

Mayor and Common Council Borough of Flemington

March 8, 2021

Online during COVID-19 Emergency

Call to Order

Mayor Driver called the meeting to order at 7:00 p.m.

Work Session (7:00 PM)- Discussion of Marijuana legislation

Roll Call for Work Session: Mayor and all Council Members present, along with Borough Attorney Cushing.

Mr. Cushing confirmed that a briefing sent out in January about marijuana legislation was still accurate. Discussion followed on locations for marijuana sites and proximity to schools and ball fields. Attorney Cushing advised a final version of the new legislation is just being circulated now.

Council discussed possible locations, and also possible limits on the number of facilities allowed in the Borough.

The legislation gives municipalities a chance to opt-out of allowing marijuana facilities, and there's a 180-day deadline for that to happen. Attorney Cushing and Council members discussed the various effects of opting out now or opting in and setting regulations. There was discussion of where marijuana facilities might be located, and the mayor cautioned that spot-zoning can be risky - it's best to specify a zoning district where they would be allowed.

Discussion continued on local support for marijuana facilities, consumption of marijuana on-premises, and local taxes on marijuana. Attorney Cushing advised waiting while the new legislation is reviewed by attorneys trying to interpret the nuances of the bill, but noted that a draft ordinance would have to be drafted fairly quickly. Council will revisit this issue in about a month.

Regular Meeting (7:30 PM)

This meeting is being held in conformance with the Open Public Meetings Act.

Flag Salute

Roll Call:

Attendee Name	Title	Status	Arrived
Caitlin Giles-McCormick	Council President	Present	
Jessica Hand	Council Member	Present	
Malik Johnston	Council Member	Present	
Jeremy Long	Council Vice President	Present	
Christopher Runion	Council Member	Present	
Kimberly Tilly	Council Member	Present	
Betsy Driver	Mayor	Present	

I. OEM Report

Cpt. McNally said it's been a full year that OEM has been operational regarding the COVID-19 public health emergency. He reviewed the OEM's operations over the year and said that while there wasn't a book about how to operate in a pandemic, there is now. They're hoping for things to open up more in the months ahead. Flemington has had 377 cases of COVID-19, and three fatalities. Council members and the Mayor thanked Cpl. McNally for his guidance.

II. Mayor's Report

Mayor Driver said the Council discussed the new cannabis legislation during a work session earlier in the evening, and is starting to think about how to address it. They are awaiting more details, and will revisit it in about a month.

The budget for 2021 will be presented soon, and it's a tough budget - with the current garbage contract expiring, trash disposal costs are an unknown.

She discussed the status of the COVID-19 vaccine rollout, and the need to get seniors vaccinated.

She and Council President McCormick met with the state Economic Development Authority to discuss incentive programs and grant offers.

III. Council Members' Reports

Council President Giles-McCormick

Samuel Fleming House - They're meeting monthly and preparing for an event in May if gathering restrictions are eased.

FCP - The wreaths on Main Street are coming down. Restaurants are doing a month-long promotion. A program offering grants for signage improvements already has 6 applicants.

Opportunity Zone - The Stantec firm is working on its final report of the results of discussions held about the future of Flemington, and it's anticipated by the end of March or early April.

She mentioned that the state EDA discussion of upcoming projects included promoting the PPP program for small local businesses.

Council Member Hand

The Community Garden public hearing on change of use at Tuccamirgan Park is set for the March 22 Council meeting. The Community Garden committee is working on preparations for the garden.

This week the Citizens' Committee will have its second meeting.

Council Member Johnston

Nothing to report.

Council Vice President Long

Planning Board - On Feb. 23 it reviewed the amended stormwater ordinance, and began the Courthouse Square project review. That continues tomorrow at 7 p.m. The review of 91 Main St. continues tomorrow too. He encouraged people to reach out if they're interested in working with the Citizens' Committee.

Council Member Runion

The Environmental Commission meets next week and is working on Sustainable Jersey action items.

He's also going to be looking into the Raritan Headwaters spring cleanup effort.

Council Member Tilly

She has been busy with the Fire Officers' meeting and budget hearings.

IV. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)

No comments.

V. Approval of Minutes

Motion To: **Approve Minutes: Feb. 22, 2021 Regular Council Meeting**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Consent Agenda

Moved by: Tilly Seconded by: Giles-McCormick Vote: all Aye

1. RESOLUTION 2021-67: RESOLUTION REAFFIRMING THE COMMITMENT AND OBJECTIVES OF THE FLEMINGTON GREEN TEAM
2. RESOLUTION 2021-68: RECOGNIZING THE ACCOMPLISHMENTS AND POTENTIAL OF WOMEN, DURING WOMEN'S HISTORY MONTH

Regular Agenda

1. RESOLUTION 2021-69: MARKING THE FIRST ANNIVERSARY OF THE COVID-19 PANDEMIC

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Following adoption of the resolution a moment of silence was held to honor those whose lives were lost to COVID-19.

2. ORDINANCE 2021-4: AMENDING AND SUPPLEMENTING BOND ORDINANCE 2020-18 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON DECEMBER 14, 2020, TO INCREASE THE APPROPRIATION THEREIN BY \$83,578 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$79,598 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF

Mayor Driver said this amending ordinance is needed to correct a math error in the original ordinance.

Motion to open public hearing: Giles-McCormick, seconded by Hand. All voted aye to open the public hearing.

Chuck Pettebone, 3 1/2 Lloyd Ave., asked for more information about the mathematical error. Mayor Driver said there was a miscalculation and the work is costing more than was included in the original ordinance.

Motion to close hearing: Hand, seconded by Tilly. All voted aye to close the public hearing

There was no Council comment.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Kimberly Tilly, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

3. ORDINANCE 2021-5: ORDINANCE TO REPEAL AND REPLACE CHAPTER 21 OF THE CODE OF THE BOROUGH OF FLEMINGTON ENTITLED "STORMWATER CONTROL," TO REFLECT AMENDMENTS TO THE NEW JERSEY STORMWATER MANAGEMENT RULES AT N.J.A.C. 7:8, ADOPTED MARCH 2, 2020

Motion to open public hearing: Hand, seconded by Giles-McCormick. All voted yes to open the hearing.

No comments.

Motion to close public hearing: Tilly, seconded by Hand. All voted yes to close the public hearing.

No Council comments.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Kimberly Tilly, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

4. ORDINANCE 2021-6: BOND ORDINANCE PROVIDING FOR SEWER UTILITY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$827,499 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$827,499 IN BONDS OR NOTES TO FINANCE THE COST THEREOF

Mayor Driver said this is for the sewer work on Hopewell, Dewey and Corcoran streets.

The public hearing will be at the March 22 Council meeting.

RESULT:	INTRODUCED [UNANIMOUS]	Next: 3/22/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Caitlin Giles-McCormick, Council President	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

5. ORDINANCE 2021-7: BOND ORDINANCE PROVIDING FOR WATER UTILITY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$1,472,501 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,402,381 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Mayor Driver said this contains an error in identifying a street, and that needs to be corrected.

RESULT:	TABLED [UNANIMOUS]	Next: 3/22/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Caitlin Giles-McCormick, Council President	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

The first reading was tabled until the March 22 meeting.

6. ORDINANCE 2021-8: AN ORDINANCE EFFECTUATING AND REGULATING EXPANDED OUTDOOR DINING IN COMPLIANCE WITH CHAPTER 15, SENATE BILL 3340

Mayor Driver said this supplements the existing outdoor dining ordinance by addressing consumption of alcohol in accordance with recently approved legislation.

RESULT:	INTRODUCED [UNANIMOUS]	Next: 3/22/2021 7:30 PM
MOVER:	Jeremy Long, Council Vice President	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

The public hearing on this will be held at the March 22 Council meeting.

7. RESOLUTION 2021-70: WAIVING THE OUTDOOR DINING PERMIT FEE FOR THE REMAINDER OF THE YEAR 2021

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

8. RESOLUTION 2021-71: AUTHORIZING TOWN WIDE YARD SALES TO BE HELD ON MAY 1-2, 2021 AND OCTOBER 2-3, 2021

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

9. RESOLUTION 2021-72: EXPRESSING OPPOSITION TO ASSEMBLY BILL ACS-1571/1576 AND COMPANION SENATE BILL S-1956, TO IMPOSE PREVAILING WAGE REQUIREMENTS ON CERTAIN REDEVELOPMENT PROJECTS

Mayor Driver said that if a project gets a PILOT, this legislation would impose prevailing wage requirements. She said the legislation would override local control and impact negotiations with developers. Council could put its own wage requirements in a PILOT agreement. She said the legislation could also affect COAH settlements. Mr. Long and Ms. Giles-McCormick commented on the importance of local control during negotiations.

RESULT:	ADOPTED [5 TO 0]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Tilly
ABSTAIN:	Christopher Runion

10. RESOLUTION 2021-73: AMENDING AND RESTATING RESOLUTION NUMBER 2021-48 HERETOFORE DULY ADOPTED BY THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY ON JANUARY 25, 2021 AND ENTITLED "RESOLUTION OF THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF ITS "NOTE RELATING TO THE TRANSPORTATION BANK SHORT-TERM LOAN PROGRAM OF THE NEW JERSEY INFRASTRUCTURE BANK", TO BE ISSUED IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$1,591,952, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK, AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NOTE BY THE BOROUGH OF FLEMINGTON IN FAVOR OF THE NEW JERSEY INFRASTRUCTURE BANK, ALL PURSUANT TO THE NEW JERSEY INFRASTRUCTURE BANK'S TRANSPORTATION BANK SHORT-TERM LOAN PROGRAM"

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Kimberly Tilly, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

VI. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)

Charles Pettebone, 3 1/2 Lloyd Ave., said he felt that during the budget workshop on the DPW budget, answers weren't being given and he asked about an audit. CFO Hance confirmed the Borough's finances are audited every year; auditors are working on the 2020 audit now.

VII. Attorney's Report

Attorney Cushing said that he'd had a chance to research an earlier question by Mr. Runion about consumption in marijuana facilities, and found that there is a provision for cannabis consumption areas in connection with a retail license and for a medical license.

VIII. Payment of the Bills

Motion To: **Pay the Bills in the Amount of \$708,766.40**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

IX. Executive Session for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

None needed.

X. Adjournment

Motion To: **Adjourn**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

This meeting was adjourned at 8:22 p.m.

Attest:

Sallie Graziano
Sallie Graziano, Borough Clerk

Approved by Council
3/22/21

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

ADOPTED

RESOLUTION 2021-67

DOC ID: 3437

Resolution Reaffirming the Commitment and Objectives of the Flemington Green Team

WHEREAS, Flemington adopted Resolution No. 2019-84, "Designating the Environmental Commission as Flemington Borough's Green Team," at a regular meeting conducted on March 27, 2019; and

WHEREAS, Flemington resolved in that resolution that they wished to pursue local initiatives and actions that would lead to Sustainable Jersey Municipal Certification; and

WHEREAS, Flemington further resolved in that resolution to re-establish the Flemington Green Team, to serve as Flemington's agents for the Sustainable Jersey municipal certification process; and

WHEREAS, the Green Team is comprised of members of the Environmental Commission, who are interested in advancing the efforts of Flemington in the Sustainable Jersey municipal certification program; and

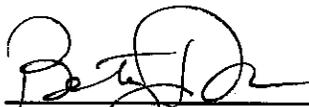
WHEREAS, that group has been creating and cataloging significant sustainability actions so that Flemington may obtain Sustainable Jersey certification;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington reaffirm that:

- 1) The Green Team of Flemington is active in the community and advancing sustainable practices and actions included in the Sustainable Jersey municipal certification program;
- 2) The Green Team has been and shall continue to be comprised of individuals who have demonstrated interest in advancing the efforts of Flemington to pursue certification through the Sustainable Jersey municipal certification program;
- 3) The role of the Green Team has been and shall continue to be to lead and coordinate the sustainability activities of the community;

Adopted: March 8, 2021

Attest:


Betsy Driver, Mayor


Sallie Graziano, Borough Clerk

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano

Sponsors:

DOC ID: 3441

ADOPTED

RESOLUTION 2021-68

**Recognizing the Accomplishments and Potential of Women,
During Women's History Month**

Flemington Borough, Hunterdon County

Whereas National Women's History Month recognizes and spreads awareness of the importance of women in the history of the United States; and

Whereas, throughout the history of the United States, whether in the home, workplace, school, the courts, or in wartime, women have fought for themselves, their families, and all people of the United States; and

Whereas women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in the United States; and

Whereas women led the efforts to secure suffrage and equal opportunity for women, and also served in the abolitionist movement, the emancipation movement, labor movements, civil rights movements, and other causes to create a more fair and just society for all; and

Whereas women have been and continue to be leaders in the forefront of social change efforts, business, science, government, math, art, literature, music, film, athletics, and more; and

Whereas women now represent approximately half of the workforce of the United States; and

Whereas women have been vital to the mission of the Armed Forces since the American Revolution, serving in volunteer and enlisted positions; and

Whereas, despite the advancements of women in the United States, much remains to be done to ensure that women realize their full potential as equal members of society;

Now, therefore, be it resolved that the Mayor and Council of the Borough of Flemington hereby take the opportunity provided by the observation of Women's History Month to recognize the accomplishments and potential of women.

Adopted: March 8, 2021

Attest:


Betsy Driver, Mayor


Sallie Graziano, Borough Clerk

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano

Sponsors:

DOC ID: 3442

ADOPTED

RESOLUTION 2021-69

Marking the First Anniversary of the COVID-19 Pandemic

Flemington Borough, Hunterdon County

WHEREAS, nearly a year has passed since March 16, 2020, when the Borough of Flemington declared a local public health emergency and state of emergency due to a pandemic caused by Coronavirus disease 2019, known as COVID-19; and

WHEREAS, 377 residents of the Borough have contracted COVID-19 over the past year, and the disease has taken the lives of three Borough residents; and

WHEREAS, the pandemic has changed the way Borough residents live and work and how children are educated; and

WHEREAS, healthcare workers and first responders have faced unprecedented challenges due to this pandemic; and

WHEREAS, business owners have had to respond creatively to ever-changing restrictions aimed at controlling the spread of this contagious and at time fatal respiratory disease; and

WHEREAS, the COVID-19 pandemic continues to cause significant risk to public health and safety;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington honor the sacrifices made by residents, first responders, healthcare workers, businesspeople, educators, front-line workers and all who have been affected by the COVID-19 pandemic; and

BE IT FURTHER RESOLVED that a moment of silence be observed to mark this moment.

Adopted: March 8, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano

Sponsors:

DOC ID: 3438

ADOPTED

RESOLUTION 2021-70

Waiving the Outdoor Dining Permit Fee for the Remainder of the Year 2021

WHEREAS, pursuant to Ordinance 2020-07 adopted on May 26, 2020, the Borough amended its zoning ordinances to permit outdoor dining as an accessory use to all restaurants, breweries, hotels, and other retail food establishments; and

WHEREAS, Ordinance 2020-07 requires an annual permit fee in the amount of \$50, which can be waived by the Borough Council; and

WHEREAS, Coronavirus disease 2019 ("COVID-19") is a contagious, and at times fatal, respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, on March 9, 2020 Governor Phil Murphy declared that a Public Health Emergency and State of Emergency exist in the State of New Jersey; and

WHEREAS, on March 16, 2020 the Borough of Flemington declared that a local public health emergency and state of emergency exist in the Borough of Flemington; and

WHEREAS, on-premises dining has been prohibited or restricted at all retail food establishments since such time; and

WHEREAS, the Borough Council anticipates that as retail food establishments are permitted to reopen for on-premises dining, they will have to strictly adhere to social distancing guidelines; and

WHEREAS, the Borough Council anticipates that outdoor dining will be essential to the success of the Borough's retail food establishments in the wake of the COVID-19 pandemic; and

WHEREAS, in an effort to aid in the recovery of local retail food establishments in the wake of the COVID-19 pandemic, the Borough Council desires to waive the permit fee for outdoor dining for the remainder of the year 2021;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, hereby waive collection of the outdoor dining permit fee for restaurants, breweries, hotels, and all other retail food establishments for the remainder of the year 2021.

Adopted: March 8, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

ADOPTED

RESOLUTION 2021-71

DOC ID: 3440

**Authorizing Town Wide Yard Sales to be Held on May 1-2,
2021 and October 2-3, 2021**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

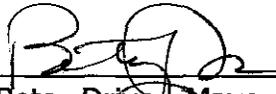
WHEREAS, the Borough holds annual town wide yard sales in the spring and fall; and

WHEREAS, the dates that are preferable to hold these sales in 2021 are May 1st and 2nd, with a rain date of May 8th and 9th; and October 2nd and 3rd, with a rain date of Oct. 9th and 10th;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that the annual town wide yard sales be held on May 1st and 2nd of 2021 and October 2nd and 3rd of 2021 with rain dates as specified above.

Adopted: March 8, 2021

Attest:



Betsy Driver, Mayor



Sallie Graziano, R.M.C, Borough Clerk

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

ADOPTED

RESOLUTION 2021-72

DOC ID: 3439

**Expressing Opposition to Assembly Bill ACS-1571/1576 and
Companion Senate Bill S-1956, to Impose Prevailing Wage
Requirements on Certain Redevelopment Projects**

WHEREAS, New Jersey General Assembly Bills ACS 1571 and 1576 and Senate Bill S-1956 seek to impose prevailing wage requirements on any property where a public body has provided, approved, or authorized a tax abatement or tax exemption; and

WHEREAS, Payments in lieu of taxes (PILOTs) are the single-most powerful tool available to municipalities to encourage property owners and developers to make improvements to property or to locate a project in a distressed or blighted area and are granted only where the municipality has determined that the project would not occur but for the PILOT; and

WHEREAS, PILOTs have been instrumental in the construction of affordable housing, environmental remediation, historic preservation, and the installation of infrastructure, and

WHEREAS, Increasing the cost of already challenged projects by requiring a private property owner to pay prevailing wages for improvements on their property, as is contemplated by the above bills, will prompt a greater demand on the municipality to provide additional concessions, such as increased density or building heights, in the PILOT at the expense of property taxpayers, which will diminish municipal revenue and property tax relief, and may even prevent projects from moving forward; and

WHEREAS, COVID-19 has not only affected the public health, it has impacted our main street businesses and halted development, requiring municipalities to use every tool available to encourage and spur post-COVID development, without the economy-stunting limitations of ACS 1571/1576 and S-1956; and

WHEREAS, the Bills, as currently configured, do not appear to ensure that the State provide the gap financing necessary to make municipal redevelopment projects financially viable, or to provide funding to municipalities to re-engage professional services in order to restructure and amend redevelopment plans, redevelopers agreements and financial agreements (costs already born by local taxpayers), nor to address settlements impacting the much needed and long overdue construction of affordable housing units as those agreements will need to be renegotiated at the local level; and

WHEREAS, the Borough of Flemington is concerned that towns will be responsible for these added costs by reducing project revenue to taxpayers or by increasing density, intensity and height of projects and plans moving forward without an assurance in this proposed legislation that the State is considering new financial tools for local municipalities to attract investment and make projects financially viable; and

WHEREAS, it is unclear from the proposed legislation the impact to community givebacks that were already negotiated in the best interest of local municipalities and under local control (infrastructure upgrades, workforce development programs, environmental remediation, contributions to Affordable Housing Trust Funds, etc.), and whether an economic impact assessment has been conducted, especially in light of the pandemic and urgent need for economic recovery.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Flemington that the Borough of Flemington opposes the passage of ACS 1571/1576 and S-1956 for the above stated reasons.

BE IT FURTHER RESOLVED, that the Borough Clerk is hereby directed to forward a certified copy of the within Resolution to its Representative to the New Jersey Assembly and to its State Senator.

Adopted: March 8, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [5 TO 0]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Tilly
ABSTAIN:	Christopher Runion

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

ADOPTED

RESOLUTION 2021-73

DOC ID: 3443

**Amending and Restating Resolution Number 2021-48
Heretofore Duly Adopted by the Borough of Flemington, in
the County of Hunterdon, State of New Jersey on January 25,
2021 and Entitled "Resolution of the Borough of Flemington,
in the County of Hunterdon, New Jersey, Determining the
Form and Other Details of Its "Note Relating to the
Transportation Bank Short-Term Loan Program of the New
Jersey Infrastructure Bank", to be Issued in One or More
Series in the Aggregate Principal Amount of Up to
\$1,591,952, and Providing for the Issuance and Sale of Such
Note to the New Jersey Infrastructure Bank, and Authorizing
the Execution and Delivery of Such Note by the Borough of
Flemington in Favor of the New Jersey Infrastructure Bank,
All Pursuant to the New Jersey Infrastructure Bank's
Transportation Bank Short-Term Loan Program"**

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit (as defined herein), as follows:

Section 1. Resolution Number 2021-48 heretofore duly adopted by the Local Unit on January 25, 2021 and entitled, "RESOLUTION OF THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF ITS "NOTE RELATING TO THE TRANSPORTATION BANK SHORT-TERM LOAN PROGRAM OF THE NEW JERSEY INFRASTRUCTURE BANK", TO BE ISSUED IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$1,591,952, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK, AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NOTE BY THE BOROUGH OF FLEMINGTON IN FAVOR OF THE NEW JERSEY INFRASTRUCTURE BANK, ALL PURSUANT TO THE NEW JERSEY INFRASTRUCTURE BANK'S TRANSPORTATION BANK SHORT-TERM LOAN PROGRAM", is hereby amended and restated in its entirety, as follows:

WHEREAS, the Borough of Flemington (the "Local Unit"), in the County of Hunterdon, New Jersey, has determined that there exists a need within the Local Unit to design, construct, renovate, acquire and/or install a project consisting of Various Roadway Improvements to Corcoran Street, South Main Street and Dewey Avenue including, but not limited to, as applicable, excavation, milling, paving, reconstruction and boxing out and resurfacing or full depth pavement replacement, and where necessary, the sealing of pavement cracks, storm drainage improvements, the repairing and/or installation of or improvements to curbs, sidewalks and driveway aprons, ADA access improvements, resetting utility castings, improvements to and/or construction of retaining walls, traffic signal improvements, traffic striping and pavement markings, and associated lawn restoration, landscaping and aesthetic improvements (the "Project"), and it is the desire of the Local Unit to obtain financing for all or any portion of such Project through participation in the transportation financing programs (the "Transportation Bank") of the New Jersey Infrastructure Bank (the "I-Bank") as established pursuant to, and in satisfaction of, the "New Jersey Infrastructure Trust Act," constituting Chapter 334 of the Laws of New Jersey of 1985 (codified at N.J.S.A. 58:11B-1 *et seq.*), as the same has been, and in the future may from time to time be, amended and supplemented (the "I-Bank Act");

WHEREAS, the Local Unit has determined to short-term finance the design and construction of all or any portion of such Project through the Transportation Bank short-term loan program (the "Transportation Short-Term Loan Program") with proceeds of one or more short-term loan(s) (the "Transportation Short-Term Loan") from the I-Bank;

WHEREAS, in order to (i) evidence and secure the repayment obligation of the Local Unit to the I-Bank with respect to the Transportation Short-Term Loan, and (ii) satisfy the requirements of the Transportation Short-Term Loan Program, it is the desire of the Local Unit to issue and sell to the I-Bank the "Note Relating to the Transportation Bank Short-Term Loan Program of the New Jersey Infrastructure Bank" in an aggregate principal amount of up to \$1,671,550 (to be issued in one or more series, as applicable) (the "Note");

WHEREAS, it is the desire of the Local Unit to authorize, execute, attest and deliver each Note to the I-Bank pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the "Local Bond Law"), and other applicable law; and

WHEREAS, Section 28 of the Local Bond Law and Section 9 of the I-Bank Act permit the sale of each Note to the I-Bank (in one or more series), without any public offering, all pursuant to the terms and conditions set forth, respectively, therein.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit as follows:

Section 1. The obligation represented by the Note has been appropriated and authorized by bond ordinance #2020-18 of the Local Unit, which bond ordinance (i) is entitled "BOND ORDINANCE PROVIDING FOR VARIOUS ROADWAY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$1,671,550 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,591,952 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF" and was finally adopted by the Local Unit at a meeting duly called and held on December 14, 2020, as amended and supplemented by bond ordinance # 2021-4 of the Local Unit which bond ordinance is entitled "BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2020-18 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON DECEMBER 14, 2020, TO INCREASE THE APPROPRIATION THEREIN BY \$83,578 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$79,598 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF", and was finally adopted by the Local Unit at a meeting duly called and held on March 8, 2021, at which time quorums were present and acted throughout, respectively (ii) each thereafter duly published as required, and (iii) each are in full force and effect, all pursuant to and in satisfaction of the terms of the Local Bond Law and other applicable law. In accordance with Section 28 of the Local Bond Law and Section 9 of the I-Bank Act, the Local Unit hereby authorizes the issuance, sale and award of the Note (in one or more series) to the I-Bank in accordance with the provisions hereof.

Section 2. The Chief Financial Officer of the Local Unit (the "Chief Financial Officer") is hereby authorized to determine, in accordance with the Local Bond Law, the I-Bank Act, other applicable law and pursuant to the terms and conditions hereof, (i) the final principal amount(s) (if sold in one or more series, as applicable) of each Note (subject to the maximum limitation set forth in Section 4(a) hereof), (ii) the dated date(s) (if sold in one or more series, as applicable) of each Note and (iii) the interest rate(s) (if sold in one or more series, as applicable) of each Note.

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of each Note by the parties authorized pursuant to Section 4(h) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Note shall be as follows:

- (a) the aggregate principal amount of the Notes to be issued to the I-Bank, shall be an amount up to \$1,671,550 and may be issued in more than one series provided the combined principal amounts do not exceed \$1,671,550;
- (b) the maturity or maturities of each Note (if sold in more than one series) shall be as determined by the I-Bank pursuant to the terms and provisions of the Transportation Short-Term Loan Program;
- (c) the interest rate or rates of each Note (if sold in more than one series) shall be as determined by the I-Bank pursuant to the terms and provisions of the Transportation Short-Term Loan Program;
- (d) the purchase price or prices (if sold in more than one series) for each Note shall be par;

- (e) each Note shall be subject to prepayment prior to its stated maturity and to repayment at or prior to its stated maturity, each in accordance with the terms and provisions of the Transportation Short-Term Loan Program;
- (f) each Note shall be issued in a single denomination and shall be numbered "NJTB-STLP-2021-__" (or such other year or designation at the time of issuance);
- (g) each Note shall be issued in fully registered form and shall be payable to the registered owner thereof as to both principal and interest in lawful money of the United States of America; and
- (h) each Note shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 5. Each Note shall be substantially in the form attached hereto as Exhibit A.

Section 6. The law firm of Archer & Greiner P.C. is hereby authorized to arrange for the drafting, preparation and printing of each Note, which law firm may authorize Chiesa Shahinian & Giantomasi PC, bond counsel to the I-Bank for the Transportation Short-Term Loan Program, to arrange for same.

Section 7. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers, in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit and after further consultation with the I-Bank and its representatives, agents, counsel and advisors, to be executed in connection with the issuance and sale of the Note and the participation of the Local Unit in the Transportation Short-Term Loan Program, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution, issuance and delivery of the Note and the participation of the Local Unit in the Transportation Short-Term Loan Program.

Section 8. This resolution shall take effect upon the effective date of Bond Ordinance #2021-4.

Section 9. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to John M. Cantalupo, Esq., Archer & Greiner P.C., bond counsel to the Local Unit; David E. Zimmer, Executive Director of the I-Bank; and Tricia M. Gasparine, Esq., Chiesa Shahinian & Giantomasi PC, bond counsel to the I-Bank for the Transportation Short-Term Loan Program."

Adopted: March 8, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Kimberly Tilly, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

ADOPTED

ORDINANCE 2021-4

DOC ID: 3423

**Amending and Supplementing Bond Ordinance 2020-18
Finally Adopted by the Borough Council on December 14,
2020, to Increase the Appropriation Therein by \$83,578 and to
Increase the Authorization of Bonds or Notes Therein by
\$79,598 to Finance Part of the Additional Costs Thereof**

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1. The bond ordinance of the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough"), heretofore finally adopted by the Borough Council on December 14, 2020, number 2020-18, entitled: "BOND ORDINANCE PROVIDING FOR VARIOUS ROADWAY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$1,671,550 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,591,952 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF" (the "Original Ordinance"), is hereby amended and supplemented to the extent and with the effect as follows:

SECTION 2. For the improvements or purposes described in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, there is hereby appropriated the additional sum of \$83,578, said sum being inclusive of \$3,980 as the amount of an additional down payment as required by the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.*, as amended and supplemented (the "Local Bond Law"), now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes. Therefore, the total appropriation contained in the Original Ordinance, as amended and supplemented hereby, shall be increased by \$83,578 from \$1,671,550 and shall equal the amount of \$1,755,128, said sum being inclusive of all appropriations heretofore made in the Original Ordinance, as amended and supplemented hereby, including the total amount of down payment increased by \$3,980 from \$79,598 to equal \$83,578. The total appropriation including the total amount of down payment is \$1,755,128.

SECTION 3. In order to finance the additional cost of the improvements or purposes set forth in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, not covered by the additional down payment, additional negotiable bonds or notes of the Borough in the amount of \$79,598 are hereby authorized to be issued by the Borough for such improvements or purposes in Section 3(a)(i) of the Original Ordinance, as amended and supplemented, such that the total authorization of negotiable bonds or notes to be issued by the Borough for the improvements or purposes stated in the Original Ordinance, as amended and supplemented hereby, shall be increased by \$79,598 from \$1,591,952 and shall equal the amount of \$1,671,550.

SECTION 4. The Capital Budget of the Borough is hereby amended, as necessary, to conform with the provisions of this amendatory and supplemental bond ordinance and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs (the "Director of the Division of Local Government Services"), will be on file in the office of the Clerk and will be available for public inspection.

SECTION 5. The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided for in this amendatory

and supplemental bond ordinance by \$79,598 and the said obligations authorized herein will be within all debt limitations prescribed by law.

SECTION 6. For the improvements or purposes set forth in the Original Ordinance, as amended and supplemented hereby, the additional sum of \$16,715 is hereby included for the items of expense listed in and permitted under N.J.S.A. 40A:2-20, making the total amount for such items of expense \$351,025 (increased from \$334,310), such total amount being included in the estimated cost indicated herein for the improvements or purposes set forth in the Original Ordinance, as amended and supplemented hereby.

SECTION 7. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by the Original Ordinance, as amended and supplemented hereby. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 8. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of the Original Ordinance, as amended and supplemented hereby, and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby. This Section 8 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 9. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

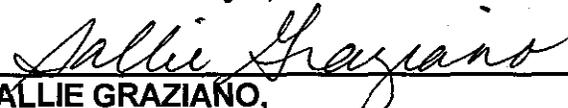
SECTION 10. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on all bonds and notes issued under the Original Ordinance, as amended and supplemented hereby.

SECTION 11. Except as expressly amended hereby, the Original Ordinance shall remain in full force and effect.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING

DATED: February 8, 2021



SALLIE GRAZIANO,
Clerk of the Borough of Flemington

ADOPTED ON SECOND READING

DATED: March 8, 2021



SALLIE GRAZIANO,
Clerk of the Borough of Flemington

APPROVAL BY THE MAYOR ON THIS 9th DAY OF March, 2021.

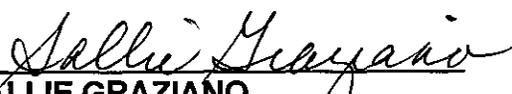

BETSY DRIVER,
Mayor of the Borough of Flemington

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Kimberly Tilly, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON
PUBLIC NOTICE
NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Borough of Flemington, in the County of Hunterdon, State of New Jersey, on February 8, 2021. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held on March 8, 2021 at 7:30 p.m. by virtual means. Please refer to the Borough's website for information and updates as to joining the meeting remotely and/or commenting (www.historicflemington.com). During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

- Title:** BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2020-18 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON DECEMBER 14, 2020, TO INCREASE THE APPROPRIATION THEREIN BY \$83,578 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$79,598 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF
- Purpose(s):** To Amend And Supplement Bond Ordinance Number 2020-18 To Increase The Appropriation And Authorization Of Bonds Or Notes Therein
- Additional Appropriation:** \$83,578 (increased from \$1,671,550 to a total of \$1,755,128)
- Additional Bonds/Notes Authorized:** \$79,598 (increased from \$1,591,952 to a total of \$1,671,550)
- Additional Section 20 Costs:** \$16,715 (increased from \$334,410 to a total of \$351,025)
- Useful Life:** 20 years (unchanged)


SALLIE GRAZIANO,
Clerk of the Borough of Flemington

BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON

PUBLIC NOTICE

BOND ORDINANCE STATEMENTS AND SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the Borough Council of the Borough of Flemington, in the County of Hunterdon, State of New Jersey on March 8, 2021 and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2020-18 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON DECEMBER 14, 2020, TO INCREASE THE APPROPRIATION THEREIN BY \$83,578 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$79,598 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF

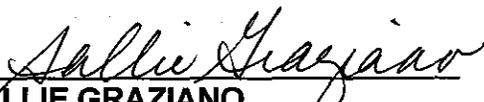
Purpose(s): To Amend And Supplement Bond Ordinance Number 2020-18 To Increase The Appropriation And Authorization Of Bonds Or Notes Therein

Additional Appropriation: \$83,578 (increased from \$1,671,550 to a total of \$1,755,128)

Additional Bonds/Notes Authorized: \$79,598 (increased from \$1,591,952 to a total of \$1,671,550)

Additional Section 20 Costs: \$16,715 (increased from \$334,410 to a total of \$351,025)

Useful Life: 20 years (unchanged)


SALLIE GRAZIANO,
Clerk of the Borough of Flemington

CERTIFICATE OF INTRODUCTION

I, the undersigned Clerk of the Borough of Flemington, in the County of Hunterdon, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Borough duly called and held on February 8, 2021 at 7:30 p.m. by virtual means (with public access) in said County, and that the following was the roll call:

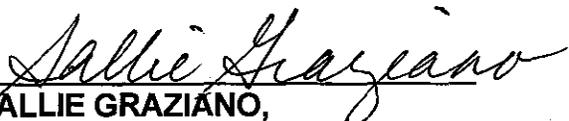
Present: Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Absent: None

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body of the Borough and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this 9th day of February, 2021.

(SEAL)


SALLIE GRAZIANO,
Clerk of the Borough of Flemington

CERTIFICATE OF FINAL ADOPTION

I, the undersigned Clerk of the Borough of Flemington, in the County of Hunterdon, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Borough duly called and held on March 8, 2021 at 7:30 p.m. by virtual means (with public access) in said County and that the following was the roll call:

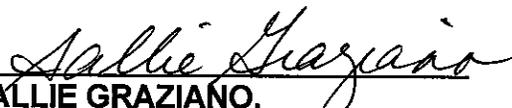
Present: Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Absent: None

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body of the Borough Council and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this 9th day of March, 2021.

(SEAL)


SALLIE GRAZIANO,
Clerk of the Borough of Flemington

CLERK'S CERTIFICATE

I, SALLIE GRAZIANO, DO HEREBY CERTIFY that I am the Clerk of the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough"), and that, as such, I am duly authorized to execute and deliver this certificate on behalf of the Borough. In such capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the Borough and the records relative to all resolutions and ordinances of the Borough. The representations made herein are based upon the records of the Borough. I DO HEREBY FURTHER CERTIFY THAT:

1. Attached hereto is the bond ordinance introduced on February 8, 2021 and finally adopted on March 8, 2021 and approved by the Mayor on March 9, 2021.

2. After introduction, the bond ordinance was published as required by law on February 11, 2021 in the Courier-News and the Hunterdon County Democrat.

3. Following the passage of the ordinance on first reading, and at least seven (7) days prior to the final adoption thereof, I caused to be posted in the principal municipal building of the Borough at the place where public notices are customarily posted, a copy of said bond ordinance and a notice that copies of the bond ordinance would be made available to the members of the general public of the Borough who requested copies, up to and including the time of further consideration of the bond ordinance by the governing body of the Borough. Copies of the bond ordinance were made available to all who requested same.

4. After final adoption, the bond ordinance was duly approved by the Mayor of the Borough (if applicable) and published as required by law on March 11, 2021 in the Hunterdon County Democrat (name of newspaper). No protest signed by any person against making any improvement or incurring the indebtedness authorized therein, nor any petition requesting that a referendum vote be taken on the action proposed in the bond ordinance has been presented to the governing body of the Borough or to me or filed in my office within twenty (20) days after said publication or at any other time after the final adoption thereof.

5. The bond ordinance has not been amended, added to, altered or repealed and said bond ordinance is now in full force and effect.

6. A certified copy of the bond ordinance and a copy of the amended capital budget form have been filed with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, as applicable.

7. The official seal of the Borough is the seal, an impression of which is affixed opposite my signature on this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Borough this 1st day of April, 2021.

(SEAL)


SALLIE GRAZIANO,
Clerk of the Borough of Flemington

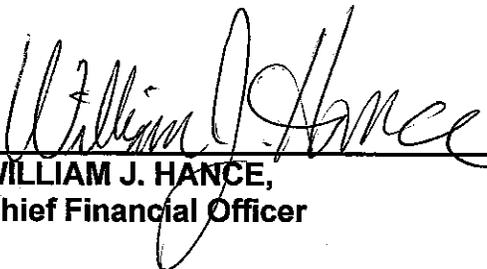
DOWN PAYMENT CERTIFICATE

I, the undersigned Chief Financial Officer of the Borough of Flemington, in the County of Hunterdon, State of New Jersey, DO HEREBY CERTIFY that prior to final adoption of the bond ordinance entitled,

“BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2020-18 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON DECEMBER 14, 2020, TO INCREASE THE APPROPRIATION THEREIN BY \$83,578 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$79,598 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF”

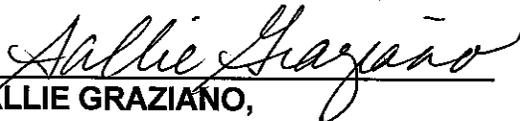
there was available as an additional down payment for the improvement or purpose authorized by Section 3(a) of the Original Ordinance, as amended and supplemented hereby, the amount of \$3,980, which sum was made available by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or capital improvement purposes.

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Borough this 11th day of March, 2021.


WILLIAM J. HANCE,
Chief Financial Officer

CERTIFICATE OF SUPPLEMENTAL DEBT STATEMENT

I, the undersigned Clerk of the Borough of Flemington, in the County of Hunterdon, State of New Jersey, DO HEREBY CERTIFY, that the attached Supplemental Debt Statement was prepared, executed and sworn to by William J. Hance, Chief Financial Officer of the Borough, as of February 8, 2021, that such Supplemental Debt Statement was filed in my office on February 8, 2021 and with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs on or prior to February 22, 2021.


SALLIE GRAZIANO,
Clerk of the Borough of Flemington

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

ADOPTED

ORDINANCE 2021-5

DOC ID: 3436

Ordinance to Repeal and Replace Chapter 21 of the Code of the Borough of Flemington Entitled "Stormwater Control," to Reflect Amendments to the New Jersey Stormwater Management Rules at N.J.A.C. 7:8, Adopted March 2, 2020

Borough of Flemington, County of Hunterdon

WHEREAS, the Borough of Flemington has a Stormwater Management Ordinance that codifies the stormwater management rules contained in N.J.A.C. 7:8 in furtherance of its Municipal Stormwater Permit; and

WHEREAS, the Stormwater Control Ordinance is subject to change when the State amends N.J.A.C. 7:8; and

WHEREAS, the State of New Jersey amended its Stormwater Management Rules at N.J.A.C. 7:8 on March 2, 2020; and

WHEREAS, the municipalities in the State of New Jersey are required to amend their Stormwater Control Ordinances to align with the updated Stormwater Management Rules at N.J.A.C. 7:8 on or before March 2, 2021;

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that Chapter 21 of the Code of the Borough of Flemington, entitled "Stormwater Management," is repealed and replaced as shown in the attached document.

Introduced: February 22, 2021

Adopted: March 8, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Kimberly Tilly, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

BOROUGH OF FLEMINGTON

ORDINANCE NO. 2021 - 5

ORDINANCE TO REPEAL AND REPLACE CHAPTER 21 OF THE CODE OF THE BOROUGH OF FLEMINGTON ENTITLED "STORMWATER CONTROL" TO REFLECT AMENDMENTS TO THE NEW JERSEY STORMWATER MANAGEMENT RULES AT N.J.A.C. 7:8, ADOPTED MARCH 2, 2020

WHEREAS, the Borough of Flemington has a Stormwater Management Ordinance that codifies the stormwater management rules contained in N.J.A.C. 7:8 in furtherance of its Municipal Stormwater Permit; and

WHEREAS, the Stormwater Control Ordinance is subject to change when the State amends N.J.A.C. 7:8; and

WHEREAS, the State of New Jersey amended its Stormwater Management Rules at N.J.A.C. 7:8 on March 2, 2020; and

WHEREAS, the municipalities in the State of New Jersey are required to amend their Stormwater Control Ordinances to align with the updated Stormwater Management Rules at N.J.A.C. 7:8 on or before March 2, 2021;

NOW THEREFORE BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY THAT CHAPTER 21 OF THE CODE OF THE BOROUGH OF FLEMINGTON, ENTITLED, "STORMWATER MANAGEMENT" IS REPEALED AND REPLACED AS FOLLOWS:

§ 21.1. Scope and Purpose:

§ 21-1.1. 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.

§ 21-1.2. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls for "major development," as defined below in Section II.

§21-1.3. 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 Borough of Flemington.

§21-1.4. 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.

§ 21.2. 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" means 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).

"Community basin" means 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” means the increase in soil bulk density.

“Contributory drainage area” means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

“Core” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

“County review agency” means an agency designated by the County Commissioners to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

1. A county planning agency or
2. A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

“Department” means the Department of Environmental Protection.

“Designated Center” means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

“Design engineer” means 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” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-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, 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” means 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” means 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” means 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 area” means an area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats 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” means 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” means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

“Green infrastructure” means 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” means 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” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“Infiltration” is 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” means 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
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” means 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” means 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” means any city, borough, town, township, or village.

“New Jersey Stormwater Best Management Practices (BMP) Manual” or “BMP Manual” means 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 §21.4. 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” means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

“Nutrient” means 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, political subdivision of this State and any state, interstate or Federal agency.

“Pollutant” means 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” means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

“Regulated impervious surface” means 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” means 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” means the lot or lots upon which a major development is to occur or has occurred.

“Soil” means all unconsolidated mineral and organic material of any origin.

“State Development and Redevelopment Plan Metropolitan Planning Area (PA1)” means 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” is defined as 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” means 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” means 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” means 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” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Stormwater management planning agency” means a public body authorized by legislation to prepare stormwater management plans.

“Stormwater management planning area” means 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” means 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” means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

“Urban Enterprise Zones” means 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” is defined as 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” means 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” means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

“Wetlands” or “wetland” means 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.

§ 21.3. Design and Performance Standards for Stormwater Management Measures:

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality 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.

§ 21.4. Design and Performance Standards for Stormwater Management Measures:

§21.4.1. Stormwater Management Requirements for Major Development

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with §21.10.
- B. 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).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of §21.4 P, Q and R:
 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 is made of permeable material.
- D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of §21.4. O, P, Q and R 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 §21.4. O, P, Q and R to the maximum extent practicable;
 3. The applicant demonstrates that, in order to meet the requirements of §21.4. O, P, Q and R, 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 IV.D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of §21.4. O, P, Q and R that were not achievable onsite.
- E. 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 §21.4. 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://njstormwater.org/bmp_manual2.htm.

- F. 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

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

(Notes corresponding to annotations ^(a) through ^(g) are found on Page D-15)

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)

<u>Best Management Practice</u>	<u>Stormwater Runoff Quality TSS Removal Rate (percent)</u>	<u>Stormwater Runoff Quantity</u>	<u>Groundwater Recharge</u>	<u>Minimum Separation from Seasonal High Water Table (feet)</u>
<u>Bioretention System</u>	<u>80 or 90</u>	<u>Yes</u>	<u>Yes^(b)</u> <u>No^(c)</u>	<u>2^(b)</u> <u>1^(c)</u>
<u>Infiltration Basin</u>	<u>80</u>	<u>Yes</u>	<u>Yes</u>	<u>2</u>
<u>Sand Filter^(b)</u>	<u>80</u>	<u>Yes</u>	<u>Yes</u>	<u>2</u>
<u>Standard Constructed Wetland</u>	<u>90</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>
<u>Wet Pond^(d)</u>	<u>50-90</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>

(Notes corresponding to annotations ^(b) through ^(d) are found on Page D-15)

Table 3 <u>BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or</u> <u>Stormwater Runoff Quantity</u> <u>only with a Waiver or Variance from N.J.A.C. 7:8-5.3</u>				
<u>Best Management Practice</u>	<u>Stormwater Runoff Quality TSS Removal Rate (percent)</u>	<u>Stormwater Runoff Quantity</u>	<u>Groundwater Recharge</u>	<u>Minimum Separation from Seasonal High Water Table (feet)</u>
<u>Blue Roof</u>	<u>0</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>
<u>Extended Detention Basin</u>	<u>40-60</u>	<u>Yes</u>	<u>No</u>	<u>1</u>
<u>Manufactured Treatment Device^(h)</u>	<u>50 or 80</u>	<u>No</u>	<u>No</u>	<u>Dependent upon the device</u>
<u>Sand Filter^(c)</u>	<u>80</u>	<u>Yes</u>	<u>No</u>	<u>1</u>
<u>Subsurface Gravel Wetland</u>	<u>90</u>	<u>No</u>	<u>No</u>	<u>1</u>
<u>Wet Pond</u>	<u>50-90</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>

Notes to Tables 1, 2, and 3:

- (a) subject to the applicable contributory drainage area limitation specified at Section IV.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 II;
- (h) manufactured treatment devices that do not meet the definition of green infrastructure at Section II.

- G. 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 VI.B. Alternative stormwater management measures may be used to satisfy the requirements at Section IV.O only if the measures meet the definition of green infrastructure at Section II. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section O.2 are subject to the contributory drainage area limitation specified at Section O.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 O.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 IV.D is granted from Section IV.O.
- H. 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.
- I. 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 VIII.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 VIII; 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.
- J. 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 II may be used only under the circumstances described at Section IV.O.4.
- K. Any application for a new agricultural development that meets the definition of major development at Section II shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Sections IV.O, P, Q and R 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.
- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section IV.P, Q and R 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.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the *{insert Office of the County Clerk or the registrar of deeds and mortgages of the county 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 IV.O, P, Q and R 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 X.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.

N. 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 IV 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 *{insert appropriate Office of the County Clerk or the registrar of deeds and mortgages, as applies}* and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M 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 M above.

O. 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 IV.P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Section IV.F. and/or an alternative stormwater management measure approved in accordance with Section IV.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>
<u>Dry Well</u>	<u>1 acre</u>
<u>Manufactured Treatment Device</u>	<u>2.5 acres</u>
<u>Pervious Pavement Systems</u>	<u>Area of additional inflow cannot exceed three times the area occupied by the BMP</u>
<u>Small-scale Bioretention Systems</u>	<u>2.5 acres</u>
<u>Small-scale Infiltration Basin</u>	<u>2.5 acres</u>
<u>Small-scale Sand Filter</u>	<u>2.5 acres</u>

3. To satisfy the stormwater runoff quantity standards at Section IV.R, 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 IV.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 IV.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 IV.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section IV.P, Q and R.
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 IV.P, Q and R, unless the project is granted a waiver from strict compliance in accordance with Section IV.D.

P. 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 V, 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 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:
 - 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 or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
 - ii. 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.

Q. 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:
 - i. 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.

- ii. 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

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

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 IV.P, Q and R.
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.

R. 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:

- i. 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;
 - ii. 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;
 - iii. 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
 - iv. 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.

§21.5. Calculation of Stormwater Runoff and Groundwater Recharge:

§21.5.1 Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:
 - i. 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

- ii. 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 above at Section V.A.1.i and the Rational and Modified Rational Methods at Section V.A.1.ii. 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, or 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* or 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.

- A. Groundwater recharge may be calculated in accordance with the following:

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.

§21.6. Sources for Technical Guidance:

§ 21.6.1. 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:

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.

§21.6.2. 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.

§21.7. Solids and Floatable Materials Control Standards:

A. Site design features identified under Section IV.F above, or alternative designs in accordance with Section IV.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 VII.A.2 below.

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

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.

§21.8. 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 BMPs. This section applies to any new stormwater management BMP.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in Section VIII.C.1, VIII.C.2, and VIII.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 BMP to ensure proper functioning of the BMP outlets in accordance with the following:
 - i. The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
 - ii. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;

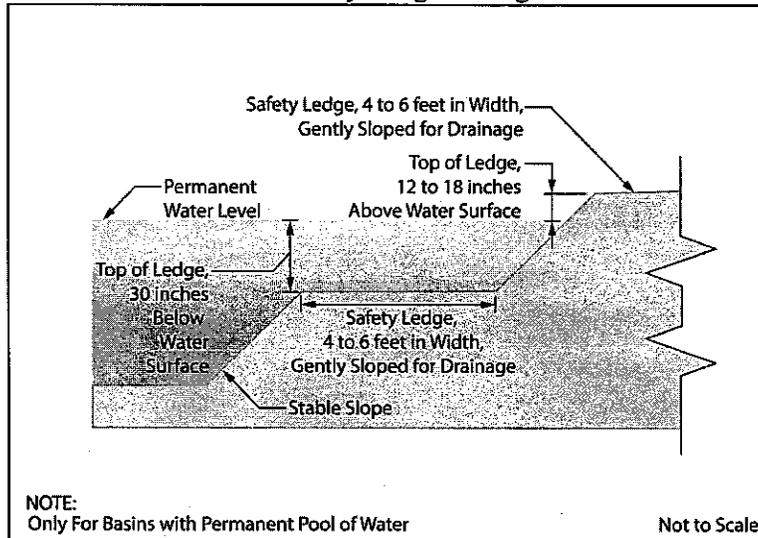
- iii. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
 - iv. The trash rack shall be constructed of rigid, durable, and corrosion resistant material and 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:
 - i. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - ii. The overflow grate spacing shall be no less than two inches across the smallest dimension
 - iii. 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 pounds per square foot.
 - 3. Stormwater management BMPs shall include escape provisions as follows:
 - i. If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to VIII.C, a free-standing outlet structure may be exempted from this requirement;
 - ii. Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. 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 VIII.E for an illustration of safety ledges in a stormwater management BMP; and
 - iii. In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one 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

Elevation View –Basin Safety Ledge Configuration



§21.9. Requirements for a Site Development Stormwater Plan:

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section IX.C below as part of the submission of the application for approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit [*specify number*] copies of the materials listed in the checklist for site development stormwater plans in accordance with Section IX.C of this ordinance.

B. Site Development Stormwater Plan Approval

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

C. Submission of Site Development Stormwater Plan

The following information shall be required:

1. Topographic Base Map

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

2. Environmental Site Analysis

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

3. Project Description and Site Plans

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

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Sections III through V are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map

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

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

6. Calculations

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

7. Maintenance and Repair Plan

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

8. Waiver from Submission Requirements

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

§21.10. Maintenance and Repair:

A. Applicability

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

B. General Maintenance

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

of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.

7. The party responsible for maintenance identified under Section X.B.3 above shall perform all of the following requirements:
 - i. 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;
 - ii. evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
 - iii. 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 X.B.6 and B.7 above.
8. The requirements of Section X.B.3 and 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.

Note: It may be appropriate to delete requirements in the maintenance and repair plan that are not applicable if the ordinance requires the facility to be dedicated to the municipality. If the municipality does not want to take this responsibility, the ordinance should require the posting of 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.

9. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- C. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53

§21.11. Penalties:

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the following penalties:

{Municipality to specify}

§21.5. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section XIII. Effective Date:

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

ALL OF WHICH IS ADOPTED THIS 8th day of March, 2021, by the Council of the Borough of Flemington.

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

TABLED

ORDINANCE 2021-6

DOC ID: 3444

**Bond Ordinance Providing for Sewer Utility Improvements,
by and in the Borough of Flemington, in the County of
Hunterdon, State of New Jersey; Appropriating \$827,499
Therefor and Authorizing the Issuance of \$827,499 in Bonds
or Notes to Finance the Cost Thereof**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW
JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS
FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough") as general improvements. For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$827,499 from the Sewer Utility of the Borough, said sum being inclusive of all appropriations heretofore made therefor. Pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"), no down payment is required as the Sewer Utility of the Borough is self-liquidating.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the said \$827,499 appropriation, negotiable bonds of the Sewer Utility of the Borough are hereby authorized to be issued in the aggregate principal amount not exceeding \$827,499 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in an aggregate principal amount not exceeding \$827,499 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued are sewer utility improvements on Dewey Avenue (from Mine Street to Bonnell Street); Corcoran Street (from Park Avenue to Allen Street); Hopewell Avenue (from East Main Street to North Main Street), said improvements to include, but not limited to, improvements to and/or replacement of sewer pipes, laterals and manholes; sewer utility improvements on Main Street (from Route 12 to Church Street) including, but not limited to, sewer clean out improvements; and, as applicable, associated traffic control, roadway pavement restoration, curb, sidewalk and driveway repairs and lawn restoration; and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$827,499.

(c) The aggregate estimated cost of said improvements or purposes is \$827,499.

(d) The above improvements and purposes set forth in Section 3(a) shall also include, but are not limited to, the following, as applicable, construction planning, engineering and design work, preparation of plans and specifications, permits, bid documents, inspections and contract administration, and also including all work, materials, equipment, labor and appurtenances as necessary therefor or incidental thereto.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity make a contribution or grant in aid, as applicable, to the Borough for the improvements or purposes authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity. In the event, however, that any amount so contributed or granted, as applicable, by the United States of America, the

State of New Jersey, the County of Hunterdon and/or a private entity, shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purposes. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Borough as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer of the Borough shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The capital budget of the Sewer Utility of the Borough is hereby amended to conform with the provisions of this bond ordinance, and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital programs of the Sewer Utility as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, will be on file in the Office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses and are improvements or purposes which the Borough may lawfully undertake as a general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvements or purposes within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 40 years.

(c) The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$827,499 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$181,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property

within the Borough for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough covenants to maintain the exclusion from gross income under Section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

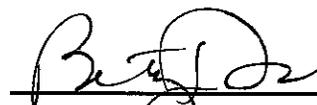
ADOPTED ON FIRST READING

DATED: March 8, 2021



SALLIE GRAZIANO,

Borough Clerk



BETSY DRIVER,

Mayor

RESULT:	INTRODUCED [UNANIMOUS]	Next: 3/22/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Caitlin Giles-McCormick, Council President	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

DOC ID: 3446

INTRODUCED

ORDINANCE 2021-8

**An Ordinance Effectuating and Regulating Expanded
Outdoor Dining in Compliance with Chapter 15, Senate Bill
3340**

WHEREAS, the State of New Jersey has enacted Chapter 15, Senate Bill No. 3340, creating opportunities for restaurants, bars, distilleries, and breweries to adjust operations in response to the COVID-19 public health emergency through expanded outdoor dining; and

WHEREAS, the Borough of Flemington wishes to support its restaurants, bars, distilleries and breweries in operating expanded outdoor dining in compliance with Chapter 15, Senate Bill No. 3340.

NOW BE IT ORDAINED, the Borough of Flemington shall enact this ordinance to effectuate and regulate the increase for outdoor dining.

1. As used in this ordinance, and only for the purposes of this ordinance:

“Brewery” means a brewery operating under a brewery license pursuant to R.S.33:1-10.

“Distillery” means a distillery that has been issued, and is in compliance with, a distillery license pursuant to R.S.33:1-10.

“Food” means food that is cooked, prepared, sold, served, and consumed on the business premises.

“Outdoor space” means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on or adjacent to the business premises, which space is owned, leased, or otherwise in the lawful control of the owner or operator of the business premises.

“Public sidewalk” means a sidewalk on the locally or county owned public right-of-way which is adjacent to the business premises, or a portion thereof.

“Special Ruling No. 2020-10” means Special Ruling No. 2020-10, issued by the Acting Director of the Division of Alcoholic Beverage Control on June 3, 2020.

2. a. Notwithstanding the provisions of any law to the contrary, during the period that this Ordinance is in effect, the owner or operator of a restaurant, bar, distillery, or brewery may use outdoor spaces which they own or lease and which are located either on, or adjacent to, their business premises, as an extension of their business premises for the purpose of conducting sales of food and beverages.
- b. The owner or operator of a restaurant, bar, distillery, or brewery desiring to utilize outdoor spaces as an extension of their businesses shall file an application with the municipal Zoning Officer of the Borough of Flemington that includes: (1) a plan, sketch, picture, or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the outdoor spaces; and (2) a plan for the control of litter, the removal and storage of garbage, and the cleaning of fixtures and grounds. If a business premises' parking lot is used for the service and sale of either food or beverages, or both, the restaurant, bar, distillery, or brewery shall not encumber more than 75 percent of the lot's total parking spaces for such service and sale, unless the parking lot contains less than eight parking spaces, and shall maintain at least one handicapped parking space in the parking lot.

- c. The applicant shall provide all of the following: (1) written consent of the owner of the premises, if other than the applicant, (2) an insurance certificate naming the municipality as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000, with respect to losses arising solely from the operation of the outdoor dining facility, or (3) an indemnification agreement with the municipality with respect to losses arising solely from the operation of the outdoor dining facility.
 - d.
 - 1) The Zoning Officer shall issue an approval to the applicant within 15 business days of the application being submitted and deemed complete provided that the applicant meets and abides by all qualifications and requirements of this ordinance, with the exception that the Zoning Officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation, or upon any applicable law permitting the denial of a zoning permit, that is not otherwise directly superseded by this section or Special Ruling No. 2020-10. An application under this section shall not be considered a variance under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
 - 2) The Borough of Flemington may deny, revoke or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of Chapter 15, Senate 3340, or any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Division of Alcoholic Beverage Control, and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee based on any action taken against the applicant or permittee by the Division of Alcoholic Beverage Control related to the Division's enforcement of any law or regulation related to the consumption or control of alcoholic beverages under its jurisdiction.
 - 3) An appeal to any approval, denial, revocation or suspension may be filed through the municipal clerk with the Common Council of the Borough of Flemington. The Council, or its designee shall conduct a hearing and render a decision within 30 days of the filing of the appeal. The Council may designate a municipal official or an attorney licensed in the State of New Jersey to serve as a hearing officer in place of the Council for the purpose of conducting said hearing and rendering said decision. Nothing in this act shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction, according to law.
 - e. The Borough of Flemington shall require that any restaurant, bar, distillery, or brewery operating pursuant to this section shall follow, maintain, and enforce protocols promulgated by the Commissioner of Health or Executive Order of the Governor in response to the COVID- 19 public health emergency, concerning social distancing and use of personal protective equipment during the period those protocols are in effect.
3.
 - a. Notwithstanding the provisions of any law to the contrary, during the period that this ordinance is in effect, the owners and operators of restaurants, bars, distilleries, and breweries may use public sidewalks as an extension of their business premises for the purpose of conducting sales of food and beverages.
 - b. The owner or operator of a restaurant, bar, distillery, or brewery desiring to utilize public sidewalks as an extension of their businesses shall file an application with the Borough Zoning Officer that includes: (1) a plan, sketch, picture, or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the public sidewalks; and (2) a

plan for the control of litter, the removal and storage of garbage, and the cleaning of fixtures and public sidewalks.

- c. All applicants shall provide all of the following: (1) written consent of the owner of the premises, if other than the applicant, (2) an insurance certificate naming the municipality as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000, with respect to losses arising solely from the operation of the outdoor dining facility located on public sidewalks, or (3) an indemnification agreement with the municipality with respect to losses arising solely from the operation of the outdoor dining facility on public sidewalks.
- d. 1) The Zoning Officer shall issue an approval to the applicant within 15 business days of the application being submitted and deemed complete provided that the applicant meets and abides by all qualifications and requirements of this ordinance, with the exception that the Zoning Officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation, or upon any applicable law permitting the denial of a zoning permit that is not otherwise directly superseded by Chapter 15, Senate 3340 or Special Ruling No. 2020-10. An application under this section shall not be considered a variance under the "Municipal 2 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
- 2) The Borough of Flemington may deny, revoke or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of this act or any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Division of Alcoholic Beverage Control, and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee based on any action taken against the applicant or permittee by the Division of Alcoholic Beverage Control related to the Division's enforcement of any law or regulation related to the consumption or control of alcoholic beverages under its jurisdiction.
- 3) An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the Common Council of the Borough of Flemington. The Council, or its designee, shall conduct a hearing and render a decision within 30 days of the filing of the appeal. The Council may designate a municipal official or an attorney licensed in the State of New Jersey to serve as a hearing officer in place of the governing body for the purpose of conducting said hearing and rendering said decision. Nothing in this act shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction, according to law.
- e. Owners and operators of restaurants, bars, distilleries, or breweries desiring to utilize outdoor spaces are subject to the following conditions: (1) a walking path not less than four feet wide must be maintained on the public sidewalk at all times so as to not obstruct pedestrian traffic; (2) all fixtures must be removed from public sidewalks at the conclusion of each day, if so required by the municipality; and (3) the Borough of Flemington reserves the right to order the temporary suspension of outdoor dining and the removal of all fixtures from public sidewalks due to road or utility construction, predicted high winds or severe weather, predicted snow or ice storms, the need to remove snow or ice from the sidewalks, or any other public emergency that may arise.
- f. The Borough of Flemington shall require that any restaurants, bars, distilleries, or breweries operating pursuant to this section shall follow, maintain, and enforce protocols promulgated by the Commissioner of Health or Executive Order of the Governor in response to the COVID-19 public health emergency, concerning

social distancing and use of personal protective equipment during the period those protocols are in effect.

4. a. The common Council of the Borough of Flemington may file with the Division of Alcoholic Beverage Control an objection to the continued operation under subsection a. of this section by any licensee or permittee the governing body finds to have:

- 1) Failed to follow, maintain, and enforce protocols promulgated by the Commissioner of Health or by Executive Order of the Governor in response to the COVID-19 public health emergency concerning social distancing and the use of personal protective equipment; or
- 2) Violated any other health, safety, fire permitted use or zoning regulations or ordinances not otherwise directly superseded by this section or Special Ruling No. 2020-10.

Any decision rendered, or action taken, by the of the Division of Alcoholic Beverage Control as a result of an objection filed by the governing body of the municipality pursuant to this subsection shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court of New Jersey in accordance with the Rules of Court.

c. Nothing in this ordinance shall preclude or limit the authority provided to the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Title 33 of the Revised Statutes or the exercise of such authority thereby.

5. A public sidewalk or an outdoor space shall be considered a portion of the premises which is open to the public for the purposes 30 of section 5 of P.L.1999, c.90 (C.2C:33-27).

6. This ordinance shall expire on November 30, 2022, or on the date of the resumption, pursuant to an executive order issued by the Governor, of indoor dining without capacity limitations, whichever is later.

7. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

8. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

9. This Ordinance shall take effect upon final passage, publication, and filing, all in accordance with the law.

Introduced: March 8, 2021

Adopted:

Attest:

Sallie Graziano
Sallie Graziano, Borough Clerk

Betsy Driver
Betsy Driver, Mayor

RESULT:	INTRODUCED [UNANIMOUS]	Next: 3/22/2021 7:30 PM
MOVER:	Jeremy Long, Council Vice President	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	