B. Soil testing shall be performed to confirm the permeability of the soils and the depth of the water table and the seasonal high water table. Percolation/permeability testing shall be performed in the vicinity of the proposed systems to confirm that infiltration is viable for the site. All testing results and information shall be signed, sealed and prepared by a New Jersey licensed professional engineer and shall contain the following:
   a. The seasonal groundwater table shall be confirmed at an elevation two feet or more below the proposed bottom of the minor development BMP, including any associated stone base.
   b. The tested permeability/percolation rates of the site shall be confirmed. Design percolation rates shall include a factor of safety of two, compared to the tested percolation rates, and shall be a minimum of 0.5 inch per hour.
   c. Calculations shall be provided confirming that the proposed BMP will fully drain within 72 hours.
   d. Should percolation/permeability testing yield unacceptable results, the applicant shall provide a revised design.

C. The stormwater management features shall be protected from future development by conservation easement, deed restriction, or other acceptable legal measures.

D. Maintenance of the stormwater management feature shall be the responsibility of the property owner and said responsibility shall transfer over to any future property owner.

E. Variances. A variance from strict compliance with the requirements of this section may be granted for those projects where an applicant has demonstrated the inability or impracticability of strict compliance with the stormwater management requirements of this section.

Section 12: Redirection of Stormwater Runoff:

No person or entity shall artificially redirect or augment the flow of stormwater runoff onto adjacent property.

A. For purposes of this section, "adjacent" means immediately contiguous to or abutting a neighboring property and shall include properties directly across a public right-of-way from a subject property.

B. "Artificially redirect" shall mean to alter the course of a stormwater flow, by any means including but not limited to grading, structures, pipes, culverts, or conduits.

C. This section shall apply to all properties in the Township of Cedar Grove.

Section 13~~1~~: Penalties and Enforcement:

A. Any responsible person who violates any portion or section of this ordinance shall, upon conviction, be subject to the following penalties:

   1. A fine not to exceed one thousand dollars ($1,000.00) or by imprisonment in the county jail for a period not to exceed ninety (90) days or by both such fine and imprisonment; and each violation of any of the provisions of this section of the code and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

B. Should any section, subsection, paragraph, sentence, clause or phrase of this section of the code be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, subsection, paragraph, sentence, clause or phrase thereof directly involved in the controversy in which said judgment shall have been rendered.

C. Unless otherwise stated or required by the Board, all storm water management infrastructure shall be maintained by the property owner or designated homeowners' association.

D. Private stormwater easements on lots shall be maintained by the individual property owner or designated homeowners association. Said maintenance includes normal mowing, cleaning of debris, lawn clippings and leaves, etc. as appropriate and necessary to allow the drainage component to function as designed. Stormwater easements shall be filed with the County Clerk and run with the land as an ongoing obligation to successors in title. The Township of Cedar Grove shall be named as a party with rights to enter upon and provide such maintenance only should the property owner fail to do so and cause a public nuisance or safety concern. In such event, the costs incurred by the Township of Cedar Grove shall be assessed against the property.

Section 14~~2~~: 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.

Section 15~~3~~: Effective Date.

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

Underlines are additions and ~~strikeouts~~ are deletions.

The Township Manager reported this ordinance incorporated updates made by the DEP.

Councilman Maceri moved that the ordinance be passed on first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of December 4, 2023, seconded by Councilman Zazzali, and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

d) To consider introduction of Pending Ordinance #23-923 – An Ordinance Amending Chapter 230 Article V of the Code of the Township of Cedar Grove Regarding the Right-of-Way Construction and/or Maintenance.

The Clerk read the ordinance by title only:

PENDING ORDINANCE NO. 23-923

AN ORDINANCE AMENDING CHAPTER 230 ARTICLE V OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE REGARDING THE RIGHT-OF-WAY CONSTRUCTION AND/OR MAINTENANCE

Article V: Right-of-Way Construction and/or Maintenance

§230-27. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AUTHORIZED PERSONNEL – A representative from the Township authorized to grant or allow modifications of the permit or working requirements. These shall be Township Engineer, Director of Public Works, Superintendent of Water and Sewer, or an authorized deputy.

EMERGENCY CIRCUMSTANCE — Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

~~ENGINEER or TOWNSHIP ENGINEER — The Township Engineer person in charge of the Public Works Department and street operations in the Township or his authorized deputy, representative or inspector.~~

PERSON — Includes any natural person, partnership, firm, association, utility, corporation or authority created pursuant to statute.

ROAD - means any township street, highway, roadway, alley, avenue, other public way or right-of-way or public grounds in the township.

§230-28. Application procedure; accompanying documents; fees.

Application for a permit under this article shall be made, in writing, to the Authorized Personnel on such form as prescribed by the Township. The application shall be accompanied by the following:

A. A plan, in triplicate ~~duplicate~~, showing the work to be performed under the said permit, one copy of which shall be returned to the applicant if the application and plan are approved at the time the permit is issued.

B. A traffic control plan, as deemed necessary by the Township Police Department.
C. An agreement, signed by the applicant, to hold the Township, its officers, employees and agents harmless of and from any and all costs, charges and liabilities which may accrue or be claimed to accrue by reason of any work performed under the said permit; provided, however, that notwithstanding the absence of such accompanying agreement, the acceptance of a permit issued under this article shall be deemed to constitute and effect such an agreement by the applicant.
D. Fees ~~of $5~~ as described below; provided, however, that public utilities or authorities may elect to be billed monthly for such fees as they accrue.

Fee Type	1- or 2- Family Residential	Commercial/Multifamily & Utility Companies
Excavation within Public Right-of-Way		
Application Fee	$100	$250
Review Fee	$100 per opening	<50 SF: $250 51 SF – 200 SF: $500 201 SF – 1,000 SF: $1,000 >1,000 SF: $1,000 + 0.50/SF Over
Inspection Fee	$200 + $125/hour for over 4 hours	$125/hour (2 hour minimum)
	Escrow $2,000 for up to 500 SF $5,000 for excavations >500SF	Bond Fee $2,000 for up to 500 SF $5,000 for excavations >500SF
Borings/Monitoring Wells/ Geo Probes		
Application Fee	$100	$250
Review Fee	$100 per boring/well/probe	$150 per boring/well/probe
Inspection Fee	$200 + $125/hour for over 4 hours	$125/hour (2 hour minimum)
	Escrow $2,500 for up to 2 borings $500 each add'1 boring	Bond Fee $5,000 for up to 2 borings $1,000 each add'1 boring

§ 230-29. Conditions required for issuance of permit.

No permit, described in § 230-32, shall be issued by the Authorized Personnel ~~Township Engineer~~ and no work authorized by such permit shall be commenced, unless and until:
A. The Authorized Personnel has approved the application and accompanying plan.
B. The Cedar Grove Police Department has reviewed and approved the traffic control plan or waived a traffic control plan.
C. The applicant has paid the prescribed fees set forth in accordance with §230-28.
D. The applicant has posted a deposit in accordance with the requirements of §230-28 hereof.
E. The applicant has furnished a performance bond or escrow in accordance with §230-28 hereof.

F. The applicant has furnished a certificate of liability insurance in accordance with the requirements of § 230-32-I hereof.

§ 230-30. Permits restricted to person to whom issued and to location for which issued.

No permit issued under this article shall be transferable from one person to another, nor shall the work to be performed under said permit be made in any place other than the location specifically designated in the permit.

§ 230-31. Notice to affected property owners.

If the work to be undertaken by the applicant is such that it will affect the use of properties abutting or adjoining the project or subsurface installations in the vicinity of the proposed work for which a permit is sought, the Authorized Personnel ~~Township Engineer~~ shall require the permittee to submit evidence in affidavit form that the permittee has served a notice of the proposed opening upon the owners and tenants of such properties and subsurface installations personally or by registered or certified mail, return receipt requested.

§ 230-32. Application for Permit. ~~Deposit requirements and regulations.~~

~~A. Use and purpose of deposit. The purpose of requiring a deposit under this article, and the use to be made thereof, is:~~

~~A. To cover the Township's cost of inspecting the work authorized by the permit.~~

~~B. To reimburse the Township for the cost of any labor and materials furnished by it in connection with restoration or repairs of any street damaged by the work authorized by the permit.~~

~~C. To cover the Township's cost and expense of maintenance of the work, authorized by the permit, for one year following completion thereof.~~

~~B. Application Requirements:~~

A. Application for a right-of-way construction and/or maintenance permit shall be made in writing on forms as prescribed by the Township. Such application shall be filed at the Engineering Department by the applicant or his authorized agent at least 5 working days prior to the proposed commencement of any work. Applications will not be reviewed until a complete application, application fee, and review fee are submitted. Application fees are set forth in §230-28.

B. Plans, profiles and other details necessary to accurately depict the work to be performed shall be submitted with the application. No Township Road shall be closed to traffic without the prior consent of the Cedar Grove Police Department and approval of a submitted detour plan.

C. When application is made for a permit for construction or repair of a sidewalk, repair of an existing curb, construction of a driveway curb opening or the installation of a house leader drain to the curb, the Construction Official may waive the requirements for submission of plans. Restoration must be made in accordance with Township construction details, provided herein.

D. The applicant will be directly responsible for the performance of the work in accordance with the provisions of the permit and the proper restoration of the right-of-way. The applicant shall be directly responsible for the health, safety and welfare of the public and shall agree to comply with all ordinances and laws relating to the work to be performed.

E. The applicant must specify the exact date and time of the day that such person intends to commence said excavation, removal or disturbance, as well as the period during which such work is to be performed, and the date and time of day at which the same will be opened and closed, as well as the time during which the permanent repairs will be made.

F. Issuance of permit.

(1) A permit will not be issued until the applicant has deposited an inspection fee as provided in § 230-28, posted a performance bond or escrow, and provided a certificate of insurance

for comprehensive general liability insurance identifying the Township and its representatives as additional insureds.

(2) The applicant shall comply with all applicable statutes pertaining to notification of any person or corporation engaged in the distribution or transmission of any underground utilities in the area of the proposed excavation. The applicant shall be solely responsible for ascertaining the location of all utilities in the vicinity of the proposed excavation and for the repair of the same if damaged as a result of work for which the excavation permit is issued.

G. Emergency excavation.

(1) Notwithstanding the provisions of this article, any person may open up any Township right-of-way to repair any utility, provided that it is an emergency and any delay in obtaining the required permit would result in endangering the health and general welfare of the inhabitants of the Township; provided, however, that a permit as required herein is obtained within 72 hours after the emergency is discovered. However, notice of the emergency must be made immediately upon discovery of the emergency via telephone to the Township through its Police Department or other designated representative. If not done so, an additional fee of $500 per day will be assessed on the project and added to the nonrefundable application fee. Once the call is made, the person shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals.

(2) Utility companies cannot classify work that was discovered and/or reported over 72 hours prior to construction occurring as emergency work.

(3) All emergency construction and maintenance operations shall be performed with full regard to safety and to keep traffic interference to an absolute minimum. During such emergency repair work, the person, contractor or utility shall comply with the provisions of the M.U.T.C.D. while performing such emergency repair work.

H. Performance & Maintenance guarantee.

a. A utility company, as defined in this chapter, can opt to file a bond with the Township in the form and manner prescribed in §230-41 of this chapter.

b. Any person, other than a utility company, must provide a personal guarantee in a form acceptable to the Township Attorney that the requirements of this chapter will be met and that the applicant will reimburse the Township for all costs incurred by the Township if the applicant fails to perform in the manner prescribed. The Township may place a lien on the property, which shall be considered a Township lien for the purposes of N.J.S.A. 54:5-9 with the rights and status of a Township lien pursuant thereto.

I. Insurance required.

a. No permit shall be issued for right-of-way construction and/or maintenance until the applicant shall have placed on file with the Township a certificate of insurance specifically naming the "Township of Cedar Grove, its officers, employees, agents and assignees" as an additional insured under the applicant's general liability policy. The policy must be a comprehensive general liability form with minimum liability limits of $500,000 per occurrence.

b. Such insurance must remain in force from the date of the permit until the termination of the period of maintenance as herein defined.

c. In lieu of the above insurance requirement, the owner of a one- or two-family dwelling or any other project not requiring any Township Board approval who is performing work within the right-of-way adjacent to his, her or its property can substitute a certificate of insurance from their property liability carrier acknowledging liability coverage for the work to be performed and providing a minimum liability limit of $100,000 per occurrence.

d. The applicant shall indemnify and save harmless the Township, its officers and employees from all suits, actions or claims of any character brought because of any injuries or damage received or sustained by any person, persons or property on account of the operations of said applicant; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act of omission, neglect or misconduct of said applicant.

J. Maintenance and protection of vehicular and pedestrian traffic. The following shall be required in addition to any and all other requirements and standards set forth in this chapter:

a. The Township Council hereby finds and declares that problems of traffic control occur when traffic must be moved through or around road or street construction, maintenance operations and utility work, above or below ground, which requires blocking the roadway and obstructing the normal flow of traffic and that such obstructions are or can become dangerous when not properly controlled. In order to better promote the public health, safety, peace and welfare, it is necessary to establish controls and regulations directed to the safe and expeditious movement of traffic through construction and maintenance zones and to provide safety for the workforces performing these operations.

b. The Township of Cedar Grove does hereby adopt the current Manual on Uniform Traffic Control Devices, known as M.U.T.C.D. (current edition), except as supplemented and amended in this division, as it controls and regulates whenever construction, maintenance operations or utility work obstructs the normal flow of traffic. Any person, contractor or utility who fails to comply with the provisions of the M.U.T.C.D. while performing such work is in violation of this ordinance.

c. All traffic control measures must be provided by the applicant and approved by the Township Police Department's Traffic Bureau. A traffic control plan and details must be provided for any applicant proposing to close any portion of a Township roadway.

d. It shall be the responsibility of an applicant wishing to conduct work on, under or above the roadway to contact the Cedar Grove Police Department to arrange a preconstruction meeting in order to submit plans for the safe movement of traffic during such period of construction work. The applicant shall identify all traffic control requirements necessary to complete the job in accordance with NJDOT and MUTCD standards.

e. The applicant shall provide the Cedar Grove Police Department with at least two emergency contact phone numbers to be called in case of emergency problems at the construction or maintenance site prior to the start of any work. If, for any reason, the emergency contact cannot be made or if the emergency contact person does not respond to the call from the Cedar Grove Police Department to correct a hazardous condition, the Township of Cedar Grove may respond to correct such hazardous condition. The reasonable fees for such emergency service by the Township of Cedar Grove shall be charged to the person, contractor or utility responsible for such condition.

f. There shall be no construction, maintenance operations or utility work on any roadway in the Township of Cedar Grove between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 8:00 a.m. on Saturdays. No work shall occur on Sundays or Federal Holidays. This time limit may be adjusted by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) only upon a showing of good cause by the applicant.

g. Each applicant under this article shall conduct and carry out the road or street construction, maintenance operations and utility work, above or below ground work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The applicant shall take appropriate measures

to reduce to the fullest extent practicable in the performance of the excavation work noise, dust and unsightly debris.

h. No Township road or sidewalk shall be closed to traffic without the prior consent of the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) and approval of a submitted detour plan.

i. Any person, contractor or utility looking to utilize Township roads as part of a detour route in connection with any other road or street construction, maintenance operations and utility work, above or below ground shall contact the Cedar Grove Police Department to arrange a preconstruction meeting in order to submit plans for the safe movement of traffic during such period of construction work.

j. It shall be unlawful for the applicant under this article to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and to be hazardous to their safety or health.

k. The applicant shall provide and maintain suitable barricades, warning signs, warning flags, amber flasher lights and other generally accepted safety and warning devices as determined by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) during the period of construction work.

l. Off-duty Cedar Grove police officers shall be posted at all construction or maintenance sites, when determined by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) that same is necessary to provide for the safe and expeditious movement of traffic. The Township of Cedar Grove shall be fully reimbursed for the cost of the provision of said police officers by the applicant and the rate of pay for said police officers shall be that established by the Township of Cedar Grove, inclusive of the administrative/vehicle use fee.

    i. For the purposes of this section, a traffic director is that individual who is responsible for traffic control at a roadway worksite and is either a Cedar Grove Township Police Officer or a civilian flagger who meets the qualifications as set forth in Section 6E of the Manual on Uniform Traffic Control Devices and is certified as a flagger by the American Traffic Safety Services Association, Rutgers University or comparable organization, approved by the Chief of Police.

    ii. Traffic directors shall be posted at all construction or maintenance sites when determined by the Cedar Grove Police Department that same is necessary to provide for the safety and expeditious movement of traffic.

    iii. Civilian flaggers shall not be used as traffic directors in any work zone which contains an intersection with a traffic control device. In those situations, only a police officer will be used as a traffic director.

m. Any person, corporation or other entity who violates any provision of this subsection shall be subject to penalties. Additionally, the Chief of Police of the Cedar Grove Police Department or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) shall have the authority to stop work, including the removal of equipment and vehicles, stored material within the street right-of-way, backfilling of open excavations and/or other related work, in order to abate any nuisance and/or safety hazard or for any violation of this section. The cost to abate any hazardous conditions shall be borne by the person, contractor, or utility responsible for such condition.

K. Safeguards required.

a. Proper bracing shall be maintained to prevent the collapse of adjoining ground and in excavations. The excavation shall not have any excavated portion which extends beyond the opening at the surface.
b. It shall be the duty of the applicant to give notice of the proposed right-of-way excavation to any company whose pipes, conduits or other structures are laid in the portion of the street to be excavated. The applicant shall, at his own expense, carefully support and protect from injury such pipes, conduits or other structures.
c. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof. Should a tree be damaged during construction operations, the escrow or bond shall be held until one-year after final completion of the work. The Applicant shall be responsible for the replacement of the tree should it die within the year.
d. If any sidewalk is removed or blocked by any work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for pedestrian usage.
e. Inspection provisions enforced. All work shall be subject to inspection by the Township's authorized representative. The contractor shall give 72 hours' notice prior to commencement of work. For all projects an inspection fee will be established by the Township in accordance with the fee schedule and anticipated length of construction.

§ 230-3~~9~~3. Additional restrictions on work on recently paved or improved streets.

A. No permit which would authorize an excavation or opening in a paved or improved street surface less than five years old shall be issued by the Authorized Personnel to any person, including a public utility or authority unless the applicant therefor can demonstrate that public health or safety requires that the proposed work be permitted or unless an emergency circumstance or condition exists. In the event that such permit is issued, an additional penalty charge shall be made for the opening, except that the penalty shall be waived in the event that the work is of an emergency nature. The penalty charge shall be on a sliding scale and shall be equal to 2% of the cost of restoring the opening for each unelapsed month or fraction thereof of the five-year restricted period.

B. Restoration shall be in accordance with Section 230-42-C.

§ 230-~~35~~34. Non applicability to state or county highways.
The provisions of this article shall not be applicable in those instances where the highway is maintained by the State of New Jersey or by the County of Essex.

§ 230-35. Violations and penalties. ~~[Amended 12-17-1962]~~

a) Any person, contractor or utility who commits a violation of this ordinance shall, upon conviction thereof:
    a. For a first offense, pay a fine of not less than $100.00 nor more than $500.00 and/or be imprisoned for a term not exceeding 90 days;
    b. For a second offense, pay a fine of not less than $250.00 and/or be imprisoned for a term not exceeding 90 days; and
    c. For a third or subsequent conviction, pay a fine of not less than $500.00 and/or be

imprisoned for a term not exceeding 90 days.

b. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 230-36. Time within which work must be commenced.

A. Except as otherwise provided in § 230-32 hereof, the work for which a permit has been issued under this article shall commence within 45 days of the issuance of said permit, in default of which the permit shall be automatically terminated, unless the said time for the commencement of the work shall be extended by the Authorized Personnel upon an application therefor in writing, made prior to the expiration of the forty-five-day period, setting forth the reasons for the requested extension.

B. Permits terminated pursuant to the provisions of Subsection A hereof may be renewed upon the payment of an additional permit fee as described in Section 230-28.

§ 230-37. Work limited by permit; allowable extension.

No person to whom a permit has been granted shall perform any of the work authorized by such permit in any amount of quantity greater than that specified in the permit; except that, upon the approval by Township Authorized personnel, additional work may be done under the provisions of the permit in any amount not greater than 10% of the amount specified in the permit. Any deposit and bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the aforesaid ten-percent limitation.

§ 230-38. Display of permit at site.

Every permittee shall, at all times, keep or cause to be kept the permit and an approved copy of the plan at the location for which said permit was granted and while the work authorized by such permit is in progress. The permittee shall produce and exhibit said permit and plan upon demand of a representative of the Public Works Department or of the police authorities.

§ 230-39. Expiration of permit; extensions.

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to expiration of the permit, present in writing to the Authorized Personnel a request for an extension of time, setting forth therein the reasons for the requested extension. If such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time by the Authorized Personnel for the completion of the work.

§ 230-40. Revocation of permit; completion of work by Township.

A. Any permit issued under this article may be revoked by the Authorized Personnel, after giving notice as provided in Subsection B hereof, upon any of the following grounds:
   (1) Violation of any condition of the permit or of any provision of this article.
   (2) Violation of any provision of any other applicable ordinance or law relating to the work.
   (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.

B. When the permit has been revoked and the work authorized by the permit has not been completed, the Township shall do such work as may be necessary to complete such work as was authorized by the permit and to restore the street or part thereof to as good condition as before the opening was made. All expenses incurred by the Township shall be recovered from the escrow or bond the permittee has made or filed with the Township.

§ 230-41 Utility company guarantees.

A. Annual performance guarantees. A utility company shall annually provide the Township by no later than January 31 with a performance bond in an amount calculated based on the aggregate excavations planned by the utility company for the year in a form approved by the Township Attorney guaranteeing that all excavations shall comply with the provisions of this chapter and that the full restoration of the street or right-of-way surface shall be to the satisfaction of the Township. The amount of the performance bond shall be as follows:

Aggregate Planned Excavations (square feet)	Amount of Performance Bond
Up to 1,000	$50,000
Greater than 1,000 and less than 5,000	$100,000
Greater than 5,000	$250,000

B. Annual performance bonds will only be released in accordance with Subsection **C** below.

C. Annual maintenance guarantees. A utility company shall annually provide the Township by no later than January 31 with a maintenance bond in an amount equal to 20% of the previous year's posted performance bond in a form approved by the Township Attorney. The term of the maintenance guarantee shall be a period of two years from the date of approval of work.

D. Release of performance guarantees.
   1) Resolution required. Annually, the governing body shall, by resolution, either approve or reject the utility company improvements based on the recommendation of the Township Engineer. The resolution shall authorize the release of the performance bond only as to improvements approved and for which a maintenance bond has been tendered. The governing body may not authorize release of the performance bond for any improvement that has not been approved by the Township Engineer or for which fees are outstanding. The utility company may only obtain a release of the performance bond for rejected work after the work is approved in full.
   2) Review and recommendation by the Township Engineer.
   3) Upon substantial completion of all excavation improvements, the utility company shall forward a set of as-built plans. Upon receipt of the as-built plan information, the Township Engineer shall inspect all bonded excavations and shall prepare written list of approved excavations and a separate written list of uncompleted or unsatisfactory completed improvements.
   4) With respect to each improvement determined to be incomplete or unsatisfactory, the Township Engineer shall state in detail the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of and remedy for the unsatisfactory state of each completed improvement determined to be unsatisfactory.

E. Miscellaneous.

1) The utility company will be required to post both a performance bond and maintenance bond annually regardless of the previous year's performance bond being withheld for rejection of improvements or outstanding application fees.
2) Nothing herein, however, shall be construed to limit the right of the utility company to contest by legal proceedings any determination of the governing body or the Township Engineer.
3) The utility company shall reimburse the Township for all inspection fees for the foregoing inspection of improvements. The Township shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

F. Yearly notice and report of proposed activities.
1) Once, yearly, all utility companies and contractors working for utility companies, including, but not limited to, those engaged in the installation of gas, water, electric, cable/telecom, etc., shall report to the Township Manager, Superintendent of Public Works, and Township Engineer their intentions with regard to the prospective work requiring road openings for the purpose of coordinating such activity with resurfacing projects anticipated by the Township, and obtain acknowledgement by each of the Township Departments of reported, proposed activities. This report shall include all prospective work for the following year and should be provided by November 15.
2) Once, yearly, the Township shall notify utility companies and neighboring municipalities of planned work on Township roads and that any upcoming construction activities planned by said utility companies and neighboring municipalities shall be completed before paving is to start. Such notice shall state that no excavation permits shall be issued for openings, cuts or excavations in such Township roads for a period of five years after date of paving. The notice shall also notify applicant that applications for excavation permits, for work to be done prior to such paving shall be submitted promptly in order that the work covered by the permit may be completed before paving.

§ 230-42. Specifications for excavations, backfilling and street repairs.

A. All excavation, backfill, and street repairs shall be performed in accordance with the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.
B. Standards for Township rights-of-way constructed, reconstructed or resurfaced more than five years prior to the requested excavation permit:
1. Excavation.
a) The use of power excavating equipment is prohibited within the pavement limits until each edge of the trench has been cut through the entire thickness of the pavement to even uniform line.
b) Excavated material shall not be stored within Township rights-of-way unless otherwise approved by the Authorized Personnel. Unless otherwise authorized, the work of passing under sidewalks and curbing shall be done by tunneling.
c) No excavation shall remain open overnight unless specifically approved by the Authorized Personnel. Steel plates are prohibited unless specifically approved by the Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.
2. Backfilling.
a) The material excavated from the opening shall not be used as backfill, unless specifically permitted by the Authorized Personnel. Backfill material shall be

soil aggregate (I-5) or dense graded aggregate. Recycled concrete aggregate (RCA) or recycled asphalt (RAP) is not permitted within the Township right-of-way.

b) All opening cuts are to be squared and cut on a vertical plane to a width and length of not less than 12 inches greater than the original cut/opening. The surface restoration shall extend 12 inches wider and longer than the area of the base.

c) Backfill materials shall be deposited in thoroughly compacted layers by mechanical tamper. At no time shall the thickness of each layer exceed 12 inches.

d) When the trench is brought to grade, all surplus material shall be immediately removed by the permittee.

e) Applicant must notify the Authorized Personnel one hour prior to the start of backfill operations. If a Township official is not present and the applicant has backfilled the road opening, the applicant must re-excavate the opening and backfill again with the presence of a Township official.

f) Temporary repairs to streets. Immediately after backfilling the excavation, the permittee shall repair any pavement disturbed with a temporary surface consisting of not less than six inches or compacted aggregate base course [soil aggregate (I-5) or dense graded aggregate] and six inches of compacted bituminous stabilized base 19M64. This temporary surface shall be set at the final grade of the permanent repair. Temporary pavement shall be regularly monitored by the contractor and maintained at this grade until the permanent repairs are made. The temporary pavement shall remain for at least 30 days to allow for settlement.

g) Temporary striping and markings shall be applied prior to re-excavation of any roadways. Apply latex traffic stripes and latex markings when they are required for 14 days or less. Apply thermoplastic markings when they are required for more than 14 days.

3. Permanent repairs to streets.

a) Any single excavation that is less than 50 square feet in area shall be repaired by extending a square vertical plane to a width of not less than 12 inches greater than the original cut/opening in all directions. The surface restoration shall extend 12 inches wider and longer than the area of the temporary restoration.

b) Any application that is equal to or greater than 50 square feet, whether continuous or separate, permanent restoration shall consist of milling up to two-inch-thick of the existing pavement for 25 feet past the trench on each end from curb to centerline. For any single excavation that crosses the centerline, same shall apply from curb to curb rather than curb to centerline.

c) Permanent pavement restoration shall consist of milling up to two inches of the temporary pavement 12 inches beyond the original trench and applying an overlay of two inches surface course 9.5M64 compacted in place, finished level with adjacent pavement. A tack coat shall be used to bind the new pavement to all edges of the existing adjacent pavement. The permanent pavement restoration shall be completed within 90 days of the completion of the temporary repairs. Prior to placing the permanent pavement, any failure of the temporary repairs must be corrected to the satisfaction of the Township.

d) All disturbed pavement line striping or markings shall be replaced by the applicant utilizing Thermoplastic and be in accordance with the MUTCD and the New Jersey Department of Transportation Standards Specifications for Roadway and Bridge Construction, latest editions.

4. Other repairs.
    a) Where excavations are made in unpaved shoulder areas, the trench backfill shall be compacted to a level six inches below the top of the adjacent shoulder surfaces. A six-inch compacted depth of dense graded aggregate base course shall be constructed.
    b) All excavations beyond the shoulder areas shall be brought to grade with compacted backfill. A minimum thickness of four inches of topsoil shall be spread in the trench area and fertilized, seeded and mulched or sodded. Should a proper growth not be achieved, the area shall be fertilized, reseeded and mulched or sodded, as necessary.
    c) All other emergency improvements within the Township right-of-way but outside the roadway shall adhere to the requirements applicable to all openings listed above.
    d) No excavation shall remain open overnight unless specifically approved by the Authorized Personnel. Steel plates are prohibited unless specifically approved by the Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.
    e) Under no circumstance shall utility mains/services be abandoned in place. All mains/services that are no longer in use shall be removed in their entirety, whether newly abandoned or previously abandoned and uncovered during excavation.

C. Roadway restoration for Township roads constructed, reconstructed, or resurfaced within the last five years if allowed under § 230-33.

1. Excavation.
    a) The use of power excavating equipment is prohibited within the pavement limits until each edge of the trench has been cut through the entire thickness of the pavement to even uniform line. All cuts are to be squared and cut on a vertical plane.
    b) Excavated material shall not be stored within Township rights-of-way unless otherwise approved by the Township Authorized Personnel. Unless otherwise authorized, the work of passing under sidewalks and curbing shall be done by tunneling.
    c) No excavation shall remain open overnight unless specifically approved by the Township Authorized Personnel. Steel plates are prohibited unless specifically approved by the Township Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.
2. Backfilling.
    a) The material excavated from the opening shall not be used as backfill, unless specifically permitted by the Authorized Personnel. Backfill material shall be soil aggregate (I-5) or dense graded aggregate. Recycled Concrete aggregate (RCA) or recycled asphalt (RAP) is not permitted within the Township right-of-way.

b) Backfill materials shall be deposited in thoroughly compacted layers by mechanical tamper. At no time shall the thickness of each layer exceed 12 inches.
c) When the trench is brought to grade, all surplus material shall be immediately removed by the permittee.
d) Applicant must notify the Authorized Personnel one hour prior to the start of backfill operations. If a Township official is not present and the applicant has backfilled the road opening, the applicant must re-excavate the opening and backfill again with the presence of a Township official.
e) Temporary repairs to streets. Immediately after backfilling the excavation, the permittee shall repair any pavement disturbed with a temporary surface consisting of not less than six inches of compacted aggregate base course [soil aggregate (I-5) or dense graded aggregate] and six inches of compacted bituminous stabilized base 19M64. This temporary surface shall be set at the final grade of the permanent repair. Temporary pavement shall be regularly monitored by the contractor and maintained at this grade until the permanent repairs are made. The temporary pavement shall remain for at least 30 days to allow for settlement.
f) Temporary striping and markings shall be applied prior to re-excavation of any roadways. Apply latex traffic stripes and latex markings when they are required for 14 days or less. Apply thermoplastic markings when they are required for more than 14 days.

3. Permanent repairs to streets.
   a) For all applications in roadways paved within the past five (5) years, permanent restoration shall consist of milling up to two-inch-thick of the existing pavement from curb to curb and street corner to street corner. For excavation that extends into an intersection (beyond the closest curb return) the entire intersection to the next curb return should be included. For excavation that does not extend into an intersection, the extent of pavement shall end at the nearest curb return of the adjacent intersections. All joints with existing pavement shall be treated with infrared thermal technology.
   b) Permanent pavement restoration shall consist of milling up to two inches of the temporary pavement and applying an overlay of two inches surface course 9.5M64 compacted in place, finished level with adjacent pavement. A tack coat shall be used to bind the new pavement to all edges of the existing adjacent pavement. The permanent pavement restoration shall be completed within 90 days of the completion of the temporary repairs. Prior to placing the permanent pavement, any failure of the temporary repairs must be corrected to the satisfaction of the Township.
   c) All disturbed pavement line striping or markings shall be replaced by the applicant utilizing thermoplastic and be in accordance with the Manual on Uniform Traffic Control Devices and the New Jersey Department of Transportation Standards Specifications for Roadway and Bridge Construction, latest editions.
4. Other repairs.
   a) Where excavations are made in unpaved shoulder areas, the trench backfill shall be compacted to a level six inches below the top of the adjacent shoulder surfaces. A six-inch compacted depth of dense graded aggregate base course shall be constructed.

b) All excavations beyond the shoulder areas shall be brought to grade with compacted backfill. A minimum thickness of four inches of topsoil shall be spread in the trench area and fertilized, seeded and mulched or sodded. Should a proper growth not be achieved, the area shall be fertilized, reseeded and mulched or sodded, as necessary.
c) All other emergency improvements within the Township right-of-way but outside the roadway shall adhere to the requirements applicable to all openings listed above.
d) No excavation shall remain open overnight unless specifically approved by the Township Authorized Personnel. Steel plates are prohibited unless specifically approved by the Township Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.

5. Cleanup Operations
   a) All streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris remaining from the work.
   b) All cleanup operations at the location of the excavation shall be accomplished at the expense of the applicant and shall be completed to the satisfaction of the Authorized Personnel.
   c) The Authorized Personnel may order at any time, and in any event immediately after completion of the work, the applicant, at his own expense, to clean up and to remove all refuse and unused materials resulting from the work.
   d) Upon failure to do so within 24 hours after having been notified to do so, weather permitting, and the absence of any other unnatural hardship which prevents immediate compliance, the work may be done by the Township. The cost thereof shall be charged to the Applicant and the Applicant shall also be liable for the cost under the bond or escrow provided.

§ 230-43. Public Utilities Placement, replacement or removal of public utility pole or underground facility; required notice, restoration and pole removal.

1. Before a public utility places, replaces or removes a pole or an underground facility located in the Township of Cedar Grove, the public utility shall notify the Engineering Department in writing, which may be by email, personal service or certified mail, at least, but not less than, 24 hours before undertaking any excavation related to the placement, replacement or removal of the pole or underground facility.
2. Any public utility placing, replacing or removing a pole or an underground facility located in the Township shall provide for adequate traffic control during the course of said work, including any barricades, cones and/or officers necessary in order to safely divert the flow of traffic.
3. After completing the placement, replacement or removal of a pole or an underground facility pursuant to this chapter, the public utility shall remove from such right-of-way any pole or underground facility no longer in use as well as any other debris created from such placement, replacement or removal and restore the property, including, but not limited to, the installation of same material as removed as needed to restore the property within the right-of-way to its previous condition as much as possible. In the case of removal or replacement of a pole or an underground facility utilized by two or more public utilities, the public utility last removing its pipes, cables, wires, lines or

other structures shall be liable for the removal and restoration required under this section.

4. Under emergency conditions which significantly impact the placement of a pole or underground facility resulting from natural forces or human activities beyond the control of the public utility, or which pose an imminent or existing threat of loss of electrical, power, telephone, or other telecommunication service, or which pose an imminent or existing threat to the safety and security of persons or property, or both, or which require immediate action by a public utility to prevent bodily harm or substantial property damage from occurring.
5. The provisions of § 230-43.1 of this chapter shall not apply when a public utility undertakes any construction or excavation related to the placement, replacement or removal of a pole or an underground facility in response to such an emergency, provided that the public utility undertaking such construction or excavation notifies the Authorized Personnel at the earliest reasonable opportunity.
6. In the event a public utility does not satisfy the debris removal and restoration requirements of § 230-43.3 above within 90 days of the date of such placement, replacement or removal of a utility pole or underground utility facility, the municipality shall be authorized to impose a fine up to an amount not to exceed $100 each day until the requirements of § 230-43.3 are met, except that if the public utility is unable to complete the installation of a hot patch due to the unavailability of asphalt material during the period of time from November through April, the public utility shall not be required to complete the hot patch installation until 60 days immediately following the end of the November-through-April period.
7. Public utilities shall remove from such right-of-way any pole no longer in use, or sought to be replaced by the placement of a new pole, 90 days after the abandonment of the use of the pole or 90 days after placement of the new pole. Any poles currently not in use, or intended to be replaced based upon the placement of a new pole that has already been installed, must be removed within 90 days of the effective date of this chapter. The municipality shall be authorized to impose a fine up to an amount not to exceed $100 each day until the pole is removed and requirements of § **230-43.3** are met, except that if the public utility is unable to complete the installation of a hot patch due to the unavailability of asphalt material during the period of time from November through April, the public utility shall not be required to complete the hot patch installation until 60 days immediately following the end of the November-through-April period.
8. At least five business days prior to the end of the ninety-day or sixty-day period established pursuant to § **230-43.6** as applicable, the Township shall notify the public utility that the penalties authorized by such section shall begin to be assessed against the utility after the end of the applicable period unless the utility complies with the requirements of § **230-43.3** hereof.
9. **§ 230-43** is not intended to replace or conflict with N.J.S.A. 48:3, Art. 3e Infrastructure Projects, et seq.,[1] and where those statutory provisions are applicable those provisions must also be followed.

Severability. Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and 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.

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

Underlines are additions and ~~strikeouts~~ are deletions.

The Township Manager reported this ordinance sets forth conditions and fees for opening Township roads for construction, utility connections, and any improvements within the Township right-of-way.

Councilwoman Mega moved that the ordinance be passed on first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of December 4, 2023, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

e) To consider resolution concerning the overpayment of refunds.

The following resolution had been posted on the bulletin board and a brief synopsis was given by the Township Clerk:

RESOLUTION

WHEREAS, it has been determined upon investigation of the Township Manager that the following overpayments be refunded:

Block	Lot	Owner & Location	Refund Amount	Reason
120	118	Lynch Christopher J & Pagliaro Jennifer M 78 Grissing Court Cedar Grove, NJ 07009 Payment tendered by and refunded to: Hudson United Title Services LLC 95 S. Middletown Road Nanuet, NY 10954	$90.00	Sewer Overpayment
190	62	Mc Cabe Shawn 15 Cedar Grove Parkway Cedar Grove, NJ 07009	$2,793.65	Property Tax Duplicate Payment
			$2,883.65	

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Cedar Grove that the Tax Collector is hereby authorized to issue refunds in the total amount of $2,883.65.

Councilwoman Mega moved adoption of the resolution, seconded by Councilman Zazzali and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

f) To consider resolution concerning the redemption of a tax sale lien.

The following resolution had been posted on the bulletin board and a brief synopsis was given by the Township Clerk:

RESOLUTION

WHEREAS, it has been determined upon investigation of the Township Manager that the following tax sale lien redemption be refunded:

Block	Lot	Owner & Location	Refund Amount	Reason
342	12	Peguero Elianny 1365 Pompton Avenue Cedar Grove, NJ 07009 Payment tendered by and refunded to: ROJOMA LLC Ronald De La Rosa 146-26 Kalmia Avenue Flushing, NY 11355	$2,059.50	Tax Sale Lien Redemption
			$2,059.50	

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Cedar Grove that the Tax Collector is hereby authorized to issue a refund in the amount of $2,059.50.

Councilman Maceri moved adoption of the resolution, seconded by Councilwoman Mega and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

g) To consider resolution authorizing the return of a pre-tax sale deposit to Kareda, LLC.

The following resolution had been posted on the bulletin board and a brief synopsis was given by the Township Clerk:

RESOLUTION AUTHORIZING THE RETURN OF A PRE-TAX SALE DEPOSIT TO KAREDA, LLC

WHEREAS, the Township of Cedar Grove conducted an annual tax sale on October 25, 2023; and

WHEREAS, Kareda, LLC provided a pre-sale deposit of two-thousand dollars ($2,000) to participate in the on-line tax sale; and

WHEREAS, Kareda LLC was not successful in their attempt to secure a tax sale certificate and, as a result, the pre-sale deposit was not used; and

WHEREAS, the Township must refund the pre-sale deposit in the amount of two-thousand dollars ($2,000) to Kareda, LLC, located at 18395 Gulf Blvd. Suite 203 #4, Indian Shores, Florida, 33785.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Cedar Grove, County of Essex, State of New Jersey that the Township of Cedar Grove is authorized to issue a refund of the pre-sale deposit to Kareda, LLC in the amount of two-thousand dollars ($2,000).

Councilman Zazzali moved adoption of the resolution, seconded by Councilman Maceri and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

h) To consider resolution concerning Best Practices Inventory.

The following resolution had been posted on the bulletin board and a brief synopsis was given by the Township Clerk:

RESOLUTION

WHEREAS, the State's Fiscal Year 2023 Budget requires a Best Practices Inventory be completed by each municipality; and

WHEREAS, the Chief Financial Officer has completed and submitted the Best Practices Inventory to the Township Manager; and

WHEREAS, the Township Manager has provided a copy of said inventory to the Township Council; and

WHEREAS, the required certifications have been made and the inventory has been submitted to the Division of Local Government Services; and

WHEREAS, the Township Manager has reviewed and discussed the results of the inventory with the Township Council during its public meeting of November 6, 2023.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council that the Best Practices Inventory has been reviewed by the Township Council.

The Township Manager reported the complied with this submission received a score of 33 which meant that the Town did not withhold any state aid.

Deputy Mayor Skabich moved adoption of the resolution, seconded by Councilwoman Mega and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

8. APPROVAL OF BILLS

The Bill Resolution was read by title and amount as follows:

BE IT RESOLVED, by the Township of Cedar Grove, County of Essex, New Jersey, that the summary of bills, having been duly audited and found to be correct, are hereby ordered paid and that warrants be drawn by the Treasurer in the aggregated amount of $3,913,064.18.

Deputy Mayor Skabich moved adoption of the resolution, seconded by Councilwoman Mega and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

9. MEETING OPEN TO RESIDENTS OF THE TOWNSHIP WISHING TO BE HEARD ON ANY ITEM ON OR OFF THE AGENDA CONCERNING TOWNSHIP BUSINESS

Mayor Peterson opened this portion of the meeting to anyone wishing to be heard on any item on the agenda.

1. Steve Young - Mr. Young thanked the Council and the Board of Education for providing the Community Garden and allowing the students to get involved. Mr. Young announced that Morgan Farms donated extra pumpkins to Temple Shalom.

There being no one else present wishing to be heard, Mayor Peterson closed this portion of the meeting.

AUTHORIZATION TO GO INTO EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings' Act (N.J.S.A.10:4-12 (b) (1-9) permits the exclusion of the public from a Meeting of the Mayor and Council in certain circumstances; and

WHEREAS, the Mayor and Council of the Township of Cedar Grove are of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Cedar Grove, County of Essex, State of New Jersey that:

1. The public shall be excluded from discussion of any action in the Executive Session of the Meeting of the Mayor and Council of November 6, 2023.

2. The general nature of the subject matters to be discussed are potential litigation.

3. It is anticipated at this time that the above stated subject matter will be made public as soon thereafter as it is deemed in the public interest to do so.

4. This Resolution shall take effect immediately.

Councilwoman Mega moved adoption of the resolution, seconded by Councilman Maceri, and passed by the following vote:

AYE: Councilmember Maceri, Mega, Zazzali, Deputy Mayor Skabich, Mayor Peterson
NO: None

10. ADJOURNMENT

Councilwoman Mega moved adjournment of the public council meeting, seconded by Councilman Maceri, and passed by a voice vote.

The meeting adjourned at 7:26 PM.

KERRY PETERSON MAYOR

ATTEST:

DALE A. FORDE MUNICIPAL CLERK