



AGENDA
February 9, 2021
Council Conference Meeting
7:00 p.m.

APPOINTMENTS

1. Resolution to appoint Parag P. Patel as Municipal Judge for a three (3) year term ending January 31, 2024

PRESENTATIONS

BIDS

RESOLUTIONS

Finance Policy Committee

1. Resolution authorizing the Chief Financial Officer to prepare warrants for postage payment in connection with tax assessment notices to the property owners
2. Resolution authorizing the Chief Financial Officer to draw warrant for dog licenses for January 2021
3. Resolution authorizing the Chief Financial Officer to draw warrant for unused parking permit fee
4. Resolution authorizing the Chief Financial Officer to draw warrant to refund various street opening Cash Bond
5. Resolution authorizing the Chief Financial Officer to draw warrant to refund street opening Cash Bond
6. Resolution authorizing the Chief Financial Officer to draw a check for the balance of escrow monies
7. Resolution authorizing the Chief Financial Officer to refund Board of Adjustment Application Fee
8. Resolution to approve 2021 Westfield Memorial Pool membership rates
9. Resolution to approve 2021 sewer fees
10. Resolution supporting the exploration of feasibility for a shared municipal court

Public Safety, Transportation and Parking Committee

Code Review & Town Property Committee

1. Resolution to approve open air lot license
2. Resolution to reject bids to a third party power supplier to provide electric generation service to Westfield community energy aggregation program (WCEP) participants and to provide government aggregation services in connection with the WCEP

Public Works Committee

ORDINANCES

GENERAL ORDINANCE NO. 2206

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF WESTFIELD, CHAPTER 13

GENERAL ORDINANCE NO. 2207

AN ORDINANCE DESIGNATING 417 PROSPECT STREET, SHOWN ON THE TOWN TAX MAPS AS BLOCK 1004, LOT 10 AS HISTORIC LANDMARK AND MODIFYING THE ZONING MAP

GENERAL ORDINANCE NO. 2208

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWN OF WESTFIELD, NEW JERSEY, TO MODIFY THE MUNICIPAL STORMWATER CONTROL ORDINANCE IN THE TOWN OF WESTFIELD

GENERAL BUSINESS

COMMITTEE REPORTS

OPEN DISCUSSION BY CITIZENS (as needed)

EXECUTIVE SESSION



**TOWN OF WESTFIELD
TOWN COUNCIL
REGULAR MEETING**

**Tuesday, February 9, 2021
8:00 PM**

PROPOSED AGENDA

This agenda is prepared for the information of the public. It is the order of the meeting; however, if changes in order, deletions or additions are made, they will be noted at the time.

1. Roll Call
2. Invocation
3. Salute to the flag
4. Appointments

Resolution to appoint Parag P. Patel as Municipal Judge for a three (3) year term ending January 31, 2024

5. Presentations
6. Advertised Hearings

1. GENERAL ORDINANCE NO. 2204
AN ORDINANCE AMENDING THE HISTORIC PRESERVATION ORDINANCE FOR THE TOWN OF WESTFIELD TO PERMIT EXPEDITIOUS REVIEW OF MINOR WORK ON DESIGNATED PROPERTIES IN CERTAIN CIRCUMSTANCES
2. GENERAL ORDINANCE NO. 2205
AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF WESTFIELD CHAPTER 16, "PARKS AND RECREATION" BY CHANGING CERTAIN FEES IN THE MEMORIAL POOL AND BY ESTABLISHING CERTAIN NEW CATEGORIES

7. Approval of Minutes from Town Council Conference Meeting held January 26, 2021
Approval of Minutes from Town Council Regular Meeting held January 26, 2021
8. Petitions and Communications
9. Open discussion by citizens

10. Bills and Claims in the amount of \$359,348.55

11. Reports of Standing Committees

Finance Policy Committee

1. Resolution authorizing the Chief Financial Officer to prepare warrants for postage payment in connection with tax assessment notices to the property owners
2. Resolution authorizing the Chief Financial Officer to draw warrant for dog licenses for January 2021
3. Resolution authorizing the Chief Financial Officer to draw warrant for unused parking permit fee
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8. Resolution to approve 2021 Westfield Memorial Pool membership rates
9. Resolution to approve 2021 sewer fees
10. Resolution supporting the exploration of feasibility for a shared municipal court

Public Safety, Transportation and Parking Committee

1. GENERAL ORDINANCE NO. 2206
AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF WESTFIELD, CHAPTER 13

Code Review & Town Property Committee

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2. Resolution to reject bids to a third party power supplier to provide electric generation service to Westfield community energy aggregation program (WCEP) participants and to provide government aggregation services in connection with the WCEP
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Public Works Committee

12. Reports of Department Heads

Adjournment

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY

RESOLUTION NO. 2021

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS N.J.S.A. 2B:12-4 states that each judge of a municipal court shall serve for a term of three (3) years from the date of appointment and until a successor is appointed.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Town Council of the Town of Westfield appoints Parag P. Patel as Municipal Judge for a term of three (3) years commencing February 1, 2021 and ending January 31, 2024.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2204

**AN ORDINANCE AMENDING THE HISTORIC PRESERVATION ORDINANCE FOR
THE TOWN OF WESTFIELD TO PERMIT EXPEDITIOUS REVIEW OF MINOR
WORK ON DESIGNATED PROPERTIES IN CERTAIN CIRCUMSTANCES**

WHEREAS, the Mayor and Town Council of the Town of Westfield (the “Town”) recently adopted certain substantial amendments to the Historic Preservation ordinance of the Town of Westfield; and

WHEREAS, the general intent of the Town’s Historic Preservation ordinance is to protect the historic character of the Town of Westfield by permitting the preservation by local designation of certain properties that contribute to the architectural, cultural, economic, political, or social history of the Town; and

WHEREAS, the Mayor and Town Council believe that the requirements applicable to those owning historic structures when they desire to make changes and improvements to those structures, should not be onerous, but should rather allow for the review of those changes and improvements in the most efficient, clearest, uncomplicated, and inexpensive manner possible; and

WHEREAS, the Ordinance already allows for informal review by the Historic Preservation Commission to be performed on a historically designated structure; and

WHEREAS, the Mayor and Council desire to facilitate a faster and simpler review process for minor applications for locally designated properties, as permitted by the New Jersey Municipal Land Use Law;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Westfield, County of Union, New Jersey, that Appendix III to the Town of Westfield Local Land Use Law shall be and is hereby amended, as follows:

SECTION I. Section 7(J)(1) of the Historic Preservation Ordinance of the Town of Westfield is hereby amended to read as follows:

1. Minor Applications.
 - a. Minor applications may be scheduled for review at the next regularly scheduled meeting of the Commission following notification to the applicant that the application has been deemed complete. No public notice other than that required for the meeting of the Commission pursuant to § 4.E.1 and §

4.E.9, hereof, shall be required. The Commission Secretary shall consult with the applicant regarding scheduling. The applicant need not be present for the application to be considered and acted upon, however, should the applicant wish to attend the meeting, every effort shall be made, within the time limits prescribed for Commission action on the application (pursuant to N.J.S.A. 40:55D-111 and § 6.D and § 7.J, hereof) to accommodate the applicant's schedule.

- b. As an alternative to subsection (1)(a) above, pursuant to N.J.S.A. 40:55D-111 of the New Jersey Municipal Land Use law, in the case of a referral by the administrative officer of a minor application for the issuance of a permit pertaining to historic sites or property in historic districts, the chairperson of the Historic Preservation Commission or his or her designee may act in the place of the full Commission for purposes of issuing a certificate of appropriateness, without holding a public hearing. Such action by the Chairperson or his or her designee shall occur as soon as practicable after submission of an application by the property owner, but in no event later than 45 days after the application is deemed complete. In the event the Chairperson determines not to undertake such expedited review, the individual may still seek approval by presenting their case at a regularly scheduled full HPC meeting.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. A copy of this Ordinance shall be available for public inspection at the office of the Town Clerk during regular business hours for the required statutory period.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2205

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF WESTFIELD,
CHAPTER 16, "PARKS AND RECREATION" BY CHANGING CERTAIN FEES IN
THE MEMORIAL POOL AND BY ESTABLISHING CERTAIN NEW CATEGORIES.**

BE IT ORDAINED by the Town council of the Town of Westfield as follows:

That Section 16-12f "Swimming lesson fees" be amended to read as follows:

(f) Program fees:

- (1) Group swim lessons: for each child, not to exceed \$100 per child, per session.
- (2) Swim Team: for each child, not to exceed \$150 per child.
- (3) Aquatic programs: for each person, not to exceed \$200 per person, per program.
- (4) Private Swim Team Pool Rental: Not to exceed \$250 per hour, per pool, and shall include staffing reimbursements, as required.
- (5) Member Private Event Reservations: Not to exceed \$250 per hour, per reservation, and non-member guests paid separately upon entrance.

The exact fee to be charged provided by this section shall be determined from time to time by the Recreation Commission

SECTION III. All ordinances or parts of ordinances in conflict, or inconsistent, with any part of the terms of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

SECTION IV. In the event that any section, part or provision of this ordinance shall be held to be unconstitutional or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unconstitutional or invalid.

SECTION V. This ordinance shall take effect after passage and publication as soon as, and in the manner, permitted by law.

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION NO.

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, there is a need to communicate information to the public in the form of tax assessment notices to the property owners, and

WHEREAS, payment for the postage to the United States Postal Service is required prior to the mailing of the assessment notices;

NOW, THEREFORE, BE IT RESOLVED, that the Chief Financial Officer is hereby authorized to prepare warrants for postage payment in an amount not to exceed \$3,600.00 charged to the Tax Assessor's postage account.

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY

RESOLUTION NO.

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

RESOLVED that the Chief Financial Officer be authorized to draw a warrant in the amount of \$664.20 to the order of New Jersey Department of Health, P.O. Box 369, Trenton, New Jersey for Dog Licenses issued by the Town Clerk for the month of January 2021.

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY

RESOLUTION NO.

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2020

RESOLVED, that the Chief Financial Officer be and hereby is, authorized to draw warrant for unused parking permit fee as follows:

David Chan 956 Summit Avenue Westfield, NJ 07090	South Side RR Stn/Lot 3	#21030372	\$696.00
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TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION NO.

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, the following applicants have placed the required cash bond of \$500.00 to cover the following Road Opening Permits, and

Date	Permit No.	Applicant	Address of Opening
10/01/19	19-237	Sandro Construction 1697 Bridge Street Rahway, NJ 07065	109 Hardwick Avenue
12/02/19	19-305	Lee Hornstein 23 Plymouth Road Westfield, NJ 07090	23 Plymouth Road
12/10/19	19-314	Accurate Sewer and Drain LLC 528 Downer Street Westfield, NJ 07090	114 Elmer Street
01/31/20	20-016	Jose A. Leal 419 Summit Avenue Westfield, NJ 07090	419 Summit Avenue

WHEREAS, the above applicants are entitled to have this amount be returned to them, and

WHEREAS the Town Engineer has inspected the roadway excavation and has found the excavation to have been properly repaired.

NOW THEREFORE BE IT RESOLVED that the Treasurer be authorized to draw a warrant in the name of the applicants noted above for \$500.00 and forward to the applicants address as listed.

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION NO.

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, Walter Kapuscinski placed the required cash bond of \$1500.00 and \$200.00 application fee to cover the Road Opening Permit #20-140 for 1101 Grandview Avenue, and

WHEREAS, Walter Kapuscinski no longer wants to pursue the project and has requested the full amount be returned, and

WHEREAS, the Town Engineer has inspected the roadway and has found the road to be intact.

NOW THEREFORE BE IT RESOLVED, that the Treasurer be authorized to draw a warrant in the name of Walter A. Kapuscinski for \$1700.00 and forward to 1101 Grandview Avenue, Westfield, New Jersey, 07090.

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, the following applicants have posted monies to be held in escrow to cover expert advice and testimony in connection with Board of Adjustment and Planning Board applications on said property; and

WHEREAS, expert advice and testimony was given, and

WHEREAS, all bills for these applications have been submitted and paid; and

WHEREAS, the applicant has requested in writing to have the balance of escrow monies be released to them;

NOW, THEREFORE, BE IT RESOLVED, that the Chief Financial Officer is authorized to draw a check for the balance of the escrow monies as follows:

App #	Name	Address	G/L	Refund Balance
BOA 20-51	Alex & Annemarie Lawrence	29 Moss Avenue	1-05-560-838	\$250.00
Return to:	Alex & Annemarie Lawrence	29 Moss Avenue	Westfield NJ	07090
BOA 20-35	Francis Scott Ferraro	712 Oak Avenue	1-05-560-822	\$500.00
Return to:	Francis Scott Ferraro	712 Oak Avenue	Westfield NJ	07090

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, Alex & Annemarie Lawrence, 29 Moss Avenue, Westfield, NJ, 07090, had paid the required \$150.00 application fee for Board of Adjustment Application #20-51, for the property at 29 Moss Avenue; and

WHEREAS, Alex & Annemarie Lawrence have requested that this amount be returned because the application was withdrawn.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to draw a check in the name of Alex & Annemarie Lawrence for \$150.00, and forward to 29 Moss Avenue, Westfield, NJ, 07090.

<u>Name</u>	<u>Account</u>	<u>Amount</u>
Alex & Annemarie Lawrence 29 Moss Avenue	0-01-55-920-221	\$150.00

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY

RESOLUTION NO. 2021

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, the Recreation Commission of the Town of Westfield has determined the need to increase the Westfield Memorial Pool membership rates for the 2021 season;

NOW THEREFOR BE IT RESOLVED, the Westfield Memorial Pool membership rates for 2021 are established as follows:

RESIDENT:	2021 Rates
Family (5 or more)	\$520.00
Family (4 or less)	\$420.00
Husband/Wife, Parent/Child (under 18) Or Domestic/Civil Union Partner	\$300.00
Individual	\$195.00
Senior	\$90.00
Family w/Child care (6 or more)	\$600.00
Family w/Child care (5 or less)	\$520.00
NON-RESIDENT:	2021 Rates
Family (5 or more)	\$799.00
Family (4 or less)	\$702.00
Husband/Wife, Parent/Child (under 18) Or Domestic/Civil Union Partner	\$573.00
Individual	\$380.00
Senior	\$155.00
Family w/Child care (6 or more)	\$988.00
Family w/Child care (5 or less)	\$890.00

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY

RESOLUTION NO. 2021

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, the Town Council passed General Ordinance No. 2034 pursuant to which Sections 20-23 and 20-25 of the Town Code were amended and a schedule of maximum annual sewer user fees for properties in the Town was established; and

WHEREAS, the sewer user fee for a single-family residence was set to not exceed \$195.00 per annum; and

WHEREAS, the sewer user fee for commercial and industrial properties was set to not exceed \$875.00 per annum; and

WHEREAS, the sewer user fee for each multi-family unit on a property was established to not exceed \$125.00 per annum; and

WHEREAS, Section 20-25 of the Town Code provides that by February 24 of each year, the Town Council, by resolution, shall determine the exact sewer fee for the then calendar year, subject to the maximum amounts set forth in Section 20-23.

NOW, THEREFORE, be it resolved that the following sewer fees are hereby established for the calendar year 2021:

- a. The sewer user fee for a single-family residence shall be \$195.00.
- b. The sewer user fee for a commercial and industrial property shall be \$575.00.
- c. The sewer user fee for each multi-family unit on a property shall be \$120.00.

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY

RESOLUTION NO. 2021

FINANCE POLICY COMMITTEE

FEBRUARY 9, 2021

**RESOLUTION SUPPORTING THE EXPLORATION OF FEASIBILITY FOR A
SHARED MUNICIPAL COURT**

WHEREAS, pursuant to N.J.S.A. 40A:65-1 et seq., any local unit of the State may enter into a contract with any other local unit or units for the joint provision within their jurisdictions of any service which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, the Governor of the State of New Jersey is committed to supporting and advancing local government shared service solutions to enhance the provision of local services and alleviate the property tax burden on the State's residents and businesses; and

WHEREAS, the Governor of the State of New Jersey, with the support of the State Legislature, has authorized State funding to support Shared Services initiatives; and

WHEREAS, the governing body of the Town of Westfield recognizes that shared services may result in property tax relief and enhanced services for its constituents; and,

WHEREAS, the Town of Westfield wishes to explore the possibility of sharing services in the area of a shared/joint municipal court in compliance with the cooperative court arrangements allowed under [N.J.S.A. 2B:12-1](#).; and

WHEREAS, the Town of Westfield wishes to join in the exploration of a feasibility study of the potential for a successful shared services to be conducted by the State of New Jersey for a shared/joint municipal court system between the municipalities of Fanwood, Garwood, Scotch Plains and Westfield; and

WHEREAS, the Town of Westfield seeks assistance from the State of New Jersey to conduct a financial and operational review identifying source of revenues and the potential for a successful shared/joint municipal court system between the aforementioned municipalities.

NOW THEREFORE BE IT RESOLVED that the Mayor and Town Council of the Town of Westfield hereby endorse undertaking a shared services study with the State of New Jersey and the Municipal Division of Courts in Union County; and

BE IT FURTHER RESOLVED that the Westfield Town Administrator and Court Administrator are hereby authorized to take all necessary actions to allow for and support the Town of Westfield's participation in this assessment.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2206

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF WESTFIELD,
CHAPTER 13**

BE IT ORDAINED by the Town Council of the Town of Westfield in the County of Union as follows:

SECTION I.

- 1. Section 13-6 – “Stop Intersections”** of the Town Code shall be changed by adding the following language in its entirety:

Sherbrooke Drive and Sherman Street

Stop signs shall be installed on Sherbrooke Drive.

- 2. Section 13-21.5 – “Handicapped parking space – On street.”** is amended to read as follows:

121 Cacciola Place, beginning at a point two hundred sixty five feet northeast from the intersection of the easterly curb line of Central Avenue as extended with the northerly curb line of Cacciola Place as extended and from such beginning point extending northeasterly for a distance of twenty five feet.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of the terms of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

SECTION III. In the event any section, part or provision of this ordinance shall be held unconstitutional or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof other than the part so held unconstitutional or invalid.

SECTION IV. This ordinance shall take effect after passage and publication, as soon as, and in the manner permitted by law.

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY

RESOLUTION NO.

CODE REVIEW & TOWN PROPERTY COMMITTEE

FEBRUARY 9, 2021

WHEREAS, the Town Council of the Town of Westfield pursuant to Chapter 30 of the Town Code has allowed for the licensing of Used Car Lots; and

WHEREAS, Karma of Westfield 430 North Avenue East, Westfield, NJ 07090 has made application for a License to operate an Open Air Lot for sale, exchange or display of motor vehicles pursuant to Section 30-3 of the Town Code; and

WHEREAS, Karma of Westfield has met all terms and conditions as required by Section 30 of the Town Code;

NOW, THEREFORE, BE IT RESOLVED that the Town Council hereby grant a license to Karma of Westfield, 430 North Avenue East, Westfield NJ 07090 to operate an Open Air Lot for the Sale, Exchange or Display of Motor Vehicles that the Town Clerk is hereby authorized and directed to issue said license.

BE IT FURTHER RESOLVED, that not more than two such motor vehicles shall be exhibited or displayed for sale or exchange at any one time.

**TOWN OF WESTFIELD
WESTFIELD NEW JERSEY**

RESOLUTION NO

CODE REVIEW & TOWN PROPERTY COMMITTEE

FEBRUARY 9, 2021

RESOLUTION TO REJECT BIDS TO A THIRD PARTY POWER SUPPLIER TO PROVIDE ELECTRIC GENERATION SERVICE TO WESTFIELD COMMUNITY ENERGY AGGREGATION PROGRAM (WCEP) PARTICIPANTS AND TO PROVIDE GOVERNMENT ENERGY AGGREGATION SERVICES IN CONNECTION WITH THE WCEP

WHEREAS, the Government Energy Aggregation Act of 2003 (P.L. 2003, c.24; N.J.S.A. 48:3-93.1 et seq.) (“Act”) and rules promulgated by the New Jersey Board of Public Utilities (N.J.A.C. 14:4-6.1 et seq.) (“Rules”) govern the establishment and implementation of a government energy aggregation program, which is a government-operated purchasing cooperative through which multiple energy consumers join together for the purchase of electric utility services by a government aggregator; and

WHEREAS, by Ordinance No. 2176 adopted by the Town Council of the Town of Westfield, and in accordance with the Act and the Rules, the Town of Westfield created a Government Energy Aggregation Program in the Town of Westfield, New Jersey, known as the Westfield Community Energy Aggregation Program (“WCEP”), for the purpose of obtaining power supply for residents with greater renewable energy content that provided in the basic generation service supply provided by PSE&G in order to mitigate the impacts of climate change and many of the costs associated with the impacts of climate change that are borne by municipal government; and

WHEREAS, in accordance with Ordinance No. 2176 the Town Council is the Lead Agency of the WCEP; and

WHEREAS, the residents of the Town of Westfield are included in the WCEP on an "opt-out" basis, as set forth in the Rules; and

WHEREAS, by virtue of Ordinance No. 2176 and in accordance with the Act and Rules, the Town Council is authorized to solicit proposals for electric generation service and energy aggregation services on behalf of the Town’s residents, and award a contract for the provision of Electric Generation Service and Government Energy Aggregation Services on behalf of participating residential customers subject to the parameters set forth in Ordinance No. 2176; and

WHEREAS, on January 13, 2021 the Town of Westfield publicly noticed and issued a Request for Proposals (“RFP”) for the Provision of Electric Generation Service and Government Energy Aggregation Services for the WCEP by New Jersey Board of Public Utilities (NJBPU)-licensed and qualified electric power suppliers in New Jersey; and

WHEREAS, the RFP provided for a two-stage process that included: Stage 1 for the submission of supplier questions and comments and the submission of qualification documents by interested, NJBPU -licensed electric power suppliers; and Stage 2 for the submission of price proposals; and

WHEREAS, the RFP also provided for the submission of separate pricing proposals for three potential contract terms commencing in May 2021, and for two different contract language options (A and B); and

WHEREAS, the RFP also provided for the submission of pricing proposals for two different renewable energy content products, including: 1) the Baseline Enhanced Renewable Energy Product which would be the default product for all WCEP-participating residents and which has renewable energy content that is 20% greater than the state Renewable Portfolio Standard (“RPS”)-compliant amount of renewable energy (so-called ‘RPS + 20%’), with all additional renewable energy content above and beyond the RPS being sourced from within the region as described in the RFP, and 2) a Voluntary 100% Renewable Energy Product, as described in the RFP, that individual participating residents can choose for a pre-determined price premium above the baseline product price; and

WHEREAS, during Stage 1 non-binding Notices of Intent and other required qualification documents were received from three (3) NJBPU-licensed electric power suppliers; and

WHEREAS, a number of supplier questions and comments were received and, as a result, on January 27, 2021 a document entitled “Responses to Supplier Questions, Clarifications and Addendum No.1,” which supplemented and amended the RFP, was issued and distributed to all suppliers that had submitted a Notice of Intent to Propose and/or requested a copy of the RFP; and

WHEREAS, Stage 2 price proposals and accompanying Transmittal Letters were submitted by three (3) pre-qualified NJBPU-licensed electric power suppliers by the 12:00 noon February 9, 2021 deadline set forth in the RFP; and

WHEREAS, the Town, in consultation with its energy agent, has conducted an in-depth evaluation of qualifications and analysis of pricing proposals, in accordance with the evaluation criteria set forth in the RFP and Addendum No.1; and

WHEREAS, pursuant to the RFP, the Town reserved the right to make an award to a supplier, or to make no award at all; and

WHEREAS, pursuant to the Rules and the RFP, the Town shall base its award of a contract to a NJBPU-licensed electric power supplier for the Provision of Electric Generation Service and Government Energy Aggregation Services for the WCEP upon the most advantageous proposal, price and other factors considered; and

WHEREAS, as a result of the evaluation of qualifications and proposals and analysis of price proposals submitted on February 9, 2021, the Town Council has determined that no contract award shall be made at this time.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Westfield, County of Union, New Jersey, as follows:

1. The Town hereby rejects all price proposals received on February 9, 2021 in connection with the WCEP.

2. The RFP shall be held open for a period of up to 120 days from the date of this resolution, and the Town may accept refreshed prices from the pre-qualified suppliers at an appropriate time as determined by the Town in consultation with its energy consultant and announced via an addendum to the RFP.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2207

AN ORDINANCE DESIGNATING 417 PROSPECT STREET, SHOWN ON THE TOWN TAX MAPS AS BLOCK 1004, LOT 10 AS A HISTORIC LANDMARK AND MODIFYING THE ZONING MAP

WHEREAS, by application to the Westfield Historic Preservation Commission, Joyce Lee Goldstein requested to deem the property located at 417 Prospect Street a historic landmark, and

WHEREAS, pursuant to the provisions contained within the Historic Designation and Preservation Ordinance of the Town of Westfield, the Historic Preservation Commission gave full and complete consideration to the petition for historic designation of the property; and

WHEREAS, the Historic Preservation Commission held a duly-noticed public hearing on December 28, 2020, on the proposed historic designation of the property, where all those who desired to be heard were heard; and

WHEREAS, the Historic Preservation Commission adopted a resolution on that date setting forth its findings of fact and providing its rationale for its recommendation to the Town Council that the Council approve the application for historic preservation designation of 417 Prospect Street, shown on the Town Tax Map as Block 1004, Lot 10; and

WHEREAS, at a public meeting held on February 1, 2021, the Town Planning Board reviewed the proposed designation pursuant to the Historic Designation and Preservation Ordinance of the Town of Westfield and New Jersey Municipal Land Use Law Section 40:55D-26 and found that designation of 417 Prospect Street, shown on the Town Tax Map as Block 1004, Lot 10, would be consistent with the Historic Preservation Element of the Town Master Plan and the goals and objectives contained within the Master Plan; and

WHEREAS, the Town Planning Board also recommends that the Historic Preservation Ordinance, Subsection 14 be amended to include the property at 417 Prospect Street, shown on the Town Tax Map as Block 1004, Lot 10, and the Zoning Map be amended to identify the property as a designated historic landmark.

NOW, THEREFORE, BE IT THEREFORE ORDAINED by the Town Council of the Town of Westfield, in the County of Union and the State of New Jersey, as follows:

SECTION I. The Zoning Map shall be and is hereby amended and supplemented by identifying the following property as shown on the Official Tax Map of the Town of Westfield as a Historic Preservation Designated Landmark:

Block	Lot	Address
1004	10	417 Prospect Street

SECTION II. Appendix III of the Land Use Ordinance, titled an *Ordinance Establishing A Historic Preservation Commission and Providing for the Designation and Preservation of Historic Districts and Historic Landmarks in the Town of Westfield*, is hereby amended by adding a new Subsection 14.P., to read in its entirety as follows:

P. The private residence owned at the time of its designation by Joyce Lee Goldstein located at 417 Prospect Street, Westfield, New Jersey, known as Lot 10, Block 1004 on the Town of Westfield tax map, being originally built circa 1865.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2208

**AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWN
OF WESTFIELD, NEW JERSEY, TO MODIFY THE MUNICIPAL STORMWATER
CONTROL ORDINANCE IN THE TOWN OF WESTFIELD**

WHEREAS, the Town of Westfield is obligated to implement ordinances that are consistent with its Tier A Stormwater General Permit as required by regulations adopted by the New Jersey Department of Environmental Protection; and

WHEREAS, the provisions of the within ordinance are intended to amend and supplement existing requirements codified in the Town Code for the Town of Westfield;

NOW, THEREFORE, BE IT RESOLVED:

SECTION I. Chapter 38, “Stormwater Management,” of the Town Code of the Town of Westfield shall be and is hereby amended and supplemented as follows:

§ 38-1: 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 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. It is the purpose of this Ordinance to establish minimum stormwater management requirements and controls for “major development,” as defined in § 38-2.

(c) Applicability

(1) This Ordinance shall be applicable to the following major developments:

- a. Non-residential major developments; and
- b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

(2) This Ordinance shall also be applicable to all major developments undertaken by the Town of Westfield.

(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.

§ 38-2: 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.

CAFRA CENTERS, CORES, OR NODES

Those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

CAFRA PLANNING MAP

The map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (“GIS”).

COMMUNITY BASIN

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 chapter.

COMPACTION

The increase in soil bulk density.

CONTRIBUTORY DRAINAGE AREA

The area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

CORE

A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY

The Union County Bureau of Planning and Economic Development.

DEPARTMENT

The New Jersey Department of Environmental Protection.

DESIGNATED CENTER

A State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

DESIGN ENGINEER

A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DEVELOPMENT

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural land, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A 4:1C-1 et seq.

DISTURBANCE

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. Milling and repaving is not considered disturbance for the purposes of this definition.

DRAINAGE AREA

A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

ENVIRONMENTALLY CONSTRAINED AREA

The following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

ENVIRONMENTALLY CRITICAL AREAS

An area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

EMPOWERMENT NEIGHBORHOODS

Neighborhoods designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

EROSION

The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

GREEN INFRASTRUCTURE

A stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

HUC 14 OR HYDROLOGIC UNIT CODE 14

An area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

IMPERVIOUS SURFACE

A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION

The process by which water seeps into the soil from precipitation.

LEAD PLANNING AGENCY

Means one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

MAJOR DEVELOPMENT

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; 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 paragraphs 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.”

MOTOR VEHICLE

Land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

MOTOR VEHICLE SURFACE

Any pervious or impervious surface that is intended to be used by “motor vehicles” and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

MUNICIPALITY

The Town of Westfield.

NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES MANUAL OR BMP MANUAL

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 chapter. 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 chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with Section IV.F. 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 chapter.

NODE

An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NUTRIENT

A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERSON

Means any individual, corporation, company, partnership, firm, association, or the Town of Westfield subject to municipal jurisdiction pursuant to the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq.

POLLUTANT

Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded

equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

RECHARGE

The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

REGULATED IMPERVIOUS SURFACE

Any of the following, alone or in combination:

1. A net increase of impervious surface;
2. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
3. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
4. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

REGULATED MOTOR VEHICLE SURFACE MEANS ANY OF THE FOLLOWING, ALONE OR IN COMBINATION:

1. The total area of motor vehicle surface that is currently receiving water;
2. A net increase in motor vehicle surface; and/or quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

SEDIMENT

Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SITE

The lot or lots upon which a major development is to occur or has occurred.

SOIL

All unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)

An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

STATE PLAN POLICY MAP

The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

STORMWATER

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER MANAGEMENT BMP

An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE

Any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

STORMWATER RUNOFF

Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

STORMWATER MANAGEMENT PLANNING AGENCY

A public body authorized by legislation to prepare stormwater management plans.

STORMWATER MANAGEMENT PLANNING AREA

The geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

TIDAL FLOOD HAZARD AREA

A flood hazard area in which the flood elevation resulting from the two-, 10-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD

A neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONES

A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

URBAN REDEVELOPMENT AREA

Previously developed portions of areas:

1. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
2. Designated as CAFRA Centers, Cores or Nodes;
3. Designated as Urban Enterprise Zones; and
4. Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATER CONTROL STRUCTURE

A structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, 10-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

WATERS OF THE STATE

The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS OR WETLAND

An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a

prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§ 38-3: Design and Performance Standards for Stormwater Management Measures

- (a) Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, and stormwater runoff quantity treatment as follows:
 - (1) The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
 - (2) The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- (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.

§ 38-4: Stormwater Management Requirements for Major Development

- (a) Whenever an applicant seeks approval for a major development or a NJDEP permit is required in connection with development to occur at the Site, the applicant shall submit the information comprising a Site Development Stormwater Plan in accordance with the provisions of Section 9 hereof and shall include with such application the information required by the provisions of this ordinance supplied by and certified to by a Design Engineer. Any such application shall satisfy the checklist requirements of Section 9C of this Ordinance.
- (b) Any application for major development shall incorporate a maintenance plan for Stormwater Management Measures incorporated into the Design in accordance with Section 10 hereof.
- (c) Stormwater Management Measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).
- (d) The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Section 4.Q, R and S :

- (1) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
 - (2) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
 - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access, sidewalk or trail is made of permeable material.
- (e) A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Section 4.P, Q, R and S 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 following conditions are met:
- (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 Section 4.P, Q, R and S to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements of Section 4.P, Q, R and S, 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 4.D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Section 4.P, Q, R and S that were not achievable on-site.
- (f) 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 Section 4.P, Q, R and S. 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://njstormwater.org/bmp_manual2.htm.

(g) Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this ordinance the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

Table 1				
Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High-Water Table (feet)
Cistern	0	Yes	No	--
Dry Well ^(a)	0	No	Yes	2
Grass Swale	50 or less	No	No	2 ^(e) 1 ^(f)
Green Roof	0	Yes	No	--
Manufactured Treatment Device ^{(a),(g)}	50 or 80	No	No	Dependent upon the device
Pervious Paving System ^(a)	80	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-Scale Bioretention Basin ^(a)	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-Scale Infiltration Basin ^(a)	80	Yes	Yes	2
Small-Scale Sand Filter	80	Yes	Yes	2
Vegetative Filter Strip	60-80	No	No	--

Table 2				
Green Infrastructure BMPs for Stormwater Runoff Quantity (or for Groundwater Recharge and/or Stormwater Runoff Quality with a Waiver or Variance from N.J.A.C. 7:8-5.3)				
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)	2 ^(b)

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

Table 3				
BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity Only with a Waiver or Variance from N.J.A.C. 7:8-5.3				
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

Notes to Tables 1, 2, and 3:

- a. subject to the applicable contributory drainage area limitation specified at Section 4.O.2;
- b. designed to infiltrate into the subsoil;
- c. designed with underdrains;
- d. designed to maintain at least a 10-foot wide area of native vegetation along at least 50 percent of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- e. designed with a slope of less than two percent;
- f. designed with a slope of equal to or greater than two percent;
- g. manufactured treatment devices that meet the definition of green infrastructure at Section 2;
- h. manufactured treatment devices that do not meet the definition of green infrastructure at Section 2.

(h) 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 6.B. Alternative stormwater management measures may be used to satisfy the requirements at Section 4.P only if the measures meet the definition of green infrastructure at Section 2. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section P.2 are subject to the contributory drainage area limitation specified at Section P.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 P.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 or a waiver from strict compliance in accordance with Section 4.D is granted from Section 4.P.

- (i) Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- (j) Design standards for stormwater management measures are as follows:
 - (1) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);
 - (2) Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum

- spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.C;
- (3) Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;
 - (4) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at Section 8; and
 - (5) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.
- (k) Manufactured treatment devices may be used to meet the requirements of this subchapter, 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 2 may be used only under the circumstances described at Section 4.P.4.
- (l) Any application for a new agricultural development that meets the definition of major development at Section 2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Sections 4.P, Q, R and S 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.
- (m) If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 4.Q, R and S 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.
- (n) Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Office of the County Clerk 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 Section 4.P, Q, R and S 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 10.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.

(o) 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 4 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 Office of the County Clerk and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with N 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 N above.

(p) 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) To satisfy the groundwater recharge and stormwater runoff quality standards at Section 4.Q and R, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Section 4.F. and/or an alternative stormwater management measure approved in accordance with Section 4.G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

<u>Best Management Practice</u>	<u>Maximum Contributory Drainage Area</u>
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 Systems	2.5 acres
Small-scale Infiltration Basin	2.5 acres
Small-scale Sand Filter	2.5 acres

- (3) To satisfy the stormwater runoff quantity standards at Section 4.S, 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 4.G.
- (4) If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Section 4.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 4.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 4.Q, R and S.
- (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 Section 4.Q, R and S, unless the project is granted a waiver from strict compliance in accordance with Section 4.D.

(q) 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 5, 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 2-year storm is infiltrated.
- (3) This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to 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 or landfill closure plan 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.

(f) Stormwater Runoff Quality Standards

- (1) This subsection contains 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.
- (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 as follows:
 - a. Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.

- b. 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.
- (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

- (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 Section 4.Q, R and S.

- (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) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.
- (10) This 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.

(s) 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 V, complete one of the following:
 - a. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events 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 2-, 10- and 100-year storm events 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 under existing zoning and land use ordinances in the drainage area;

- c. Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events 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.

§ 38-5: Calculation of Stormwater Runoff and Groundwater Recharge

(a) Stormwater runoff shall be calculated in accordance with the following:

(1) The Design Engineer shall calculate runoff using one of the following methods:

- a. 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://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf

or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873;
or

- b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are

described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at:

<http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>

- (2) For the purpose of calculating runoff coefficients 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 "runoff coefficient" applies to both the NRCS methodology at Section 5.A.1.a and the Rational and Modified Rational Methods at Section 5.A.1.b. A runoff coefficient 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 have 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, of 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* and 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.
- (b) Groundwater recharge may be calculated in accordance with the following:

- (1) The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water 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 <https://www.nj.gov/dep/njgs/pricelst/greport/gsr32.pdf>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

§ 38-6: Sources for Technical Guidance

- (a) Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website 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 Tables 1, 2, and 3.
- (2) Additional maintenance guidance is available on the Department's website at:

https://www.njstormwater.org/maintenance_guidance.htm.

- (b) Submissions required for review by the Department should be mailed to:

The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

§ 38-7. Solids and Floatable Materials Control Standards

- (a) Site design features identified under Section 4.F above, or alternative designs in accordance with Section 4.G 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 7.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:
 - 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 no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

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 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 N.J.A.C. 7:8 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 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).

- d. 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

- 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), 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 8: 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 Stormwater Management Basin constructed or installed after the effective date of this ordinance.
- (b) The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing Stormwater Management Basins. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing Stormwater Management Basins to be retrofitted to meet one or more of the safety standards in Section 8.C.1, 8.C.2, and 8.C.3 for trash racks, overflow grates, and escape provisions at outlet structures.
- (c) Requirements for Trash Racks, Overflow Grates, and Escape Provisions
 - (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater Management Basin to ensure proper functioning of the basin outlets in accordance with the following:
 - a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
 - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
 - (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

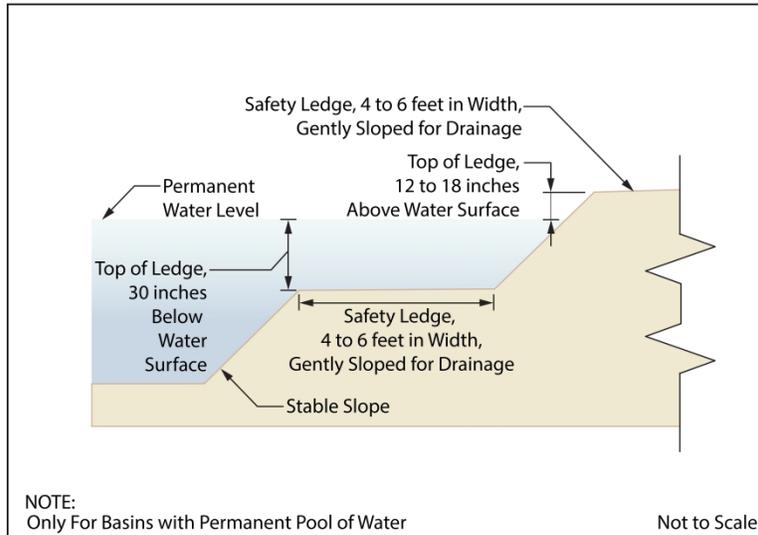
- b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
- c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.

(3) Stormwater Management Basins shall include escape provisions as follows:

- a. If a Stormwater Management Basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the Reviewing Agency identified in Section 8.C a freestanding outlet structure may be exempted from this requirement.
- b. Safety ledges shall be constructed on the slopes of all new Stormwater Management Basins having a permanent pool of water deeper than two and one-half feet. Such 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 8.E for an illustration of safety ledges in a Stormwater Management Basin.
- c. In Stormwater Management Basins, constructed or installed after the effective date of this ordinance, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

(d) Variance or Exemption from Safety Standard. A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

(e) Safety Ledge Illustration



§ 38-9: Requirements for a Site Development Stormwater Plan

(a) Submission of Site Development Stormwater Plan

- a. Whenever an applicant seeks approval of a major development subject to this ordinance, the applicant shall submit all of the required items set forth on the Checklist for the Site Development Stormwater Plan at Section 9.C below as part of the submission of the applicant's application for subdivision or site plan approval or as relates to any other NJDEP permit required at the Site.
- b. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
- c. The applicant shall submit four (4) copies of the materials listed in the checklist for Site Development Stormwater Plans in accordance with Section 9.C of this ordinance.

(b) Site Development Stormwater Plan Approval

The applicant's proposed project shall be reviewed as a part of the subdivision or site plan review process by the Planning Board or Zoning Board of Adjustment or as relates to any other NJDEP permit required at the Site. The Board with jurisdiction shall consult the Town Engineer, Construction Official, Zoning Officer or Town Planner 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) Checklist Requirements.

The following information shall be required:

- (1) Topographic Base Map

A topographic base map of the Site shall 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. The Town Engineer may also require upstream tributary drainage system information as in his discretion shall be necessary.

(2) Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its environs. 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 ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

(4) Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Sections 3 through 6 are satisfied. 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 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 pre-development and post development conditions for the design storms specified in Section 4 of this ordinance.
- b. When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, 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 10.

(8) Waiver from Submission Requirements

The municipal official described in Section 9B hereof or Board reviewing an application under this ordinance may, in consultation with the Town Engineer, waive submission of any of the requirements in Sections 9.C.1 through 9.C.6 of this ordinance when it can be demonstrated that the information requested is (i) impossible to obtain, (ii) would create a hardship on the applicant to obtain, and (iii) its absence will not materially affect the review process.

§ 38-10: Maintenance and Repair

(a) Applicability

Projects subject to review as in Section 1.C of this ordinance shall comply with the requirements of Sections 10.B and 10.C.

(b) General Maintenance

- (1) The Design Engineer shall prepare a maintenance plan for the Stormwater Management Measures which shall be incorporated into the Design of a major development and be submitted as part of the application described in Section 9.
- (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 person responsible for maintenance identified under Section 10.B.3 above is not a public agency, the maintenance plan and any future revisions based on Section 10.B.7 below shall be included upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken, which obligation for maintenance shall run with the land and be the obligation of the owner of the Site, unless the maintenance plan is performed by another responsible party.
- (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 person responsible for maintenance identified under Section 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;
 - 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 Section 10.B.6 and B.7 above; and

- d. post 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://www.njstormwater.org/maintenance_guidance.htm.

(8) The requirements of Sections 10.B.3 and 10.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.

(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 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.

§ 38-11: Penalties

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be liable for a fine of not more than five hundred dollars (\$500). Each and every day that a violation of this Ordinance continues shall be deemed a separate and distinct offense. In addition to the foregoing, the Town may institute and maintain civil action for injunctive relief restraining the continuance of any unlawful act. Ignorance of the existence or provisions of this ordinance shall not constitute a valid defense in either civil or criminal proceeding.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.