

**TOWNSHIP OF HAMILTON  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE**

No. **24-025**

1ST READING MAY 21, 2024  
2ND READING & PUBLIC HEARING June 18, 2024  
WITHDRAWN \_\_\_\_\_ LOST \_\_\_\_\_

DATE TO MAYOR JUNE 19, 2024  
DATE RESUBMITTED TO COUNCIL \_\_\_\_\_  
DATE EFFECTIVE \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

FACTUAL CONTENTS CERTIFIED TO BY

\_\_\_\_\_  
TOWNSHIP ATTORNEY

\_\_\_\_\_  
TITLE

**ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON, NEW JERSEY, PART III, LAND USE LEGISLATION, CHAPTER 577, STORMWATER CONTROL, AND REPEALING THE PREVIOUS CHAPTER 577 IN ITS ENTIRETY**

*Be It Ordained* by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the *Code of the Township of Hamilton, New Jersey, Part III, Land Use Legislation, Chapter 577, Stormwater Control*, as amended and supplemented, be further amended and supplemented to include the following:

Section 1. Chapter 577, *Stormwater Control*, be and hereby is deleted in its entirety and replaced with the following:

**Chapter 577**

**STORMWATER CONTROL**

**§ 577-1 Scope and purpose.**

- A.** Policy statement. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure best management practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs 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 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 green infrastructure, water quality, quantity, and groundwater recharge.
- B.** Purpose. The purpose of this ordinance is to establish minimum stormwater management requirements and controls for "major development," as defined below in Section 577-2.
- C.** Applicability.
- (1) This ordinance shall be applicable to the following major developments:
- (a) Nonresidential major developments and redevelopment projects; and
- (b) Aspects of residential major developments and redevelopment projects that are not preempted by the Residential Site Improvement Standards at N.J.S.C. 5:21 et. seq. as maybe amended.
- (2) This ordinance shall be applicable to all major developments undertaken by the

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Township of Hamilton.

(3) Applicability of this ordinance to major developments shall comply with N.J.A.C. 7:8-1.6 as maybe amended, incorporated herein by reference.

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.

**§ 577-2 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 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 as maybe amended.

**§ 577-3 Design and performance standards for stormwater management measures.**

This section establishes design and performance standards for stormwater management measures for major development intended to minimize the adverse impact of stormwater runoff on water quality, water quantity and loss of groundwater recharge in receiving water bodies. Design and performance standards for stormwater management measures shall comply with N.J.A.C. 7:8-5 as maybe amended, incorporated herein by reference.

**§ 577-4 Solids and floatable materials control standards.**

A. Site design features identified under § 577-3 above, or alternative designs in accordance with § 577-3 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 settle able solids. For exemptions to this standard see § 577-4 below.

(1) Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(a) The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or

(b) A different grate, if each individual clear space in that grate has an area of

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no more than seven (7.0) square inches, or is no greater than 0.5 inch across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

(c) For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

(2) The standard in Subsection A(1), above does not apply:

(a) Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches.

(b) Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets.

(c) Where flows from the water quality design storm as specified in the Stormwater Management Rules found in N.J.A.C. 7:8 et. seq., as maybe amended, are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

1. A rectangular space four and five-eighths (4.625) inches long and one and one half (1.5) inches wide (this option does not apply for outfall netting facilities); or

2. A bar screen having a bar spacing of a half (0.5) inch.

3. 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, as maybe amended.

(d) Where flows are conveyed through a trash rack that has parallel bars with one (1.0) inch spacing between the bars, to the elevation of the water quality design storm as specified in N.J.A.C. 7:8 as maybe amended; or

(e) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c) as maybe amended, 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.

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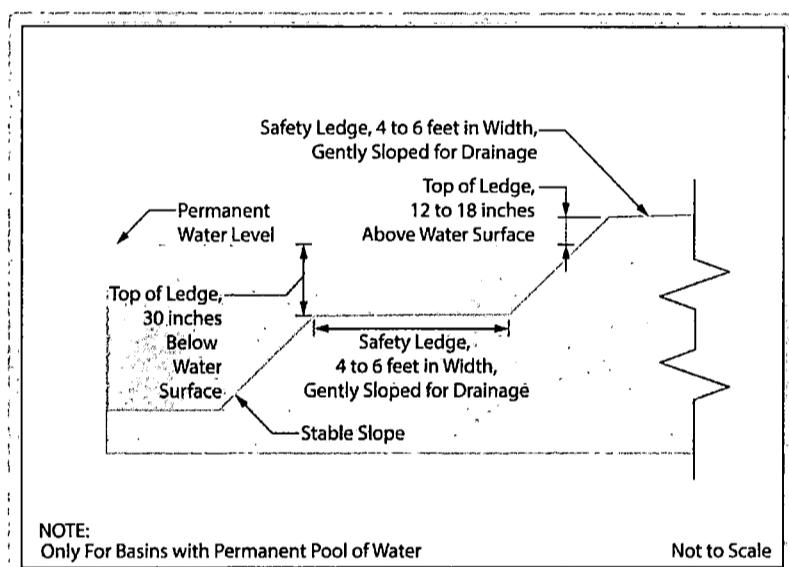
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**§ 577-5 Safety standards for stormwater management basins.**

- A.** This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin. Safety standards for stormwater management measures shall comply with N.J.A.C. 7:8-6 as maybe amended, incorporated herein by reference.
- B.** Safety ledge illustration

**Elevation View-Basin Safety Ledge Configuration**



**§ 577-6 Requirements for 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 § 577-6C below as part of the submission of the applicant's application for approval.
  - (2)** The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
  - (3)** The applicant shall submit five copies of the materials listed in the checklist for site development stormwater plans in accordance with § 577-6C of this chapter.
- 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 Township 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 two hundred (200)

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feet beyond the limits of the proposed development, at a scale of one inch equals two hundred (200) feet or greater, showing two-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 floodplains 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 man-made 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 plan(s). A map (or maps) at the scale of the topographical base map, indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of 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 §§ 577-3 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- (5) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
  - (a) Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
  - (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- (6) Calculations.
  - (a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in § 577-3 of this ordinance.
  - (b) When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high-water table, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number

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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 § 577-7.
- (8) Waiver from submission requirements. The municipal official or board reviewing an application under this chapter may, in consultation with the municipal review engineer, waive submission of any of the requirements in § 577-6C(1) through (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.

**§ 577-7 Maintenance and repair.**

A. Applicability. Projects subject to review as provided in § 577-1C of this chapter shall comply with the requirements of § 577-7B and C.

B. General maintenance.

- (1) Maintenance for stormwater management measures shall comply with N.J.A.C. 7:8-5.8, as maybe amended, incorporated herein by reference.
- (2) The following requirements of N.J.A.C. 7:8-5.8 as maybe amended, 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:
- (a) 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.
- (b) 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.

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 (2) year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 as maybe amended. Maintenance and inspection guidance can be found on the Department's website at:

[https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).

- (3) As per the requirements of NJDEP MS4 Permit Section F-4(a) Inspection and Maintenance of Stormwater Facilities Not Owned or Operated by the Permittee.

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On an annual basis prior to June 30 of each year, submit to the Municipal Engineering Division a maintenance and inspection report and certification on a form approved by the Department with all required maintenance logs.

- (4) The requirements of § 577-7B(2)a and b 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.
- (5) 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.
- (6) The person responsible for maintenance identified under § 577-11B(2) above shall submit an annual inspection report prepared by a professional engineer licensed in New Jersey or a New Jersey certified stormwater inspector to the Township of Hamilton Department of Community and Economic Development, Division of Engineering, by June 30 of each year. The inspection report and log shall include and not be limited to:
- (a) Detention basin outflow structures, escape provisions as outlined in N.J.A.C. 7:8-6.2 and all components;
- (b) Vegetation;
- (c) Trash racks and overflow grates;
- (d) Embankment erosion; and
- (e) Sediment removal and pond maintenance.
- (7) The owner of the stormwater management measure shall complete minor repairs of facility within fourteen (14) days from notice of maintenance issues.
- (8) Each act or violation, and every day upon which any violation shall occur or continues to occur, shall constitute a separate offense.
- (9) Failure to provide annual inspection report as stated in this section shall be subjected to a fine of not more than \$2,000 or 90 days in jail, or both, plus the cost of prosecution.
- (10) Notwithstanding the penalties set forth in § 577-12, any person who has not complied with this section and who, after notice, refuses to implement and maintain soil erosion control and stormwater runoff control measures and facilities in conformance with these regulations shall be subject to a fine of not more than \$2,000 or 90 days in jail, or both, plus the cost of prosecution.
- (11) The requirements of § 577-11B(3) and (4) do not apply to stormwater

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management facilities that are dedicated to and accepted by the municipality or another governmental agency. In all other cases where the Township does not take responsibility for repair and maintenance of any stormwater management resources, the applicant shall post a two (2) year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 as maybe amended.

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, as maybe amended.

**§ 577-12 Violations and penalties.**

Any person who erects, constructs, alters, repairs, converts, maintains or uses any building, structure or land in violation of this chapter shall be subject to penalties prescribed by the Township with consideration to this chapter, including any penalties contained in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; the Stormwater Management Rules, N.J.A.C. 7:8-1.1 et seq.; and/or Chapter 1, General Provisions, § 1-2, Violations; penalties, of the Code of the Township of Hamilton.

**§ 577-13 Severability.**

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

**§ 577-14 Effective date.**

This chapter shall take effect immediately upon approval by the Mercer County Review Agency or 60 days from the receipt of this chapter by the Mercer County Review Agency, if that agency should fail to act.

Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
MUNICIPAL CLERK

RECORD OF VOTE													
First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
PASQUALE "PAT" PAPERIO, JR.	✓						PASQUALE "PAT" PAPERIO, JR.						
NANCY PHILLIPS	✓				✓		NANCY PHILLIPS						
CHARLES F. WHALEN				✓			CHARLES F. WHALEN						
RICHARD L. TIGHE, JR.	✓					✓	RICHARD L. TIGHE, JR.						
ANTHONY P. CARABELLI, JR.	✓						ANTHONY P. CARABELLI, JR.						

X - Indicates Vote    A.B. - Absent    N.V. - Not Voting    RES. - Moved    SEC. - Seconded

REJECTED \_\_\_\_\_

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