

**REGULAR AGENDA**  
**FOR THE MAYOR AND COUNCIL MEETING**  
**BOROUGH OF FRANKLIN,**  
**HELD VIRTUALLY**  
**AT 7:00 P.M.**  
**ON MARCH 9, 2021**

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- A. **Mayor Sowden** will call the meeting to order; Clerk will call the roll.
- B. **Mayor Sowden** will invite all present to salute the flag.
- C. **Mayor Sowden** will state that "This meeting is being held in compliance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et sequentes. It has been properly advertised by posting in Borough Hall, and printed in the New Jersey Herald/Sunday New Jersey Herald on January 6, 2021, and posted on the Borough website, which adequate notice has been certified by the Clerk."
- D. **PRESENTATIONS**  
Jackie Espinoza, Jersey Central Power & Light
- E. **COMMITTEE REPORTS: Mayor Sowden** will allow each member of the Council, Borough Administrator, Borough Clerk, and Borough Attorney to present their respective committee report.

**Mayor Sowden** will offer the Mayor's Report.

- F. **CONSENT AGENDA: Mayor Sowden** will request that all persons present review the consent agenda. If any member of the Council or public wishes an item on the consent agenda to be discussed and considered separately, a motion to this effect shall so be made, at this time.

After all persons have had an opportunity to review the consent agenda and offer requests for changes, Mayor Sowden will request a motion to approve the consent agenda.

- G. **OLD BUSINESS:**

- H. **NEW BUSINESS:**

1. **Approval of the Minutes**

A motion is in order to approve the regular meeting minutes for February 23, 2021. (Absent: Snyder)

2. **Agreement for Certified Recycling Professional**

A motion is in order to approve the agreement between the Borough of Franklin and SCMUA to retain the services of SCMUA for a Certified Recycling Professional that will be responsible for executing the mandatory annual 2020 municipal recycling tonnage report in the amount of \$300.00 annually.

3. **Mayoral Appointment**

Mayor Sowden will make the following appointment:

**2021 School Crossing Guard**

Amanda Tassilos, substitute school crossing guard to permanent school crossing guard as recommended by Lynn Prtorich, Head Crossing Guard.

4. **National Poison Prevention Week Proclamation**

A motion is in order to adopt the Proclamation proclaiming the third full week in March (March 21<sup>st</sup>-27<sup>th</sup>, 2021) to be National Poison Prevention Week (NPPW).

5. **Adoption of Ordinance #02-2021**

A motion is in order to adopt Ordinance 02-2021 entitled "AN ORDINANCE AMENDING CHAPTER 161 "LAND DEVELOPMENT" ARTICLE IX STORMWATER AND FLOODING CONTROLS."

**REGULAR AGENDA – MAYOR AND COUNCIL MEETING MARCH 9, 2021**

**Prior to final roll call Mayor Sowden will open the meeting to the public for any comments regarding Ordinance 02-2021.**

6. Adoption of Ordinance #03-2021

A motion is in order to adopt ordinance 03-2021 entitled “AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY MODIFYING CHAPTER 10 CREATING A HISTORIC PRESERVATION COMMISSION.”

**Prior to final roll call Mayor Sowden will open the meeting to the public for any comments regarding Ordinance 03-2021.**

7. Introduction of Ordinance #04-2021

A motion is in order to introduce ordinance 04-2021 entitled “BOROUGH OF FRANKLIN SUSSEX COUNTY, NEW JERSEY CALENDAR YEAR 2021 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)”.

**Public hearing will be held on March 23, 2021.**

8. Pandemic Related Outdoor Seating Authorization for Restaurants

A motion is in order to extend the pandemic related outdoor seating authorization for restaurants.

I. EXECUTIVE SESSION – IF REQUESTED

**Mayor Sowden** will request a motion to adopt a resolution to adjourn into Executive Session to discuss certain items excluded from the public.

THE OPEN PUBLIC MEETINGS ACT ALLOWS THE MAYOR AND COUNCIL TO EXCLUDE THE PUBLIC FROM A PORTION OF A MEETING IN CERTAIN CIRCUMSTANCES,

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FRANKLIN, THAT THE PUBLIC SHALL BE EXCLUDED FROM DISCUSSION OF MATTERS ALLOWED BY NEW JERSEY LAW.

THE EXECUTIVE SESSION MINUTES WILL BE PLACED ON FILE IN THE BOROUGH CLERK’S OFFICE, AND WILL BE AVAILABLE TO THE PUBLIC AS PROVIDED FOR BY NEW JERSEY LAW.

Be further advised this Resolution shall take effect immediately.

J. OPEN PUBLIC SESSION: **Mayor Sowden** will request a motion to open the meeting to the public, for any questions or comments concerning the good and welfare of the Borough. **All comments should be directed to the Mayor and kept to a 3-minute maximum per person.**

After giving all persons present an opportunity to address the Governing Body, **Mayor Sowden** will request a motion to close the meeting to the public and return to the regular order of business.

K. MISCELLANEOUS COMMENTS: **Mayor Sowden** will allow each member of the Governing Body to offer any miscellaneous comments which they may have at this time.

L. ADJOURNMENT: **Mayor Sowden** will request a motion to adjourn the meeting.

**FRANKLIN BOROUGH  
SUSSEX COUNTY, NEW JERSEY  
ORDINANCE NO. 02-2021**

**AN ORDINANCE AMENDING CHAPTER 161 “LAND DEVELOPMENT”  
ARTICLE IX STORMWATER AND FLOODING CONTROLS  
OF THE BOROUGH OF FRANKLIN CODE**

**Purpose Statement:** The purpose of this ordinance is to amend the existing Stormwater Management Ordinance to address the New Jersey Department of Environmental Protection’s adopted amendments to the New Jersey Stormwater Management Rules at N.J.A.C. 7:8.

**WHEREAS,** All New Jersey municipalities were required to prepare Stormwater Management Plans and adopt a Stormwater Management Ordinance in order to comply with the New Jersey Stormwater Management Rules at N.J.A.C. 7:8; and

**WHEREAS,** the New Jersey Department of Environmental Protection proposed amendments to the Stormwater Management Rules at N.J.A.C. 7:8. which were adopted on October 25, 2019 with an effective date of March 2, 2020; and

**WHEREAS,** the proposed amended Stormwater Management Rules require all New Jersey municipalities to revise their Stormwater Management Ordinance to include the amendments by March 2, 2021; and

**WHEREAS,** The Franklin Borough Engineer has proposed amendments to Article IX - Stormwater and Flooding Controls of the Borough Code based on the required rule change; and

**WHEREAS,** the Mayor and Council of the Borough of Franklin hereby accept the recommendation of the Borough Engineer to adopt amendments to Article IX – Stormwater and Flooding Controls of the Borough Code in accordance with the requirements of the within Ordinance.

**NOW, THEREFORE, BE IT ORDAINED,** by the Borough Council of Franklin, County of Sussex, State of New Jersey, that:

**SECTION 1.** Chapter 161, Article IX, §§ 161-45 through 161-48 are replaced with the following:

## Chapter 161. Land Development

### Article IX. Stormwater and Flooding Controls

#### § 161-45. General Provisions

- A. This article shall be known and referred to as the “Stormwater Control Ordinance of the Borough of Franklin, Sussex County, New Jersey.”
- B. 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.
- C. The purpose of this article is to establish minimum stormwater management requirements and controls for “major development,” as defined below.
- D. This article shall be applicable to the following major developments:
- (1) Non-residential major developments; and
  - (2) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
  - (3) All major developments undertaken by the Borough of Franklin.
- E. Development approvals issued pursuant to this chapter are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter 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 chapter 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.
- F. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

#### § 161-46. Standards, measures and strategies.

**§ 161-46.1. General 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 chapter 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.

**§ 161-46.2. 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 § 161-48.
- 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 muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of §§ 161-46.4, 161-46.5, and 161-46.6:
  - (1) The construction of an underground utility line provided that the disturbed areas are revegetated 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 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 §§ 161-46.3, 161-46.4, 161-46.5, and 161-46.6 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 §§ 161-46.3, 161-46.4, 161-46.5, and 161-46.6 to the maximum extent practicable;

- (3) The applicant demonstrates that, in order to meet the requirements of §§ **161-46.3, 161-46.4, 161-46.5, and 161-46.6**, 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 **D(3)** above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of §§ **161-46.3, 161-46.4, 161-46.5, and 161-46.6** that were not achievable onsite.
- E. Tables 5-1, 5-2 and 5-3 in N.J.A.C. 7:8-5.2(f) 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 §§ **161-46.3, 161-46.4, 161-46.5, and 161-46.6**. 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 are presumed to be capable of providing stormwater controls for the design and performance standards. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at:
- [https://njstormwater.org/bmp\\_manual2.htm](https://njstormwater.org/bmp_manual2.htm)
- F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments, the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.
- 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 § **161-46.9B**. Alternative stormwater management measures may be used to satisfy the requirements at § **161-46.3** only if the measures meet the definition of green infrastructure at § **161-45**. Alternative stormwater management measures that function in a similar manner to a BMP listed at § **161-46.3A** are subject to the contributory drainage area limitation specified at § **161-46.3A** for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this section that do not function in a similar manner to any BMP listed at § **161-46.3A** 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 § **161-46.2D** is granted from § **161-46.3**.

- 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 § 161-46.10;
  - (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 § 161-46.10; and
  - (5) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.
- J. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at § 161-45F may be used only under the circumstances described at § 161-46.3C.
- K. Any application for a new agricultural development that meets the definition of major development at § 161-45F shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at §§ 161-46.3, 161-46.4, 161-46.5, and 161-46.6 and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the 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 §§ **161-46.4, 161-46.5, and 161-46.6** 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 Sussex County Clerk's Office. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §§ **161-46.3, 161-46.4, 161-46.5, and 161-46.6** 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 § **161-48B.(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 §§ **161-46.2 through 161-46.6** of this chapter 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 Sussex County Clerk's Office and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with M above.

### § 161-46.3. Green infrastructure standards.

This section specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.

- A. To satisfy the groundwater recharge and stormwater runoff quality standards at §§ **161-46.4 and 161-46.5**, the design engineer shall utilize green infrastructure BMPs identified in § **161-46.2F.** and/or an alternative stormwater management measure approved in accordance with § **161-46.2G.** The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:



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

- B. To satisfy the stormwater runoff quantity standards at § 161-46.6, the design engineer shall utilize BMPs and/or an alternative stormwater management measure approved in accordance with § 161-46.2G.
- C. If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with § 161-46.2D. is granted from the requirements of this section, then BMPs and/or an alternative stormwater management measure approved in accordance with § 161-46.2G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §§ 161-46.4, 161-46.5 and 161-46.6.
- D. 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 section 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 section. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this section, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at §§ 161-46.4, 161-46.5 and 161-46.6, unless the project is granted a waiver from strict compliance in accordance with § 161-46.2D.

#### § 161-46.4. Groundwater recharge standards.

This section contains the minimum design and performance standards for groundwater recharge as follows:

- A. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 161-46.7, either:
- (1) 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
  - (2) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

- B. This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to c. below.
- C. The following types of stormwater shall not be recharged:
- (1) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
  - (2) 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.

**§ 161-46.5. Stormwater runoff quality standards.**

This section 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.

- A. 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:
- (1) 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.
  - (2) 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.
- B. 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 A 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.

- C. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

**NOT YET APPROVED BY COUNCIL**

**Table 1 - 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

- D. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:  
 $R = A + B - (A \times B) / 100,$

Where

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

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

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

- E. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in §§ 161-46.4, 161-46.5 and 161-46.6.
- F. 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.
- G. 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.
- H. 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 section 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.
- I. 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.

**§ 161-46.6. Stormwater runoff quantity standards.**

This section contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.

- A. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 161-46.7, complete one of the following:
  - (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 10- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

- (3) Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - (4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2), and (3) 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.
- B. The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

**§ 161-46.7 Calculation of stormwater runoff and groundwater recharge.**

- A. Stormwater runoff shall be calculated in accordance with the following:
- (1) The design engineer shall calculate runoff using one of the following methods:
    - (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in *Technical Release 55 - Urban Hydrology for Small Watersheds* (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at:  
[https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1044171.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf)  
or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; or
    - (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 and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology above at § 161-46.7A(1)(a) and the Rational and Modified Rational Methods at § 161-46.7A(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (3) In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.
- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS *Technical Release 55 – Urban Hydrology for Small Watersheds* 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.

**§ 161-46.8. Solids and floatable materials control standards.**

- A. Site design features identified under § 161-46.2F, or alternative designs in accordance with § 161-46.2G, 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 § 161-46.8A(3) 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.
- (2) 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.
- (3) The standard in § 161-46.8A(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:
    - [1] 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
    - [2] A bar screen having a bar spacing of 0.5 inches.
- Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).
- (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.



**§ 161-46.9. 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:  
[http://www.nj.gov/dep/stormwater/bmp\\_manual2.htm](http://www.nj.gov/dep/stormwater/bmp_manual2.htm).
- (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management.
  - (2) Additional maintenance guidance is available on the Department's website at:  
[https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).
- B. Submissions required for review by the Department should be mailed to:  
The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420

**§ 161-46.10. Safety standards for stormwater management basins.**

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.

- A. 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 B below for trash racks, overflow grates, and escape provisions at outlet structures.
- B. 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; and
    - (d) The trash rack shall be constructed of rigid, durable, and corrosion resistant material and designed to withstand a perpendicular live loading of 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:

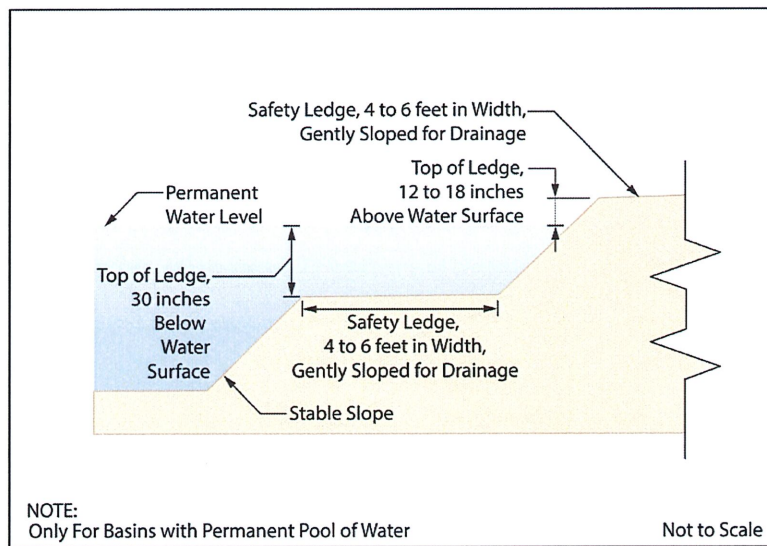
- (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance;
  - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension; and
  - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 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 § 161-46.10C., 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 § 161-46.10D. below 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 horizontal to one vertical.

C. Variance or exemption from safety standard.

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.

D. Safety ledge illustration.

Elevation View –Basin Safety Ledge Configuration



**§ 161-47. 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 chapter, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 161-47C. below as part of the submission of the application for approval.
  - (2) The applicant shall demonstrate that the project meets the standards set forth in this chapter.
  - (3) The applicant shall submit five copies of the materials listed in the checklist for site development stormwater plans in accordance with § 161-47C. below.
- B. Site development stormwater plan approval. The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this chapter.
- 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 §§ 161-45 and 161-46 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- (5) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
  - (a) Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
  - (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- (6) Calculations.
  - (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in §§ 161-46.2 through 161-46.6 of this chapter.
  - (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 § 161-48.
- (8) Waiver from submission requirements. The municipal official or board reviewing an application under this chapter may, in consultation with the municipality's review engineer, waive submission of any of the requirements in § 161-47C(1) through § 161-47C(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.

**§ 161-48. MAINTENANCE AND REPAIR.**

A. Applicability.

Projects subject to review as in § 161-45 of this chapter shall comply with the requirements of § 161-48B. and § 161-48C. below.

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 party responsible for maintenance identified under § 161-48B(3) above is not a public agency, the maintenance plan and any future revisions based on § 161-48B(7) below 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 non-vegetated linings.
- (7) The party responsible for maintenance identified under § 161-48B(3) above shall perform 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 § 161-48B(6) and § 161-48B(7) above.
- (8) The requirements of § 161-48B(3) and § 161-48B(4) above do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
- [https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).
- (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

**SECTION 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 3. Repealer.**

All Ordinances or parts of Ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

**SECTION 4. Effective Date.**

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

ATTEST:

**BOROUGH OF FRANKLIN**

\_\_\_\_\_  
Darlene J. Tremont, CLERK

\_\_\_\_\_  
BY: JOHN M. SOWDEN IV, MAYOR

DATED:

**NOTICE**

TAKE NOTICE that the above entitled Ordinance #02-2021 was introduced at a regular meeting of the Borough Council of the Borough of Franklin on February 9, 2021 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Franklin to be held on March 9, 2021 at 7:00 p.m.

\_\_\_\_\_  
Darlene J. Tremont, Municipal Clerk

**CERTIFICATION**

I, Darlene J. Tremont, Clerk of the Borough of Franklin, do hereby certify that the Borough of Franklin Council duly adopted the foregoing Ordinance on the    day of    , 2021.

\_\_\_\_\_  
Darlene J. Tremont, Municipal Clerk

\_\_\_\_\_  
John M. Sowden IV, Mayor

Introduced: February 9, 2021

Adopted:

<b>RECORD OF COUNCIL VOTES-FIRST READING</b>					<b>Move</b>	<b>2nd</b>
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
CONCETTO FORMICA	X					X
JOSEPH LIMON	X				X	
JOHN POSTAS COUNCIL PRESIDENT	X					
STEPHEN SKELLENGER	X					
GILBERT SNYDER	X					
STEPHAN ZYDON, JR.		X				
MAYOR SOWDEN, IV (Tie Only)						

<b>RECORD OF COUNCIL VOTES-SECOND READING</b>					<b>Move</b>	<b>2nd</b>
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
CONCETTO FORMICA						
JOSEPH LIMON						
JOHN POSTAS COUNCIL PRESIDENT						
STEPHEN SKELLENGER						
GILBERT SNYDER						
STEPHAN ZYDON, JR.						
MAYOR SOWDEN, IV (Tie Only)						



**BOROUGH OF FRANKLIN**

**ORDINANCE No. 03-2021**

**AN ORDINANCE OF THE BOROUGH OF FRANKLIN,  
COUNTY OF SUSSEX, AND STATE OF NEW JERSEY  
MODIFYING CHAPTER 10 CREATING A HISTORIC  
PRESERVATION COMMISSION**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Franklin, County of Sussex, and State of New Jersey that Chapter 10 of the Franklin Borough Code is amended as follows:

**SECTION I**

There is hereby created a Historic Preservation Commission as follows:

Chapter 10.

**ARTICLE III: HISTORIC PRESERVATION COMMISSION**

**§ 10-11. MEMBERSHIP; TERMS; MEETINGS.**

A Historic Preservation Commission (HPC) is hereby established consisting of 5 regular members and 2 alternate members, each of whom shall be appointed by the Mayor, of the following 3 classes:

1. Class A - Persons who are knowledgeable in building design and construction or in architectural history;
  2. Class B - Persons who are knowledgeable or have a demonstrated interest in local history; and
  3. Class C - Persons who are residents of the municipality.
4. There shall be at least one regular member from each class.
5. Alternate members shall meet the qualifications of Class C members and shall be designated "Alternate No. 1" and "Alternate No. 2" at the time of appointment.

**B. Terms of Membership.**

1. The term of each regular member shall be 4 years and the term of each alternate member shall be 2 years.
2. Alternate Members. Alternate members shall be designated at the time of their appointment as "Alternate No. 1" and "Alternate No. 2."
3. The term of any member in common with the Planning Board shall be for the term of membership on such Board.

**C. Role of Alternate Members.** Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any Class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.

**D. Vacancies.** If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term, only.

**E. Compensation.** Members of the HPC shall serve without compensation except that reimbursement of reasonable expenses in the execution of official duties may be made by the municipality.

**F. Removal.** Any member may be removed by the governing body for cause but only after public hearing and other due process proceedings.

**G. Conflict.** No member or alternate member of the HPC shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. No member who is so disqualified may act on that particular matter, shall not continue to sit with the Commission on the hearing of such matter, nor shall participate in any discussion or decision.



H. Organization. The HPC shall elect from its members a chairman and vice-chairman and select a secretary who may or may not be a member of the HPC or a municipal employee.

I. Funding. The governing body shall make provisions in its budget and appropriate funds for the expenses of the Historic Preservation Commission.

J. Rules and Procedures. The HPC shall adopt and may amend internal rules and procedures for the transaction of its business subject to the following:

1. A quorum for any action by the HPC shall be 3 members.
2. All HPC minutes and records shall be public records.
3. All HPC meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).
4. HPC meetings shall be scheduled at least once every month or as often as required to fulfill its obligations to advise the Planning Board, governing body, or construction official.

#### § 10-12. ROLE OF THE HPC.

1. For applications that would otherwise not require Planning Board review, that are historic sites or in historic districts, the Zoning Officer shall refer the application to the HPC for a written report on the application and its compliance with the Borough's Historic District regulations. This report shall be submitted to the Zoning Officer, who shall issue a written approval or denial based on the HPC report, pursuant to N.J.S.A. 40:55D-111. The report of the HPC shall also be provided to the applicant and the Planning Board. The report shall be sent to the Zoning Officer within 45 days of the referral to the HPC. Failure of HPC to report within the forty-five-day period shall constitute a determination that the application is consistent with the Historic District regulations and that no condition on the issuance of the permit shall be imposed.

2. For applications that require Planning Board review based on provisions of the Borough Land Development Ordinance that are historic sites or in historic districts, the application shall be referred to the HPC for a written report on the application and its compliance with the Borough's Historic District regulations. This report shall be submitted to the Planning Board which shall make a final decision on the matter. The report of the HPC shall be sent to Planning Board and applicant within 45 days of the referral to the HPC or prior to the scheduled public hearing before the Board on the matter, whichever is sooner. Failure of the HPC to report shall constitute a determination that the application is consistent with the Historic District regulations and that no condition shall be imposed on the issuance of any approval.

3. An applicant may appeal any determination of the Zoning Officer to the Borough Planning Board. Said appeal shall occur within 45 days of the final determination by the Zoning Officer.

4. The HPC shall advise the Planning Board from time to time through the process of amending the Historic Preservation Element of the Master Plan.

5. The HPC shall recommend to the Planning Board guidelines for review to be utilized in determinations of historic landmark status and for review of development applications or permits affecting historic landmarks or improvements within historic districts. The Planning Board may recommend modifications of the guidelines.

#### § 10-13. POWERS AND RESPONSIBILITIES OF THE HISTORIC PRESERVATION COMMISSION.

The Historic Preservation Commission shall have the following duties and responsibilities:

- A. To prepare a survey or surveys of historic sites and districts pursuant to criteria established in such survey;
- B. To make recommendations to the Planning Board on the Historic Preservation Element of the Master Plan and on the implications of any other Element on the preservation of historic sites and districts;
- C. To advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;
- D. To advise the Planning Board on applications for development;
- E. Provide written reports on the application of the zoning provisions of this Ordinance or other land development regulations on historic sites and districts;
- F. Provide technical assistance upon request to property owners on the preservation, restoration, and rehabilitation of historic structures;
- G. To carry out such other advisory, educational, and informational functions as will promote historic preservation in the municipality.

[Sections 10-14 through 10-25 shall continue to be reserved for future use.]

**SECTION II**

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

**SECTION III**

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

**SECTION IV**

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

**BOROUGH OF FRANKLIN**

\_\_\_\_\_  
Darlene J. Tremont, CLERK

\_\_\_\_\_  
BY: JOHN M. SOWDEN IV, MAYOR

DATED: March 9, 2021

**NOTICE**

**NOTICE** is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Borough of Franklin held on February 23, 2021, at 7:00 p.m. and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Borough Council to be held on March 9, 2021, at 7:00 p.m., or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 46 Main Street, Franklin, New Jersey 07416, at which time all persons interested may appear for or against the passage of said Ordinance.

\_\_\_\_\_  
Darlene J. Tremont  
Municipal Clerk

RECORD OF COUNCIL VOTES-FIRST READING					Move	2nd
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
CONCETTO FORMICA	X					
JOSEPH LIMON	X					
JOHN POSTAS	X				X	
STEPHEN SKELLENGER	X					
GILBERT SNYDER COUNCIL PRESIDENT				X		
STEPHAN ZYDON, JR.	X					X
MAYOR SOWDEN, IV (Tie Only)						

**ORDINANCE 04-2021**

**BOROUGH OF FRANKLIN  
SUSSEX COUNTY, NEW JERSEY CALENDAR YEAR 2021  
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS  
AND TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A: 4-45.14)**

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 1.0% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

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

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

**WHEREAS**, the Mayor and Council of the Borough of Franklin hereby determines that a 3.5% increase in the budget for said year, amounting to \$147,434.90 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Franklin, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2021 budget year, the final appropriations of the Borough of Franklin shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$206,408.86, and that the CY 2021 municipal budget for the Franklin Borough be approved and adopted in accordance with this ordinance; and,

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

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

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

Attest:

\_\_\_\_\_  
Darlene J. Tremont, Municipal Clerk

\_\_\_\_\_  
John M. Sowden, IV, Mayor

**NOTICE**

TAKE NOTICE that the above entitled Ordinance 04-2021 was introduced at a regular meeting of the Borough Council of the Borough of Franklin on March 9, 2021 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Franklin to be held on March 23, 2021 at 7:00 p.m.

\_\_\_\_\_  
Darlene J. Tremont, Municipal Clerk

**CERTIFICATION**

I, Darlene J. Tremont, Clerk of the Borough of Franklin, do hereby certify that the Borough of Franklin Council duly adopted the foregoing Ordinance on the \_\_\_\_ day of \_\_\_\_, 2021.

\_\_\_\_\_  
Darlene J. Tremont, Clerk  
Borough of Franklin

\_\_\_\_\_  
John M. Sowden, IV, Mayor

Introduced:

Adopted:

NOT YET APPROVED BY COUNCIL