

ORDINANCE NO. 2022-15

AN ORDINANCE REPLACING ARTICLE IX, PART 3, LAND USE LEGISLATION/DESIGN AND PERFORMANCE STANDARDS OF THE "REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MANSFIELD, AS AMENDED, AND ENTITLED "STORM WATER MANAGEMENT AND FLOODING"

BE IT ORDAINED by the Township Committee of the Township of Mansfield in the County of Warren, State of New Jersey, as follows:

Section 1. THE TOWNSHIP OF MANSFIELD LAND USE LEGISLATION of the "Revised General Ordinances of the Township of Mansfield, as amended" is hereby further amended by the replacement of **Part 3, Article IX** as follows:

A. All the provisions of this ordinance are hereby adopted in their entirety as a replacement to Part 3, Article IX of the Land Use Legislation, Revised General Ordinances of the Township of Mansfield, entitled **STORM WATER MANAGEMENT AND FLOODING**.

B. After final adoption, the attached Ordinance shall be codified to replace Part 3, Article IX of the Land Use Legislation, Revised General Ordinances of the Township of Mansfield, as amended.

Section 2. Part 3, Article IX of the Land Use Legislation, Revised General Ordinances of the Township of Mansfield, as amended, is hereby replaced in its entirety with the following:

§ 361-63 **SCOPE AND PURPOSE.**

a. Policy Statement. The United States Environmental Protection Agency (EPA) mandated that all states enact regulations to address the negative impacts of stormwater runoff on the nation's streams and water resources. The State of New Jersey adopted new regulations at the direction of the EPA. Under these state regulations, all municipalities in the state must implement these stormwater regulations through local ordinance(s) by March 2021. This chapter is intended to implement these regulations.

The purpose of these regulations is to control stormwater from "major development" "Major development" is defined in this ordinance. Note: "major development" for purposes of this chapter is not identical to the definitions in the Municipal Land Use Law or local zoning ordinances.

Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated

quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

b. Purpose. The purpose of this chapter is to establish minimum stormwater management requirements and controls for major development and to reduce the amount of non-point source pollution entering surface and groundwaters. This chapter guides new development in a manner that is proactive and minimizes harmful impacts to natural resources.

Specifically, this chapter shall:

1. Reduce flood damage to protect public health, life and property;
2. Minimize increased stormwater runoff rates and volumes;
3. Minimize the deterioration of existing structures that would result from increased rates of stormwater runoff;
4. Induce water recharge into the ground wherever suitable infiltration, soil permeability, and favorable geological conditions exist;
5. Prevent an increase in non-point source pollution;
6. Maintain the integrity and stability of stream channels and buffers for their ecological functions, as well as for drainage, the conveyance of floodwater, and other purposes;
7. Control and minimize soil erosion and the transport of sediment;
8. Minimize public safety hazards at any stormwater detention facility constructed pursuant to subdivision or site plan approval;
9. Maintain adequate base-flow and natural flow regimes in all streams and other surface water bodies to protect the aquatic ecosystem;
10. Protect all surface water resources from degradation;
11. Protect groundwater resources from degradation and diminution; and
12. Ensure that any additional 1/4 acre of impervious surface complies with this chapter, as required by Mansfield Township's Tier A NJPDES permit.

c. Applicability.

1. This chapter shall be applicable to all development that meets the definition of major development as defined below.
2. This chapter shall also be applicable to all major developments undertaken by Mansfield Township or any development that does not require subdivision or site plan approval.

d. Compatibility with Other Permit and Ordinance Requirements. Development approvals issued for subdivisions and site plans pursuant to this chapter are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

This chapter shall be construed to assure consistency with the requirements of New Jersey laws and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future municipal NJPDES permits and any amendments or revisions thereto or reissuance thereof. This chapter is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 361-64 DEFINITIONS.

All terms in this section shall be defined in the NJDEP Stormwater Rule (N.J.A.C. 7:8, et seq.). The following additional terms are defined for this chapter only.

MAJOR DEVELOPMENT – Shall mean any 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
4. A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of conditions 1, 2, 3, or 4 above. Projects undertaken by any government agency that otherwise meet the definition of “major development” but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered “major development”.

§ 361-65 GENERAL STANDARDS.

a. Design and Performance Standards for Stormwater Management Measures.

1. Stormwater management measures for major development shall be developed to meet the:

- (a) Erosion control standards;
- (b) Groundwater recharge standards;
- (c) Stormwater runoff quantity standards; and
- (d) Stormwater runoff quality standards.

2. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater

recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

§ 361-66 STORMWATER MANAGEMENT DESIGN STANDARDS.

- a. Major Developments. All major developments shall have their stormwater management designed in accordance with the Residential Site Improvement Standards (RSIS, N.J.A.C. 5:21) and the NJDEP Stormwater Rule (N.J.A.C. 7:8), subchapters 5 and 6. These standards shall apply to all projects, residential and nonresidential as well as projects by the Township, Board of Education and other agencies subject to review by the Township.
- b. Variances and Waivers. Variances or waivers from the design and performance standards for stormwater management measures.
 1. A municipality may grant a variance from the major development design and performance standards for stormwater management measures set forth in its approved municipal stormwater management plan and stormwater control ordinance(s), provided the municipal plan includes a mitigation plan in accordance with N.J.A.C. 7:8-4.2(c)11 and the following conditions are met:
 - a. 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. A municipality's 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;
 - b. The applicant demonstrates that the proposed design achieves the maximum possible compliance with the design and performance standards on-site; and
 - c. 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 N.J.A.C. 7:8-5.3.
- vi. If the variance that resulted in the mitigation project being required is from the green infrastructure standards at N.J.A.C. 7:8-5.3, then the mitigation project must use green infrastructure BMPs in Table 5-1, and/or an alternative stormwater management measure approved in accordance with N.J.A.C. 7:8-5.2(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 N.J.A.C. 7:8-5.5(d), at a minimum, and is subject to the applicable contributory drainage area limitation specified at N.J.A.C. 7:8-5.2(g) or 5.3(b), as applicable.
- vii. A variance from the groundwater recharge standards at N.J.A.C. 7:8-5.4 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 N.J.A.C. 7:8-5.5 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 N.J.A.C. 7:8-5.5(f).
- ix. A variance from the stormwater runoff quantity standards at N.J.A.C. 7:8-5.6 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 N.J.A.C. 7:8-5.6(b)3 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 N.J.A.C. 7:8-5.8. 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.

2. Reviewing Agency. All applications subject to the review of the Land Use Board shall be reviewed by the Board concurrently with subdivision or site plan review. Applications not subject to Planning review shall be reviewed by the Borough Engineer.
3. Appeals. The appeal of the determination of the Borough Engineer shall be made in accordance with N.J.S.A. 40:55D-70a.
4. Any approved variance shall be submitted by the municipal review agency to the county review agency and the Department, by way of a written report describing the variance, as well as the required mitigation, within 30 days of the approval.

§ 361-67 SOURCES FOR TECHNICAL GUIDANCE.

a. Technical guidance for stormwater management measures can be found in the documents listed at (a)1 and 2 below, which are available at http://www.nj.gov/dep/stormwater/bmp_manual2.htm.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Table 5-1, Table 5-2, and Table 5-3.

2. Additional maintenance guidance is available on the Department's website at http://www.nj.gov/dep/stormwater/maintenance_guidance.htm.

b. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of

the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625; (609) 292-5540;

§ 361-68 MAINTENANCE AND REPAIR.

a. Applicability.

1. Projects subject to review as in Section **361-63c** of this chapter shall comply with the requirements of Sections **361-68b** and **361-68c**.

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 subject to review and approval of the Stormwater Coordinator. This plan shall be separate from all other documents and designed for ongoing use by the site owners or operators in performing and documenting maintenance and repair, and by the municipality in ensuring implementation of the maintenance plan. The final maintenance plan shall be updated and provided to the municipality post-construction to include an evaluation based on the specifications of the initial maintenance plan and as-built conditions.
2. The maintenance plan shall contain specific preventive maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal and disposal; safety needs; identification of methods and disposal sites for materials removed during maintenance; maintenance requirements for created wetlands and other ecological systems; safety devices and systems; warranty and operational standards from the manufacturers of any manufactured treatment devices and the name, address, and telephone number of the person or persons responsible for preventive and corrective maintenance (including replacement), using maintenance guidelines for stormwater management measures from, the Municipal Stormwater Management Plan, Municipal Stormwater Pollution Prevention Plan and any relevant regional stormwater management plan. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for continuing maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
3. 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.
4. If the person responsible for maintenance identified under Section **361-68b**, 2 above is not a public agency, the maintenance plan and any future revisions based on Section **361-68b**,

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.

5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including 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 nonvegetated linings.
 6. The person responsible for maintenance identified under Section **361-68b, 2** above shall 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.
 7. The person responsible for maintenance identified under Section **361-68b, 2** above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed. Such person shall report his findings to the Municipal Clerk annually, by February 1st of the following year.
 8. The person responsible for maintenance identified under Section **361-68b, 2** above shall 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 **361-68b,6** and **361-68b,7** above.
 9. The requirements of Sections **361-68b,3** and **361-68b,4** do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency. In the event that any stormwater control structure is not dedicated to the Township, the developer shall post a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53, and provide any other maintenance measures as required by the Township, to ensure proper maintenance and functioning of the system. Guidelines are available from NJDEP, see Section **361-67**.
 10. 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, or if the annual report is not received by February 1st of the following year, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 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.
- 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, or a sinking fund, in accordance with N.J.S.A. 40:55D-53.

d. The maintenance plan shall specifically provide a specific municipal right of access for inspection of measures, and for maintenance if required under Section 361-68b,10.

Section 2. 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 the penalties provided for in Section 3-11 of the Township of Mansfield Revised General Ordinances.

Section 3. EFFECTIVE DATE. This chapter shall take effect immediately upon final passage and publication pursuant to law.

Section 4. SEVERABILITY. If the provisions of any section, subsection, paragraph, subdivision, or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this chapter.

Section 5. Following its introduction on first reading, the Clerk will refer a copy of this ordinance to the Mansfield Township Land Use Board for review, as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*

CERTIFICATION

I certify that the foregoing is a true copy of an Ordinance duly adopted by the Township Committee held on this date.



Monica Orlando, Acting Township Clerk

Adopted, First Reading: July 27, 2022

Publication Date: August 3, 2022

Adopted, Second Reading: August 10, 2022

Publication Date: