

MINUTES OF REGULAR MEETING OF NOVEMBER 18, 2020

The regular meeting of the Frelinghuysen Township Committee was held virtual via zoom virtual meeting service and in person, Township Municipal Building, 210 Main Street, Johnsonburg, New Jersey on Wednesday, November 18, 2020 and as called to order at 7:30 p.m. by Mayor, Chris Stracco.

SUNSHINE LAW STATEMENT:

Under the provisions of the Open Public Meetings Act, adequate notice of this meeting was provided by posting notice on the Township bulletin board, Township website and by e mailing notice to the New Jersey Herald and The Express-Times.

FLAG SALUTE

ROLL CALL:

Those present were: Mayor Chris Stracco, Deputy Mayor Keith Ramos, Committeeman Frank Desiderio, Attorney Rich Beilin via zoom, Danette Dyer via zoom, and Municipal Clerk Donna Zilberfarb.

PROCLAMATIONS:

PROCLAMATION IN HONOR OF SADIE FORBES WHEREAS, Sadie Forbes has been a longtime resident of Frelinghuysen Township, and attended Frelinghuysen Elementary School and North Warren Regional Middle and High School; WHEREAS, Sadie has been an active participant in the Township, the North Warren community, including Scouting; WHEREAS, Sadie has been a member of the Girl Scouts of America since Kindergarten, going on to earn her Bronze and Silver Awards; WHEREAS, while attending North Warren Regional Middle and High School Sadie has been involved in numerous extracurricular activities, including Interact, Student Council, Junior States of America, Friends of Rachel, Peer Leadership, Spanish Honor Society, Math Honor Society and National Honor Society; WHEREAS, while attending North Warren Regional High School Sadie has held numerous leadership positions, including Student Council Class Secretary in Grade 10, Student Council Executive Secretary in Grade 11, and Student Council Executive President in Grade 12; WHEREAS, Sadie played field hockey at North Warren Regional High School, and was a three-time varsity player from Grades 9 through 12; WHEREAS, Sadie excelled in academics at North Warren Regional High School, including making the Principal's List from Grades 9 through 12, achieving AP Scholar with Honor in Grade 11, and was in the top 10% of her classes in Grades 9 through 11; WHEREAS, Sadie has a long history of volunteering for public service, including participating over the years as a volunteer in Local Share, Roadside Cleanup, Clover Rest Home, Safe Trick or Treat, Newton Medical Center, Extended School Year Program, and Interact Talent Show, among others; WHEREAS, Sadie wanted her Girl Scout Gold Award Project to benefit the Township where she grew up, and chose the Frelinghuysen Rydell Field as a place where all can gather, enjoy and consider the history of Frelinghuysen; WHEREAS, as part of her Girl Scout Gold Award Project, on her own time, she ran and held fundraisers to fund her project, interviewed residents, worked with members of the Township Historical Commission, obtained donations of materials, created a walking tour brochure, an on-line video tour, constructed a historical kiosk at Rydell Field, placed six historical signs along the Rydell Field walking path, all of which will be enjoyed by generations of Township residents and Scouts for years to come, as well as worked with the Frelinghuysen Township School to create curriculum and assignments for the appropriate grade levels in connection with same; WHEREAS, Sadie's Girl Scout Gold Award Project benefits the Frelinghuysen Township and North Warren Communities at large; WHEREAS, Sadie is a parishioner at Saint Jude's Roman Catholic Church in Blairstown Township where she received the Holy Sacraments of Confirmation, Communion and Penance, and, NOW, THEREFORE BE IT PROCLAIMED on this 18th day of November, 2020, by the Frelinghuysen Township Committee, on behalf of the residents of the Township of Frelinghuysen, that we hereby convey our deepest best wishes and happiness to Sadie Forbes for her dedication to Scouting, her School, and for the betterment of our Township community, and wish the best of luck to her in all of her future endeavors.

Motion was made by Mr. Desiderio to concur, seconded by Mr. Ramos. All were in favor.

MINUTES:

1. October 21, 2020 regular meeting minutes were approved on a motion by Mr. Ramos, seconded by Mr. Desiderio. All were in favor.
2. October 21, 2020 executive session meeting minutes were approved on a motion by Mr. Ramos, seconded by Mr. Desiderio. All were in favor.

ORDINANCES:

#2020-11 AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE TOWNSHIP OF FRELINGHUYSEN, NEW JERSEY TO CSC TKR, LLC WHEREAS, the governing body of Township of Frelinghuysen (hereinafter referred to as the "Township") determined that CSC TKR, LLC (hereinafter referred to as "the Company") has the technical competence and general fitness to operate a cable television system in the Municipality (as defined in Section 1 of this Ordinance), and by prior ordinance granted its municipal consent for the Company's predecessor in interest, Service Electric Cable T. V. of New Jersey, Inc. ("SECTV") to obtain a non-exclusive franchise (the "Franchise") for the placement of facilities and the establishment of a cable television system in the Municipality; and WHEREAS, by application for renewal consent filed with the Township and the Office of Cable Television on or about October 14, 2011, SECTV, and the Company as its successor in interest, has sought a renewal of the Franchise; and WHEREAS, on or about July 14, 2020; with the prior approval of the Board of Public Utilities of the State of New Jersey (hereinafter the "Board") the Company completed its purchase of the assets of SECTV, including the cable television franchise for, and the cable television system within the territorial limits

governed by, the Township, and **WHEREAS**, the Township having held public hearings has made due inquiry to review The Company's performance under the Franchise, and to identify the Township's future cable-related needs and interests and has concluded that the Company has substantially complied with its obligations under the Franchise and applicable law and has committed to certain undertakings responsive to the Township's future cable-related needs and interests; **WHEREAS**, the Township has accordingly concluded that the consent should be renewed subject to the requirements set forth below; and that, provided the Company's proposal for renewal embodies the commitments set forth below, the Township's municipal consent to the renewal of the Franchise should be given; and **WHEREAS**, imposition of the same burdens and costs on other competitors franchised by the Township is a basic assumption of the parties; **NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township Frelinghuysen, County of Warren, and State of New Jersey, as follows:

SECTION 1. DEFINITIONS For the purpose of this Ordinance the terms defined above shall have the meanings there indicated, and the following additional terms shall have the following meanings:

- (a) "Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq.
 - (b) "Application" shall mean the Company's application for Renewal of Municipal Consent, which application is on file in the Township Clerk's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.
 - (c) "Board" shall mean the Board of Public Utilities of the State of New Jersey or its successor agency.
 - (d) "Township" shall mean the governing body of the Township Frelinghuysen in the County of Warren, and the State of New Jersey.
 - (e) "Company" shall mean CSC TKR, LLC, the grantee of rights under this Ordinance.
 - (f) "FCC" shall mean the Federal Communications Commission.
 - (g) "Federal Act" shall mean that federal statute relating to cable communications commonly known as the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 et seq. and the Telecommunications Act of 1996, or as those statutes may be amended.
 - (h) "Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq. (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 C.F.R. Section 76.3), or as such regulations may be amended.
 - (i) "Municipality" shall mean the area contained within the present municipal boundaries of the Township of Frelinghuysen in the County of Warren, and the State of New Jersey.
- A.
- (j) "Standard installation" shall mean the installation of drop cable to a customer's premise where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.
 - (k) "State" shall mean the State of New Jersey.
 - (l) "State Regulations" shall mean those regulations of the State of New Jersey Board of Public Utilities relating to cable television. N.J.A.C. 14:17-1.1 et seq. and N.J.A.C. 14:18-1 et seq., or as such regulations may be amended.

SECTION 2. STATEMENT OF FINDINGS A public hearing concerning the consent herein granted to the Company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the Township having received all comments regarding the qualifications of the Company to receive this consent, the Township hereby finds the Company possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that the Company's operating and construction arrangements are adequate and feasible. **SECTION 3. GRANT OF AUTHORITY**

The Township hereby grants to the Company its non-exclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the Municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Municipality of a cable television system or other communications facility, and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities. **SECTION 4. DURATION OF FRANCHISE** This consent granted herein shall be non-exclusive and shall be for a term of ten (10) years from the date of issuance of a Certificate of Approval by the Board. **SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL** If the Company seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A 48:5A-16, and applicable state and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Township and the Company shall be bound by the terms of this municipal consent until such time as the Company converts the municipal consent (and any certificate of approval) into a system-wide franchise. **SECTION 6. FRANCHISE TERRITORY** The consent granted under this Ordinance to the Company shall apply to the entirety of the Municipality and any property hereafter annexed.

SECTION 7. SERVICE AREA The Company shall be required to proffer video programming service along any public right-of-way to any person's residence within the "primary service area," as it exists on the effective date of any written approval order by the Board of this consent, at The Company's schedule of rates for standard and nonstandard installation.

The "primary service area" shall include the development known as "Homestead Farms" located within the Municipality; where construction of the cable system commenced, or shall commence, no later than January 14, 2021. **SECTION 8. EXTENSION OF SERVICE** Pursuant to the requirements of the Board, as ordered in its approval of the transfer of the Franchise from SECTV to the Company (Docket No. CM20030211, effective July 6, 2020), upon request, the Company shall extend service along any public right of way outside its primary service area to those residences or small businesses within the franchise territory which are located in areas that have a residential home density of twenty-five (25) homes per mile or greater (as measured from the then existing primary service area), or areas with less than twenty-five (25) homes per mile where residents and/or small businesses agree to share the cost of such extension in accordance with the line extension formula as provided by the Company in its application for municipal consent. **SECTION 9. FRANCHISE FEE** Pursuant to the terms and conditions of the Cable Television Act, the Company shall pay to the Township, as an annual franchise fee, a sum equal to two percent (2%) of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the Municipality. In the event applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Township and the Company shall negotiate in good faith with respect to the amount

thereof; provided, however, that nothing herein shall be construed to permit the Township to require payment of a franchise fee by the Company that is higher than the fee paid by all other cable television service providers offering service in the Municipality.

SECTION 10. FREE SERVICE Subject to applicable federal regulations, the Company shall, upon written request, provide free of charge, 200 Mbps service one (1) standard installation and monthly cable television reception service to all State or locally accredited public schools and all municipal buildings located within the Municipality.

SECTION 11. CONSTRUCTION/SYSTEM REQUIREMENTS The Company shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its cable plant and facilities in the Municipality: (a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work. (b) If at any time during the period of this consent, the Township shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Township shall remove or relocate its equipment, at its own expense. (c) Upon request of a person holding a building or moving permit issued by the Township, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than fourteen (14) days prior written notice in order to arrange for the changes required. (d) During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Township so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

SECTION 12. TECHNICAL AND CUSTOMER SERVICE STANDARDS

The Company shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

SECTION 13. LOCAL OFFICE OR AGENT The Company shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

SECTION 14. DESIGNATION OF COMPLAINT OFFICER The Office of Cable Television is hereby designated as the complaint officer for the Township pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

SECTION 15. LIABILITY INSURANCE The Company agrees to maintain and keep in force and effect at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Township as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of five-hundred thousand dollars (\$500,000) for bodily injury or death to one person, and one million dollars (\$1,000,000) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder.

SECTION 16. PERFORMANCE BOND The Company shall obtain and maintain, at its sole cost and expense, during the entire term of this Agreement, a bond to the Township in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of its obligations as provided in this Franchise.

SECTION 17. RATES

A. The rates of the Company for cable television service shall be subject to regulation to the extent permitted by federal and State law. B. The Company shall implement a senior citizen discount in the amount of ten percent (10%) off the monthly broadcast basic level of cable television service rate to any person sixty-two (62) years of age or older, who subscribes to cable television services provided by the Company, subject to the following:

- (i) Such discount shall only be available to eligible senior citizens who do not share the subscription with more than one person in the same household who is less than sixty-two (62) years of age; and,
- (ii) In accordance with N.J.S.A. 48:5A-11.2, subscribers seeking eligibility for the discount must meet the income and residence requirements of the Pharmaceutical Assistance to the Aged and Disabled program pursuant to N.J.S.A. 30:4D-21; and,
- (iii) The senior discount herein relates only to the broadcast basic level of cable television service, and shall not apply to any additional service, feature, or equipment offered by the Company, including any premium channel services and pay-per-view services; and,
- (iv) Senior citizens who subscribe to a level of cable television service beyond expanded basic service, including any premium or per channel a la carte service, shall not be eligible for the discount; and,
- (v) C. The Company shall have no further obligation to provide the senior discount herein in the event that (a) the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1; or (b) upon Board approval of a certification that another cable television service provider offering services to residents of the Municipality files, in accordance with N.J.S.A. 48:5A-30(d), is capable of serving sixty percent (60%) or more of the households within the Municipality. In the event the Company does cease providing a senior discount pursuant to this provision, it shall comply with all notice requirements of applicable law.
- (vi) **SECTION 18. EMERGENCY USES**

The Company shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Township pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Township or any other person, during an emergency, if for any reason the Township is unable to make full use of the cable television system as contemplated herein. The Township shall utilize the state-approved procedures for such emergency uses.

SECTION 19. EQUITABLE TERMS In the event that the service of another multi-channel video program provider not subject to the Township's regulatory authority within the Municipality creates a significant

competitive disadvantage to the Company, the Company shall have the right to request from the Township lawful amendments to its Franchise that relieve it of burdens which create the unfair competitive situation. Should the Company seek such amendments to its Franchise, the parties agree to negotiate in good-faith appropriate changes to the Franchise in order to relieve the Company of such competitive disadvantages. If the parties can reach an agreement on such terms, the Township agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7. If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Township acknowledges that the Company shall have the right to petition the Board directly for such amendments in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7; provided, however, the Township shall be under no obligation to support The Company's request for such relief from the Board. In any subsequent municipal consent, Township shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Township's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, Township agrees to support the Company's petition to the Board for modification of the consent in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

SECTION 20. REMOVAL OF FACILITIES Upon expiration, termination or revocation of this Ordinance, the Company at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the cable services authorized herein, unless the Company, its affiliated entities or assignees should, within six (6) months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

SECTION 21. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS A. The Company shall continue to make available non-commercial public, educational and governmental (PEG) access services available to the residents of the Municipality as described in the Application for municipal consent. All the Company support for PEG access shall be for the exclusive benefit of the Company's subscribers.

B. The Township agrees that the Company shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Township is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Township's provision of PEG access programming on such channel. C. The Company shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Section 21.

SECTION 22. INCORPORATION OF APPLICATION

B. All of the commitments contained in the Application and any amendment thereto submitted in writing to the Township by the Company except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and any other written amendments thereto submitted by the Company in connection with this consent are incorporated in this Ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this Ordinance, or to the extent that they conflict with State or federal law.

SECTION 23. CONSISTENCY WITH APPLICABLE LAWS This consent shall be construed in a manner consistent with all applicable federal, State and local laws; as such laws, rules and regulations may be amended from time to time.

SECTION 24. SEPARABILITY 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 portion thereof.

SECTION 25. NOTICE Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective. The time to respond to notices under this Ordinance shall run from receipt of such written notice.

Notices to the Company shall be mailed to:
Altice USA
1 Court Square West, 49th Floor
Long island City, NY 11101
Attention: Senior Vice President for Government Affairs
With a copy to:
CSC TKR, LLC
c/o Altice USA
1 Court Square West
Long island City, NY 11101
Attention: Legal Department
Notices to the Township shall be mailed to:
Township of Frelinghuysen
210 Main Street
Johnsonburg, NJ 07825
Attention: Township Clerk

SECTION 26. EFFECTIVE DATE AND BOARD OF PUBLIC UTILITY APPROVAL This Ordinance shall take effect upon issuance of a Certificate of Approval as issued by the Board of Public Utilities that incorporates the material terms of this Ordinance. Nothing herein shall alter the right of the Company to seek modification of this Ordinance in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7. In accordance with N.J.S.A. 48:5A-25.1, the terms of this Ordinance will no longer be in effect upon The Company converting the municipal consent (and any certificate of approval) into a system-wide franchise.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon the passage, and publication as required by law. **NOTICE** Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Frelinghuysen Township Committee held on October 21, 2020 and will be considered for final reading and adoption at the meeting of the Frelinghuysen Township Committee to be held on November 18, 2020 at the Municipal Building, 210 Main Street, Johnsonburg, New Jersey at which time and place all interested parties may appear for or against the passage of said Ordinance. Motion was made by Mr. Ramos to open for first reading for introduction, seconded by Mr. McPeek. Second reading will be held at the November 18, 2020 meeting.

Motion was made by Mr. Desiderio to open for second reading for adoption, seconded by Mr. Ramos. All were in favor. Motion was made by Mr. Desiderio to open to the public, seconded by Mr. Ramos. All were in favor. No public comment. Motion was made by Mr. Desiderio to close to the public, seconded by Mr. Ramos. All were in favor. Motion was made by Mr. Desiderio to approve for adoption, seconded by Mr. Ramos. Roll call vote: Mr. Boynton-absent; Mr. Desiderio-yes; Mr. McPeek-absent; Mr. Ramos-yes; Mr. Stracco-yes.

Ordinance 2020-12 ORDINANCE ADOPTING A NEW SECTION 14-2, "IMPORTATION OF SOIL AND FILL MATERIALS," OF THE FRELINGHUYSEN TOWNSHIP MUNICIPAL CODE. WHEREAS, the unregulated and uncontrolled importation of soil and fill materials into the boundaries of the Township of Frelinghuysen poses a threat to the safety, public health, and general welfare of the Township's residents; and WHEREAS, the Mayor and Township Committee have determined that it is necessary and appropriate to revise the procedures governing the importation of soil and fill materials within the boundaries of the Township of Frelinghuysen. NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Frelinghuysen, County of Warren, State of New Jersey, as follows:

Section I Chapter 14 of the Frelinghuysen Township Code is amended by adding thereto a new Section 14-2, to read as follows:

§ 14-2. IMPORTATION OF SOIL AND FILL MATERIALS.

§ 14-2.1. Purpose. The placement of contaminated soil within the boundaries of the Township of Frelinghuysen poses a threat to the safety, public health, and general welfare of the Township's residents. The adoption and enforcement of this Section does not exempt an applicant from required approvals of the local Soil Conservation District and is meant to act in conjunction with all Soil Conservation District requirements with respect to soil importation.

§ 14-2.2. Definitions. As used in this section:

APPLICANT Shall mean any person or entity who has filed an application with the Township Clerk pursuant to the provisions of § 14-2.4 herein. **CONTAMINATED** Shall mean soil or fill material containing one or more contaminants from an unintentional or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a hazardous substance, hazardous waste, pollutant, or naturally occurring contaminant at a concentration which fails to satisfy any applicable remediation standard as defined by the New Jersey Department of Environmental Protection. **HAZARDOUS** Shall mean the presence of one or more contaminants at levels generally considered to pose a threat to human health, whether from short-term or long-term direct exposure, or from consequent degradation of surface or groundwater resources. **FILL MATERIAL** Shall mean, all forms of reclaimed materials, whether organic or inorganic, including by way of example, but not by way of limitation, quarry process, crushed masonry, recycled concrete aggregate, brick or brick fragments, asphalt millings, dredging materials, and any mixtures thereof or in mixtures with soil. **IMPORTATION and IMPORT** Shall mean the movement of soil or fill materials onto properties located within the boundaries of the Township of Frelinghuysen from one or more locations outside the Township's boundaries. **PROPERTY** Shall mean all contiguous lands owned by the same person or entity. **SOIL** Shall mean and include all forms of earth, whether organic or inorganic, including by way of example, but not by way of limitation, surface or subsurface dirt, stone, rock, gravel, crushed stone, sand, humus, clay, loam, minerals, topsoil, and any mixtures thereof. § 14-2.3. Importation of Contaminated Soil Prohibited. Importation of contaminated soil or fill materials into the Township of Frelinghuysen is prohibited. § 14-2.4. Permit Requirements; Fees.

(a) No person shall import or engage in any preparatory site work to import soil or fill materials onto a site within the Township of Frelinghuysen in quantities of one hundred fifty (150) cubic yards or more without first having procured a permit thereof by the filing of an application for such soil importation with the **(Township Clerk Zoning Officer Engineer?)**. The Application shall be accompanied by a minimum fee of one hundred (\$100.00) dollars plus ten (\$10.00) dollars per thousand cubic yards in excess of one hundred (100) cubic yards. The Applicant shall also deposit an escrow with the **Township Clerk** in the amount of one hundred fifty (\$150.00) dollars to cover the costs of the Township Engineer's review of the Application pursuant to § 14-2.6. The Township Engineer may require additional escrow provided that Township Engineer's initial review result in a determination that there is a need for additional engineering review or retention of professional services as described in § 14-2.6 herein.

(b) The Application shall disclose the following:

- (i) Name and address of the applicant;
- (ii) Name and address of the property owner (if other than the applicant);
- (iii) Location of the property to which the soil or fill material is to be imported, including tax map block and lot;
- (iv) Purpose for importation of the soil or fill material;
- (v) Specific location on the property at which the soil or fill material is to be placed;
- (vi) Source of the soil or fill material, including name, address and address from which the soil or fill material is being imported;
- (vii) Documentation from the soil or fill material supplier(s) certifying that the material imported is free of contaminants.
- (viii) Proposed date of completion of the soil or fill material placement;
- (ix) Approved soil erosion/sediment control permit (if applicable), and
- (x) Permit fee and escrow deposit.

§14-2.5 Permit Expiration; Renewals. Permits shall expire ninety (90) days after approval pursuant to subsection 14-2.4. Expired permits may be renewed one time upon the filing of a Renewal Application with the Zoning officer. The Renewal Application shall be accompanied by a minimum fee of one hundred (\$100.00) dollars. Application for renewals shall be approved provided that there are no changes to the scope of the project or to the previously approved source(s) of imported soil and fill materials as described pursuant to § 14-4.4. Material changes to the project, including but not limited to, changes in scope of project or source(s) of imported soil and fill materials, shall result in denial of the Renewal Application. Denials of Renewal Applications shall not prejudice the re-filing of an Application for a Permit pursuant to § 14-2.4.

§14-2.6. Permit Exemption. Where there is an approved site plan, and said site plan approval includes provisions for importation of soil or fill materials, no additional permit or fee shall be required. Permitted construction or repair of septic systems and driveways is explicitly exempted from the requirements of §14-2.3.

§14-2.7. Township Engineer Review; Violations.

(a) The Township Engineer shall review all applications required hereunder. If, in the opinion of the Township Engineer, professional review of the application including physical examination or testing of

soil or fill materials is required, the Engineer shall forward all pertinent materials to a soil consultant or environmental consultant for review and testing. A certified testing soil laboratory report shall be delivered to the **Zoning Officer** within thirty (30) days from the date of a completed application during which time the permit shall be considered as pending approval with the possibility of denial. The report of the consultant shall be accompanied by an invoice for the services performed. The applicant shall establish an escrow fund in the Township Clerk's office to satisfy the cost of testing and professional review based upon an estimate of the cost involved to be provided by the Township Engineer.

(b) If the Township Engineer, in the course of review, determines that Township roads may sustain meaningful "wear and tear" damage due to the passage of trucks carrying the imported materials, the Township's Road Department shall review the application. If meaningful damage is determined to be likely, the Road Department shall provide a reasonable estimate of excess costs attributable to truck traffic associated with the importation activity. Such estimates shall fairly apportion and distinguish between costs associated with the importation activity and those associated with normal usage of the Township's roadways including occasional passage of heavy trucks. The applicant shall be solely responsible for costs attributable to the importation activity and shall establish an escrow fund in the Township Clerk's office sufficient to refund the Township for this expense.

(c) If, during the course of soil or fill material importation, the Township Engineer shall determine that a physical examination of the material involved is required to ensure protection of public health and safety, the Township may retain, at its discretion, a soil consultant to examine the imported material. Such examination shall be at the sole expense of the applicant who shall establish an escrow account to cover the possibility that this cost may be incurred.

(d) If it is determined that contaminated soil or fill materials have been imported into the Township, whether unintentionally or intentionally, any ongoing importation activities shall cease immediately and the property owner shall, at the Township's discretion, be responsible for remediation or removal of the material. If the imported material is determined to be hazardous, remediation and/or removal shall be required. Any such remediation or removal shall be conducted under the supervision of the Township Engineer at the sole expense of the property owner.

(e) If the Township Engineer, in the course of review, determines the need for site plan review, the Application shall be referred to the Land Use Board for review, and approval of the importation permit shall be stayed pending review of the Application by the Land Use Board.

§14-2.8 Truck Traffic Limitations on Permitted Importation. During the school year, which for the purposes of this Ordinance will be September 1 to June 30, truck traffic, for the permitted importation of soil or fill materials shall be limited to the hours of 9AM to 3PM Mondays through Fridays inclusive. From July 1 to August 31, truck traffic for the permitted importation of soil or fill materials shall be limited to the hours of 7AM to 6PM Mondays through Fridays inclusive. Traffic for permitted importation of materials is prohibited on Saturdays and Sundays.

Section II Section 14-1.20, "Regulations for Importation of Soil and/or Fill Material into the Township," is repealed in its entirety. **Section III**

1. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

2. If any word, phrase, clause, section or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

3. This ordinance shall take effect immediately upon final passage and publication as required by law.

NOTICE Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Frelinghuysen Township Committee held on November 18, 2020 and will be considered for final reading and adoption at the meeting of the Frelinghuysen Township Committee to be held on December 16, 2020 at the Municipal Building, 210 Main Street, Johnsonburg, New Jersey at which time and place all interested parties may appear for or against the passage of said Ordinance. Motion was made by Mr. Ramos to open to first reading for introduction, seconded by Mr. Desiderio. Roll call vote: Mr. Boynton-absent; Mr. Desiderio-yes; Mr. McPeck-absent; Mr. Ramos-yes; Mr. Stracco-yes. Second reading for adoption will be held on December 16, 2020.

BOND ORDINANCE NUMBER 2020-13 BOND ORDINANCE PROVIDING FOR PHASE 2 OF THE GREENDELL ROAD RESURFACING PROJECT, BY AND IN THE TOWNSHIP OF FRELINGHUYSEN, IN THE COUNTY OF WARREN, STATE OF NEW JERSEY; APPROPRIATING \$140,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$133,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF FRELINGHUYSEN, IN THE COUNTY OF WARREN, 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 as general improvements or purposes to be undertaken by the Township of Frelinghuysen, in the County of Warren, State of New Jersey (the "Township"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$140,000, said sum being inclusive of a down payment in the amount of \$7,000 now available for said improvements or purposes required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"), and now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes. SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$140,000 appropriation not provided for by said down payment referred to in Section 1 hereof, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$133,000 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 Township in a principal amount not exceeding \$133,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law. SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued

is for Phase 2 of the resurfacing of Greendell Road within the Township and various repairs and improvements related thereto, all as part of the Greendell Road Resurfacing Project. Such improvements or purposes shall also include, as applicable, all engineering and design work, surveying, construction management services, preparation of plans and specifications, permits, bid documents, contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto, all in accordance with the plans therefor on file in the office of the Township Clerk and available for public inspection and hereby approved. (b)

The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$133,000. (c) The estimated cost of said improvements or purposes is \$140,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor being the amount of \$7,000, which is the down payment available for such improvements or purposes. SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Warren make a contribution or grant in aid to the Township for the improvements or purposes authorized hereby and the same shall be received by the Township 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 and/or the County of Warren. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Warren shall be received by the Township 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 purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Township 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 Township, provided that no note shall mature later than one (1) year from its date or as otherwise authorized by the Local Bond 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 of the Township. The Chief Financial Officer of the Township shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer of the Township 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 of the Township 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 of the Township 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, the maturity schedule of the notes so sold, the price obtained and the name of the purchaser. SECTION 6. The Capital Budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs 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 of the Township 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 which the Township may lawfully undertake as 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 the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 10 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 Township 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 Township as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$133,000 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law. (d) An aggregate amount not exceeding \$3,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost indicated herein for the improvements or purposes hereinbefore described. SECTION 8.

The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount. SECTION 9. The Township reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Township, or any member of the same "Controlled Group" as the Township, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the Township's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Township for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year, following the reimbursement of any expenditures of bond proceeds "replacement proceeds" within the meaning of Treasury Regulation Section 1.148-1 of the bonds or any other bond issue, or (iii) to reimburse the Township for any expenditure or payment that was originally paid with the proceeds of any obligation of the Township (other than borrowing by the Township from one of its own funds or the funds of a member of the same "Controlled Group" within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized herein to reimburse the Township for any expenditures toward the costs of the

improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$133,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2). SECTION 10. The Township 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 bond ordinance. SECTION 11. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Motion was made by Mr. Desiderio to open for first reading for adoption, seconded by Mr. Ramos. Roll call: Mr. Boynton-absent; Mr. Desiderio-yes; Mr. McPeck-absent; Mr. Ramos-yes; Mr. Stracco-yes. Second reading for adoption will be held on December 16, 2020.

Ordinance No. 2020 – 14 Ordinance To Amend Chapter 21 of the Code of the Township of Frelinghuysen Entitled "Municipal 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 Township of Frelinghuysen has a Stormwater Control Ordinance pursuant to the requirements in N.J.A.C. 7:8, and 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 TOWNSHIP COMMITTEE OF THE TOWNSHIP OF FRELINGHUYSEN, COUNTY OF WARREN AND STATE OF NEW JERSEY THAT CHAPTER 21 OF THE CODE OF THE TOWNSHIP OF FRELINGHUYSEN, ENTITLED "STORMWATER CONTROL", IS AMENDED AS FOLLOWS:

Section One - Chapter 21 of the Code of the Township of Frelinghuysen entitled "Stormwater Control" shall be replaced in its entirety as follows:

Chapter 21 - Stormwater Control

Section 21-1: Scope and Purpose

- A. Policy Statement Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- B. Purpose The purpose of this ordinance is to establish minimum stormwater management requirements and controls for "major development," as defined below in 21-2.
- C. Applicability
 1. This ordinance shall be applicable to the following major developments:
 - a. Non-residential major developments; and
 - b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
 2. This ordinance shall also be applicable to all major developments undertaken by the Township of Frelinghuysen and other governmental entities.
- D. Compatibility with Other Permit and Ordinance Requirements Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

Section 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 Board of Chosen Freeholders 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 January 1, 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 IV.F. of this ordinance and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this chapter. "Node" 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.

Section 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.

Section 21-4: 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 Section 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 muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Sections 21-4P, 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 Sections 21-4O, 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 Sections 21-4O, P, Q and R to the maximum extent practicable;
 - 3. The applicant demonstrates that, in order to meet the requirements of Sections 21-4O, 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 Sections 21-4D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 21-4O, 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 Sections 21-4O, 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				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)

Cistern	0	Yes	No	--
Dry Well ^(a)	0	No	Yes	2
Grass Swale	50 or less	No	No	2 ^(e) 1 ^(f)
Green Roof	0	Yes	No	--
Manufactured Treatment Device ^{(a) (g)}	50 or 80	No	No	Dependent upon the device
Pervious Paving System ^(a)	80	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-Scale Bioretention Basin ^(a)	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Small-Scale Infiltration Basin ^(a)	80	Yes	Yes	2
Small-Scale Sand Filter	80	Yes	Yes	2
Vegetative Filter Strip	60-80	No	No	--

(Notes corresponding to annotations ^(a) through ^(g) are found on Page 13)

Table 2 Green Infrastructure BMPs for Stormwater Runoff Quantity (or for Groundwater Recharge and/or Stormwater Runoff Quality with a Waiver or Variance from N.J.A.C. 7:8-5.3)				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Bioretention System	80 or 90	Yes	Yes ^(b) No ^(c)	2 ^(b) 1 ^(c)
Infiltration Basin	80	Yes	Yes	2
Sand Filter ^(b)	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond ^(d)	50-90	Yes	No	N/A

(Notes corresponding to annotations ^(b) through ^(d) are found on Page 13)

Table 3 BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity only with a Waiver or Variance from N.J.A.C. 7:8-5.3				
Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)

Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device ^(h)	50 or 80	No	No	Dependent upon the device
Sand Filter ^(c)	80	Yes	No	
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- a. subject to the applicable contributory drainage area limitation specified at Section 21-4O(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 21-2;
 - h. manufactured treatment devices that do not meet the definition of green infrastructure at Section 21-2.
- 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 21-6B. Alternative stormwater management measures may be used to satisfy the requirements at Section 21-4O only if the measures meet the definition of green infrastructure at Section 21-2. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section 21-4O(2) are subject to the contributory drainage area limitation specified at Section 21-4O(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 21-4O(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 21-4D is granted from Section 21-4O.
- 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 21-8C;
 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 21-8; and

5. The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.
- 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 21-4O(4).
- K. Any application for a new agricultural development that meets the definition of major development at Section 21-2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Sections 21-4O, 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 Sections 21-4P, 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 Office of the Warren 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 Sections 21-4O, 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 21-10B(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 21-4 of this ordinance and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Warren 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 Section 21-4M 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 Section 21-4M 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 Sections 21-4P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Section 21-4F and/or an alternative stormwater management measure approved in accordance with Section 21-4G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	Maximum Contributory Drainage Area
Dry Well	1 acre
Manufactured Treatment Device	2.5 acres
Pervious Pavement Systems	Area of additional inflow cannot exceed three times the area occupied by the BMP
Small-scale Bioretention Systems	2.5 acres
Small-scale Infiltration Basin	2.5 acres
Small-scale Sand Filter	2.5 acres

3. To satisfy the stormwater runoff quantity standards at Section 21-4R, 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 21-4G.
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 21-4D 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 21-4G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Sections 21-4P, 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 Sections 21-4P, Q and R, unless the project is granted a waiver from strict compliance in accordance with Section 21-4D.

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 21-5, 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 Section 21-4P(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 (80%) 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

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 Sections 21-4P, 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 21-5, 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.

Section 21-5. Calculation of Stormwater Runoff and Groundwater Recharge.

- A. Stormwater runoff shall be calculated in accordance with the following:
1. The design engineer shall calculate runoff using one of the following methods:
 - 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 21-5A(1)[i] and the Rational and Modified Rational Methods at

Section 21-5A(1)[iii]. 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.
- B. 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/greport/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.

Section 21-6. Sources for Technical Guidance.

- A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at: http://www.nj.gov/dep/stormwater/bmp_manual2.htm.
1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.
 2. Additional maintenance guidance is available on the Department's website at: https://www.njstormwater.org/maintenance_guidance.htm.
- B. Submissions required for review by the Department should be mailed to:
The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

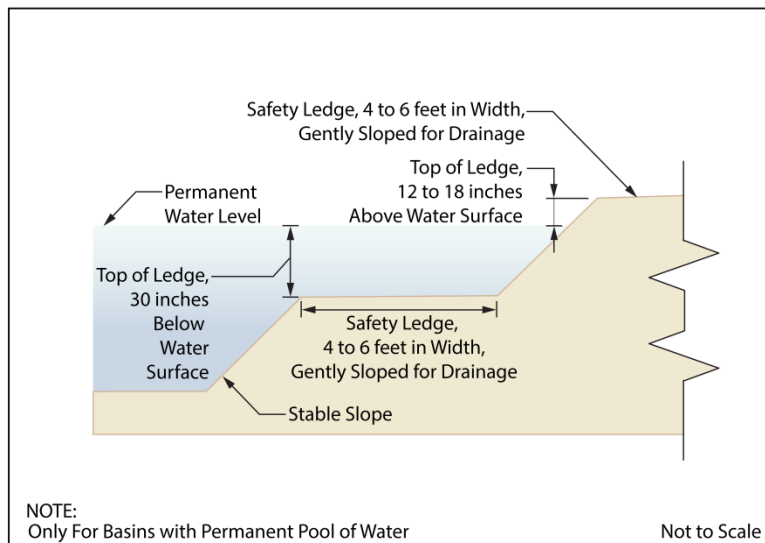
Section 21-7. Solids and Floatable Materials Control Standards.

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

Section 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 21-8C(1), Section 21-8C(2) and Section 21-8C(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 Section 21-8C, 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 Section 21-8E 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



Section 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 21-9C 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 five (5) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 21-9C of this ordinance.

B. Site Development Stormwater Plan Approval

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

C. Submission of Site Development Stormwater Plan

The following information shall be required:

1. Topographic Base Map

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

2. Environmental Site Analysis

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

3. Project Description and Site Plans

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

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Section 21-3 through Section 21-5 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 21-4 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 21-10.

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 21-9C(1) through Section 21-9C(6) of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

Section 21-10: Maintenance and Repair

A. Applicability

Projects subject to review as in Section 21-1C of this ordinance shall comply with the requirements of Section 21-10B and Section 21-10C.

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. Maintenance Plans:

a. 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.

b. Stormwater facilities shall be constantly maintained by the owner or association to assure continual functioning of the system at design capacity and to prevent the health hazards associated with debris buildup and stagnant water. Maintenance responsibilities, inspection schedules and tasks will be clearly shown in the proposed plan. In no case shall water be allowed to remain in any facility long enough to trigger a mosquito breeding disease or cause any other type of health problem. The maintenance plan must include inspection routines to reduce the potential for extensive, difficult, and costly remedial or emergency maintenance efforts, including inspection checklists. Inspection checklists may address such items as:

- (1) Obstruction of inlet devices by trash and debris;
- (2) Evidence of erosion, sedimentation or instability;
- (3) Malfunctioning of valves, gates, locks, access hatches or equipment;
- (4) Deteriorated conduit outlet or seepage around outlet;
- (5) Cracks or other deterioration of inlets, outlets, pipes, and conduits;
- (6) Inadequate draining, clearing or clogging of control devices;
- (7) Trimming, cutting or mowing of vegetation as required;
- (8) Erosion and debris in emergency spillways and/or filter strips;
- (9) Deterioration of downstream channels/conduits;
- (10) Invasive or noxious weeds out of character with those specified;
- (11) Saturated conditions or standing water;
- (12) Animal burrowing; and
- (13) Vandalism or other non-specified occurrences.

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 21-10B(3) above is not a public agency, the maintenance plan and any future revisions based on Section 21-10B(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 21-10B(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 21-10B(3) and Section 21-10B(7).
 - iv. Beginning on January 31, 2019, make annual submissions to the municipality, no later than January 31st, containing excerpts of the detailed log of all preventative and corrective maintenance that was performed for the calendar year that just ended for all structural stormwater measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance related work orders.
8. The requirements of Section 21-10B(3) and Section 21-10B(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.
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.

Section 21-11: Penalties

A. Fines

- 1. Any violation of any provision of this Ordinance shall be punishable by a fine not to exceed \$2,500.00 for each offense and/or imprisonment for a term not exceeding ninety (90) days. The following individuals shall be subject to potential punishment:
 - a. The owner, general agent, contractor or occupant of a building, premises or part thereof where such a violation has been committed or does exist; and
 - b. Any agent, contractor, architect, engineer, builder, corporation or other person who commits, takes part or assists in the violation.
- 2. Each day that a violation continues shall constitute a separate offense.
- 3. The imposition of penalties herein shall not preclude the Township or any other person from instituting an action to prevent an unlawful construction, reconstruction, alteration, repair, conversion, or use or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.

B. Injunctive Relief

In addition to the foregoing, the Township may institute and maintain a civil action for injunctive relief.

Section 21-12: Effective Date

This ordinance shall take effect immediately upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.

Section 21-13: Severability

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

Section Two - If any section, subdivision, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, subdivision, paragraph, clause, or provision and the remainder of this ordinance shall be deemed valid and effective. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section Three - This ordinance shall take effect upon the publication of notice of final adoption as provided by law.

NOTICE Notice is hereby given that the aforesaid ordinance was introduced at a regular meeting of the Township Committee of the Township of Frelinghuysen, New Jersey, held on November 18, 2020 and that at a regular meeting of the same to be held on December 16, 2020 at the Municipal Building, 210 Main Street, Frelinghuysen, New Jersey, at the hour of 7:30 p.m., the said Township Committee will consider the final passage of said ordinance.

Motion was made by Mr. Ramos to open for first reading for introduction, seconded by Mr. Desiderio. Roll call: Mr. Boynton-absent; Mr. Desiderio-yes; Mr. McPeek-absent; Mr. Ramos-yes; Mr. Stracco-yes. Second reading for adoption will be held on December 16, 2020.

ORDINANCE NO. 2020-15 ORDINANCE REVISING THE FRELINGHUYSEN TOWNSHIP CODE TO DELETE SECTION 2-46, CONCERNING THE HISTORIC PRESERVATION COMMITTEE, AND DISSOLVING THE SAID COMMITTEE

WHEREAS, Section 2-46 of the Frelinghuysen Township Code establishes the Historic Preservation Committee as an advisory entity, and sets forth the membership criteria and powers and functions of that Committee; and WHEREAS, N.J.S.A. 40:55D-107 provides that a governing body may provide for a Historic Preservation Commission, but does not require the establishment of such a commission, nor does New Jersey law require that a municipality maintain a historic preservation committee; and WHEREAS, the abolishment of the Frelinghuysen Township Historic Preservation Committee will result in savings to the Township and its taxpayers, without impacting the ability of the Township to protect its historical resources, good cause having been shown. NOW THEREFORE BE IT ORDAINED by the Mayor and Committee of the Township of Frelinghuysen, County of Warren, State of New Jersey, as follows: **Section I** Section 2-46 of the Frelinghuysen Township Code is deleted in its entirety. **Section II** Upon the effective date of this Ordinance, the Historic Preservation Committee shall be dissolved. At that time, in the event that any funds have been budgeted to the Historic Preservation Committee that have not been expended, those funds shall be transferred to the Township's surplus. **Section III** Any and all references in the Frelinghuysen Township Code to the Historic Preservation Committee be and the same are hereby deemed deleted.

Section IV 1. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency. 2. If any word, phrase, clause, section or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect. 3. This ordinance shall take effect immediately upon final passage and publication as required by law. **NOTICE** Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Frelinghuysen Township Committee held on November 18, 2020 and will be considered for final reading and adoption at the meeting of the Frelinghuysen Township Committee to be held on December 16, 2020 at the Municipal Building, 210 Main Street, Johnsonburg, New Jersey at which time and place all interested parties may appear for or against the passage of said Ordinance. Motion was made by Mr. Ramos to open for first reading for introduction, seconded by Mr. Desiderio. Roll call vote: Mr. Boynton-absent; Mr. Desiderio-yes; Mr. McPeek-absent; Mr. Ramos-yes; Mr. Stracco-yes. Second reading for adoption will be held on December 16, 2020. A letter from the Historic Committee was given to all members of the committee.

RESOLUTIONS:

#2020-85 A RESOLUTION AUTHORIZING FRELINGHUYSEN TOWNSHIP'S ANNUAL APPLICATION RENEWAL TO THE STATE AGRICULTURE DEVELOPMENT COMMITTEE'S MUNICIPAL PLANNING INCENTIVE GRANT PROGRAM WHEREAS, the Committee of the Township of Frelinghuysen has developed a comprehensive Farmland Preservation Plan for the Township, which identifies land meeting the criteria for farmland preservation in accordance with the requirements of the State and County's farmland preservation programs; and WHEREAS, the pressures from development continue to pose the threat of imminent change of land use from productive agriculture to nonagricultural uses; and WHEREAS, the State Agricultural Development Committee (SADC) has funding available to assist the Township in acquiring farmland preservation easements, in partnership with the County of Warren via the Municipal Planning Incentive Grant program (Muni-PIG); and WHEREAS, farmland preservation encourages the survivability of agricultural production, the rural character of the Township and the Township's agrarian history; and WHEREAS, the Township Committee has determined that it is in the best interests of the Township of Frelinghuysen to maintain a robust farmland preservation program, to continue to access funds from the SADC's Muni-PIG program, and any other programs that offer funding for farmland preservation, and to acquire as many farmland preservation easements from eligible farms, in partnership with the SADC and the County of Warren, as possible; and WHEREAS, Frelinghuysen Township's Farmland Preservation Committee recommends that the Township continue to participate in the SADC's Muni-PIG program; and **NOW, THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Frelinghuysen, County of Warren, State of New Jersey that it hereby authorizes ongoing participation in the SADC's Municipal Planning Incentive Grant program, as follows:

- 1) The Township approves of the Muni-PIG renewal letter and authorizes the Farmland Preservation Committee and its consultant to submit the renewal application to SADC in advance of the deadline and to continue to work with farmland owners in the Township to develop applications to the program.

BE IT FURTHER RESOLVED by the Township Committee of the Township of Frelinghuysen that it hereby authorizes the Municipal Clerk, the Farmland Preservation Committee and The Land Conservancy of New Jersey to sign documents and take all action necessary and appropriate to effectuate the intent and purpose of this resolution.

I, Donna Zilberfarb, Municipal Clerk of the Township of Frelinghuysen, do hereby certify the foregoing to be a true copy of a Resolution adopted by the Frelinghuysen Township Committee at a meeting held on November 18, 2020.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton						x
Mr. Desiderio		x	x			
Mr. McPeek						x
Mr. Ramos	x		x			
Mr. Stracco			x			

#2020-86 RESOLUTION VOIDING THE ISSUANCE OF RAFFLE LICENSES FOR ANTLER RIDGE WILDLIFE SANCTUARY WHEREAS, the Antler Ridge Wildlife Sanctuary has applied for a raffle license to conduct an on premises tricky tray consisting of application #2020-01 and has cancelled the on premises tricky tray. NOW, THEREFORE BE IT RESOLVED, by the Mayor and Township Committee of the Township of Frelinghuysen, County of Warren, State of New Jersey that the Antler Ridge Wildlife Sanctuary raffle application #2020-01 is hereby voided.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton						x
Mr. Desiderio		x	x			
Mr. McPeek						x
Mr. Ramos	x		x			
Mr. Stracco			x			

#2020-87 RESOLUTION APPROVING PAYMENT OF BILLS FOR THE MONTH OF NOVEMBER 2020 WHEREAS, the Finance Committee of the Township of Frelinghuysen have reviewed the bills submitted by the Municipal Clerk to the Frelinghuysen Township Committee for the month of NOVEMBER 2020; and WHEREAS, the Finance Committee find the bills to be in order and recommend to the Township Committee that they be paid by the Chief Finance Officer. NOW, THEREFORE BE IT RESOLVED, by the Frelinghuysen Township Committee that all bills submitted for the above named date are reasonable and proper and are to be paid from their appropriate account.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton						x

Mr. Desiderio		x	x			
Mr. McPeek						x
Mr. Ramos	x		x			
Mr. Stracco			x			

#2020-88 SETTING EXECUTIVE SESSION WHEREAS, it is necessary to discuss items dealing with contract negotiations and potential litigation. WHEREAS, under the Open Public Meetings Act (number 7 of the permitted exceptions to the requirements that a public body hold its meetings in public) it is permissible that such matters be discussed in executive or private session. NOW, THEREFORE BE IT RESOLVED, on November 18, 2020 that the Township Committee of the Township of Frelinghuysen will adjourn to private or executive session to discuss the above mentioned and results or portions of that discussion will be made known in reasonable length of time.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton						x
Mr. Desiderio	x		x			
Mr. McPeek						x
Mr. Ramos		x	x			
Mr. Stracco			x			

#2020-89 RESOLUTION AUTHORIZING AND SUPPORTING CONTINUED NEGOTIATIONS REGARDING A REGIONAL CABLE FRANCHISE AGREEMENT

WHEREAS, the governing body of the Township of Frelinghuysen hereinafter referred to as “the Municipality”) determined that CSC TKR, LLC (hereinafter referred to as “the Company”), has the technical competence and general fitness to operate a cable television system in the Municipality; and **WHEREAS**, prior ordinances granted municipal consent for the Company’s predecessor in interest, Service Electric Cable TV of New Jersey (hereinafter referred to as “SECTV”), to obtain a non-exclusive franchise for the placement of facilities and the establishment of a cable television system in the Municipality; and **WHEREAS**, by application filed with the Municipality and Office of Cable Television on or about October 14, 2011, SECTV, and the Company as its successor in interest, sought renewal of the afore-mentioned cable franchise through a regionalized agreement that included the Townships of Knowlton, Hope, Hardwick, and Frelinghuysen (hereinafter collectively referred to as the “Municipalities”); and **WHEREAS**, on or about July 14, 2020, with the prior approval of the NJ Board of Public Utilities, the Company completed its purchase of the assets of SECTV, including the cable television franchise for, and the cable television system within the limits of the governed by the Municipalities; and **WHEREAS**, the Company now seeks consent to continue operating in the Municipalities via independent agreements rather than a regionalized agreement; and **WHEREAS**, recent negotiations between the Municipalities and the Company reveal that the Municipalities have been offered varying density of home requirements for extensions in cable/Internet service among other differences; and **WHEREAS**, the governing bodies of the Municipalities recognize that improved Internet service and access, which is obtained through the cable provider, is among the greatest needs our rural area faces; and **WHEREAS**, the governing bodies of the Municipalities recognize that our ability to negotiate for improvements in Internet services for our residents is greatest when we expand the base of potential customers by acting in coordination with our neighboring communities. **NOW, THEREFORE, BE IT RESOLVED**, the Township of Frelinghuysen hereby expresses its support to continue negotiations with CSC TKR, LLC, and to enter into a joint agreement and ordinance granting municipal consent for the operation of their cable television system.

CERTIFICATION I, Donna Zilberfarb, Municipal Clerk of the Township of Frelinghuysen, County of Warren, State of New Jersey do hereby certify that the foregoing is a true and exact copy of a resolution duly authorized by the Frelinghuysen Township Committee on November 18, 2020.

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Mr. Boynton						x
Mr. Desiderio		x		x		
Mr. McPeek						x
Mr. Ramos	x			x		
Mr. Stracco				x		

Resolution 2020-89 was not adopted.

2020-90 AND 2020-91 WERE HELD TO NOVEMBER MEETING.

COMMITTEE REPORTS:

- Mayor Chris Stracco reported that he spoke with Mr. Sterbenz and that the town was awarded the NJDOT grant for Camp Wasigan road for 2022 in the amount of \$136,700.00. He also stated that he issued a reminder regarding political signs and explained that in the Ordinance the political signs need to come down.
- Deputy Mayor Ramos gave an update to the committee on altice and that in Saddle Ridge, 12 customers signed agreements, 11 pending customer feedback and 8 had no response.
- Committeeman David Boynton was absent.
- Committeeman Frank Desiderio had nothing to report.
- Committeeman Todd McPeek was absent.
- Attorney Rich Beilin report throughout the meeting.
- Municipal Clerk Donna Zilberfarb asked about the reorg meeting for January. After discussion it was determined that it will be held on January 1, 2021 at 10 am. Ms. Zilberfarb will advertise. She also discussed the MEL insurance and that all resolutions and agreements will be ready for the December 16, 2020 meeting and that Bob LaSalla will be in attendance. There will be an increase for the insurance this year and it will be

approximately \$996.00 which is 2.95% and now includes RMC fees \$2,086.00. She discussed her vacation time which she will be taking from November 23rd to December 3rd. Ms. Galante will be covering the townhall while she is away and her hours will be 9-2 each day. Ms. Zilberfarb also explained that monthly reports from all the departments have not been coming in on time or at all and she explained that she will be sending out a memo to all departments with dates that they are due in January.

OLD BUSINESS:

- The salt shed was discussed by Mr. Ramos and he explained that he spoke with Mr. Sterbenz regarding the subsurface exploration and the cost came down \$2,200. The dpw will dig the test holes. He also discussed that the complex improvement plans have never been done with an engineering plan for the foundation or the building plan. Mr. Ramos stated that the cost justification seems justifiable. Motion was made by Mr. Desiderio to approve the agreement for Maser, seconded by Mr. Ramos. Roll call vote: Mr. Boynton-absent; Mr. Desiderio-yes; Mr. McPeek-absent; Mr. Ramos-yes; Mr. Stracco-yes.
- Mr. Ramos explained the minor changes that needed to be done to the employee handbook. He stated that as of today it is about 101 pages. The changes discussed were mostly titles that need to reflect the personnel committee and that they need to designate a Chair and Vice Chair for the personnel committee. He explained that the contact information needed updating and that floating extensions should be put on the phone system for each committeeman. He also discussed that the hours and breaks needed to be changed to 7:30-3:30 and 10 minute breaks. He also explained there was changes in the annual evaluation section. All changes will be sent to Mr. Beilin to change and he will send out to committee. Ms. Zilberfarb will put on the agenda for the work session in December.

NEW BUSINESS:

- Mr. Stracco appointed Nicole Wladich to the recreation committee. Motion was made by Mr. Ramos to concur with appointment, seconded by Mr. Desiderio. All were in favor.
- Sadie Forbes spoke to the board about adding wooden benches by the kiosk and sign on the walking path. She explained that they would be bolted into the ground with cement and she would place gravel on the top so that weed wacking does not need to be done in the future. After explanation of her plans she asked the committee for permission to move forward. This all goes toward her gold award. Motion was made by Mr. Ramos to grant permission to continue with the benches, seconded by Mr. Desiderio. All were in favor.
- James Burns presented his Eagle Scout Project to the committee. He will be doing an orienteering course at the FFP. After James' presentation a Motion was made by Mr. Desiderio to approve the project, seconded by Mr. Ramos. All were in favor.

DEPARTMENT REPORTS:

Motion was made by Mr. Desiderio for a consent agenda for department reports 1-8, seconded by Mr. Ramos. All were in favor.

Zoning – George Boesze joined via the zoom link to discuss zoning. He let the committee know that he has had 50 zoning permits this year. He also stated that he spoke with the Knowlton court and that the rest of the year courts are still closed for any zoning issues. Mr. Stracco would like him to enforce the political signs that are still up within the town. Mr. Boesze asked if about the location of the sign and if not on private property then who would he reach out to. Mr. Stracco explained that candidate information would be on the sign and if it is not and it is in the ROW then we could remove them. Mr. Stracco suggested letting Ms. Zilberfarb know if any are up and if he needed help finding contact information.

DPW – Ms. Zilberfarb let the committee know that the boat house has been demolished and cleanup is ongoing at this time. There have been 3 - 30 yard containers removed at this time. She let the committee know that Mike Weir has accepted the dpw laborer position and his start date is December 7th. She also stated that the dpw is ready for the winter season and that all trucks have been winterized and the 2010 recall has been fixed.

Land Manager – Marty Connor discussed the land managers report and told the committee how the archery field has been cleared.

Recreation committee – Mr. Ramos discussed executive order 194 of how no interstate play for sports is now in effect. Soccer ended and had a good season. Everything else is on hold at this time.

Environmental Commission – Will be meeting on 11/23.

Farmland/Open space Committee – Met 1st Wednesday in November. Discussed the PIG grant and recommended to the committee the resolution to approve the PIG grant monies.

Historic Committee – Met and sent letter to committee asking about the existence of the committee in the future.

OPEN MEETING TO THE PUBLIC:

Motion was made by Mr. Ramos, seconded by Mr. Desiderio to open meeting to the public limited to 20 minutes with 3 minutes per member of the public. All were in favor. Spoke were:

- Jim Burns, Stillwater Road, addressed the committee with the issue of parking on Hess Road. He explained that no cars can get through the road, let alone emergency vehicles. He also discussed numerous issues such as a 30 yard garbage container which is located on Hess road and is constantly overflowing, horses on the roadway, horse manure on the roads, a 10 foot high pile of horse manure by the river, a camper trailer parked on property and operating a commercial horse riding business. He stated that this has been ongoing and feels the township should look into. After discussion, Mr. Ramos asked Mr. Boesze if he's ever been contacted regarding this and Mr. Boesze stated he had not. Mr. Stracco asked Mr. Boesze to go out and look in to this situation and to report back to Rich Beilin and if the violations are substantial enough that maybe legal action could be taken. Mr. Burns recommended posting No stopping or Parking signs and sending a letter to Hardwick Township as well. Mr. Beilin will draft an ordinance for no parking/towing ordinance for first reading for the January re-org meeting. Mr. Boesze stated that in the code 7-3.3 regarding no parking on snow covered roads on Main street should be amended to include other roads within the township. It was asked if they ever came to the Land Use Board for a site plan approval. Mr. Stracco and Mr. Desiderio, both LUB members said they have not, they have only come in front for a subdivision.
- Marty Connor asked Mr. Ramos if anything has been done for the sign for the rules and regulations for the fire pit. Mr. Ramos stated that the rules have been approved and now they just need a sign.

Motion was made by Mr. Desideiro, seconded by Mr. Ramos to close to the public. All were in favor.

EXECUTIVE SESSION:

Motion was made by Mr. Desiderio, seconded by Mr. Ramos to enter into executive session.

No action was taken.

Motion was made by Mr. Ramos, seconded by Mr. Desiderio to exit executive session.

RETURN TO REGULAR SESSION:

Mr. Beilin explained that the executive session was to discuss contract negotiations.

CORRESPONDENCE:

- County of Warren, Board of Taxation – Tax appeals
- County of Warren, Planning Department – Light industrial site assessment presentation
- Township of Green, Ordinance 2020-08
- Township of Blairstown, Master plan reexamination report
- Township of Frelinghuysen, letter regarding resolution 2020-81 from the clerk
- Municipal excess liability joint insurance fund, Risk management manual – the power of collaboration (each Committeeman rec'd a copy)
- Morris county municipal joint insurance fund, 2021 proposed budget for public hearing
- First environment, 2020 Environmental joint insurance fund (EJIF) audit
- Blairstown Hose Company, October 2020
- Green Township Fire Department, October 2020

ADJOURNMENT:

There being no further business, motion was made by Mr. Desiderio, seconded by Mr. Ramos to adjourn the meeting at 9:31 p.m. All were in favor.

Respectfully Submitted,

Donna Zilberfarb, RMC