

Borough of Fair Lawn



ORDINANCE NO. 2678-2023

AN ORDINANCE TO AMEND CHAPTER 125, LAND DEVELOPMENT, ARTICLE V, SITE PLAN AND SUBDIVISION STANDARDS MORE SPECIFICALLY SECTION 125-53, “STORMWATER MANAGEMENT” OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn as follows:

SECTION 1. Chapter 125, Land Development, Article IV, Site Plan and Subdivision Standards, Section 125-53, Stormwater Management is hereby amended and supplemented by inserting the text **underlined and marked in bold** and deleting the text shown in **~~bold strikethrough~~** as follows:

Chapter 125-53. Stormwater management

A. Scope and purpose.

- (1) [No Change]
- (2) [No Change]
- (3) Applicability
 - a) [No Change]
 - b) [No Change]
 - c) **An application required by ordinance pursuant to the above that has been submitted prior to October 24, 2023, shall be subject to the stormwater management requirements in effect on October 23, 2023.**
 - d) **An application required by ordinance for approval pursuant to the above that has been submitted on or after March 2, 2021, but prior to {adoption date of this ordinance}, shall be subject to the stormwater management requirements in effect on October 23, 2023.**
 - e) **Notwithstanding any rule to the contrary, a major development for any public roadway or railroad project conducted by a public transportation entity that has determined a preferred alternative or reached an equivalent milestone before July 17, 2023, shall be subject to the stormwater management requirements in effect prior to July 17, 2023.**

B. Definitions.

Unless specifically defined below, words or phrases used in this section shall be interpreted to give them the meaning, they have in common usage and to give this section it's most reasonable application. 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" means 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).

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)

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.

MOTOR VEHICLE

Land vehicles propelled other than by muscular power, such as automobiles, motorcycles, auto cycles, 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.

PUBLIC ROADWAY OR RAILROAD

A pathway for use by motor vehicles or trains that is intended for public use and is constructed by, or on behalf of, a public transportation entity. A public roadway or railroad does not include a roadway or railroad constructed as part of a private development, regardless of whether the roadway or railroad is ultimately to be dedicated to and/or maintained by a governmental entity.

PUBLIC TRANSPORTATION ENTITY

A Federal, State, county, or municipal government, an independent State authority, or a statutorily authorized public-private partnership program pursuant to P.L. 2018, c. 90 (N.J.S.A. 40A:11-52 et seq.), that performs a public roadway or railroad project that includes new construction, expansion, reconstruction, or improvement of a public roadway or railroad.

C. [No Change]

D. Stormwater management requirements for major development.

1) [No Change]

2) [No Change]

3) [No Change]

4) [No Change]

4.1) 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 IV.O, P, Q and R. 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://dep.nj.gov/stormwater/bmp-manual>

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.

5) [No Change]

6) Erosion Control, Groundwater Recharge and Runoff Quality Standards

[a] [No Change]

[1] [No Change]

- [2] The minimum design and performance standards for groundwater recharge are as follows:
- a) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Subsection E, either:
 - I. 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
 - II. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the **projected** 2-year storm, as defined and determined **pursuant to Section E of this ordinance** is infiltrated.
 - b) [No Change]
 - c) The following types of stormwater shall not be recharged:
 - I. 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 **approved pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C**, or Department landfill closure plan **and areas**; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
 - II. [No Change]
- 7) [No Change]
- 8) Stormwater runoff quantity standards

Stormwater runoff quantity standards. This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.

a) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Subsection E, complete one of the following:

1. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the **current and projected** two-, ten-, and 100-year storm events, **as defined and determined in Section E, respectively, of this ordinance**, do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
2. 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 **current and projected** two-, ten-, and 100-year storm events, **as defined and determined in Section E, respectively, of this ordinance**, 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;
3. Design stormwater management measures so that the post-construction peak runoff rates for the **current and projected** two-, ten- and 100-year storm events, **as defined and determined in Section E, respectively, of this ordinance**, are 50%, 75%, and 80%, respectively, of the preconstruction 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
4. [No Change]

E. Calculation of stormwater runoff and groundwater recharge.

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

a) The design engineer shall calculate runoff using the following method:

1. **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://directives.sc.egov.usda.gov/viewerFS.aspx?hid=21422>

or at the United States Department of Agriculture Natural Resources Conservation Service, New Jersey State Office.

- ~~2. 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>~~

- b) For the purpose of calculating curve numbers 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 "curve number" applies to the NRCS methodology. A curve number 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 has 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).

2) Groundwater recharge **may shall** be calculated in accordance with the following:

a) The New Jersey Geological Survey Report GSR-32: A Method for Evaluating Groundwater-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 the New Jersey Geological Survey website**

at:

<https://www.nj.gov/dep/njgs/pricelst/gsreport/gsr32.pdf>

or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

3) **The precipitation depths of the current two-, 10-, and 100-year storm events shall be determined by multiplying the values determined in accordance with items 1 and 2 below:**

1. **The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service's Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at:**

https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkrk=nj; and

4) **The applicant shall utilize Table 5: Current Precipitation Adjustment Factors below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with Bergen and Passaic County where the drainage area(s) of the site is located.**

Table 5: Current Precipitation Adjustment Factors

<u>County</u>	<u>2-year Design Storm</u>	<u>10-year Design Storm</u>	<u>100-year Design Storm</u>
<u>Bergen</u>	<u>1.01</u>	<u>1.03</u>	<u>1.06</u>
<u>Passaic</u>	<u>1.00</u>	<u>1.02</u>	<u>1.05</u>

5) **Table 6: Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, 10-, and 100-year storm events for use in this chapter in Bergen and Passaic County. The**

precipitation depth of the projected two-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, 10-, and 100-year storm events determined from the National Weather Service's Atlas 14 Point Precipitation Frequency Estimates pursuant to (c)1 above, by the change factor in the table below, in accordance within Bergen County where the drainage area(s) of the site is located.

Table 6: Future Precipitation Change Factors

<u>County</u>	<u>2-year Design Storm</u>	<u>10-year Design Storm</u>	<u>100-year Design Storm</u>
<u>Bergen</u>	<u>1.20</u>	<u>1.23</u>	<u>1.37</u>
<u>Passaic</u>	<u>1.21</u>	<u>1.27</u>	<u>1.50</u>

F. [No Change]

G. Sources for technical guidance.

(1) 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: ~~{from Maps and Publications, New Jersey Department of Environmental Protection, P.O. Box 438, Trenton, NJ 08625-0438.}~~

<https://dep.nj.gov/stormwater/bmp-manual/>

a) 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. bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds**

b) Additional maintenance guidelines are available on the Department's website at:

<https://dep.nj.gov/stormwater/maintenance-guidance/>

(2) Submissions required for review by the Department should be mailed to: **The Division of Watershed Protection and Restoration, New Jersey Department of Environmental Protection, Mail Code 501-02A, PO Box 420, Trenton, New Jersey 08625-0420.**

H. Solids and Floatable Materials Control Standards:

A. Site design features identified under Section D(4.3) above, or alternative designs in accordance with Section D(4.3) above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 2 below.

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

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

- iii. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
2. The standard in A.1. above does not apply:
 - i. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
 - ii. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not

- practicably be overcome by using additional or larger storm drain inlets;
- iii. Where flows from the water quality design storm as specified in 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:
 - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - b. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).
 - iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
 - v. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

H. I. Safety Standards for Stormwater Management Basins.

- 1) [No Change]
- 2) Requirements for trash racks, overflow grates and escape provisions.
 - a) [No Change]
 - b) 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:
 - 1. [No Change]
 - 2. The overflow grate spacing shall be no **less greater** than two inches across the smallest dimension
 - 3. [No Change]

I. J. Requirements for a Site Development Stormwater Plan.

J. K. Maintenance and Repair.

(i) The requirements of Subsection J(2)(c) and (d) 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.**

[https://dep.nj.gov/stormwater/maintenance-guidance/.](https://dep.nj.gov/stormwater/maintenance-guidance/)

K. L. Refuse Containers and Dumpsters.

L. M. Private Storm Drain Inlet Retrofitting.

M. N. Penalties.

SECTION 2: If any section, paragraph, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to this section, paragraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 3. All ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. This Ordinance shall take effect upon passage and publication according to law.

Introduced: September 19, 2023

	Motion	Second	Aye	Nay	Abstain	Absent
Reinitz			X			
Rottenstrich	X		X			
Cutrone		X	X			
Krause			X			
Peluso			X			

Scheduled for final passage on October 24, 2023

	Motion	Second	Aye	Nay	Abstain	Absent
Reinitz						
Rottenstrich						
Cutrone						
Krause						
Peluso						

Attest:

Approved:

Nicholas J. Magarelli, RMC
Municipal Clerk

Kurt Peluso
Mayor