

**REGULAR MEETING  
JANUARY 21, 2025**

In compliance with Chapter 231, OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice has been given to all members of the Governing Body, the "Local Source" and the "Westfield Leader" the two newspapers designated to receive such notice. The notice is posted on the Borough Hall bulletin board.

Mayor Paul N. Mirabelli called the meeting to order at 7:32 P.M.

**INVOCATION:** Councilman Dierkes  
**SALUTE TO THE FLAG**  
**ROLL CALL**

**PRESENT:** Mayor Mirabelli, Councilman Dierkes, Councilman Matejek, Councilman Rinaldo, Councilman Van Deusen, Councilwoman Wass, Administrator Mortimer and Attorney Post. Also present was Public Works Director Matthew DeAnna, Police Chief Joseph Giannuzzi and Senior Coordinator Kim Moriak. Council President Pacifico was absent.

**APPROVAL OF MINUTES:**

Upon motion by Councilman Dierkes a second by Councilman Van Deusen, the minutes of the Reorganization Meeting held on January 7, 2025 were approved. Roll Call: Ayes: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.

Upon motion by Councilman Matejek a second by Councilwoman Wass, the minutes of the Work & Executive Session Meetings held on January 14, 2025 were approved. Roll Call: Ayes: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.

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**RESOLUTIONS:**

The following resolution was introduced by Councilman Matejek and seconded by Councilwoman Wass.

**RESOLUTION 23-2025**

WHEREAS, N.J.S.A. 40A:4-58 provides for transfers within certain appropriations within the Municipal Budget during the last two months of the fiscal year; and whereas Resolution 141-2024 authorized the Chief Financial Officer to make any necessary transfers prior to year-end and that these transfers be ratified at the first regularly scheduled Governing Body meeting of 2025; and

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mountainside that certain transfers were needed prior to year-end within the 2024 Municipal Budget; and

WHEREAS, it is recommended that these budget transfers be ratified;

NOW, THEREFORE, BE IT RESOLVED that the following budget transfers be ratified in the 2024 Municipal Budget.

<u>CURRENT ACCOUNT</u>	<u>FROM</u>	<u>TO</u>
Recreation, S/W	\$23,200.00	
A&E, O/E		\$20,000.00
Mayor & Council, S/W		\$1,200.00
Group Insurance, Waiver		\$2,000.00
Total	\$23,200.00	\$23,200.00

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilwoman Wass and seconded by Councilman Van Deusen.

**RESOLUTION 24-2025**

WHEREAS, the Union County Transportation Advisory Board has requested that the Borough of Mountainside appoint a representative and an alternate to serve on the Board for a one-year term; and

WHEREAS, the Governing Body is desirous of appointing a representative and alternate from the Borough of Mountainside;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that Councilman Rene Dierkes be appointed as representative and Michael Disko, Jr. be appointed as an alternate for a term to expire December 31, 2025.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilman Van Deusen and seconded by Councilman Matejek.

**RESOLUTION 25-2025**

WHEREAS, a quote was received by the Borough of Mountainside for the July 4, 2025 Fireworks Celebration; and

WHEREAS, the quote was in the amount of \$24,000.00; and

WHEREAS, the Governing body has determined that Garden State Fireworks, Millington, New Jersey is the preferred vendor; and

WHEREAS, the Borough of Mountainside along with donations from local organizations will cover the costs for the fireworks.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the proper Borough Officials are hereby authorized to enter into an agreement with Garden State Fireworks in the amount of \$24,000.00 for the 2025 July 4<sup>th</sup> Fireworks Celebration.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilwoman Wass.

**RESOLUTION 26-2025**

BE IT RESOLVED that the Treasurer be authorized to issue the following refunds:

<u>Applicant</u>	<u>For</u>	<u>Amount</u>
Meg Poth 1107 Saddlebrook Road Mountainside, NJ 07092	Boys Basketball	\$110.00
Danielle Hagey 287 Central Ave Mountainside, NJ 07092	Boys Basketball	\$110.00
Sara Wistreich 360 Hedge Row Mountainside, NJ 07092	Boys Basketball	\$110.00
Yahaira Gomes 1221 Wyoming Drive Mountainside, NJ 07092	Boys Basketball	\$125.00
Linda Young 310 Garrett Road Mountainside, NJ 07092	Boys Basketball	\$110.00
Jamie Quinn 2 Highpoint Drive Mountainside, NJ 07092	Boys Basketball	\$110.00
Jennifer Rocha 340 Summit Road Mountainside, NJ 07092	Boys Basketball	\$110.00
Sammy Camilleri 217 Pembroke Road Mountainside, NJ 07092	License Overpayment	\$10.00
James Alder 297 Old Tote Road Mountainside, NJ 07092	License Overpayment	\$20.00

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilman Rinaldo and seconded by Councilman Van Deusen.

**RESOLUTION 27-2025**

BE IT RESOLVED, that the Borough Administrator is hereby appointed as Fund Commissioner to the Suburban Municipal Joint Insurance Fund for a term of one (1) year expiring December 31, 2025 at no additional salary.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilwoman Wass and seconded by Councilman Van Deusen.

**RESOLUTION 28-2025**

BE IT RESOLVED, that Recreation Director Frank Masella and the Recreation Committee has recommended that the following individual be appointed to said position:

Name	Position	Wage		Effective
Goldring, Zachary	Gym Supervisor	\$16.00	Per Hour	1/1/25

BE IT FURTHER RESOLVED, that the salary for the above position shall be set forth in the borough's salary ordinance.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilman Matejek and seconded by Councilman Dierkes.

**RESOLUTION 29-2025**

**AMENDING CHAPTER XXIII**

WHEREAS, the Recreation Committee has determined the need to increase the Mountainside pool membership fees for the 2025 season.

NOW, THEREFORE, BE IT RESOLVED, the Mountainside pool membership fees for 2025 are established as follows:

RESIDENT	2025 Rates
Family	\$435
Unmarried Child	\$156
2 Adults	\$415
Single	\$224
Senior Citizen	\$156
Children under 16 joining	\$224
Single Parent/Child	\$371
Au Pair/ Nanny	\$156
Parent's Helper	\$224
NON-RESIDENT	2025 Rates
Family	\$727
Unmarried Child	\$156
Single	\$368
Senior Citizen	\$303
Child under 16 Joining	\$224
Parent's Helper	\$368
INITIATION FEE	\$65/family \$35/single
GUEST FEES	Adults (\$12 weekdays & \$14 weekends/holidays) Children (\$10 weekdays & \$12 weekends/holidays)

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilwoman Wass and seconded by Councilman Van Deusen.

**RESOLUTION 30-2024**

WHEREAS, the Borough of Mountainside desires to apply for and obtain a grant from the New Jersey Department of Community Affairs for approximately \$100,000; and

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Mountainside hereby expresses its support of the New Jersey Department of Community Affairs Local Recreation Improvement Grant (“LRIG”) submission presented to the Governing Body as set forth in the grant application received, for the following improvements:

1. Revitalize the Borough Sports Complex

BE IT FURTHER RESOLVED that a copy of this Resolution be furnished to the New Jersey Department of Community Affairs along with all applications required for LRIG submission; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Van Deusen.

**RESOLUTION 31-2025**

WHEREAS, the current standards embodied in the New Jersey Fair Housing Act (“FHA”) impose unrealistic burdens on municipalities as demonstrated by the fact that the FHA calls for the imposition of a statewide affordable housing obligation of 84,698 just for Round 4 on municipalities that issued only 99,956 Certificates of Occupancy for all housing units in the 2010-2020 period that was used to establish prospective need obligations for Round 4; and

WHEREAS, the imposition of unrealistic obligations encourages opposition and litigation instead of advancing the realistic opportunity for the construction of more affordable housing; and

WHEREAS, the imposition of excessive obligations discourages municipalities from complying voluntarily with the Mount Laurel doctrine when such compliance is an overarching goal of all three branches of government; and

WHEREAS, compliance with the obligation proposed by the Department of Community Affairs will result in overdevelopment with the attendant secondary impacts, the cost of which will land on the shoulders of municipal taxpayers; and

WHEREAS, the unrealistic obligations imposed by the current laws can be rectified by redefining the manner in which the regional need is calculated to be faithful to a principle embodied in the FHA despite its many changes over almost forty years; and

WHEREAS, more specifically, the FHA has consistently defined the prospective need to include “a projection of housing needs based on development and growth which is *reasonably likely to occur* in a region or a municipality, as the case may be, as a result of actual determination of public and private entities” N.J.S.A. 52:27D-304 (j); and

WHEREAS, a determination of the number of new residential housing units, adjusted to remove tear down/rebuilds, represents a far more solid foundation to project “development and growth which is *reasonably likely to occur*” than the FHA’s current formula, which is based on “household change,” a nebulous and undefined term; and

WHEREAS, establishing prospective need for affordable units based on 20 percent of residential housing units *actually constructed* over a prior ten-year period accords with New Jersey’s long-standing policies of empowering municipalities to cure the abuse of exclusionary zoning with traditional inclusionary zoning; and

WHEREAS, the demand for market-rate housing is a reasonable basis for determining whether and to what extent a realistic opportunity for the creation of affordable housing may exist, and the issuance of certificates of occupancy for new residential units is a reliable indicator of such demand; and

WHEREAS, a standard aimed at ensuring that the number of affordable housing units in our state will increase commensurately with the increase in the number of market units constructed will put the affordable housing obligation on a trajectory that will encourage municipalities to voluntarily comply rather than oppose implementation of affordable housing obligations; and

WHEREAS, the New Jersey Institute of Local Government Attorneys (“NJILGA”) has expressed its support for an amendment to the FHA by which “development and growth which is *reasonably likely to occur*” would be based upon the net number of new housing units constructed over each ten-year period for which the state’s affordable housing rounds are established; and

WHEREAS, for the above reasons, the Borough Council of the Borough of Mountainside has determined that its prospective need, and the prospective need for all New Jersey municipalities for the fourth round of affordable housing obligations, should be calculated using NJILGA’s proposed net housing unit based on actual certificates of occupancy as a methodology rather than the current FHA methodology based on “household change;”

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Mountainside, in the County of Union, and State of New Jersey, that the New Jersey Legislature is hereby requested to enact the amendment to the Fair Housing Act that has been recommended by the New Jersey Institute of Local Government Attorneys; and

AND BE IT FURTHER RESOLVED, that the Borough Clerk of the Borough of Mountainside is also hereby directed to send a copy of this signed, dated Resolution within five (5) days after its adoption, by mail and email to the following additional listed persons and entities:

New Jersey Institute of Local Government Attorneys  
P.O. Box 5389  
Clinton, New Jersey 08809  
Attention: J. Peter Jost, Esq.  
Executive Director  
jpeter@jpllegal.com

email:

District 21: Jon Bramnick [asmBramnick@njleg.org](mailto:asmBramnick@njleg.org); Nancy Munoz [aswmunoz@njleg.org](mailto:aswmunoz@njleg.org);  
Michelle Matsikoudis [aswmatsikoudis@njleg.org](mailto:aswmatsikoudis@njleg.org)

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.

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The following resolution was introduced by Councilman Rinaldo and seconded by Councilman Dierkes.

### **RESOLUTION 32-2025**

WHEREAS, the Borough of Mountainside, County of Union, State of New Jersey, (“Mountainside”) has been the beneficiary of a Judgment of Repose since September 10, 2014, which was entered by the Honorable Karen Cassidy, J.S.C. after she approved Mountainside’s 2014 Housing Element and Fair Share Plan; and

WHEREAS, after such Judgment of Repose was entered Mountainside facilitated the construction of each of the three inclusionary projects that were contemplated by Mountainside’s 2014 Housing Element and Fair Share Plan; and

WHEREAS, beyond the affordable housing units anticipated by Mountainside’s 2014 Housing Element and Fair Share Plan Mountainside has encouraged and facilitated the construction of additional units; and

WHEREAS, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an amendment to the 1985 Fair Housing Act (hereinafter “Amended FHA” or “Act”) concerning the Round 4 affordable housing obligations for the years 2025 - 2035; and

WHEREAS, the Amended FHA requires the Department of Community Affairs (“DCA”) to provide an estimate of the present need, also referred to as the rehab obligation, and the Round 4 prospective need of all municipalities by October 20, 2024 based upon the criteria in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) setting forth its estimate of the present need and the Round 4 prospective need obligation for all municipalities based upon its interpretation of the standards in the Act; , wherein it reported Mountainside’s Round 4 Present Need (Rehabilitation) Obligation as 120 and its Round 4 Prospective Need Obligation as 171; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding and municipalities have the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA based upon the standards mandated by the Act; and

WHEREAS, the Amended FHA further provides that “[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing (“COAH”) unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions” (N.J.S.A 52:27D-311 (m)); and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey and also empower municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, Mountainside accepts its Present Need (“Rehabilitation”) Obligation of 120 as reported by the DCA in its October 18, 2024 Report subject to its right to do a windshield survey in accordance with COAH standards in conjunction with the Housing Element and Fair Share Plan it files by June 30, 2025; and

WHEREAS, Mountainside with the assistance of its Professionals has reviewed the data used by DCA that is the basis for the 3 allocation factors used to determine Mountainside’s share of the regional need; and

WHEREAS, more specifically, Mountainside's Professionals reviewed the data that the DCA used to compute the Land Capacity Allocation Factor that the DCA provided on or about November 27, 2024; and

WHEREAS, in the following comment the DCA acknowledged that data it used might be incorrect and invited municipalities to provide more detailed data;

"The land areas identified in this dataset are based on the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c. (4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program."; and

WHEREAS, Mountainside's Professionals conducted a detailed review and determined that DCA had been over inclusive, and that as shown in the report from John Chadwick, PP, AICP which is attached hereto as Exhibit A there are not any developable acres in Mountainside, not the 26 acres considered by DCA in computing the Land Capacity factor; and

WHEREAS, upon correcting the data used to determine the Land Capacity Factor, the correct Round 4 prospective need number for Mountainside is 137 not 171; and

WHEREAS, Mountainside's calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Act; and

WHEREAS, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of any and all rights to avoid any claim that it has waived them resulting from proposed legislation and ongoing litigation concerning the Act; and

WHEREAS, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for disputes over the obligations of the municipality; and

WHEREAS, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations; and

WHEREAS, in light of the above, Mountainside finds that in accordance with the Act it is in its best interests to declare its obligations in this Resolution; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Courts issued Directive #14-24, dated December 13, 2024, and

WHEREAS, Directive #14-24 mandates that a municipality seeking a certification of compliance with the Act must file an action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution accepting fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, Mountainside seeks a certification of compliance with the Act and, therefore, directs its Attorneys to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 21st day of January, by the Mayor and Council of Mountainside as follows:



1. For the reasons set for the in this Resolution and its attachments, Mountainside commits to a Round 4 Present Need (“Rehabilitation”) Obligation of 120 and a Round 4 Prospective Need “(New Construction)” obligation of 137, as set forth in Exhibit A to this Resolution, subject to reservations of all of Mountainside’s rights of any kind or nature whatsoever that might be affected by legislation, administrative regulations, judicial determinations, or any other cause of any kind or nature whatsoever, whether now existing or arising in the future.

2. Mountainside’s attorneys are hereby directed to file a declaratory judgment complaint in the appropriate venue within 48 hours after adoption of this resolution.

BE IT FURTHER RESOLVED that a certified copy of this resolution and all necessary required documents shall be submitted to the appropriate Office within the State Department of Community Affairs and, if required, to the Judiciary Affordable Housing Webpage established by the Administrative Office of the Courts.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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**ORDINANCES:** First Reading (Introduction)

**ORDINANCE 1337-2025**

**AN ORDINANCE AMENDING CERTAIN PARTS OF CHAPTER XXII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAINSIDE BY ADOPTING PORTIONS OF THE DEP’S MODEL STORMWATER CONTROL ORDINANCE**

**BE IT ORDAINED** that Chapter XXII, Article 14, Section 1402 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

**1402 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 Article 1403.

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 Borough of Mountainside.
3. An application required by ordinance pursuant to c.1 above that has been submitted prior to February 18, 2025, shall be subject to the stormwater management requirements in effect on February 17, 2025.
4. An application required by ordinance for approval pursuant to c.1 above that has been submitted on or after March 2, 2021, but prior to February 18, 2025, shall be subject to the stormwater management requirements in effect on February 17, 2025.
5. 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

Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1403 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

**1403 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 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 chapter.

“Compaction” means the increase in soil bulk density.

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

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

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

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

“Department” means the Department of Environmental Protection.

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

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

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge- enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or

other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*

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

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

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

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

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

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

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

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

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

"HUC 14" or "hydrologic unit code 14" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary

designation, delineated within New Jersey by the United States Geological Survey.

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

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

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

“Major development” means 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 the effective date of this ordinance, whichever is earlier}; 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.”

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

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

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

“New Jersey Stormwater Best Management Practices (BMP) Manual” or “BMP Manual” means the manual maintained by the Department providing, in

part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this chapter. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with Article 1405(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 chapter.

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

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

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

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

"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.

**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1405 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

**1405 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 Article 1411.
- 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 Article 1405 (p), (q), and (r):
  - 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 Article 1405 (o), (p), (q), and (r) 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 Article 1405 (o), (p), (q), and (r) to the maximum extent practicable;
  3. The applicant demonstrates that, in order to meet the requirements of Article 1405 (o), (p), (q), and (r), 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 paragraph (d)(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Article 1405 (o), (p), (q), and (r) that were not achievable onsite.
- 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 Article 1405 (o), (p), (q), and (r). 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 ordinance the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

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

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

Infiltration Basin	80	Yes	Yes	2
Sand Filter <sup>(b)</sup>	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond <sup>(d)</sup>	50-90	Yes	No	N/A

<b>Table 3</b> <b>BMPs for Groundwater Recharge, Stormwater Runoff Quality,</b> <b>and/or Stormwater Runoff Quantity</b> <b>only with a Waiver or Variance from N.J.A.C. 7:8-5.3</b>				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (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 <sup>(h)</sup>	50 or 80	No	No	Dependent upon the device
Sand Filter <sup>(c)</sup>	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) subject to the applicable contributory drainage area limitation specified at Article 1405 (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 Article 1403;

(h) manufactured treatment devices that do not meet the definition of green infrastructure at Article 1403.

- 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 Article 1405(b). Alternative stormwater management measures may be used to satisfy the requirements in Article 1405(o) only if the measures meet the definition of green infrastructure at Article 1403. Alternative stormwater management measures that function in a similar manner to a BMP listed at Article 1405(o)(2) are subject to the contributory drainage area limitation specified at Article 1405(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 Article 1405(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 Article 1405(d) is granted from Article 1405(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 Article 1409(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 Article 1409; 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 Article 1403 may be used only under the circumstances described at Article 1405(o)(4).
- k. Any application for a new agricultural development that meets the definition of major development at Article 1403 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Article 1405 (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 Article 1405 (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 Union 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 Article 1405 (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 Article 1411(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 Article 1405 of this ordinance and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the Borough of Mountainside for approval and subsequently recorded with the Union 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 paragraph (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 paragraph (m) above.
  
- o. Green Infrastructure Standards
  - 1. This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
  - 2. To satisfy the groundwater recharge and stormwater runoff quality standards at Article 1405 (p) and (q), the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Article 1405(f) and/or an alternative stormwater management measure approved in accordance with Article 1405(g). The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

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

- 3. To satisfy the stormwater runoff quantity standards at Article 1405(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 Article 1405(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 Article 1405(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 Article 1405(g) may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Article 1405 (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 Article 1405 (p), (q), and (r), unless the project is granted a waiver from strict compliance in accordance with Article 1405(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 Article 1406, either:
  - i. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
  - ii. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the projected 2-year storm, as defined and determined pursuant to Article 1406(d) of this chapter, is infiltrated.
3. This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to paragraph 4 below.
4. The following types of stormwater shall not be recharged:
  - i. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental



Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan 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

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

q. Stormwater Runoff Quality Standards

1. This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
2. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
  - i. Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
  - ii. 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 paragraph 2 above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
4. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain

from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

**Table 4 - Water Quality Design Storm Distribution**

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

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

formula to calculate TSS reduction:

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

Where

R = total TSS Percent Load Removal from application of both BMPs, and A = the TSS Percent Removal Rate applicable to the first BMP

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

6. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in Article 1405 (p), (q), and (r).
  7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
  8. The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
  9. Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.
  10. The 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 Article 1406, complete one of the following:
    - i. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected 2-, 10-, and 100- year storm events, as defined and determined in Article 1406 (c) and (d), respectively, of this chapter, do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
    - ii. Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the current and projected

2-, 10- and 100-year storm events, as defined and determined in Article 1406 (c) and (d), respectively, of this chapter, and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

- iii. Design stormwater management measures so that the post-construction peak runoff rates for the current and projected 2-, 10- and 100-year storm events, as defined and determined in Article 1406 (c) and (d), respectively, of this chapter, are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - iv. In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with paragraphs 2 (i), (ii) and (iii) above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.
3. The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1406 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

**1406 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 the following method:

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

<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.

2. For the purpose of calculating 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 “curve number” applies to the NRCS methodology above at Article 1406(a)(1). A 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 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 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.

- c. The precipitation depths of the current 2-, 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](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. The Table has been cut to provide only the relevant counties for the Borough of Mountainside. The full table of current precipitation adjustment factors can be found in N.J.A.C. 7:8-5.7(c) as Table 5-5.

<b>Table 5 Current Precipitation Adjustment Factors</b>			
<b>County</b>	<b>2-year Design Storm</b>	<b>10-year Design Storm</b>	<b>100-year Design Storm</b>
Union	1.01	1.03	1.06

- d. Table 6: Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected 2-, 10-, and 100-year storm events for use in this chapter, which are organized by county. The precipitation depth of the projected 2-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the 2-, 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. The Table has been cut to provide only the relevant counties for the Borough of Mountainside. The full table of future precipitation change factors can be found in N.J.A.C. 7:8-5.7(d) as Table 5-6.

<b>Table 6 Future Precipitation Change Factors</b>			
<b>County</b>	<b>2-year Design Storm</b>	<b>10-year Design Storm</b>	<b>100-year Design Storm</b>
Union	1.20	1.23	1.35

**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1407 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

## **1407 Solids and Floatable Materials Control Standards**

- a. Site design features identified under Article 1405(f) above, or alternative designs in accordance with Article 1405(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 Article 1407(a)(2) below.
1. Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
    - i. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
    - ii. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

- iii. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
2. The standard in paragraph (a)(1) above does not apply:
    - i. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
    - ii. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
    - iii. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
      - A. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
      - B. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- v. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1408 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

**1408 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.

**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1409 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:



## **1409 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 Article 1409 (c)(1), Article 1409 (c)(2), and Article 1409 (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:
    - i. The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
    - ii. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
    - iii. 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
    - iv. 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:
    - i. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
    - ii. The overflow grate spacing shall be no greater than two inches across the smallest dimension
    - iii. 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:
    - i. 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 VIII.C, a free-standing outlet structure may be exempted from this requirement;
    - ii. 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 Article 1409(e) for an illustration of safety ledges in a stormwater management BMP; and

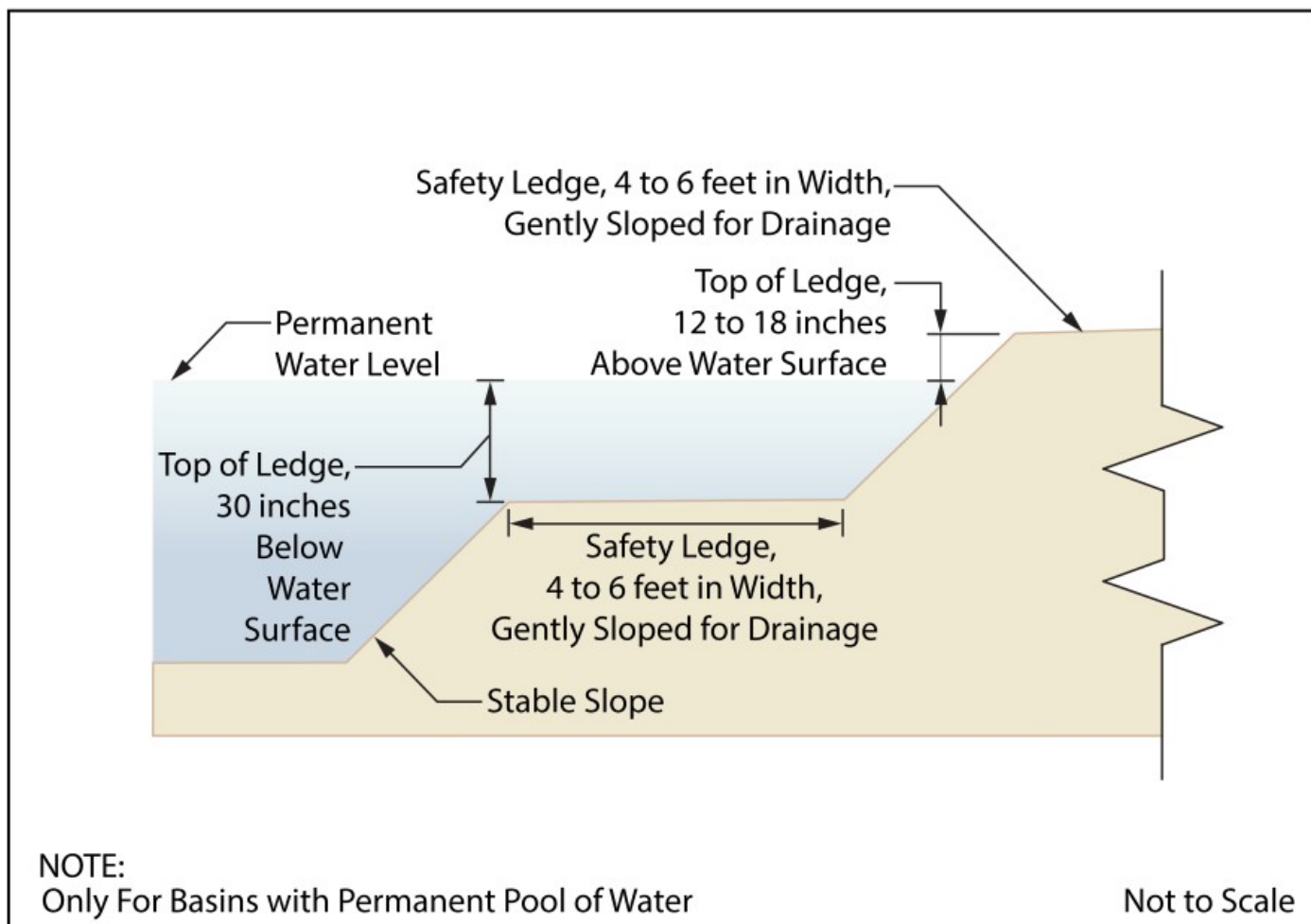
iii. In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

d. 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.

e. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1410 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

## **1410 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 Article 1410(c) 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 ordinance.
3. The applicant shall submit fifteen (15) copies of the materials listed in the checklist for site development stormwater plans in accordance with Article 1410(c) of this ordinance.

### 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 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 Sections III through V 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:

- i. 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.
- ii. 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

- i. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section IV of this ordinance.
- ii. 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 Article 1411.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipality's review engineer, waive submission of any of the requirements in Article 1410(c)(1) through Article 1410(c)(6) of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

**AND BE IT FURTHER ORDAINED** Chapter XXII, Article 14, Section 1411 of the Borough Code is hereby amended by:

the deletion of the entire section.

the addition of the following:

## **1411 Maintenance and Repair**

- a. Applicability  
Projects subject to review as in Article 1402(c) of this ordinance shall comply with the requirements of Articles 1411(b) and 1411(c).
- b. General Maintenance
  1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
  2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). 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 Article 1411(b)(3) above is not a public agency, the maintenance plan and any future revisions based on Article 1411(b)(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 Article 1411(b)(3) above shall perform all of the following requirements:
    - i. maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
    - ii. evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and

iii. retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Article 1411(b)(6) and Article 1411(b)(7) above.

8. The requirements of Article 1411(b)(3) and Article 1411(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.
  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 subsection shall preclude the Borough of Mountainside from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

**AND BE IT FURTHER ORDAINED,**

1. Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.
2. This ordinance shall take effect immediately upon final passage and publication as provided by law.

It was moved by Councilman Matejek and seconded by Councilwoman Wass that this ordinance be passed on first reading and advertised in summary for a public hearing on February 18, 2025.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.

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**ORDINANCE 1338-2025**

**AN ORDINANCE AMENDING THE BOROUGH CODE REGARDING PERMITS FOR PARKING ON MUNICIPAL PROPERTY AND FEES FOR DOING SO**

BE IT ORDAINED, by the Governing Body of the Borough of Mountainside, County of Union, State of New Jersey, that the Borough Code of the Borough of Mountainside is amended as follows:

Chapter VII, Article 7-40.1.b.i is amended to read as follows:

22 designated parking spaces, which spaces shall be designated as #43 through #64, shall be reserved 17 for monthly permit holders and 5 for daily permit holders; and

Chapter VII, Article 7-40.3.b is amended to read as follows:

Fees for Quarterly, Monthly and Daily Permits. Fees shall be set forth in [Chapter XXIII, Fees](#) of this code.

1. Quarterly Permits: Permits for parking on a quarterly basis are available to Borough residents. The fee shall be increased by 5% on January of each year.
2. Monthly Permits: Permits for parking on a monthly basis may be available. The fee shall be increased by 5% on January of each year.
3. Daily Permits: Permits for parking on a daily basis may be available.

AND BE IT FURTHER ORDAINED that Chapter XXIII, Fees the Borough Code of the Borough of Mountainside is amended by the addition of a \$10.00 Daily Parking Fee and a \$50.00 application fee for an application to remove trees.

This ordinance shall take effect immediately upon final passage and publication as provided by law.

It was moved by Councilman Van Deusen and seconded by Councilwoman Wass that this ordinance be passed on first reading and advertised in full for a public hearing on February 18, 2025.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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### **ORDINANCE 1339-2025**

#### **AN ORDINANCE AMENDING THE TREE PROTECTION PROVISIONS OF THE BOROUGH CODE**

BE IT ORDAINED, by the Governing Body of the Borough of Mountainside, County of Union, State of New Jersey, that the Borough Code of the Borough of Mountainside is amended as follows:

Chapter 22, Article 13 is amended as follows:

The first sentence of Article 1304 Approval Process (b) is amended to read as follows:

(b) The application for a permit should be accompanied by a permit fee of \$50.00 and by a sketch containing the following:

Article 1304 (b) (6) is amended to read as follows:

(6) Proposals for replacing any destroyed or removed trees which shall include one or more of the following measures: replacement of such trees on the property where they were destroyed or removed or on another property in the Borough with a minimum tree caliper of 1.5" for each tree removed or, if such replacement is not possible then a payment in the amount of \$100 for each tree removed shall be deposited to the Borough Tree Fund.

Article 1304 (d) is amended by the addition of the following new subparagraph (3)

(3) Decide which of the replacement options set forth in the application are to be implemented.

Article 1304 (d) (3) is amended by changing the number to (4).

Article 1305 is amended by the deletion of subparagraph (1) and by redesignating the remaining subparagraphs (1) through (4).

This ordinance shall take effect immediately upon final passage and publication as provided by law.

It was moved by Councilman Matejek and seconded by Councilwoman Wass that this ordinance be passed on first reading and advertised in full for a public hearing on February 18, 2025.

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0.  
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**MOTION:**

The following motion was unanimously approved:

1. Authorization to appoint Juan Hernandez-Garcia as a Volunteer Firefighter  
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**BILLS & CLAIMS:**

The following resolution was introduced by Councilman Dierkes and seconded by Councilman Matejek.

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the following bills of the persons named and for the amounts stated below, having been duly audited and found to be correct this 21<sup>st</sup> day of January 2025, the same be paid after Council's review, if and when funds are available and that the Mayor, Council President, Administrator and Treasurer are hereby authorized and directed to sign and deliver warrants for same in the amount of \$400,411.99 (Copy of bill list attached).

Roll Call: Dierkes, Matejek, Rinaldo, Van Deusen, Wass. Nays: 0  
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**COUNCIL COMMENTS:**

The Mayor provided a snow storm update.  
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**AUDIENCE PARTICIPATION:**

Hearing no one wishing to speak, Mayor Mirabelli closed the meeting to the public.  
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Upon a motion by Councilman Dierkes and a second by Councilman Matejek, the meeting was unanimously adjourned at 7:53 P.M.  
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Martha Lopez, RMC  
Borough Clerk