

as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

- (b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, which 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.
- (4). 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 and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at **Section 5**, complete one of the following:
- (1). Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
 - (2). Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 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;
 - (3). 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 project²⁵

to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

- (4). In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.
2. Any application for a new agricultural development that meets the definition of major development at **Section 2** shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "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 manufacturing of agriculturally related products.

G. Stormwater Runoff Quality Standards:

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. 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 Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. 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 1**. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution			
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, **Table 2** below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in **Section 7**, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in **Section 7**. TSS reduction shall be calculated based on the removal rates for the BMPs in **Table 2** below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.
3. 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:

$$R = A + B - (AXB)/100$$

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

Table 2: TSS Removal Rates for BMPs	
Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See Section 6.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
5. 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 nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in paragraphs 4.F. and 4.G.
6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 7.
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. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

- a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - (1). A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
 - (2). Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.
- b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
- c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
 - (1). Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - (2). Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
 - (3). Temperature shall be addressed to ensure no impact on the receiving waterway;
 - (4). The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - (5). A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

- (6). All encroachments proposed under this section shall be subject to review and approval by the Department.
- d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to paragraph 4.G.8. has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to paragraph G.8. shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in paragraph G.8.a.(1). above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.
- e. Paragraph G.8. does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

SECTION 5: CALCULATION OF STORMWATER RUNOFF AND GROUNDWATER RECHARGE

- A. Stormwater runoff shall be calculated in accordance with the following:
 1. The design engineer shall calculate runoff using one of the following methods:
 - a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or
 - b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
 2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology at paragraph 5.A.1.a. and the Rational and Modified Rational Methods at paragraph 5.A.1.b. a runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type

is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, 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 and other methods may be employed.
5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

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

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at
2. <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

SECTION 6: STANDARDS FOR STRUCTURAL STORMWATER MANAGEMENT MEASURES

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, 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. Structural 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 (1") 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 (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of **Section 8**.

3. Structural 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. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at **Section 8**.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by **Section 4** of this ordinance.

C. Manufactured treatment devices may be used to meet the requirements of **Section 4** of this ordinance provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

SECTION 7: SOURCES FOR TECHNICAL GUIDANCE

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;

2. The Rutgers Cooperative Extension Service, 732-932-9306; and
3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

SECTION 8: SAFETY STANDARDS FOR STORMWATER MANAGEMENT BASINS

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

Note: The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins to be retrofitted to meet one or more of the safety standards in paragraphs 8.B.1., 8.B.2., and 8.B.3. for trash racks, overflow grates, and escape provisions at outlet structures.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions:

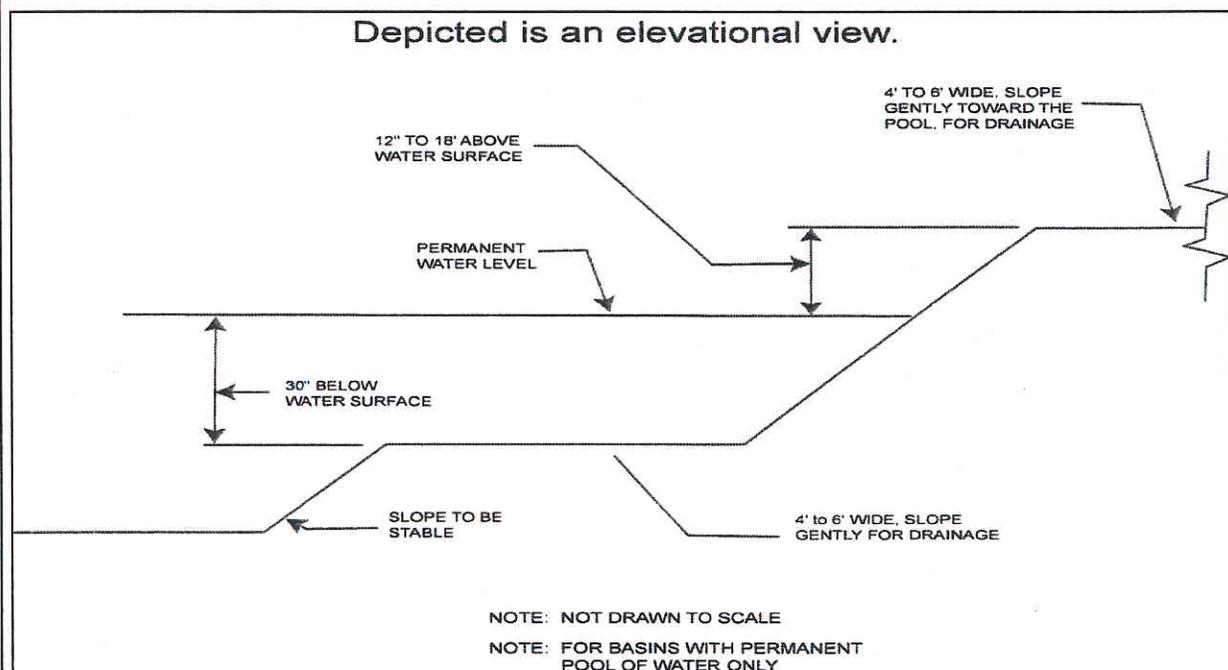
1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
 - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.
2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.

3. For purposes of this paragraph 3., escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
 - a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in paragraph 8.C. a free-standing outlet structure may be exempted from this requirement.
 - b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See paragraph 8.D. for an illustration of safety ledges in a stormwater management basin.
 - c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards:

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin:



SECTION 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 paragraph 9.C. below as part of the submission of the applicant's application for subdivision or site plan approval.

2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.

3. The applicant shall submit fifteen (15) copies of the materials listed in the checklist for site development stormwater plans in accordance with paragraph 9.C. of this ordinance.

B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from whom municipal approval is sought. That municipal agency or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist Requirements

The following information shall be required:

1. Topographic Base Map

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 environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s)

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and

seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of **Sections 3 through 6** are 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:

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

6. Calculations

- a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in **Section 4** of this ordinance.
- b. When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of **Section 10**.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in paragraphs **9.C.1. through 9.C.6.** of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

SECTION 10: MAINTENANCE AND REPAIR

A. Applicability

1. Projects subject to review as in paragraph **3.B.** of this ordinance shall comply with the requirements of paragraphs **10.B.** and **10.C.**

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
3. 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.
4. If the person responsible for maintenance identified under paragraph **10.B.2.** above is not a public agency, the maintenance plan and any future revisions based on Section 10.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
4. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including 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.
5. The person responsible for maintenance identified under paragraph **10.B.2.** above shall 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.
6. The person responsible for maintenance identified under paragraph **10.B.2.** above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
7. The person responsible for maintenance identified under paragraph **10.B.2.** above shall 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 paragraphs 10.B.6. and 10.B.7. above.

8. The requirements of paragraphs 10.B.3. and 10.B.4. do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
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.

C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

SECTION 11 OFF-SITE AND OFF-TRACK DRAINAGE FACILITIES:

For purposes of this Section, the definition of "off-site" shall also include "off-tract".

A. Off-Site Drainage Facilities Requisites:

As a condition for final approval of any development proposal (or) proposal prior to the issuance of any development permit for any land use, including any residence or other use of property, the developer or applicant shall be required to:

1. Pay a base amount to an off-site drainage improvement fund or a stormwater management trust account to compensate for the increased runoff volume of water for the 100-year storm that will flow directly from the site as a result of changing from undeveloped to developed condition. This base amount will be determined by criteria established herein and will be mandatory.
2. Pay in addition to the base amount in (11-A.1.) his pro-rata share of cost of providing any reasonable and necessary drainage facilities, and easements therefore, located outside the property limits of the development, but necessitated or required by construction or improvements within such development. The pro-rata share of such improvements and facilities that shall be borne by each developer within a related or common drainage basin area shall be based on criteria established herein.

3. In certain situations, on-site detention may be ineffective either due to the configuration of the site or the location of the site with respect to a regional detention facility. In lieu of providing on-site detention, the developer may, at the directive of the Planning Board and upon the recommendation of the Borough Engineer, contribute additional monies toward the regional facility in addition to the base amount. The developer would then be compensating the Borough for the increase in runoff volume as well as for the increase in the rate of runoff from the site. The amount of this additional contribution shall be based on criteria established herein.
4. In many cases, developers will not be able to design onsite detention facilities for sites located in flood fringe areas that will meet the requirements of this Ordinance. In these cases, the developers should use the site and/or other approved areas to satisfy the zero net fill requirements and contribute toward the Borough's regional facilities for both the increase in rate of run-off and for the increase to the volume of run-off. It should be noted that the pre- and post-development peak flows should be computed without regard to the flooding that takes place.
5. In addition, the developer gains the use of the land that would otherwise have been dedicated to an on-site detention facility. To compensate for this gain, the developer will make an in lieu payment to the Borough to be applied to the regional drainage facilities. The amount to be paid will be calculated as follows:
 - a. The applicant will approximate the size of the basin that would have been required were on-site detention to be utilized. This will be reviewed by the Borough Engineer.
 - b. Based upon the above computations, the applicant will estimate the cost of constructing the basin. The applicant will further determine the acreage that would have been required for the basin and determine the associated value of the land as assessed in a developed condition. This will be reviewed by the Borough Engineer.
6. The total in lieu payment will then be the total of the following:
 - a. The payment for the increased volume of run-off from the site as calculated in paragraph 11.A.1., plus
 - b. The cost for constructing an equivalent on-site and/or off-site facility that would have controlled peak flow (paragraphs 11.A.2. & 3.), plus
 - c. The value of the land that would have been dedicated to the detention basin that the developer may now utilize for the project.
 - d. The total in lieu payment as calculated above (sum of paragraphs 6.a., 6.b. & 6.c.) may not exceed the applicant's fair share contribution toward the total improvement cost of the regional detention basin including site acquisition, design, construction and maintenance.

B. Determination of Off-Site Drainage Facilities Requirements:

1. The decision regarding what, if any, off-site drainage improvements are to be required of a developer shall be made by the Municipal Agency.
2. This decision will be made upon analysis and review of the stormwater control plan proposal submitted by the developer's engineer. The Municipal Agency will also, prior to the imposition of any conditions on an applicant for development, determine whether the off-site drainage improvements are to be constructed by the Borough or the developer. Once the foregoing determination has been made, the Municipal Agency shall estimate with the aid of the Borough Engineer and other such persons having pertinent information or expertise: (1) the cost of the improvement and (2) the amount by which all properties within a related or common drainage area, will be specially benefited there from.
3. The developer's pro-rata share of the cost of off-site drainage improvements shall be based on the impact of the proposed development on existing drainage facilities and computed based on unit costs at the time of such granting final approval of the development proposal. The amounts of money required pursuant to this Section shall be estimated sums and such amounts shall be re-determined by the Borough following the completion of the improvement to insure that the developer shall pay only his appropriate share of the cost thereof.

C. Off-Site Drainage Facilities Criteria:

1. The capacity and design of the drainage system required to control and convey stormwater run-off from the proposed development to a point of positive discharge shall be based on methods and standards consistent with other Sections of the Ordinance. Calculations, plans and cost estimates shall be provided by the applicant's engineer and approved by the Borough Engineer.
2. The applicant shall be required to pay a mandatory base amount on a per cubic foot of volume basis for any site which does not provide an adequate storage system to permanently handle the increased 100-year storm run-off volume. This is necessary because of the following findings:
 - a. The majority of the land area within the Corporate limits of the Borough of Lincoln Park, lies within the Special Flood Hazard Area and floodplain as defined in Flood Insurance Studies for the Borough, and is subject to recurrent flooding from its rivers and streams.
 - b. The natural watercourse, depression storage areas and existing drainage facilities within the drainage basins of the Borough of Lincoln Park are inadequate and do not possess sufficient flood storage or flood carrying capacity to safely pass flood waters without endangering life and causing damage to public and private property.
 - c. All development of land; which adds impervious surface area will contribute additional run-off volume from a site than it did prior to development.

- d. Additional storage volume be provided by constructing master detention basins and other storage system improvements where practical, to handle the additional volumes that will run-off sites, which change from undeveloped to developed conditions.
 - e. It is in the public interest that these master detention basin facilities be part of the Borough's Stormwater Management Plan, installed and maintained by the Borough, and assessed by the municipality as local improvements to be paid for by all properties contributing additional run-off volume.
3. The applicant shall be required to pay a pro-rata share of the off-site drainage improvements, including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, riprap or improved drainage ditches, detention or retention basins and appurtenances thereto and installation, relocation and replacement of other storm facilities or appurtenances associated therewith. The pro-rata share shall be determined with consideration given to the following:
- a. The relationship between the acreage of the developer's property and the acreage in the total drainage basin.
 - b. The specific nature of the proposed development, the amount of area to be covered by impervious surfaces and the amount of storm water runoff to be controlled and conveyed from the development.
 - c. The existing and projected use based on zoning as defined in the Borough Land Use Plan of the remaining area in the drainage basin.

D. Developer's Share of Cost for Off-Site Drainage Facilities:

1. If it is determined that the developer will contribute additional run-off volume from the site then the developer will be required to pay a base amount pursuant to paragraph 11.A.1. herein.
2. If it is determined that the developer shall be required to construct and/or be responsible for the construction of the entire off-site drainage facility, then the developer's share is an amount equal to the estimated cost of the drainage improvement.
3. In the event that the developer shall not be required to construct and/or not be responsible for the construction of the entire off-site improvements, but it is determined that such improvements are necessary, then there shall be paid to the Borough Treasurer the amount of the developer's share, pursuant to paragraph 11.D. herein, of the finally determined cost of the off-site improvements.
4. If an off-site drainage improvement or improvements are necessitated or required by a proposed development application and it is determined that properties outside of the development will also be benefited by the improvement, and the developer shall construct at his own cost and expense, the necessary improvement(s), pursuant to the Resolution of the Municipal Agency granting

development approval, then the cost of such improvement shall be credited against the developer's pro-rata share of the cost of off-site drainage improvements as otherwise determined in accordance with paragraph 11.D. herein.

The amount of such credit shall be determined by the Borough Engineer after review of information submitted by the developer's engineer setting forth the cost of such construction.

5. In instances where separate detention facilities for a single site or for a number of single sites are technically and/or economically prohibitive and the run-off requirements from the site cannot be fulfilled, the Municipal Agency will be willing to consider accommodation of the additional run-off from the site within joint or master detention facilities outside the property limits of the site. The developer(s) share or contribution to these master detention basins shall be as in paragraph 11.D.1., 2., 3. & 4. above. However, adequate technical justification shall be provided and shall meet the provisions set forth in Section 4. of this Ordinance.

E. Off-Site Drainage Facilities Formula:

1. The developer's base amount for any storage system improvement to compensate for increased run-off volume due to the addition of impervious surface shall be determined by the following formula:

Developer's Base Cost - Current cost per cubic foot of regional facility storage volume x's the increase in the 100 year run-off volume.

2. The developer's pro-rata share for any proposed off-site drainage facilities improvements, shall be determined by formula as follows:

- a. Bridges, Culvert Structures:

Developer's Share of Cost =
$$\frac{(\text{Total Improvement Cost}^*) \times (\text{Development's CFS})}{(\text{Total structure CFS}^{**})}$$

- b. Culverts, Pipes and other drainage conduit:

Developer's Share of Cost =
$$\frac{(\text{Total Improvement Cost}^*) \times (\text{Development's CFS})}{(\text{Total Conduit CFS}^{**})}$$

- c. Detention Facilities:

Developer's Share of Cost =
$$\frac{(\text{Developer's Required Storage Volume})}{(\text{Total Facilities Storage Volume})} \times (\text{Total Improvement Cost}^*)$$

- d. Channel, Ditches:

Developer's Share of Cost =
$$\frac{(\text{Development's Area})}{(\text{Total Sub Basin Drainage Area})} \times (\text{Total Improvement Cost}^*)$$

*Improvement cost to consist of design, construction and maintenance costs. Maintenance cost to be estimated as the present worth of an annual series cost at the prevailing interest rate over the useful life of the improvement, which for purposes of applying this formula will be 20 years.

**From Stormwater Master Plan based on the ultimate future development plans.

F. Method of Payment and Off-Site Drainage Facilities Account:

1. The developer's pro-rata share of the cost of an off-tract improvement or improvements shall, as a condition of final development plan approval, and as set forth in that approval, be deposited and paid in the following manner:
 - a. Fifty (50%) percent of the applicant's share of the aforesaid cost shall be paid at the time of issuance of the final development permit and the remaining fifty (50%) percent of the applicant's share shall be paid at the time of issuance of the Certificate of Occupancy for the development.
 - b. If the development approval provides for construction in stages and separate application for final approval for each stage, the applicant may elect to have the provisions of subparagraph (a) hereof apply separately to each stage of the development. In such event, the total cost of improvements shall be allocated among such stages based on the estimated cost of each such stage as it bears to the total estimated cost of development.
 - c. The developer shall, at the time of the issuance of the development permit, post adequate security in an amount equal to the difference between the initial payment of the applicant hereunder and the total amount of the applicant's share of the aforesaid cost.
2. Any money paid to the Borough Treasurer, pursuant to this Section, shall be segregated into an Off-Tract Drainage Improvement Fund, or in a separate Storm Water Management Trust Account, which shall be dedicated and used for the improvements for which they are deposited, or Stormwater Management Facilities Improvements, as planned by the Borough of Lincoln Park, within the Stormwater Management area.
3. The applicant and the Borough shall enter into a Developer's Agreement. Said Agreement shall stipulate the amount and method of payment of the applicant's share of costs for off-tract improvements, which costs shall be determined pursuant to the provisions of this Section. If the Borough fails to initiate the improvements for a period of fifteen (15) years from the date the Developer's Agreement is signed, or other mutually agreeable period of time, all deposited funds shall be returned to the developer, together with accumulated interest.

SECTION 12: DEVELOPMENT WITHIN SPECIAL FLOOD HAZARD AREAS OR FLOOD HAZARD AREA

- A. All development in Special Flood Hazard Areas or Flood Hazard Areas and the Flood Plain must be in compliance with applicable regulations under the Flood Hazard Area Control Act N.J.S.A. 58:16A-50 et seq.

1. Development Permit:

A Development Permit shall be obtained before construction or development of any property begins within any Special Flood Hazard Area or Flood Hazard Area established in paragraph 3.D. application for a Development Permit shall be made on forms furnished by the Municipal Agency, and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage or materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1). Elevation in relation to mean sea level (National Geodetic Vertical Datum), of the lowest floor within any proposed structure (including basement) after its completion.
- (2). Elevation in relation to mean sea level to which any structure has been flood proofed.
- (3). Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in **Section 13**.
- (4). Description of the extent to which any water-course will be altered or relocated as a result of proposed development.
- (5). The base flood elevation.
- (6). Proof of stream encroachment line approved by the New Jersey Department of Environmental Protection, where applicable.
- (7). The extent of filling of land for all new residential construction and/or substantial improvement of any residential structure, if any, and proof that the net fill volume is equal to or less than ten (10%) percent pursuant to fill requirements outlined in **Section 13** of this Ordinance.
- (8). The extent of filling of land for all new non-residential construction and/or substantial improvement of any non-residential structure, if any, and proof that the net fill volume is equal to or less than ten (10%) percent pursuant to fill requirements outlined in **Section 13** of this Ordinance.
- (9). The applicant shall submit proof that:
 - (a). Proposed structures are designed and adequately anchored to prevent flotation, collapse or lateral movement;
 - (b). Materials and utility equipment used are resistant to flood damage;

- (c). Construction utilizes methods and practices that minimize flood damage;
- (d). Subdivision proposals are consistent with the need to minimize flood damage in flood prone areas;
- (e). All public utilities and facilities, such as sewer, gas, electrical and water systems are designed, constructed, and located to prevent, minimize or eliminate flood damage or infiltration;
- (f). On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
- (g). The fill to be placed on any project site is counterbalanced by corresponding excavation within the flood fringe area of Lincoln Park Borough pursuant to **Section 13** of this Ordinance.

(10). The Developer shall furnish information relating to subsurface conditions based on percolation tests and soil borings. Test borings and percolation tests shall be in accordance with acceptable engineering standards and practices. A detailed report of the test shall be submitted to the Planning Board and the Borough Engineer for review.

2. Other Permits:

No person or persons shall engage in a permitted use within a designated Flood Plain or Flood Hazard Area until all necessary permits have been obtained from those governmental agencies from which approval is required.

3. Conditions:

- a. The Planning Board may impose such conditions on permitted uses as it deems appropriate to promote the public safety, health, and welfare, to protect public and private property, wildlife and fisheries, and to preserve, protect and enhance the natural environment of the Flood Plain. No Certificate of Occupancy shall be issued unless all conditions of approval have been complied with.
- b. It is understood to be a condition of any approval which is or has been granted for a development application for property which is subject to the Storm Water Control provisions of this Ordinance that it shall be the responsibility of the owner of such property, and the heirs, successors and assigns of said owner to maintain, renew and/or reconstruct any required Storm Water Control Facilities in such a manner that said facility shall continue to effectively perform as originally designed. Such maintenance by the owner shall insure the continual functioning of the systems at design capacity and prevent the hazards associated with debris buildup and stagnant water. In no

case shall water be allowed to remain in any facility long enough to constitute a mosquito breeding, disease, or any other type of problem. If the land or stormwater detention facility or facilities is proposed to be dedicated to the Borough and said dedication is accepted by the Municipal Agency, the procedures for the construction, dedication and acceptance shall be stipulated in the Developer's Agreement.

- c. The designated agent of the Borough shall have the right to take whatever steps may be reasonably necessary, including entry upon private property upon actual notice to the occupant, to ascertain that stormwater control facilities are effectively performing as originally designed; and if a stormwater control facility is found to be not effectively performing as originally designed, the Borough may, at its option after compliance by the Borough Engineer with the provisions of **Section 13** of this Ordinance, take steps to maintain, renew and/or reconstruct said facility and may assess the costs therefore against the property owner if said owner is found by the Governing Body not to have met the responsibilities under paragraph **a.** above.
- d. Surveys of property; which has been developed subject to the stormwater control provisions of this Ordinance shall show the location and type of stormwater facilities located on said property.

SECTION 13: SPECIFIC FLOOD PLAIN REQUIREMENTS:

A. Preservation of Natural Land:

1. It has been found that natural flood plain display complex intimate relationships among streams, periodic flooding, soils, vegetation, fish and wildlife and that periodic flooding of lowland areas marshes and swamps adjacent to stream channels produces a rich physical-chemical environment for many living organisms. It is further found that flood plains contain biological communities, which are among the most productive of natural systems and perform the following functions essential to the natural environment:
 - a. Passage and storage of storm floodwaters;
 - b. Removal of sediment loads from streams through deposition;
 - c. Replenishment of ground water supplies through soil infiltration;
 - d. Dissipation of energy flood flows, thereby reducing downstream destruction;
 - e. Provide areas of recreational and aesthetic pleasure.
2. Because of the importance of the natural flood plain as cited above, all natural land within any delineated flood plain, except for land to be developed in accordance with this Ordinance, shall be preserved in its natural state and, where

possible, developed land within the flood plain shall be restored to its natural state so as to duplicate the natural or undeveloped drainage characteristics in terms of runoff and velocity.

3. The Borough of Lincoln Park has determined that only steadfast restrictions on the amount of "gross fill" allowed in flood areas will result in effective flood hazard protection to accomplish the purposes of this Ordinance. This means that areas which may be flooded at some time in the future can only be filled-in up to the amount of fill (gross fill) allowed by this Ordinance.

Whenever the alteration or relocation of a watercourse is required, the applicant shall notify the Federal Insurance Administrator, New Jersey Department of Environmental Protection, County of Morris and adjacent communities. The applicant shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

B. Performance Standards:

In reviewing any proposed construction or development, the Planning Board shall be reasonably assured upon evidence submitted by the applicant that any structure, when built or altered, can be occupied without peril to the health or safety of the occupant and that the proposed land use:

1. Has an inherent low flood damage potential;
2. Either acting alone or in combination with existing or future uses, does not obstruct flood flows;
3. Does not affect adversely the water carrying or storage capacity of any channel, floodway, or flood fringe area;
4. Does not increase erosion or the rate of local runoff;
5. Does not unduly stress or degrade the natural environment of the flood plain or degrade the quality of surface water or the quality and quantity of ground water;
6. Does not require channel modifications or relocation;
7. Utilize proper planning in the grading and filling of the property to meet fill requirements.

C. Fill Requirements:

1. Requirements for fill under permitted uses:
 - a. Within the flood fringe area of delineated streams or within the 100-year flood plain but outside of encroachment lines of non-delineated streams, the volume of gross fill and structures to be placed on an applicant's site shall be limited as follows:
 - (1). For Residential Construction - The volume of gross fill and structures is limited to no more than ten (10%) percent of the existing total flood fringe volume. The flood fringe volume is the⁴⁷

volume between the natural or existing ground surface, whichever is lower, and the level of the flood hazard design elevation along delineated streams or the 100-year storm elevation along non-delineated streams. In addition, the resulting gross fill brought to the site (up to 10% of flood fringe volume) must be balanced by an equal excavation on site, therefore resulting in a zero net fill.

- (2). For non-residential Construction - The volume of gross fill and structure is limited to no more than ten (10%) percent of the existing total flood fringe volume. The flood fringe volume is the volume between the natural or existing ground surface, whichever is lower, and the level of the flood hazard design elevation along delineated streams or the 100 year storm elevation along non-delineated streams. In addition, the resulting gross fill on the site must be balanced by an equal excavation on site, therefore resulting in a zero net fill.

Therefore, any gross fill brought to the site (up to 10% of the flood fringe volume) must be balanced by an equal excavation on the site, therefore resulting in a zero net fill condition.

- b. It will have to be shown adequately on submitted plans and in calculations that the 10% limit for residential construction is not being exceeded. There shall be no net fill in the floodway or within stream encroachment lines except as provided in N.J.A.C. 7:13-3.1.
- c. All fill shall be graded in a manner so as not to adversely affect overland drainage flows.
- d. Fill shall be placed so that slopes are not steeper than a ratio of two horizontal drainage flows.
- e. Fill shall be compacted and stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey" or latest amendment thereto, Adopted pursuant to N.J.A.C. 2:90-1.3.
- f. When a stream encroachment permit and development permit has been granted allowing the placement of fill, under the provisions of this Ordinance, any subsequent subdivision of the property shall not have the effect of increasing the total amount of fill allowed to be placed upon the property covered by the previous permit. Additional fill may be placed on the newly divided property only to the extent that the total amount of fill allowed under these rules for the original defined property has not been exceeded.
- g. A variance from the requirements of this subsection may be granted by the Municipal Agency, on a case-by-case basis, for Federal, State, County or Municipal highway or road construction projects, pursuant to N.J.A.C. 7:13-5.4(b) and **Section 15** of this Ordinance.
- h. The requirements of this subsection are not applicable to flood control projects approved as flood control projects by the NJ DEP and the Municipal Agency.

- i. Where dikes, levees, flood walls or other structures, not approved as flood control projects, impede the entry of flood waters into an enclosed space, the enclosed space shall be considered as solid fill for the purposes of this subsection.

2. Additional requirements for fill in the Central Passaic Basin:

- a. In addition to the requirements of paragraph 13.C.1. above, as the streams of Lincoln Park are within the Central Passaic Basin all fill, beyond the total quantity already present, placed upon an applicant's project site must be counterbalanced by corresponding excavation within the flood fringe area of the Borough of Lincoln Park.
- b. In fulfilling the 0% net fill balance on site, it is recognized that fill is usually placed at higher flood elevations with the compensating cut at lower elevations. This means that the "replacement storage" is not as effective in controlling flood peaks as the fill it is replacing. In order to correct for this deficiency it is further required that the flood fringe storage volume under proposed conditions equal or exceed the flood fringe storage volume under existing conditions for each foot of elevation from the existing ground surface to the FHADF elevation or the 100 year flood elevation as appropriate. In those situations where the above requirement cannot be met, the applicant may satisfy this Section of the Ordinance by providing 2 cubic feet of compensating storage for each cubic foot of fill placed on the site.
- c. This flood storage volume may be available at as appropriate Borough Detention Pond with the approval of the Municipal Court.
 1. Said fill must be taken from between the natural ground surface and the mean low water level of the adjacent stream, or the seasonally adjusted high groundwater level, whichever is higher.
 2. A variance from the requirements of this subsection may be granted by the Municipal Agency, on a case-by-case basis, for Federal, State, County or Municipal highway or road construction projects, pursuant to N.J.A.C. 7:13-5.4(b) and Section 15 of this Ordinance.
 3. The requirements of this subsection are not applicable to flood control projects approved as flood control projects by the NJ DEP and the Municipal Agency.
 4. Where dikes, levees, flood walls or other structures, not approved as flood control projects, impede the entry of flood waters into an enclosed space, the enclosed space shall be considered as solid fill for the purposes of this subsection.

D. Soil Erosion and Sediment Control:

1. Soil erosion and sediment control measures are required on all submissions under

this sub-chapter if such submissions require disturbance of more than 5,000 square feet of the surface area of land within the flood hazard area along delineated streams.

2. The latest revised version of the "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the New Jersey State Soil Conservation Committee pursuant to the Soil Erosion and Sediment Control Act of 1975 as amended (N.J.S.A. 4:24-39 et seq.) and N.J.A.C. 2:90-1.3 shall be used in the preparation and submission of Development Permit Applications.

E. Prohibited Uses in Channels, Floodways and Flood Fringe Areas:

1. Channel: Within any channel, structures shall not be erected, enlarged, expanded or externally altered; and fill, excavation or other improvements or changes shall not be permitted except in connection with stream improvements or stabilization, which improvements or changes shall have the specific approval of the New Jersey Department of Environmental Protection and the Borough Planning Board. The Morris County Planning Board shall receive copies of all exhibits for their review and approval as required.
2. Floodway: Located within areas of special flood hazard are designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:
 - a. With any floodway, structures shall not be erected, enlarged, expanded or externally altered; and fill, excavation or other improvements or changes shall not be permitted, except in connection with stream improvement or stabilization, which improvement or changes shall have the specific approval of the New Jersey Department of Environmental Protection and the Borough Planning Board. The Morris County Planning Board shall receive copies of all exhibits for their review and approval as required.
 - b. In all flood hazard areas in which Base Flood Elevation data has been provided, and no flood way has been designated, the cumulative effect of any development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the Base Flood more than 0.2 feet at any point.
3. The accepted practices of soil husbandry and farming, as well as recreational uses in the nature of parks, playgrounds, picnic areas, golf courses, and boat landings shall be permitted in accordance with the issuance of a permit as provided by **Section 12** of this Ordinance. No material, equipment or vehicles shall be parked or stored in the floodway even in conjunction with a permitted use.
4. Flood Fringe Area: Within any flood fringe area structures other than mobile homes may be constructed, erected, enlarged, expanded, externally altered or modified; and fill, excavation, and other improvements may be permitted in the flood fringe area after receiving specific approval of the Borough Planning Board for a permitted use and further subject to the conditions set forth in this Ordinance.

F. Upon application for such a permit, the Planning Board shall notify the County Planning Board, and the Governing Bodies and environmental agencies of other municipalities; which may be affected by the proposed use. Such notifications shall include the name and address of the applicant, the location of the proposed use, and abbreviated description of the proposed use, and announcement as to where and at what times the complete application may be reviewed, and to whom and by what date interested parties may communicate their positions concerning the application and any data that they may have developed in reference to the effects of the proposed use. The Planning Board shall review the application and all information received under provisions of this Ordinance.

G. In reviewing the application and arriving at findings, the Planning Board shall consult with the Borough Engineer and other experts and consider the following criteria in addition to those set forth in paragraph 13-B.

1. The danger of life and property due to increased flood heights or velocities caused by encroachments;
2. The danger that materials may be swept onto other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the insulation of these systems from disease, contamination, and unsanitary conditions resulting from flooding;
4. The susceptibility of the proposed use to flood damage and the effects of such damage;
5. The need for a waterfront location;
6. The availability of alternate locations not subject to flooding;
7. The duration, rate of rise and sediment transport of flood-waters expected at the site;
8. The safety of access to the property in time of flooding for ordinary and emergency vehicles;
9. The extent to which the hydraulic capacity of the floodway will be disrupted;
10. The degree to which the proposed use serves the general public's health, safety and welfare;
11. The degree to which any aspect of food chain or plant, animal, fish, or human life processes are affected adversely within or beyond the proposed use area;
12. The degree to which the proposed activity alters natural water flow or water temperatures;
13. The degree to which the proposed use provides facilities for the proper handling of litter, trash, refuse and sanitary and industrial waste;

14. The degree to which irreplaceable land types will be destroyed;
15. The degree to which the natural, scenic, and aesthetic values at the proposed development site can be retained;
16. The degree to which materials not subject to major damage by floods are firmly anchored to prevent flotation and/or are readily removable from the area within the time available after flood warning.
17. If the Planning Board finds that the proposed use would violate or tend to violate the purposes and intent of this Ordinance, the application shall be denied.

H. Conditions of Approval for Permitted Uses:

If the application will not violate the purposes and intent of this Ordinance the Planning Board may approve the application and impose such conditions as are necessary to promote the public safety, health and welfare, to protect public and private property, wildlife and fisheries, and to preserve, and enhance the natural environment of the flood plain.

1. General Conditions:

These conditions may include but are not limited to, the following:

- a. Modification of waste disposal and water supply facilities;
- b. Imposition of operational controls, sureties and deed restrictions;
- c. Requirements for construction of stormwater detention facilities, channel modifications, dikes, levees, and other protective measures;
- d. Installation of an adequate flood warning system;
- e. Postponement of development until such time as protective measures are installed, or until the flood way and flood hazard areas have been delineated by the State Department of Environmental Protection or the Borough.

2. Specific Conditions:

In all special flood hazard areas the following standards are required:

- a. Where the lowest floor of any new structure is more than two (2') feet above the existing grade at the perimeter of said structure the site may be filled. All fill in flood hazard areas must be in compliance with the State of New Jersey, Flood Hazard Area Regulations of May 21, 1984. Such fill shall be subject to the following conditions:

- (1). All fill material shall be well compacted;

- (2). The elevations of the fill shall be not less than two (2') feet below the base flood elevations;
 - (3). The elevation of the fill at the perimeter of the structure;
 - (4). Fill at the perimeter of the structure shall be stabilized by a retaining wall or by slopes of not greater than 4:1 and shall be protected from erosion;
 - (5). Where fill is stabilized by a retaining wall, said fill shall extend beyond the perimeter of the structure a distance equal to not less than twice the height of the retaining wall or five (5') feet, whichever is the greater.
- b. All new residential construction, residential additions and substantial improvements of residential structures within the Flood Fringe Area and Floodway shall have the lowest floor (including basement) elevated to not less than one (1') foot above the base flood elevation. For the purposes of site plan review and approval, the requirement of one (1') foot above the base flood elevation shall not include a patio, terrace, or deck, provided any entrance from such structure to a main entrance shall be minimum of one (1') foot above the base flood elevation or at the **NJDEP Flood Hazard Area Elevation**, whichever is higher.
 - c. New non-residential construction or substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated one (1') foot above the base flood elevation, or at the **NJDEP Flood Hazard Area Elevation**, whichever is higher.
 - d. All utility and sanitary facilities be flood proofed below the base flood level or the **NJDEP Flood Hazard Area Elevation** or the structure is watertight with walls substantially impermeable to the passage of water; and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Flood proofing measures shall be consistent with those outlined in the Manual.
 - e. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - f. All recreation equipment shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (1). Over-the-top ties be provided at each of the four (4) corners of the recreation equipment with two (2) additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one (1) additional tie per side;

- (2). Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four (4) additional ties per side;
- (3). All components of the anchoring system be capable of carrying a force of 4,800 pounds.

I. Materials Prohibited in Channels, Floodways and Flood Fringe Areas:

No person shall hereafter engage in, cause, or permit other persons to engage in prohibited uses within a delineated flood plain. The following uses shall be prohibited:

1. Placing, depositing, or dumping any solid waste, garbage, refuse, trash, rubbish, or debris;
2. Dumping or discharging untreated domestic sewerage or industrial wastes, either solid or liquid;
3. The storage or disposal of pesticides;
4. The storage of processing of materials that are in time of flooding, buoyant, flammable, or explosive;
5. The storage or processing of hazardous materials that could be injurious in time of flooding to human, animal or plant life.

J. Pre-existing Non-Conforming Structures and Uses:

1. Structures or land uses in any flood plain which existed on or before the effective date of this Ordinance, may be permitted to continue subject to the following conditions:
 - a. If any pre-existing structure is destroyed by any means including floods, to an extent of 50% or more of its replacement cost at time of destruction, it shall not be reconstructed, except in conformity with the provisions of this Ordinance;
 - b. No pre-existing structure shall be moved, altered expanded changed or enlarged unless the provisions of this Ordinance are complied with. This provision does not apply to routine maintenance and repair, provided that such maintenance and repair does not increase the flood damage potential of the structure;
 - c. In any portion of the floodplain an existing non-conforming use or structure may be altered or expanded provided that such alteration or expansion does not increase its ground coverage or flood damage potential.
2. If actual construction of a structure is underway on or before the effective date of this Ordinance, then such construction may be completed. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. The provisions of (a) above shall apply to such structures upon completion of construction.

3. Structures in the floodway abandoned for six (6) consecutive months or longer and structures abandoned for twelve (12) consecutive months or longer in the flood fringe area after the effective date of this Ordinance shall not qualify as pre-existing uses.

K. Flood Map:

The Planning Board, after proper investigation, survey and public hearing, may recommend amendments to (1) the Federal Emergency Management Agency for changes in the Flood Insurance Rate Map, and the Municipal Agency for changes in the Floodplain/Floodway/Wetlands map of Lincoln Park.

SECTION 14: ADMINISTRATION AND ENFORCEMENT:

A. Responsibility:

The administration and enforcement of the provisions of this Ordinance relating to the construction, erection, maintenance and continued operation at design capacity of stormwater detention facilities and other facilities, structures, devices and techniques required to carry out the objectives of this Ordinance shall be the responsibility of the Borough Engineer. Duties of the Borough Engineer shall include, but not be limited to:

1. Review all development permit applications to determine that the permit requirements of this Ordinance have been satisfied.
2. Review all development permit applications to insure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
3. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) as defined in **Section 2** and paragraph **13-H.2.** of all new or substantially improved structures, and whether or not the structure contains a basement.
4. For all new or substantially improved flood proofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level);
and
 - b. Maintain the flood proofing certifications required in paragraph **13-H.2.d.**
5. Maintain for public inspection all records pertaining to the provisions of this Ordinance.

B. Interpretation of Firm Boundaries:

Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided by this Ordinance.

SECTION 15: VARIANCE AND EXCEPTION PROCEDURE:

- A. The issuance of a variance from the provisions of this Ordinance is for floodplain management purposes only and is subject to applicable State and Federal laws and regulations. The Borough Planning Board, after examining the applicant's hardships shall approve or disapprove a variance request. While granting of variances generally is limited to a lot size less than one-half ($\frac{1}{2}$) acre as set forth in Subsection D of this Section, deviations from that limitation may occur. However, as the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing a variance increases.
- B. The Federal Insurance Administrator may review the Borough Planning Board's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action as set forth in Section 1901.24 paragraph (b) of Federal Register, Vol. 41, No. 207, dated Tuesday, October 26, 1976.
- C. Variances may be issued by the Borough Planning Board for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places without regard to the procedures set forth in this Section.
- D. Procedures for the granting of variances by the Borough Planning Board are as follows:
1. Variances shall not be issued by the Borough Planning Board within any designated regulatory floodway if any increase in flood level above the allowable 0.2 foot during the base flood discharge would result;
 2. Variances may be issued by the Borough Planning Board only for the replacement or reconstruction of existing non-conforming structures, and for additions of not more than 150 square feet to existing residential structures on lots of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures below the base flood elevation, in conformance with the procedures of Subsection 4 of this Section.
 3. Variances may be issued by the Borough Planning Board for the construction of off-site detention facilities, when on-site constraints such as topography, inadequacy of receiving water conveyance system to provide positive discharge, seasonal high groundwater less than 2 feet below ground, and wetland conservation areas make it impossible to achieve the zero (0) increase run-off requirement for development.
 4. Variances may be issued by the Borough Planning Board for cases in which; there is no feasible and prudent alternative to the proposed project, including the no-action alternative, which would avoid or subsequently reduce any anticipated adverse effects and where the waiver is consistent with the reasonable requirements of the public health, safety and welfare.
 5. Variances may be issued for cases in which the Borough Planning Board and the applicant agree to alternative requirements that, in the judgment of the Board, provide equal or better protection to the public health, safety and welfare.

6. Variances may be issued for cases in which the Borough Planning Board and the applicant agree to alternative requirements that, in the judgment of the Board, provide equal or better protection to the public health, safety and welfare.
7. Variances shall only be issued by the Borough Planning Board upon:
 - a. A showing of good and sufficient cause by the applicant;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
8. Variances shall only be issued after or advance public notice and where requested or needed, a fact-finding meeting or public hearing which determines that the variance is the minimum necessary to afford relief, considering the flood hazard and/or site constraints.
9. The Borough Planning Board shall notify the applicant in writing that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - b. Such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in Subparagraph 4 of this Section.
 - c. The issuance of a variance to construct off-site or off-tract detention facilities will require that the applicant meet the requirements, criteria and share of costs as set forth in **Section 11** of this Ordinance.
10. The Borough Planning Board shall:
 - a. Maintain a record of all variance actions including justification for their issuance; and shall make a report within thirty (30) days to the County Planning Board.
 - b. Report such variance issued in its annual report submitted to the Federal Insurance Administrator and/or the New Jersey Department of Environmental Protection.
11. The burden of proof to establish all of the elements required for the issuance of a variance shall be upon the applicant, who shall submit the request for a variance to the Board and prove these elements by expert testimony and documentation demonstrating the following:

- a. That by reason of the extraordinary or exceptional situation or condition of the property, the strict enforcement of the provisions of this Ordinance would result in exceptional and undue hardship upon the applicant in question;
- b. That the waiver will not substantially impair the appropriate use of development or adjacent property and will not pose a threat to the public health, safety and general welfare;
- c. That the hardship is unique or peculiar to the applicant;
- d. That the exceptional or undue hardship claimed as grounds for the waiver has not been created by the applicant;
- e. The applicant shall submit to the Board with an application for a hardship waiver as much of the following information as is relevant to the projects:
 - (1). A plan for flood proofing, the implementation of which shall be a condition of the waiver;
 - (2). Proof that appropriate steps shall be taken to anchor materials in order to prevent flotation, collapse, or lateral movement;
 - (3). The relationship of the proposed project to the comprehensive land use plan and flood plain program for the area;
 - (4). Proposed routes to and from the property during flood times;
 - (5). The projected height, velocity and duration of the flood waters expected at the site during the Design Flood;
 - (6). The type of soil located at the proposed site;
 - (7). A statement concerning the land use and value absent the granting of the hardship waiver;
 - (8). Information regarding the existing development of the area and the impact of the additional work;
 - (9). Evidence that the project will not distort the streams flood carrying capacity so as to cause substantial problems along the stream;
 - (10). An analysis of the extent to which the sediment regiment and water quality of the stream will be affected by the proposed exemption;
 - (11). A description of the potential effects of the project upon the environment.
 - (12). The Planning Board shall notify the applicant of the results of its review within ninety (90) days.
 - (13). Before making a decision, the Planning Board may request that additional

information and/or documentation be supplied. When additional information is not provided by the applicant as requested, the variance will be denied.

- (14). If the material submitted to the Board by the applicant in support of the petition for a variance or hardship waiver does not satisfactorily demonstrate that a variance or hardship waiver is warranted, the Board shall so notify the applicant by letter advising the applicant that the petition for a variance or hardship waiver has been denied by the Board shall also state the reasons for this denial.
- (15). The denial of a variance request shall be treated as the denial of an application without prejudice.
- (16). A variance or hardship waiver granted pursuant to this section does not relieve the applicant from obtaining any other approvals, certifications or permits required by law. A copy of the notification granting the variance or hardship waiver shall be forwarded to the Bureau of Flood Plain Management.
- (17). If any person shall be aggrieved by the action of the Planning Board or Borough Engineer, appeal in writing to the Governing Body may be taken within ten (10) days after the date of such action. The Governing Body shall fix and notify appellant of a time and place for a public hearing on said appeal, and the appellant shall cause notice of such hearing to be published in the official newspaper of the Borough at least ten (10) days prior to the hearing. All parties in interest shall be afforded an opportunity to be heard hereon. After such hearing, the Governing Body shall affirm or reverse the action of the Planning Board, or Borough Engineer, stating its findings and reasons for its action, and a written copy of such action shall be given to the appellant.
 - (a). In passing upon such applications, the Governing Body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance and:
 - i. the danger that materials may be swept onto other lands to the injury of others;
 - ii. the danger to life and property due to flooding or erosion damage;
 - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. the importance of the service provided by the proposed facility to the community;
 - v. the necessity to the facility of a waterfront location, where applicable;
 - vi. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - vii. the compatibility of the proposed use with existing and anticipated development;

- viii. the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
 - xi. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- b. Upon consideration of the factors listed above and the purposes of this Ordinance, the Governing Body may attach such conditions to the granting of variances as it deems necessary to the further purposes of this Ordinance.
- c. The Borough Engineer shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration and the New Jersey Department of Environmental Protection annually.

SECTION 16: SUBMISSIONS:

The following submissions shall be required for each proposed development subject to review under this Ordinance. The applicant is free to combine exhibits or otherwise consolidate the required information, so long as all required information is clearly presented.

A. Topographic Base Map:

Topographic base map of the site including a minimum of 200' beyond the limits of the proposed development shall be prepared at a scale of 1"=50' and show 2' contour intervals. The map shall indicate at least the following: existing surface water drainage, marshlands, outlines of woodland cover, existing man-made structures, roads, utilities, bearing and distances of property lines, and other significant natural; and man-made features.

B. Vicinity Map:

Applicants must prepare a map at a scale of 1"=400' or greater on a paper print of the latest air photograph available from the County Planning Board, updated in the field to reflect current conditions, showing the relationship of the proposed development to significant features in the general surroundings. The map must indicate at least the following: roads, pedestrian ways, access to the site, adjacent land uses, existing open space, public facilities, landmarks, places of architectural and historic significance, utilities, drainage (including, specifically, streams and other surface waters shown on SCS maps), and other significant features.

C. Environmental Site Analysis:

A written and graphic description of the natural and man-made features of the site and its environs, as required. This description should include a discussion of soil conditions, slopes, wetlands, vegetation and animal life 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.

D. Project Description and Site Plan(s):

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

E. Water Detention Facilities Map:

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

1. Total area to be paved or built upon, estimated land area to be occupied by water detention facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of surface water.
2. Details of all water detention plans; 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.
3. Maximum discharge and total volume of runoff; which would occur from the project area without the improvement for the following storms:
 - a. One and one-quarter inch of rainfall occurring within two hours, or a one year frequency Type III 24 hour storm.
 - b. The specific design storms (2 year, 10 year, 25 year and 100 year recurrence intervals).

The municipal official or board reviewing an application under this Ordinance may, in consultation with the Borough Engineer, may waive submission of any of the above requirements when the information requested is impossible to obtain or when it would work a hardship on the applicant to obtain and where its absence will not materially affect the review process.

F. Engineering Report:

The Stormwater Control Plan should be accompanied by an engineering report. The Engineering Report must be prepared by an Engineer licensed by the New Jersey State Board of Professional Engineers and Land Surveyors and should include all investigations, analyses, studies undertaken and conclusions drawn during the design of the stormwater control plan, including but not limited to the following:

1. Hydrologic computations to determine the design discharge along with reasoning for the methods used and the underlying assumptions. Recommendations concerning the hydrologic methods to be used are explained in earlier parts of this Ordinance.
2. Hydraulic computations for the analysis and designing of the stormwater facilities. All assumptions made in the analysis should be justified and documented.
3. Detention Basin routing computation by the Storage Indication (Modified Puls) Method or other appropriate procedure or method for the specific design storms.
4. Color photographs of the project site and of immediate vicinity. Photographs should encompass the whole project site and give a clear picture of the waterway and surrounding topographic and environmental conditions. Photograph locations must be keyed onto the plan and cross-sections.
5. Cross-section and computations indicating the following:
 - a. The volume of "net" and "gross" fill and structures to be placed on the applicant's property within the flood fringe of delineated streams or within the 100 year flood plain but outside the encroachment lines of non-delineated streams.
 - b. Volume of flood storage between the natural ground surface of the applicant's property and the Flood Hazard Design Elevation for delineated streams or 100-year flood elevation for non-delineated streams. This computation is to exclude areas within the floodway of delineated streams and encroachment lines of non-delineated streams.
 - c. The quantity (a) expressed as a percentage of (b) above.
6. Water diversion plan or method of diverting stormwater during construction shall be provided where applicable.
7. Data, illustrations and narrative outlining provisions to meet the water quality requirement.
8. Computations showing change in percentage impervious surface for development.

SECTION 17: FEES:

In addition to any fee due to the municipality as a result of the applicant's underlying application for a municipal approval, there shall be due to the municipality at the time of submission of materials in support of this application a fee as follows:

- A. \$200.00 for each 1,000 square feet of land area that is to be graded/regraded, developed and/or otherwise modified/improved as part of the project.
- B. This fee is an approximation of the estimated cost to the municipality to have its professional staff and consultants review the proposed project for compliance with the provisions of this Ordinance.

SECTION 18: PENALTIES

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

For any and every violation of the provisions of this Ordinance, the owner, contractor or other person or persons interested as lessee, tenant or otherwise, in any lot, building, structure or premises where such violation has been committed or shall exist, shall for each and every violation be subjected to a fine of not more than one thousand (\$1,000.00) dollars or ninety (90) days imprisonment or both, at the discretion of the court or judicial officer before whom a conviction may be had. For each and every day that a violation continues after ten (10) days, written notice by the Borough Engineer, Zoning Officer or Building Inspector (or their designee) either served personally or by registered mail, the violator shall be subject to prosecution for separate offenses for each day the offense or violation continues after the service of such notice. This provision shall not be construed as requiring the service of notice as prerequisite to prosecution for a single offense.

Ordinance 1,370
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