ORDINANCE NO. 3626
INTRODUCED BY: COMMISSIONER JOSEPH P. SCARPELLI
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ORDINANCE NO. 3626

AN ORDINANCE TO AMEND CHAPTER 622 OF THE CODE OF THE TOWNHISP OF NUTLEY, ENTITLED "STORMWATER CONTROL" AND, MORE SPECIFICALLY, AMENDING ARTICLE I"

BE IT ENACTED by the Board of Commissioners of the Township of Nutley that Section 622, Article I entitled "General Provisions" be AMENDED as follows:

AMEND: CHAPTER 622-1 SCOPE AND PURPOSE

SECTION (C)

3. A complete application required by ordinance pursuant to C.1 and Municipal Land Use Law at N.J.S.A 40:55D-10.5 and above that has been submitted prior to January 1, 2026, shall be subject to the stormwater management requirements in effect on the date the complete application was received.

4. Notwithstanding 5 below or any rule to the contrary, major developments for any public roadway or railroad project conducted by a public transportation entity that has determined a preferred alternative or reached an equivalent milestone shall be subject to the requirements of this ordinance:

    i. A major development that reached a preferred alternative or equivalent milestone prior to March 2, 2021, is subject to the requirements of this ordinance in effect on March 1, 2021; and
    ii. A major development that reached a preferred alternative or equivalent milestone on or after March 2, 2021, is subject to the requirements of this ordinance in effect on the date the preferred alternative or equivalent milestone is reached.

5. Should a public transportation entity initiate a substantial change to a major development that had previously reached a preferred alternative or equivalent milestone, the major development shall instead be subject to the requirements of this ordinance in effect when the amended milestone is reached.

D. Maintenance Requirement Applicability to the Stormwater Management Measures Prior Constructed Stormwater Management Measures

Under the authorization by the conditions in Part V.F.4.a of municipality's Tier A Municipal Stormwater General Permit, the municipality must ensure adequate long-term cleaning, operation and maintenance of stormwater facilities not owned or operated by the municipality, not subject to the conditions of another NJPDES stormwater permit and which were constructed after February 7, 1984.

E. 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.

AMEND: SECTION 622.2 DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

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

"County review agency" means an agency designated by the Board of 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 pursuant to 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.

"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. The following maintenance activities are not considered disturbance for the purposes of this ordinance:

1. Milling, repaving or resurfacing pavement; patching broken pavement; sealing or filling roadway cracks or joints; repairing damaged concrete pavement joints; driveway repair; bridge or pipe/culvert patching; and bridge deck overlays;
2. Repair or replacement of: median barriers; sidewalks (including installation of ramps pursuant to Americans with Disabilities Act on existing impervious surface); concrete curbs; inlets, manholes and catch basins; conduit outlet protection; and guiderail systems, including rails, posts, impact attenuators, and non-vegetated treatment surfaces consisting solely of permeable material;
3. Repair or replacement of traffic, utility and ITS structures on poles including sign structures such as traffic signs, dynamic variable message signs, cameras, radios, traffic signal equipment and their supporting cabinets;
4. Repair or replacement of rail ties or sleepers; regrading track bed; resurfacing or re-installing rail; repairing or replacing lineside signaling systems; and staging maintenance-of-way equipment on or adjacent to track;
5. Geotechnical and archeological investigation activities; installation of one or more monitoring wells; construction of a gauge, weir, or similar device; and
6. Removal of accumulated sediment and debris from a channel.

"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};
4. The reconstruction of one-quarter acre or more of "motor vehicle surface" or "impervious surface" since {the effective date of this ordinance}; or
5. A combination of 2, 3, and 4 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, 4, or 5 above. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

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

ADD: SECTION 622.2 DEFINITIONS

"Independent State authority" means a public authority, board, commission, corporation, or other agency or instrumentality of the State allocated, in but not of, a principal department of State government pursuant to Article V, Section IV, paragraph 1 of the New Jersey Constitution, or which is not subject to supervision or control by the department in which it is allocated, and a regional authority, but shall not include a college or university.

"New public roadway or railroad" means the construction of a new public roadway or railroad where none currently or previously existed, such as a new bypass. This definition excludes the relocation or reinstating of a public roadway or railroad at a location where one previously existed within a right-of-way and excludes the construction of any widening, improvements and attendant features to an existing public roadway or railroad, such as new ramps, additional lanes/dualization, connection of gaps in existing mainlines, or connection of movements within and existing interchange.

"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 roadway or railroad project limits" means the segment of public roadway or railroad that is proposed to be constructed or improved, and including the right-of-way associated with the that segment of public roadway or railroad.

"Public transportation entity" means a Federal, State, interstate, 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.

"Reconstruction" means the replacement, rebuilding, or restoration of a lawfully existing structure.

"Retention" means retaining the stormwater runoff generated from development by infiltration, evapotranspiration, or reuse of stormwater runoff without the discharge of the stormwater runoff directly or indirectly to surface waters or to a treatment works.

AMEND: SECTION 622-3(B) DESIGN AND PERFORMAMCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES

B. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

   Note: Alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in N.J.A.C. 7:8-5 or Sections IV through VI of this ordinance.

AMEND: SECTION 622-4 STORMWATER MANAGEMENT REQUIREMENTS FOR MAJOR DEVELOPMENT

SECTION (C)

C. The following development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements at Sections 622.4(P), (Q), and (R), respectively, provided that any vegetated areas temporarily disturbed to conduct the project are, to the maximum extent practicable, revegetated with native, noninvasive vegetation upon completion of the project:

1. The construction, reconstruction, or repair of an underground utility line or cable, or its supporting infrastructure, such as conduit, junction boxes, and manholes;
2. The construction, reconstruction, or repair of an aboveground utility line or cable, or its supporting infrastructure, such as poles and towers;
3. The construction, reconstruction, or repair 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.;

4. The maintenance of a dam; and

5. Public safety improvements undertaken by the municipality or another public transportation entity as set forth in this paragraph:

   i. Installation of guiderail systems, such as rails, posts, impact attenuators, and non-vegetated treatment surfaces, provided that any pavement utilized consists solely of permeable material;
   ii. Installation of traffic, utility and ITS structures on poles including sign structures such as traffic signs, dynamic variable message signs, cameras, radios, traffic signal equipment and their supporting cabinets;
   iii. Installation of railroad lineside signaling systems; and
   iv. Rockfall mitigation activities that do not result in a net increase of regulated motor vehicle surface or impervious surface.

SECTION (D)

D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Sections 622.4(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 conditions at 622.4 (D)(1), (2), (3), and (4) below are met. The construction of a new public roadway or railroad is not eligible for a waiver pursuant to this subsection.

   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 Sections 622.4(O), (P), (Q) and (R) to the maximum extent practicable;
   3. The applicant demonstrates that, in order to meet the requirements of Sections 622.4(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 IV.D.3 above within the upstream drainage area of the receiving stream, that would provide

additional opportunities to mitigate the requirements of Sections IV.O, P, Q and R that were not achievable onsite.

SECTION (E)

E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in Sections IV.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/.

SECTION (F) TABLE 2 AND 3

Table 2
Green Infrastructure BMPs for Stormwater Runoff Quantity
(or for Groundwater Recharge and/or Stormwater Runoff Quality
with a Waiver or Variance from Section 622.4(O)

Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Bioretention System	80 or 90	Yes	Yes[(b)] No[(c)]	2[(b)] 1[(c)]
Infiltration Basin	80	Yes	Yes	2
Sand Filter[(b)]	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond[(d)]	50-90	Yes	No	N/A

(Notes corresponding to annotations [b] through [d] are found on Page D-16)

Table 3
BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity
only with a Waiver or Variance from Section 622.4(O)

Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device[h]	50 or 80	No	No	Dependent upon the device
Sand Filter[c]	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

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 VI.B. Alternative stormwater management measures may be used to satisfy the requirements at Section IV.O only if the measures meet the definition of green infrastructure at Section II. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section IV.O.2 are subject to the contributory drainage area limitation specified at Section IV.O.2 for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at Section IV.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 {Section XI, if the optional Section XI is adopted} or a waiver from strict compliance in accordance with Section IV.D is granted from Section IV.O.

SECTION (I)(5)

5. Any flow control device, such as an orifice, weir, grate or perforated pipe, at the outlet of the stormwater management measures shall be designed to prevent the clogging of the flow control device while achieving the design and performance standards at Sections IV.P, Q and R.

SECTION (J)

J. Manufactured treatment devices may be used to meet the requirements of this section, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at Section II may be used only under the circumstances described at Section IV.O.4.

SECTION (K)

K. Any application for a new agricultural development that meets the definition of major development at Section II shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Sections IV.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.

SECTION (L)

L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Sections IV.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.

SECTION (M)

M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the {insert Office of the County Clerk or the registrar of deeds and mortgages of the county in which the development, project, project site, or mitigation area containing the stormwater management measure is located, as appropriate, to the municipality}. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Sections IV.O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to Section X.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.

SECTION (N)

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

SECTION (O)

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. Except as provided at O.6 through O.10 below, to satisfy the groundwater recharge and stormwater runoff quality standards at Sections IV.P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Section IV.F ~~.~~ and/or an alternative stormwater management measure approved in accordance with Section IV.G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

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

3. Except as provided at O.6, O.7.i, O.7.iii, O.8, O.9 and O.10 below, to satisfy the stormwater runoff quantity standards at Section IV.R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with Section IV.G.

4. If a variance in accordance with N.J.A.C. 7:8-4.6 {Section XI, if the optional Section XI is adopted} or a waiver from strict compliance in accordance with Section IV.D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with Section IV.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Sections IV.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 Sections IV.P, Q and R, unless the project is granted a waiver from strict compliance in accordance with Section IV.D.

6. The municipality or another public transportation entity proposing a public roadway or railroad project shall demonstrate compliance with the minimum design and performance standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity at Sections IV.P, Q, and R, respectively, by utilizing green infrastructure BMPs from Tables 1 or 2 within the public roadway or railroad project limits, unless green infrastructure BMPs from Tables 1 or 2 cannot be utilized due to unsuitable hydrologic, hydraulic, or physical conditions. If green infrastructure BMPs from Tables 1 or 2 cannot be utilized within the public roadway or railroad project limits due to unsuitable hydrologic, hydraulic, or physical conditions, IV.O.7 below shall apply.

7. Where the municipality or another public transportation entity demonstrates that it cannot achieve compliance with the minimum design and performance standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity within the public roadway or railroad project limits in accordance with O.6 above, the following requirements shall apply:

   i. The municipality or another public transportation entity shall demonstrate compliance with the minimum design and performance standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity at Sections IV.P, Q, and R, respectively, by utilizing green infrastructure BMPs from Tables 1 or 2 in disturbed lands immediately adjacent to the public roadway or railroad project limits.

      a. All disturbed lands adjacent to the public roadway or railroad project limits shall be investigated for achieving compliance with this paragraph regardless of whether the disturbed land is owned or controlled by the municipality or another public transportation entity. For the purpose of this subparagraph, disturbed land includes lawn, farmland, or other disturbed areas, but excludes preserved farmland and wooded areas.
      b. The municipality or another public transportation entity's investigation shall include lands held for recreation and conservation purposes. However, such lands are not required to be utilized if the proposed green infrastructure solution would violate State or Federal law or be inconsistent with or require a release or modification of any recorded restrictions on the property.
      c. Compliance with the minimum design and performance standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity shall be achieved within the disturbed lands immediately adjacent to the public roadway or railroad project limits, unless the municipality or another public transportation entity demonstrates that compliance within this area cannot be

achieved due to unsuitable hydrologic, hydraulic, or physical conditions.

ii. If the municipality or another public transportation entity has demonstrated that compliance with O.7.i above cannot be achieved due to unsuitable hydrologic, hydraulic, or physical conditions, the municipality or another public transportation entity shall demonstrate compliance with the minimum design and performance standards for groundwater recharge and stormwater runoff quality at Sections IV.P and Q, respectively, by utilizing green infrastructure BMPs from Tables 1 or 2 in the land owned or controlled by the municipality or another public transportation entity, and the disturbed areas immediately adjacent thereto, located upstream of the project and within the same HUC-14 as the project.

iii. If the municipality or another public transportation entity has demonstrated that compliance with groundwater recharge and stormwater runoff quality standards pursuant to both O.7.i and O.7.ii above and/or stormwater runoff quantity standards pursuant to O.7.i above cannot be achieved due to unsuitable hydrologic, hydraulic, or physical conditions, the municipality or another public transportation entity may utilize stormwater BMPs from Table 3 to comply with the unmet standards that have been demonstrated to be not achieved pursuant to O.7.i and O.7.ii above, as applicable, without the need to request a waiver from strict compliance pursuant to Section IV.D.

8. If the municipality or another public transportation entity seeking to enlarge an existing public roadway or railroad demonstrates that compliance with the design and performance standards for stormwater runoff quality, groundwater recharge, or stormwater runoff quantity cannot be achieved in accordance with O.6 and O.7 above, it shall request a waiver from strict compliance pursuant to Section IV.D. The construction of new public roadways or railroads are not eligible for the waiver from strict compliance at Section IV.D.

9. For the purposes of O.6 and O.7 above, unsuitable hydrologic, hydraulic, or physical conditions means any physical, hydrologic, or hydraulic impediment that prevents the installation of a functioning BMP on a particular area of land such as, but not limited to, high seasonal high water table elevation, slope steeper than the maximum slope allowable for a BMP, karst topography, shallow depth to bedrock, unavoidable adverse impact resulting from groundwater mounding, or physical impedances caused by existing structures. Additionally, an inability to retain safe pedestrian passage shall be considered an unsuitable physical condition. Demonstration of unsuitable hydrologic or hydraulic conditions shall be supported by appropriate documentation that complies with the requirements set forth in the applicable laws, rules, ordinances, and construction codes, such as soil testing reports, site plans, survey maps, geological investigation reports, geotechnical reports, and/or photos. The documents shall be submitted to the Department, along with the certification required at O.10 below. Further, the municipality or another public transportation entity shall retain copies of

the documents. Installation of a stormwater BMP within the area of a sidewalk, whether within or outside the public roadway or railroad project limits, shall provide sufficient pedestrian passage in the remaining sidewalk.

10. If the municipality or another public transportation entity has demonstrated compliance with the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of this ordinance in accordance with O.7 and O.8 above, the municipality or another public transportation entity shall submit to the Department a certification stating that the municipality or another public transportation entity has conducted its analysis in conformance with O.6 through O.8 above. The certification shall:

    i. Be signed and sealed by one or more design engineers;
    ii. Be endorsed by the chief executive officer of the municipality or another public transportation entity; a senior executive officer having responsibility for the overall operations of a principal geographic unit of the public transportation entity (for example, Regional Administrator); or a duly authorized representative by the chief executive officer of the public transportation entity;
    iii. Include the description of project, location, name and title of the individual with direct knowledge of the review and analysis, the description of the investigation performed, rationale for the decision, and the documentation described in O.9 above must be attached to the certification;
    iv. Be submitted to the Department at the email address listed in Section VI.B as part of the application for any permit listed in N.J.A.C. 7:8-1.6(a)1 through 5, if applicable, and
    v. Be included in the annual report that is required to be submitted to the Department pursuant to the municipality's Municipal Separate Storm Sewer System permit, pursuant to N.J.A.C. 7:14A.

11. Notwithstanding the requirements in this subsection, any public roadway or railroad project that has determined a preferred alternative or equivalent milestone by March 2, 2021, shall not be subject to O.2, O.3, and O.4 above, provided that the municipality or another public transportation entity submits to the Department at the email address listed at Section VI.B, by March 20, 2026, a list of projects that have selected a preferred alternative or equivalent milestone by March 2, 2021, and that the municipality or another public transportation entity does not make a substantial change to the design of the project on or after March 2, 2021.

SECTION (P)

P. Groundwater Recharge Standards

1. This subsection contains the minimum design and performance standards for groundwater recharge as follows:

2. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section V, either:

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

   (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the projected 2-year storm, as defined and determined pursuant to Section V.D of this ordinance, is infiltrated.

3. This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to P.4 below.

4. The following types of stormwater shall not be recharged:

   (a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan approved pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, or Department landfill closure plan and areas; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

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

SECTION (Q)

Q. Stormwater Runoff Quality Standards

1. This subsection sets forth 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 or the reconstruction of one-quarter acre or more of 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 from all new and reconstructed motor vehicle surface as follows:

   i. Ninety-five percent TSS removal of the anticipated load, expressed as an annual average, shall be achieved for stormwater runoff from any new or reconstructed motor vehicle surface that is proposed to be:

      a. Discharged within a 300-foot riparian zone (as established by the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1); or
      b. Discharged into an existing or proposed stormwater conveyance system that ultimately discharges within a 300-foot riparian zone located within the same HUC14 as the major development.

   ii. Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from any new or reconstructed motor vehicle surface not covered by Q.2.i above, except as follows:

      a. Where the municipality or another public transportation entity demonstrates that achieving 80 percent TSS removal pursuant to Q.2.ii above for a public roadway project would require acquisition of developed or otherwise encumbered land outside of the entity's existing right-of-way along the section of roadway being improved or constructed, the public transportation entity shall instead provide water quality treatment to the maximum extent practicable, with a minimum water quality treatment of 50 percent TSS removal for all new and reconstructed motor vehicle.

   iii. 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, unless Q.2.i or

Q.2.ii above require a higher level of TSS removal.

3. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with 2 above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.

4. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4 - Water Quality Design Storm Distribution

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

5. If more than one BMP in series is necessary to achieve the required 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 Sections IV.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. 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.

10. Stormwater management measures shall be designed to incorporate any additional measures specified in a total maximum daily loads(s) approved or established by United States Environmental Protection Agency, unless otherwise required pursuant to N.J.A.C. 7:14A-25.6(e).

SECTION (R)

R. Stormwater Runoff Quantity Standards

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

2. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5, complete one of the following:

   (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected 2-, 10-, and 100-year storm events, as defined and determined in Section V.C and D, respectively, of this ordinance, do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

   (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the current and projected 2-, 10-, and 100-year storm events, as defined and determined pursuant to Section V.C and D, respectively, of this ordinance, and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development pursuant to existing zoning and land use ordinances in the drainage area;

      a. If the analysis demonstrates that there is no increase in the volume or peak runoff rates of stormwater leaving the site, and the change in timing is solely a result of the proposed installation of BMPs to comply with Section IV.Q or Section IV.R.4 below, then no analysis of downstream flooding impacts shall be required, unless the review agency determines that the project will result in increased flood damages downstream of the site;

   (c) Design stormwater management measures so that the post-construction peak runoff rates for the current and projected 2-, 10-, and 100-year storm events, as defined and determined in Sections V.C and D, respectively, of this ordinance, are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or

   (d) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with 2.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.

4. Except as provided in R.4.iii below, the design engineer shall demonstrate that the major development meets the minimum volumetric reduction standard in accordance with R.4.i and/or R.4.ii below.

    i. Stormwater management measures shall be designed to achieve retention of the water quality design storm by incorporating green infrastructure BMPs from Table 1 and Table 2 unless R.4.i.a below applies:

        a. Where an applicant demonstrates that compliance with this subparagraph is technically impracticable as set forth at N.J.A.C. 7:8-4.6(a)1 {Section XI, if the optional Section XI is adopted}, or the type of stormwater is subject to Section IV.P.4, a major development site shall instead meet the hydrograph requirements at R.4.i.a(1) and R.4.i.a(2) below:

            (1) The runoff peak flow rate of the water quality design storm from the site shall be less than the runoff peak flow rate of the water quality design storm from a drainage area equivalent to the size of the disturbed area of the major development, with a woods cover type, in good hydrologic condition and on Hydrologic Soil Group D soil; and
            (2) The runoff hydrograph duration of the water quality design storm from the site shall be greater than the runoff hydrograph duration of the water quality design storm from a drainage area equivalent to the size of disturbed areas of the major development, with a woods cover type, in good hydrologic condition, and on Hydrologic Soil Group D soil. For the purposes of this sub-subparagraph, "runoff hydrograph duration" means the duration between the time that the runoff flow rate starts to be greater than zero to the time that the runoff flow rate becomes zero.

    ii. In the alternative of R.4.i above, the applicant may address all or a portion of the volumetric reduction standard, as follows:

        a. The applicant shall undertake one or both of the following:

            (1) Removal of existing impervious surface totaling an area equal to or greater

than the impervious surface within the disturbed portions of the major development site; and/or

(2) Retention of an equivalent or greater volume of stormwater runoff generated by the water quality design storm required pursuant to R.4 above at an offsite location. Runoff retained from storms other than the water quality design storm shall not be counted toward compliance with this requirement.

b. Volumetric reduction pursuant to R.4.ii.a above shall occur within the same HUC-14 as the major development, except where the applicant is a public transportation entity that demonstrates providing volumetric reduction within the same HUC-14 is technically reasons as set forth in N.J.A.C. 7:8-4.6 {Section XI, if the optional section is adopted}, in which case the applicant shall provide volumetric reduction within the same Watershed Management Area as the major development, and as close as practicable to the major development.

c. Any application for a major development that utilizes offsite impervious surface removal or retention to comply with the volumetric reduction standard must be accompanied by sufficient information and property owner permission to fully review and approve the offsite portion of the project along with the major development itself. Applications utilizing offsite impervious surface removal or retention without this information shall not be considered complete. Further, any offsite portions of the project must be construction prior to, or concurrent with, the major development.

iii. The volumetric reduction standards of this subsection shall not be applicable to projects that are undertaken by a public transportation entity in cases where the project meets the definition of major development solely because the project results in increased capacity of an existing stormwater conveyance system.

AMEND: SECTION 622-5 CALCULATION OF STORMWATER RUNOFF AND GROUNDWATER RECHARGE

SECTION (A)

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

1. The design engineer shall calculate runoff using the following method~~s~~:

The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986,

incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at: https://directives.sc.egov.usda.gov/directive/24

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 Section A(1)(a). 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.

SECTION (B)

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.

SECTION (C)

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

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

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

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

   NOTE: The municipality may instead wish to abbreviate this table along with the text in Item 2 above to reflect only the relevant information, depending on the location of the municipality. The current precipitation adjustment factors added to the ordinance shall be those found in N.J.A.C. 7:8-5.7(c) as Table 5-5.

Table 5: Current Precipitation Adjustment Factors

County	Current Precipitation Adjustment Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Atlantic	1.01	1.02	1.03
Bergen	1.01	1.03	1.06
Burlington	0.99	1.01	1.04
Camden	1.03	1.04	1.05
Cape May	1.03	1.03	1.04
Cumberland	1.03	1.03	1.01
Essex	1.01	1.03	1.06
Gloucester	1.05	1.06	1.06
Hudson	1.03	1.05	1.09
Hunterdon	1.02	1.05	1.13
Mercer	1.01	1.02	1.04
Middlesex	1.00	1.01	1.03
Monmouth	1.00	1.01	1.02
Morris	1.01	1.03	1.06
Ocean	1.00	1.01	1.03
Passaic	1.00	1.02	1.05
Salem	1.02	1.03	1.03
Somerset	1.00	1.03	1.09
Sussex	1.03	1.04	1.07
Union	1.01	1.03	1.06
Warren	1.02	1.07	1.15

SECTION (D)

D. Table 6: Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, 10-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, 10-, and 100-year storm events determined from the National Weather Service's Atlas 14 Point Precipitation Frequency Estimates pursuant to (c)1 above, by the change factor in the table below, in accordance with the county or counties where the drainage area(s) of the site is

located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

NOTE: The municipality may instead wish to abbreviate this table along with the text in Item D above to reflect only the relevant information, depending on the location of the municipality. The future precipitation change factors added to the ordinance shall be those found in N.J.A.C. 7:8-5.7(d) as Table 5-6.

Table 6: Future Precipitation Change Factors

County	Future Precipitation Change Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Atlantic	1.22	1.24	1.39
Bergen	1.20	1.23	1.37
Burlington	1.17	1.18	1.32
Camden	1.18	1.22	1.39
Cape May	1.21	1.24	1.32
Cumberland	1.20	1.21	1.39
Essex	1.19	1.22	1.33
Gloucester	1.19	1.23	1.41
Hudson	1.19	1.19	1.23
Hunterdon	1.19	1.23	1.42
Mercer	1.16	1.17	1.36
Middlesex	1.19	1.21	1.33
Monmouth	1.19	1.19	1.26
Morris	1.23	1.28	1.46
Ocean	1.18	1.19	1.24
Passaic	1.21	1.27	1.50
Salem	1.20	1.23	1.32
Somerset	1.19	1.24	1.48
Sussex	1.24	1.29	1.50
Union	1.20	1.23	1.35
Warren	1.20	1.25	1.37

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AMEND: SECTION 622-6 SOURCES FOR TECHNICAL GUIDANCE

SECTION (B)

B. Submissions required for review by the Department should be directed to the New Jersey Department of Environmental Protection's Division of Watershed Protection and Restoration through email to stormwatermanagementrules@dep.nj.gov.

AMEND: SECTION 622-7 SOLIDS AND FLOTABLE MATERIALS CONTROL STANDARDS

SECTION (A)

A. Site design features identified under Section IV.F, or alternative designs in accordance with Section IV.G, 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 subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see-.A.2 below.

AMEND: SECTION 622-8 SAFETY STANDARDS FOR STORMWATER BASINS

SECTION (C)

(C)(2)(b) The overflow grate spacing shall be no greater than two inches across the smallest dimension

(C)(3) Stormwater Management BMP's shall include escape provisions as follows:

(a) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to Section VIII.C, a free-standing outlet structure may be exempted from this requirement;

(b) Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step

shall be located one to one and one-half feet above the permanent water surface. See Section VIII.E for an illustration of safety ledges in a stormwater management BMP; and

AMEND: SECTION 622-9 REQUIREMENTS FOR A SITE DEVELOPMENT STORMWATER PLAN

SECTION (C)(6) Calculations

(C)(6)(b) A soil report complying with the requirements in Chapter 12 of the BMP Manual shall be submitted to determine the suitability and distribution of soils present at the location of the site.

AMEND: SECTION 622-10 MAINTENANCE AND REPAIR

SECTION (B)

(5) If the party responsible for maintenance identified under B.3 above is not a public agency, the maintenance plan and any future revisions based on 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.

(7) The party responsible for maintenance identified under B.3 above shall perform all of the following requirements:

(7)(c) Retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by B.6 and B.7 above.

(8) The requirements of Section X.B.3 and B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.

Note: It may be appropriate to delete requirements in the maintenance and repair plan that are not applicable if the ordinance requires the facility to be dedicated to the municipality. If the municipality does not want to take this responsibility, the ordinance should require the posting of a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53. Maintenance and inspection guidance can be found on the Department's website at: https://dep.nj.gov/stormwater/maintenance-guidance/.

SECTION (C)

(C) Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53

ADD SECTION 622-11-VARIANCE FROM THE DESIGN AND PERFORMANCE STANDARDS FOR STORMWATER MANAGEMENT MEASURES

A. A variance from the design and performance standards for stormwater management measures set forth in this ordinance and the municipal stormwater management plan, provided the municipal stormwater management plan includes a mitigation plan or a mitigation plan in accordance with the conditions in this Section:

1. The applicant demonstrates that it is technically impracticable to meet any one or more of the design and performance standards on-site. For the purposes of this analysis, technical impracticability exists only when the design and performance standard cannot be met for engineering, environmental, or safety reasons. The approval of a variance shall apply to an individual drainage area and design and performance standard and shall not apply to an entire site or project, unless an applicant provides the required analysis for each drainage area within the site and each design and performance standard;
2. The applicant demonstrates that the proposed design achieves the maximum possible compliance with the design and performance standards on-site; and
3. A mitigation project in accordance with the following is implemented.
   i. The mitigation project may be selected from the municipal mitigation plan or may be proposed by the applicant, provided it meets the criteria in the municipal mitigation plan.
   ii. The mitigation project shall be approved no later than preliminary or final site plan approval of the major development.
   iii. The mitigation project shall be located in the same HUC 14 as the area of the major development subject to the variance.
   iv. The mitigation project shall be constructed prior to, or concurrently with, the major development.
   v. The mitigation project shall comply with the green infrastructure standards at Section IV.O.
   vi. If the variance that resulted in the mitigation project being required is from the green infrastructure standards at Section IV.O, then the mitigation project must use green infrastructure BMPs in Table 1, and/or an alternative stormwater management measure approved in accordance with Section IV.G that meets the definition of green infrastructure to manage an equivalent or greater area of impervious surface and an equivalent or greater area of motor vehicle surface as the area of the major development subject to the variance. Grass swales and vegetative filter strips may only be used in the mitigation project if the proposed project additionally includes a green infrastructure BMP other than a grass swale or vegetative filter strip. The green infrastructure used in the mitigation project must be sized to manage the water quality design storm, as defined at Section IV.Q, at a minimum,

and is subject to the applicable contributory drainage area limitation specified at Section IV.G or Section IV.O, as applicable.

vii. A variance from the groundwater recharge standards at Section IV.P may be granted if one of the following is met:
   (1) The average annual groundwater recharge provided by the mitigation project must equal or exceed the average annual groundwater recharge deficit resulting from granting the variance for the major development; or
   (2) Runoff infiltrated during the two-year storm from the mitigation project must equal or exceed the deficit resulting from granting the variance from the required infiltration of the increase in runoff volume from pre-construction to post-construction from the major development.

viii. A variance from the stormwater runoff quality standards at Section IV.Q may be granted if the following are met:
   (1) The total drainage area of motor vehicle surface managed by the mitigation project(s) must equal or exceed the drainage area of the area of the major development subject to the variance and must provide sufficient TSS removal to equal or exceed the deficit resulting from granting the variance for the major development; and
   (2) The mitigation project must remove nutrients to the maximum extent feasible in accordance with Section IV.Q.

ix. A variance from the stormwater runoff quantity standards at Section IV.Q may be granted if the following are met:
   (1) The applicant demonstrates, through hydrologic and hydraulic analysis, including the effects of the mitigation project, that the variance will not result in increased flooding damage below each point of discharge of the major development;
   (2) The mitigation project discharges to the same watercourse and is located upstream of the major development subject to the variance; and
   (3) The mitigation project provides peak flow rate attenuation in accordance with Section IV.Q for an equivalent or greater area than the area of the major development subject to the variance. For the purposes of this demonstration, equivalent includes both size of the area and percentage of impervious surface and/or motor vehicle surface.

x. The applicant or the entity assuming maintenance responsibility for the associated major development shall be responsible for preventive and corrective maintenance (including replacement) of the mitigation project and shall be identified as such in the maintenance plan established in accordance with Section X. This responsibility is not transferable to any entity other than a public agency, in which case, a written agreement with that public agency must be submitted to the review agency.

B. Any approved variance shall be submitted by the municipality to the county review agency and the New Jersey Department of Environmental Protection, by way of a written report describing the variance, as well as the required mitigation, within 30 days of the approval.

AMEND SECTION 622-12: VIOLATIONS AND PENALTIES.

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Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the following penalties: a minimum penalty of $250 and maximum penalty of $5,000 or imprisonment not to exceed 90 days, or both. Each and every day that such violation continues shall be considered a separate and specific violation of this ordinance.

AMEND SECTION 622-13: SEVERABILITY.

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

SECTION 622-14: EFFECTIVE DATE.

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

SECTION 622-15: ENFORCEMENT.

The provisions of this ordinance shall be enforced by an authorized representative of the Department of Public Works and/or the Municipal Engineer.

BE IT FURTHER ENACTED that all other terms and conditions in Chapter 622 shall remain as heretofore set forth in the Code of the Township of Nutley, except where such a reading would not give meaning to and further the application of this amendment. In such case and in such event, the terms and conditions shall have a meaning consistent with the intent of this amendment; and

BE IT FURTHER ENACTED that the within ordinance shall become effective November 10, 2026 pursuant to law.