

ORDINANCE #07-21

AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE #06-21 (ADOPTED ON FEBRUARY 17, 2021), WHICH ESTABLISHES NEW REQUIREMENTS RELATING TO STORMWATER CONTROL WITHIN THE BOROUGH OF JAMESBURG, AND AMENDS AND SUPPLEMENTS CHAPTER 25, ENTITLED "STORMWATER CONTROL" OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF JAMESBURG" ACCORDINGLY.

WHEREAS, on March 2, 2020, the State of New Jersey adopted amendments (the "amendments") to the State Stormwater Management Rules at N.J.A.C. 7:8; and

WHEREAS, each municipality in New Jersey is required to adopt a revised Stormwater Control Ordinance (also referenced as the "SCO") which reflects the amendments by March 2, 2021; and

WHEREAS, the New Jersey Department of Environmental Protection (the "NJDEP") has prepared a model SCO (the "model ordinance") to assist municipalities in revising their stormwater control ordinances to reflect the amendments adopted by the State; and

WHEREAS, on February 17, 2021, the Borough of Jamesburg (also referenced as the "Borough") adopted on final reading Ordinance #06-21, entitled "An Ordinance Establishing New Requirements Relating to Stormwater Control within the Borough of Jamesburg, and Amending and Supplementing Chapter 25, Entitled 'Stormwater Control' of the 'Revised General Ordinances of the Borough of Jamesburg' Accordingly" (the "Ordinance"); and

WHEREAS, the Ordinance is consistent with the amendments and the model ordinance, with limited revisions specific to the Borough; and

WHEREAS, following adoption of the Ordinance, the Borough sent a copy thereof to the Middlesex County Office of Planning (the "Office of Planning") for its review and approval, as required; and

WHEREAS, by letter dated March 9, 2021 (the "County letter"), the Office of Planning advised the Borough that the Ordinance had received Conditional Approval pursuant to N.J.A.C. 7:8-4.4(c), but that certain limited amendment(s) were required to be adopted by the Borough (as specifically identified in the County letter) in order to ensure that the Ordinance conforms to the requirements of the NJDEP Stormwater Management Rules; and

WHEREAS, the Borough wishes to revise the Ordinance in accordance with the requirements of the County letter; and

WHEREAS, the amendment(s) required to be undertaken to the Ordinance are set forth below.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Jamesburg, County of Middlesex, State of New Jersey, that Ordinance #06-21, as adopted on February 17, 2021, is hereby amended and supplemented in the limited respect(s) set forth below (additions are shown with underline; deletions are shown with ~~strikeout~~):

25-10. MAINTENANCE AND REPAIR.

a. Applicability.

Projects subject to review as in Section 25-1.3 of this ordinance shall comply with the requirements of Section 25-10(b) and (c) below.

b. General Maintenance.

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.
3. If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
4. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
5. If the party responsible for maintenance identified under Section 25-10(b)(3) above is not a public agency, the maintenance plan and any future revisions based on Section 25-10(b)(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
6. Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.

7. The party responsible for maintenance identified under Section 25-10(b)(3) above shall perform all of the following requirements:
 - (a) maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
 - (b) evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; ~~and~~
 - (c) retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 25-10(b)(6) and (b)(7); ~~and~~
 - (d) post a two year maintenance guarantee in accordance with N.J.S.A. 40:55D-53.
 8. The requirements of Sections 25-10(b)(3) and (b)(4) above do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
 9. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- c. Nothing in this subsection shall preclude the 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.

BE IT FUTHER ORDAINED, that if any section, subsection or part of this Ordinance is adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not impair or invalidate the remainder of this Ordinance.

BE IT FUTHER ORDAINED, that the remaining portions of Ordinance #06-21 shall remain in full force and effect except as modified above.

BE IT FUTHER ORDAINED, that this Ordinance shall take effect upon final adoption and publication as provided by law.

RECORD OF VOTE

FIRST READING DATE: April 21, 2021

DATE PUBLISHED: April 30, 2021

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas	X		X			
Council Member Rampacek			X			
Council Member Rutsky			X			
Council Member Shaughnessy		X	X			
Council President Sussman						X
Mayor Lowande						

DATE PUBLIC HEARING HELD: May 19, 2021

DATE SECOND READING HELD: May 19, 2021

COUNCIL MEMBER	MOTION TO OPEN	2nd	VOTE	MOTION TO CLOSE	2nd	VOTE	MOTION TO ADOPT	2nd	VOTE
Council Member Czarneski			Y			Y			Y
Council Member Ludas	Y		Y		Y	Y	Y		Y
Council Member Rampacek			Y	Y		Y			Y
Council Member Rutsky			Y			Y			Y
Council Member Shaughnessy		Y	Y			Y		Y	Y
Council President Sussman			Y			Y			Y
Mayor Lowande									

Y = YES N = OPPOSED A = ABSTAINED AB = ABSENT

APPROVED:

ATTEST:

Marlene Lowande, Mayor

Susan Boulogne, Municipal Clerk