

ORDINANCE NO. 24-03

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
AMENDING CHAPTER 170, LAND USE DESIGN AND PERFORMANCE STANDARDS,
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

WHEREAS, Chapter 170-36 of the Code of the Borough of Rockaway entitled Stormwater Control was adopted in 2021; and

WHEREAS, the New Jersey Department of Environmental Protection has recommended changes which will go into effect in July 2024; and

WHEREAS, the Borough Engineer has recommended substantial changes to the Ordinance so as to be compliant with the New Jersey Department of Environmental Protection.

IT IS HEREBY ORDAINED by the Mayor and Council of the Borough of Rockaway, Morris County, State of New Jersey, as follows:

SECTION I

Chapter 170, Land Use Design and Performance Standards, Article IV Environmental Site Data and Information, Section 170-36, Stormwater Control is hereby repealed in its entirety and replaced with the following:

Section I. 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 II.

C. Applicability

1. This ordinance shall be applicable to the following major developments:
 - i. Non-residential major developments and redevelopment projects; and
 - ii. Aspects of residential major developments and redevelopment projects that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21 et seq.
2. This ordinance shall also be applicable to all major developments undertaken by the Borough of Rockaway.
3. Applicability of this ordinance to major developments shall comply with last amended N.J.A.C. 7:8-1.6, 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.

Section II. 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 used in this ordinance shall be the same as the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2, incorporated herein by reference.

Section III. 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 and water quantity and loss of groundwater recharge in receiving water bodies. Design and performance standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.

Section IV. Solids and Floatable Materials Control Standards:

A. Site design features identified under Section III above, or alternative designs in accordance with Section III above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section IV.A.2 below.

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

- iii. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb

opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

2. The standard in IV.A.1. above does not apply:
 - i. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
 - ii. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
 - iii. Where flows from the water quality design storm as specified in the last amended Stormwater Management rules at N.J.A.C. 7:8 et seq. are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - b. A bar screen having a bar spacing of 0.5 inches.

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

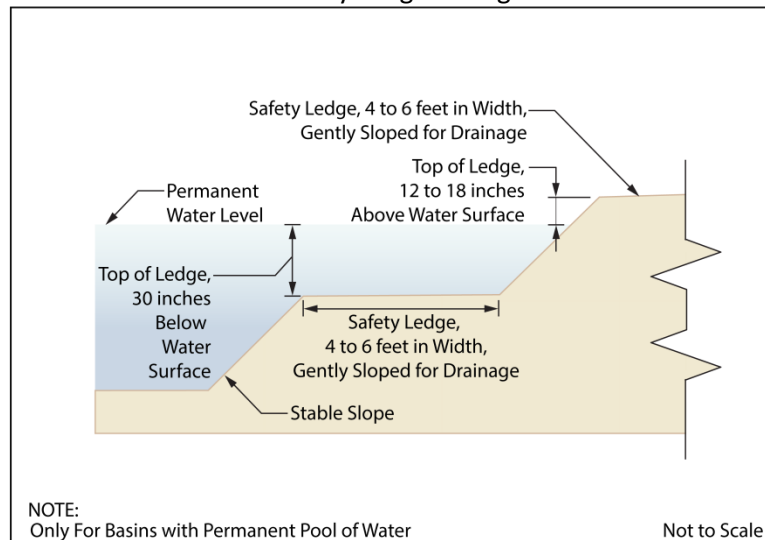
- iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- v. Where the New Jersey Department of Environmental Protection determines, pursuant to the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

Section V. 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 last amended N.J.A.C. 7:8-6, incorporated herein by reference.

B. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



Section VI. Requirements for a Site Development Stormwater Plan:

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section VI.C below as part of the submission of the application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit six (6) hard copies, as well as one digital copy, of the materials listed in the checklist for site development stormwater plans in accordance with Section VI.C of this ordinance.

B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Submission of Site Development Stormwater Plan

The following information shall be required:

1. Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plans

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Section III is being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater

quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- i. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- ii. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- i. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section III of this ordinance.
- ii. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section VII.

8. Waiver from Submission Requirements

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

Section VII. Maintenance and Repair:

A. Applicability

Projects subject to review as in Section I.C of this ordinance shall comply with the requirements of Section VII.B and VII.C.

B. General Maintenance

1. Maintenance for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5.8, incorporated herein by reference.
2. Application and review fees. There shall be no additional fees for stormwater review for applications to the Land Use Board. Major development applications shall be accompanied by a review fee in the amount of \$1,000. If a project is approved, an inspection escrow deposit shall be made in an amount to be determined by the Borough Engineer.
 - i. 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
- ii. 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.
 - iii. If the party responsible for maintenance identified under Section VII.B.2.i above is not a public agency, the maintenance plan and any future revisions shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
 - iv. The posting of a two-year maintenance guarantee is required in accordance with N.J.S.A. 40:55D-53. The guarantee shall be posted with the Town. Maintenance and inspection guidance can be found on the NJDEP website at: https://www.njstormwater.org/maintenance_guidance.htm
3. 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.

Section VIII. Application and review fees.

There shall be no additional fees for stormwater review for applications to the Land Use Board. Major development applications shall be accompanied by a review fee in the amount of \$1,000. If a project is approved, an inspection escrow deposit shall be made in an amount to be determined by the Borough Engineer.

Section XI. Notice of Violation.

- A. Whenever an enforcement official determines that there is or has been a violation of any provision of this article, the enforcement official shall give notice of such violation to the person, persons or entities responsible thereof under this article. Such notice shall be in writing and shall include a concise statement of the reasons for its issuance.
- B. Service of the notice may be made by personal service on the owner, occupant or operator; or by certified mail, return receipt requested, to the last known address of the person or entity upon which the same is served, as shown on by the most recent tax lists of the municipality; or a copy thereof left at the usual place of abode or office of such person or entity. Notice may be served either within or without the municipality. The notice shall also state that unless the violation is abated, removed, cured, prevented or desisted from within 10 days of the date of service of such notice, exclusive of the date of service, a summons shall be issued for the stated violation.
- C. The enforcement official may, at the time of issuance of the notice or thereafter, extend the time for compliance if, in the judgment of the enforcement official, the abatement, removal, prevention, cessation or cure of the condition in violation cannot reasonably

be affected within the ten-day period, and in such cases, the enforcement official shall state such reasonably required extended period in the notice, which shall then be applicable instead of the aforesaid 10 days.

Section XII. Failure to comply; issuance of summons.

- A. In the event that the violation is not abated, removed, cured, prevented or desisted from or otherwise fully remedied within the ten-day period or extended period as set forth in the notice, a summons shall then be issued against the person, persons, entity or entities charged with a violation.
- B. In addition to the issuance of summons for an unabated violation, and where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, and upon the certification of the enforcement official and after the approval of the governing body, the enforcement official may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth, garbage, trash, debris in accordance with State law.

Section XIII. Violations and penalties.

- A. In addition to any civil and/or other penalties authorized by law, this article or the Borough Code and/or any costs associated with a lien or abatement, any person found to be in violation of any provision of this article shall, after issuance of a summons and upon conviction, for each such violation, be subject to a fine of not less than \$500 nor more than \$2,000. Each violation of any of the provisions of this article and each day that each such violation shall continue shall be deemed to be a separate and distinct offense.
- B. In addition to the foregoing and all other remedies available to the Borough, where the destruction or removal is performed by the municipality by or under the direction of the enforcement official, the enforcement official shall obtain and certify the proposed costs thereof to the Mayor and Borough Council, who shall examine the certificate, and if found to be correct and appropriate shall authorize and direct by way of resolution the costs as shown thereon to be charged against said dwelling or lands and the amounts so charged shall forthwith become a lien upon such a dwelling or lands and shall be added to and become part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes. A copy of the resolution authorizing and directing the removal and the costs and expenses to be charged shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection thereof, with a copy of the report and resolution sent by certified mail to the owner and/or occupant of the premises. If the amount of the lien is not paid, the Tax Collector may sell the unpaid municipal lien at the next tax sale. Notwithstanding anything to the contrary contained herein, nothing shall prevent the Borough from simultaneously proceeding to collect these costs and expenses, as well as to impose fines and penalties upon the owner and occupant by commencing and continuing a proceeding in the Municipal Court of the Borough against those responsible for noncompliance with this code.

Section XIV. Enforcement.

- A. The provisions of this article shall be enforceable by the Construction Official, Zoning Officer, Health Officer, Fire Official, Property Maintenance Officer, Borough Engineer, officer or other authorized officer or employee of the municipality authorized to enforce the provisions of the Borough Code, all of whom, unless otherwise specified by Ordinance or state law, shall be considered the "enforcement official" for purposes of this article.
- B. Violations of the provisions, standards and requirements set forth or referenced herein may be enforced in any lawful manner the municipality may deem appropriate, including but not limited to in accordance with the provisions of this article. Notwithstanding and in addition to any other violations, fines, penalties, remedies or

relief pursuant to this article, any violation of this article shall also be subject to enforcement under any other applicable provision of the Borough Code. In addition to the aforementioned, the Borough, if appropriate, may also institute proceedings for injunction, temporary or final restraints, mandamus, abatement or other appropriate civil, equitable or other remedies to prevent, enjoin, abate or remove any violations of this article. The imposition of a fine shall not exempt the violator from compliance with the provisions of this article.

Section XV. Effective Date:

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

SECTION II

1. This Ordinance may be renumbered for codification purposes.
2. Severability. The provisions of this ordinance are hereby declared to be severable. Should any section, paragraph, subparagraph, provision, sentence, or part hereof be declared invalid or unconstitutional, said finding shall not affect any other section, paragraph, subparagraph, provision, sentence, or part thereof.
3. Repealer. All ordinances or parts of ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
4. Prior Actions. All actions of the Borough of Rockaway taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.
5. Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

DATE: April 25, 2024

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor

CERTIFICATION

I, Kimberly Cuspilich, Borough Clerk of the Borough of Rockaway, in the County of Morris, do hereby certify that the foregoing is a true and correct copy of an ordinance fully adopted by the Mayor and Council at a meeting held on April 25, 2024.

Kimberly Cuspilich, RMC
Borough Clerk