

## CHAPTER XVI ENVIRONMENTAL PROTECTION

### 16-1 TREE PROTECTION.

#### 16-1.1 Title.

This section shall be known as and may be cited as the "Environmental Tree Protection Ordinance of the Borough of Rumson." (Ord. 6/6/02, §16-1.1; Ord. No. 12-012G, §2)

#### 16-1.2 Purpose.

The purpose of this chapter is to preserve trees and woodlands throughout the Borough, and to restrict the removal of trees, thereby maintaining the beauty and character of the Borough of Rumson, preventing erosion, and restricting any action that could create a hazard to persons or properties. (Ord. 6/6/02, §16-1.2; Ord. No. 12-012G, §2)

#### 16-1.3 Definitions and Word Usage.

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Applicant* shall mean any person making application to the Tree Conservation Officer for a Tree Protection Permit.

*Clear cutting* shall mean the removal of more than twenty (20%) percent of the total number of trees, six (6) inches in caliper or greater of any type of trees within an area on a lot and located outside of the necessary footprint as defined below.

*Diameter at breast height (DBH)* shall mean the diameter of a tree measured at breast height, which is approximately four and one-half (4 1/2) feet above the ground. The diameter of a multi-trunked tree shall be two-thirds (2/3) of the sum of the diameters of all trunks but not less than the diameter of the largest trunk. Diameter shall be calculated to be one-third (1/3) of the circumference for the purpose of this definition.

*Emergency* shall mean any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property.

*Mitigation plan* shall mean a plan prepared by a qualified person acceptable to the Tree Conservation Officer showing the planting of replacement trees on the property on which tree removal activity is taking place or on other properties within the Borough. Said plan must depict, in a manner acceptable to the Tree Conservation Officer, a reasonable scheme for the ultimate full replacement of trees removed.

*Necessary footprint* shall mean the portion of the lot located within a line drawn fifteen (15) feet outside the limits of any existing principal structure or any proposed principal structure for which site plan approval has been granted or a valid building permit or other necessary municipal approval exists; and within five (5) feet outside the limit of any existing accessory structure or any proposed accessory building and/or accessory structure for which site plan approval has been granted or a valid building permit or other necessary municipal approval exists.

*Ornamental tree.* See Tree, ornamental.

*Permittee* shall mean any person who has been issued a permit pursuant to the terms and conditions of this section and who is obligated to fulfill all the terms of this section.

*Person* shall mean any person, firm, partnership, association, corporation, company, or public or private organization of any kind other than those exempted from the provisions of this section.

*Specimen tree or significant specimen tree* shall mean any tree or ornamental tree with a diameter at breast height (DBH) exceeding sixty (60%) percent of that of the largest similar tree listed in either of these references: Monmouth County's Largest Trees, prepared and updated annually by the Monmouth County Shade Tree Commission of New Jersey's Big Trees, prepared and updated biannually by the Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

*Thinning* shall mean the removal of undesirable, competitive, diseased or damaged trees so as to improve the development of the remaining trees on a lot.

*Tree* shall mean any living deciduous or coniferous (evergreen) tree which is six (6) inches in caliper or greater, with a normally anticipated mature height of twenty (20) feet or greater.

*Tree Conservation Officer* shall mean the person designated by resolution of the Borough Council to administer and enforce this section. If no such person is designated, the Borough Clerk or the Clerk's designee shall act as Tree Conservation Officer.

*Tree expert* shall mean a specialist in trees or tree care whose qualifications are acceptable to the Tree Conservation Officer.

*Tree, ornamental* shall mean any living Dogwood, American Holly, Native Laurel and any other small decorative tree with a normally anticipated mature height of six (6) feet or greater (including, but not limited to: Birch, Japanese Maple, Cherry, Crabapple, and Magnolia).

*Tree, street* shall mean any deciduous hardwood shade tree located within the Borough or County right-of-way.

(Ord. 6/6/02 § 16-1.3; Ord. 5/19/05 § 1; Ord. No. 12-012G § 2; Ord. No. 14-010G § 7)

#### **16-1.4 Prohibited Activity.**

The activities described in this subsection and any substantially similar activity are prohibited activities:

a. Removing, causing or permitting the removal of any significant specimen tree as defined in subsection 16-1.3 above without first obtaining variance relief.

1. Removing, causing or permitting the removal of any tree having a trunk diameter of six (6) inches DBH or larger without first obtaining a tree removal permit.

2. Removing, causing or permitting the removal of any ornamental tree having a size as follows:

(a) One (1) inch DBH or larger for any Dogwood (*Cornus Florida*) or American Holly (*Ilex Opaca*);

(b) Two and one-half (2 ½) inches DBH or larger for any other ornamental tree.

3. Clear cutting or the removal of more than twenty (20%) percent of the total number of trees, six (6) inches in caliper or greater of any size or type of trees within an area on a lot and located outside of the necessary footprint as defined in subsection 16-1.3 or removal of twenty (20%) percent of the trees on slopes steeper than fifteen (15%) percent.

b. Undertaking, causing or permitting any activities including occupancy, demolition or construction on, or adjacent to, any lot which may damage; or otherwise causing or permitting any damage, injury or disfigurement to any tree or ornamental tree described in paragraph a. above.

c. Removing or damaging any street tree without authorization from the Borough of Rumson.

(Ord. 6/6/02 § 16-1.4; Ord. No. 12-012G § 2; Ord. No. 14-010G § 7)

### **16-1.5 Permit Required.**

a. No person shall engage in, nor allow, permit or direct any person to engage in, the removal of any tree six (6) inches in caliper or greater unless a tree protection permit is first obtained from the Tree Conservation Officer.

b. No person shall engage in, nor allow, permit or direct any person to engage in, any prohibited activity as defined in subsection 16-1.4 above unless a variance is first obtained from the Planning Board or Zoning Board of Adjustment and a tree protection permit is subsequently obtained from the Tree Conservation Officer. (Ord. 6/6/02, §16-1.5; Ord. No. 12-012G, §2)

### **16-1.6 Permit Application Requirements.**

a. Application for a tree protection permit shall consist of:

1. A fully and accurately completed application form provided by the Borough.

2. A plan showing the location of all existing trees six (6) inches in caliper and greater within ten (10) feet of the proposed limits of disturbance (including all trees located within the necessary footprint) and all proposed tree removal in sufficient detail to identify the nature and limits of the proposed tree removal, including but not limited to the location, species and diameter of all tree removals and the limits of all existing and proposed principal structure's accessory structures in relation to any removals and any proposed grade changes. All trees described in subsection 16-1.4a,1 or 2 shall be shown on a plan if construction or any disturbance is proposed within ten (10) feet of the canopy line of such trees. For removals of five (5) or fewer trees on a lot where the principal use is an existing single-family dwelling, the plan may be provided using a legible sketch, detailed narrative, a tax map reproduction, a copy of an existing survey or similar drawing with field measurements and dimensions provided by the property owner or the owner's agent. For other removals, the plan shall be prepared by a qualified professional, acceptable to the Tree Conservation Officer.

3. A narrative description of the property owner's reasons for removing the trees, including a description of any alternates considered.

4. A signed evaluation and recommendation from a tree expert, whose qualifications are acceptable to the Tree Conservation Officer, shall be provided if the reasons for the removal include the removal of dead or diseased trees or a horticulturally advantageous thinning or an overgrown area.

5. A tree protection permit application fee:

(a) For applications on a lot containing an existing single-family dwelling, not subject to a contract to sell, an option or agreement to buy or a similar agreement, and where no change of title has taken place within the prior calendar year:

(1) Ten (\$10.00) dollars for removal of five (5) or fewer trees; or

(2) Fifty (\$50.00) dollars for removal of between six (6) and ten (10) trees; or

(3) One hundred (\$100.00) dollars for removal of between eleven (11) and twenty (20) trees; or

(4) One hundred fifty (\$150.00) dollars for removal of over twenty (20) trees; or

(b) For all other applications:

(1) One hundred fifty (\$150.00) dollars for removal of five (5) or fewer trees; or

(2) One hundred fifty (\$150.00) dollars, plus twenty-five (\$25.00) dollars for each tree removed over five (5) trees.

(c) Fees may be waived or modified by the Borough Council for charitable, public or quasi-public agencies or for eleemosynary institutions or in unusual and exceptional circumstances.

(d) Cost for the Borough's Independent Expert evaluation shall be borne by the applicant.

b. The applicant will place or cause to be placed, in a highly visible manner, a one (1) inch wide yellow paint dot that is marked on the trunk of each tree proposed for removal, to aid the Borough in evaluating the proposed removals.

c. The Tree Conservation Officer may seek the advice of such Borough officials, agencies, committees, boards, commissions, and independent Borough Tree Expert, as the Officer may believe necessary in evaluating a permit application.

d. After evaluation of an application, the Tree Conservation Officer will take one (1) of the following actions within the time set forth:

1. If the Officer determines that the permit application is incomplete, unclear, inaccurate or otherwise deficient, the Officer shall so advise the applicant and return the permit application within ten (10) days of the date of application. The applicant may revise, supplement and/or resubmit the application, which will then be treated as a new application except no additional fee is required.

2. If the Officer determines that the proposed activity is permitted by the standards set forth in subsection 16-1.7, a permit shall be, respectively, issued within thirty (30) days of the date of application.

3. If the Officer determines that the proposed activity is prohibited by the standards set forth in subsection 16-1.4, the application may be referred to the Planning Board or Zoning Board of Adjustment (if in conjunction with an application under the jurisdiction of the Zoning Board of Adjustment) for review and recommendation pursuant to N.J.S.A. 40:55D-25b(3) within sixty (60) days of the date of application. The Officer shall issue or deny a permit for a prohibited activity within ninety (90) days of the application.

4. In issuing permits under this section, the Officer and or Planning Board or Zoning Board of Adjustment may impose reasonable permit conditions necessary to effectuate the purposes of this section.

e. Any applicant aggrieved by any decision taken by the Tree Conservation Officer in the administration and/or enforcement of this section may, within ten (10) days of the date of action of the Officer, appeal to the Planning Board. The Planning Board may establish procedures to hear such appeals and shall render a decision affirming, reversing and/or modifying the decision or action of the Tree Conservation Officer within ninety (90) days of the date of appeal. In hearing such appeals, the Planning Board may seek the opinion of the Shade Tree Committee, the Environmental Commission or any other State, County or municipal agency or official. (Ord. 6/6/02, §16-1.6; Ord. 5/19/05, §2; Ord. No. 08-016G, §1; Ord. No. 12-012G, §2)

### **16-1.7 Review of Applications.**

a. When reviewing applications, the Tree Conservation Officer will, after inspecting and evaluating the conditions on the site and adjacent properties and consulting with such other officials, agencies, committees, boards and commissions as the Officer deems appropriate, determine if the activity proposed is prohibited, or permitted in accordance with this section.

1. Prohibited activities include:

(a) Clear cutting as defined by subsection 16-1.4 of this chapter.

(b) Removal of a significant specimen tree.

(c) Any action which will substantially increase the potential of erosion as defined by the applicable Soil Conservation District Standards.

(d) Any action inconsistent with other land use approvals or regulations affecting the site.

(e) Any action which would create a potential hazard to persons or properties.

2. Permitted activities include:

- (a) Removal and or thinning of any trees less than six (6) inches in caliper.
- (b) Tree removal within the necessary footprint as defined in subsection 16-1.3.
- (c) Any action, including tree removals, required or permitted pursuant to subdivision, site plan and/or variance approval granted by a municipal agency acting under the Municipal Land Use Law and local ordinances.
- (d) Removal of dead, dying or diseased trees or which constitutes a horticulturally advantageous thinning of an existing overgrown area with the approval of the Borough's Tree Conservation Officer.

3. Restricted activities include:

- (a) All tree removal activities, which are not permitted, are prohibited. Applications may propose a combination of prohibited, and permitted activities. In such cases, the Tree Conservation Officer may segregate the activities proposed and take the appropriate action on each type of activity.
- (b) Applications for restricted activities shall be referred to the Planning Board or Zoning Board in conjunction with applications under the jurisdiction of the Zoning Board of Adjustment for recommendation to the Tree Conservation Officer.

b. The Planning Board or Zoning Board of Adjustment shall consider these factors in making a recommendation to the Tree Conservation Officer concerning a restricted activity:

1. Whether the proposed cutting or removal would impair the growth and redevelopment of the remaining trees on the applicant's property or adjacent property.
2. Whether the proposed cutting or removal would change existing drainage patterns.
3. Whether the proposed removal would allow soil erosion or increase dust.
4. Whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots or the aspect of the lot as viewed from the adjacent public road.
5. The overall effect of removal of such tree(s) on the physical and aesthetic value of the property and the neighborhood.
6. Whether proposed changes in the topography of the area where such tree(s) are located will have a land configuration which shall be deemed injurious to the trees or other trees located nearby so as to require welling, construction of an aerification system, or tree removal or replacement.
7. Whether the proposed changes in topography are required to comply with the minimum Base Flood Elevation as shown on the FEMA Flood Insurance Rate Maps.
8. Whether a mitigation plan is required. The purpose of such a plan shall be the ultimate replacement on the property of the trees being removed, giving due consideration to a reasonable maturity period for new plantings, and the maintenance at all times of at least twenty (20%) percent of the existing trees (outside of the necessary footprint) on a lot in the existing state.
9. Whether alternative plans, which eliminate or reduce undesirable impacts, but provide reasonable use of the property are possible, technically practicable and financially feasible. In particular, the Board will consider if the removal of any trees is unavoidable and whether tree removal in excess of twenty (20%) percent is unavoidable.
10. Whether reasonable application of the standards of this section creates a substantial hardship for the applicant, prohibiting reasonable use of the property consistent with the Planning and Development Regulations, and whether, therefore, one (1) or more of the standards should be waived.

11. In appropriate circumstances, an applicant may be required to post performance guarantees, performance cash bonds and/or maintenance guarantees, in accordance with Chapter 22, subsection 22-10.1, assuring compliance with the provisions of any tree protection permit and this section and assuring provision of replacement plantings required by any mitigation plan or damaged or removed contrary to the terms of any tree protection permit or this section.

c. The Tree Conservation Officer shall give due deference to the recommendations of the Planning Board or Zoning Board of Adjustment with regard to an application for a permit to allow a restricted activity. The Officer may only act contrary to, or significantly modify, the recommendations of the Planning Board or Zoning Board of Adjustment if the Officer finds that the recommendations are based on incomplete or inaccurate information, are unreasonable or impracticable or would produce results contrary to the intent of this section. The Officer shall provide the Planning Board or Zoning Board of Adjustment with a copy of the Officer's final action on all permits for a restricted activity for their approval.

(Ord. 6/6/02, §16-1.7; Ord. 5/19/05, §3; Ord. No. 12-012G, §2)

### **16-1.8 Tree Mitigation Requirements.**

a. Not more than the number of tree(s) as set forth in Exhibit A shall be removed on any lot unless the tree(s) are replaced with tree(s) the total DBH of which is equal to at least thirty (30%) percent of the total DBH inches of the tree(s) removed.

#### **Exhibit A**

#### **MAXIMUM NUMBER OF TREES THAT CAN BE REMOVED WITHOUT TREE MITIGATION REQUIREMENTS**

R-1 Zone	Eight (8) Trees or Less
R-2 Zone	Six (6) Trees or Less
R-3 Zone	Four (4) Trees or Less
R-4 Zone	Three (3) Trees or Less
R-5 Zone	Two (2) Trees or Less
R-6 Zone	One (1) Tree

b. No replacement tree shall have a DBH less than two (2) inches.

c. All replacement trees shall be installed on the subject site. If in the opinion of the Tree Conservation Officer, sufficient space is not available on the subject property, the trees may be installed on an alternate site within the Borough, acceptable to the Tree Conservation Officer; however, the Tree Conservation Officer may waive this requirement when in its opinion it is in the best interest of the Borough, subject to the applicant posting a contribution in the amount of five hundred (\$500.00) dollars per tree. Funds collected by the Borough from applicants as a result of waivers shall be maintained in a shade tree account, the proceeds of which shall be available to install and maintain shade trees throughout the Borough.

d. Tree replacement and/or tree mitigation shall be shown on a landscape plan or other document shall be prepared by a qualified professional, acceptable to the Tree Conservation Officer.

e. The Tree Conservation Officer shall seek the advice of such Borough officials, agencies, committees, boards, commissions, or independent Borough Tree Experts, as the Officer may believe necessary in evaluating the mitigation plan.

f. An applicant shall be required to post performance cash and maintenance guarantees, in accordance with Chapter 22, subsection 22-10.1, to assure compliance with the provisions of any tree protection permit and this section and assuring provision of replacement plantings required by any mitigation plan or trees damaged or trees removed contrary to the terms of any tree protection permit or this section.

(Ord. No. 12-012G, §2)

### **16-1.9 Protection of Existing Trees and Street Trees.**

In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Tree Conservation Officer, shall be placed around trees and street trees that are not to be removed. The protective barrier shall be placed at the drip line (or canopy line) of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction material shall be placed within any areas so protected by barriers. Any landscaping or utility activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor. Tree protection measures shall be in place prior to the issuance of any tree removal permit or building permit. (Ord. 6/6/02, §16-1.8; Ord. 5/19/05, §4; Ord. No. 12-012G, §2; Ord. No. 14-010G § 7)

#### **16-1.10 Emergency Action.**

In the event of an emergency, any person, otherwise subject to this section, having responsibility, jurisdiction and/or authority to cure, remedy or mitigate dangerous, hazardous, inconvenient, unhealthy or obnoxious conditions resulting from the emergency may, without first applying for and obtaining a permit under this section, take any lawful action which is otherwise a tree removal activity. However, such person, or the agent or designee of such person shall apply for a tree protection permit not later than the end of the second succeeding business day after any tree removal activity takes place and may not proceed with non-emergency work including restoration until a permit is obtained. (Ord. 6/6/02, §16-1.9; Ord. No. 12-012G, §2)

#### **16-1.11 Persons Exempt.**

This section shall not apply to prohibited activities by:

- a. The Borough or those acting under the control and direction of the Borough including any person acting pursuant to a specific agreement or contract approved by the Borough Council.
- b. Federal, State or County agencies or those acting under their control and direction.
- c. Entities, having by their charters and the Laws of the State, authority to engage in a prohibited activity without the consent of the Borough but only insofar as the purpose to which such authority extends; in all other respects, such entities shall comply with this section.
- d. Commercial nurseries and similar established legally operating uses.
- e. Properties operating under a silviculture or forestry management plan approved by the State of New Jersey.
- f. Utility companies with public rights-of-way when such companies are operating under the jurisdiction of the public agency controlling the rights-of-way.  
(Ord. 6/6/02, §16-1.10; Ord. No. 12-012G, §2)

#### **16-1.12 Violations and Penalties.**

a. Any person(s), firm(s), or corporation(s) who violates any provision of this section shall, upon conviction thereof in Municipal Court, be punished by imposition of the penalties set forth in Chapter III, Section 3-1.1 Property owner shall be subject to a fine of not less than two hundred (\$200.00) dollars, nor more than two thousand (\$2,000.00) dollars and replacement of the tree, consistent with the chapter requirements.

Each instance of engaging in a separate tree removal activity, in violation of this section, including specifically each tree removed, shall be deemed a separate offense.

b. In addition, the Borough may institute civil action for injunctive or other relief to enforce the provisions of this section including requiring the replacement of all trees illegally removed and/or, at the option of the Borough, the payment of a contribution to allow equivalent mitigation on public land.  
(Ord. 6/6/02, §16-1.11; Ord. No. 08-016G, §1; Ord. No. 12-012G, §2)

## 16-2 STORMWATER MANAGEMENT AND CONTROL.

### 16-2.1 Title.

This section shall be known as and may be cited as the "Stormwater Management Ordinance of the Borough of Rumson." (Ord. 12/15/05, §1; Ord. No. 16-006G § 10)

### 16-2.2 Scope and Purpose.

a. *Policy Statement.* Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural Best Management Practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management measures and proper maintenance plans. Nonstructural measures include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated loading of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

b. *Purpose.* It is the purpose of this section to establish minimum stormwater management requirements and controls for development.

c. *Applicability.* This section shall be applicable to all development which:

1. Requires a development permit as defined in Chapter XXII of the Code of the Borough of Rumson; and
2. Meets or exceeds the following Stormwater Management Thresholds:

### STORMWATER MANAGEMENT THRESHOLDS

#### A. Residential Development

1. Total lot disturbance, including new building and lot coverage, soil disturbance and/or regrading, exceeds 40,000 square feet in the R-1, R-2 or R-3 Zone District or 7,000 square feet in other zone districts; and/or
2. New impervious surface exceeds ten thousand (10,000) square feet; and/or
3. A building permit is required and:
  - a. Building coverage or lot coverage exceeds or will exceed seventy-five (75%) percent of the maximum permitted in the R-1, R-2 or R-3 Zone District or eighty-five (85%) percent of the maximum permitted in the other zone districts; and
  - b. Building coverage added as a result of the development exceeds one thousand two hundred (1,200) square feet in the R-1, R-2 or R-3 Zone District or four hundred (400) square feet in other zone districts.

#### B. Nonresidential Development

1. The development is a major development as defined by subsection 16-2.3 of this section; and/or
2. Lot coverage exceeds or will exceed eighty-five (85%) percent of the maximum permitted; and
  - a. Lot coverage added as a result of the development exceeds the greater of four thousand (4,000) square feet or sixty (60%) percent of the maximum lot coverage permitted; or
  - b. Lot disturbance exceeds ten thousand (10,000) square feet.

d. *Compatibility with Other Permit and Ordinance Requirements.* Development approvals issued pursuant to this section are to be considered an integral part of development approvals under the development



permit, subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This section is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control. (Ord. 12/15/05, §1; Ord. No. 16-006G § 10)

### **16-2.3 Definitions and Word Usage.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

*CAFRA Centers, Cores or Nodes* shall mean those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

*CAFRA Planning Map* shall mean the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

*Compaction* shall mean the increase in soil bulk density.

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

*County review agency* shall mean an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The County review agency may either be:

- a. A County Planning Agency; or
- b. A County Water Resource Association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

*Department* shall mean the New Jersey Department of Environmental Protection.

*Designated center* shall mean a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

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

*Development* shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

*Drainage area* shall mean a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

*Empowerment Neighborhood* shall mean a neighborhood designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

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

*Erosion* shall mean the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

*Hydraulic fracturing wastewater* shall mean the wastewater, sludge, drill cuttings and/or other byproducts from the process known as hydraulic fracturing or using in some cases a complex mix of chemicals and fluids injected into geologic formations to allow the harvesting of natural gas or oil.

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

*Infiltration* shall mean the process by which water seeps into the soil from precipitation.

*Major development* shall mean any development that provides for ultimately disturbing one (1) or more acres of land or increasing impervious surface by 10,000 square feet or more. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

*Municipality* shall mean any city, borough, town, township, or village.

*Node* shall mean an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

*Nutrient* shall mean a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

*Person* shall mean any individual, corporation, company, partnership, firm, association, Borough of Rumson, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

*Pollutant* shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural and construction waste or runoff, hydraulic fracturing wastewater, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

*Recharge* shall mean the amount of water from precipitation that infiltrates into the ground and is not evapo-transpired.

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

*Site* shall mean the lot or lots upon which a development is to occur or has occurred.

*Soil* shall mean all unconsolidated mineral and organic material of any origin.

*State Development and Redevelopment Plan Metropolitan Planning Area (PAI)* shall mean an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to

be the focus for much of the State's future redevelopment and revitalization efforts.

*State Plan Policy Map* shall mean the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

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

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

*Stormwater management measure* shall mean any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

*Stormwater runoff* shall mean water flow on the surface of the ground or in storm sewers, resulting from precipitation.

*Tidal Flood Hazard Area* shall mean a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

*Urban Coordinating Council Empowerment Neighborhood* shall mean a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

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

*Urban Redevelopment Area* shall mean previously developed portions of areas: (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes; (2) Designated as CAFRA Centers, Cores or Nodes; (3) Designated as Urban Enterprise Zones; and (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

*Waters of the State* shall mean the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

*Wetlands* or *wetland* shall mean an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(Ord. 12/15/05, §1; Ord. No. 08-016G, §1; Ord. No. 16-001G § 7; Ord. No. 16-006G § 10)

#### **16-2.4 General Standards.**

##### *a. Design and Performance Standards for Stormwater Management Measures.*

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in subsection 16-2.5. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this section apply only to development exceeding the Stormwater Management Threshold outlined in subsection 16-2.2c,2, and are intended to minimize the impact of stormwater runoff

on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

3. The standards in subsection 16-2.11 apply to development which exceeds the Stormwater Management Threshold in subsection 16-2.2c,2, but does not meet the definition of "Major development." (Ord. 12/15/05, §1)

### **16-2.5 General Stormwater Management Requirements for Major Development.**

a. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with subsection 16-2.12.

b. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).

c. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of subsections 16-2.5f and 16-2.5g:

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;

2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and

3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of fourteen (14) feet, provided that the access is made of permeable material.

d. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of subsections 16-2.5f and 16-2.5g may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of subsections 16-2.5f and 16-2.5g to the maximum extent practicable;

3. The applicant demonstrates that, in order to meet the requirements of subsections 16-2.5f and 16-2.5g, existing structures currently in use, such as homes and buildings, would need to be condemned; and

4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under subsection 16-2.5d,3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of subsections 16-2.5f and 16-2.5g that were not achievable onsite.

e. *Nonstructural Stormwater Management Strategies.*

1. To the maximum extent practicable, the standards in subsections 16-2.5f and 16-2.5g shall be met by incorporating nonstructural stormwater management strategies set forth at subsection 16-2.5e into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in paragraph 2. below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:
- (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
  - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
  - (c) Maximize the protection of natural drainage features and vegetation;
  - (d) Minimize the decrease in the "time of concentration" from preconstruction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
  - (e) Minimize land disturbance including clearing and grading;
  - (f) Minimize soil compaction;
  - (g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
  - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
  - (i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
    - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy subsection 16-2.5e,3 below;
    - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
    - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
    - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

3. Site design features identified under subsection 16-2.5e,2(i)(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see subsection 16-2.5e,3(c) below.

(a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than five-tenths (0.5) inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include

surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

(b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two (2) or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

(c) This standard does not apply:

(1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(2) Where flows from the water quality design storm as specified in subsection 16-2.5g,1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one (1) of the following:

(i) A rectangular space four and five-eighths (4 5/8) inches long and one and one-half (1 1/2) inches wide (this option does not apply for outfall netting facilities); or

(ii) A bar screen having a bar spacing of five-tenths (0.5) inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one (1) inch spacing between the bars, to the elevation of the water quality design storm as specified in subsection 16-2.5g,1; or

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in subsections 16-2.5f and 16-2.5g shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices (BMP) Manual. The BMP Manual may be obtained from the address identified in subsection 16-2.8, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org).

f. *Erosion Control, Groundwater Recharge and Runoff Quantity Standards.*

1. This paragraph contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

(a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

(b) The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at subsection 16-2.6, either:

(i) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain one hundred (100%) percent of the average annual preconstruction groundwater recharge volume for the site; or

(ii) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to subsection 16-2.5f,1(b)(3) below.

(3) The following types of stormwater shall not be recharged:

(i) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(ii) Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(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 down gradient 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 subsection 16-2.6, complete one (1) of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2, 10, and 100-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the 2, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(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 preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. 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 paragraphs (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 in subsection 16-2.3 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this subsection and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the 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 eighty (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 one-fourth (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 one and one-fourth (1.25) inches of rainfall in two (2) 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 nonstructural and structural stormwater management measures.

**Table 1: Water Quality Design Storm Distribution**

<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>
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 subsection 16-2.8, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in subsection 16-2.8. Total Suspended Solids (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, P.O. Box 418, Trenton, New Jersey, 08625-0418.



3. If more than one (1) BMP in series is necessary to achieve the required eighty (80%) percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where: R = total TSS percent load removal from application of both BMPs  
 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**

<b>Best Management Practice</b>	<b>TSS Percent Removal Rate</b>
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See subsection 16-2.7c
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one (1) on-site drainage area, the eighty (80%) percent TSS removal rate shall apply to each drainage area, unless the runoff from the sub-areas 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 subsection 16-2.5f and 16-2.5g.

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 subsection 16-2.8.

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 (1) of the following:

(1) A three hundred (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 16-2.5g,8(a)(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 one hundred fifty (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 paragraph 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 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 one hundred fifty (150) feet of the Category One waterway;

(2) Stormwater associated with discharges allowed by this subsection shall achieve a ninety-five (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 subsection 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 subsection 16-2.5g,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 subsection 16-2.5g,8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in 16-2.5g,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 one hundred fifty (150) feet as measured perpendicular to the waterway subject to this subsection.

(e) Subsection 16-2.5g,8 does not apply to the construction of one (1) 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.

(Ord. 12/15/05, §1)

## **16-2.6 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 (1) 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 preconstruction 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 subsection 16-2.6a,1(a) and the Rational and Modified Rational Methods at subsection 16-2.6a,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 (5) years without interruption prior to the time of application. If more than one (1) land cover have existed on the site during the five (5) 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 preconstruction 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 preconstruction 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 <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.

(Ord. 12/15/05, §1)

### **16-2.7 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 (1) inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (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 (1) inch and a maximum spacing between bars of six (6) inches. In addition, the design of trash racks must comply with the requirements of subsection 16-2.9d.

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 (2 1/2) inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins in subsection 16-2.9.

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 subsection 16-2.5 of this chapter.

c. Manufactured treatment devices may be used to meet the requirements of subsection 16-2.5 of this chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

(Ord. 12/15/05, §1)

#### **16-2.8 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: bio-retention 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 Freehold Soil Conservation Districts, 4000 Kozlowski Road, Freehold, New Jersey, 07728; (732) 683-8500.

(Ord. 12/15/05, §1)

#### **16-2.9 Safety Standards for Stormwater Management Basins.**

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

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 (6) 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 two and one-half (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 three hundred (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 (2) 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 three hundred (300) lbs./ft. sq.

3. For purposes of this paragraph, 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 subsection 16-2.9c a freestanding outlet structure may be exempted from this requirement.

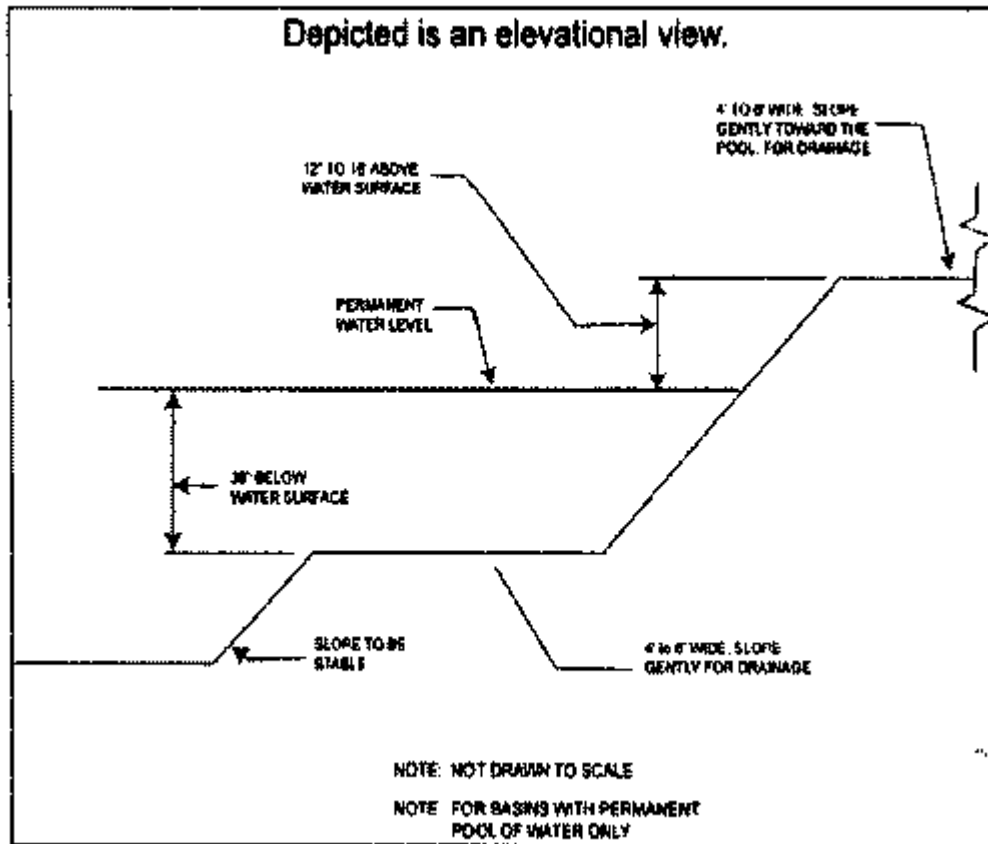
(b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half (2 1/2) feet. Such safety ledges shall be comprised of two (2) steps. Each step shall be four (4) to six (6) feet in width. One (1) step shall be located approximately two and one-half (2 1/2) feet below the permanent water surface, and the second step shall be located one (1) to one and one-half (1 1/2) feet above the permanent water surface. See subsection 16-2.9d 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.*



(Ord. 12/15/05, §1)

### 16-2.10 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 section, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at subsection 16-2.10c 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 section.
3. The applicant shall submit fifteen (15) copies of the materials listed in the checklist for site development stormwater plans in accordance with subsection 16-2.10c of this section.

b. *Site Development Stormwater Plan Approval.* The applicant's site development project shall be reviewed as a part of the subdivision, site plan, or development application review process by the Planning Board, Zoning Board of Adjustment or official from which municipal approval is sought. The Board and/or Zoning Officer shall consult the Borough Engineer or other such engineer (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 section.

#### c. *Checklist Requirements.* The following information shall be required:

##### 1. Topographic Base Map.

(a) 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 two hundred (200') feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing two (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 manmade structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis.

(a) A written and graphic description of the natural and manmade 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) 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.

(a) This plan shall provide a demonstration of how the goals and standards of subsections 16-2.4 through 16-2.7 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.

(a) 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, 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.

(2) 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 predevelopment and post-development conditions for the design storms specified in subsection 16-2.5 of this section.

(b) When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site 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.

(a) The design and planning of the stormwater management facility shall meet the maintenance requirements of subsection 16-2.12.

8. Waiver from Submission Requirements.

(a) The municipal official or board reviewing an application under this section may, in consultation with the municipal engineer, waive submission of any of the requirements in subsections 16-2.10c,1 through 16-2.10c,6 of this section 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.

(Ord. 12/15/05, §1)

### **16-2.11 Stormwater Management Requirements for Other Than Major Development.**

a. The requirements of this subsection shall apply to development which exceeds the Stormwater Management Threshold described in subsection 16-2.2c,2, but does not meet the definition of major development.

b. In lieu of complying with the general requirements of this subsection, the applicant may:

1. Demonstrate compliance with the requirements for major development set forth in subsection 16-2.5 and succeeding subsections (except subsection 16-2.5g,8 which is superseded by subsection 16-2.11c,3); or

2. Demonstrate that there will be no increase in either the peak rate of runoff or the total volume of runoff from the site after development when compared to predevelopment conditions.

c. *General Requirements.*

1. If the development requires major site plan or major subdivision approval, the applicant must demonstrate that:

(a) Neither the peak rate of runoff nor the total volume of runoff after development will be more than one hundred fifteen (115%) percent of the predevelopment rate and volume; and

(b) That a TSS reduction of fifty (50%) percent is obtained for residential development and a TSS reduction of seventy (70%) percent is obtained for nonresidential or mixed-use development.

2. If the development does not require major site plan or major subdivision approval, the applicant must demonstrate that:

(a) All runoff from at least ninety (90%) percent of the roof area of all principal and accessory building is recharged; and

(b) Parking areas, drives, access aisles or other areas used by motor vehicles are provided with a pervious paving system meeting the standards of the New Jersey Stormwater Best Management Practices Manual as follows:

(1) At least ninety (90%) percent of the total area must be provided with the effective equivalent of a paving system described as "permeable pavers without storage."

(2) If paving systems described as "porous paving" or "permeable pavers with storage bed" are provided, they will be considered twice as effective as "permeable pavers without storage" and must be provided for at least forty-five (45%) percent of the total area.

(3) In sites which combine more than one (1) system, twice the area of "porous paving" and/or "permeable pavers with storage bed" plus the area of "permeable pavers without storage" must be at least ninety (90%) percent of the total area.

(c) As an alternative to paragraphs (a) and (b) above, the applicant may demonstrate compliance with subsection 16-2.11c,1.

(d) The recharge systems identified within paragraph (a) above shall be designed, at a minimum, to store the Water Quality Storm (as defined in subsection 16-2.5.g.1) without accounting for exfiltration during the storm event. This requirement does not replace a more restrictive or



conservative design criteria based on existing conditions, proposed development, unique, unusual, and/or extraordinary circumstances.

3. The applicant shall preserve and maintain a special water resource protection area 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 an undisturbed minimum special water resource protection area equal to the minimum required rear yard setback required by Chapter XXII of the Revised General Ordinances of the Borough. The 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.

(b) Encroachment within the designated special water resource protection area under subsection 16-2.11c,3(a) 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.

(c) 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.

d. *Waiver from General Requirements.*

1. The municipal official or board reviewing an application under this section may, in consultation with the municipal engineer, waive submission of any of the requirements in this subsection when it can be demonstrated that:

(a) Alternate measures proposed by the developer achieve substantially similar benefits to the required measures; or

(b) Literal compliance is technically impractical or presents a substantial economic hardship.

2. As part of the waiver application the applicant shall submit documentation to demonstrate that the proposed development incorporates the nonstructural stormwater management strategies set forth in subsection 16-2.5e,2 to the maximum extent practicable.

(Ord. 12/15/05, §1; Ord. No. 16-006G § 10)

### **16-2.12 Maintenance and Repair.**

a. *Applicability.*

1. Projects subject to review as in subsection 16-2.2c of this section shall comply with the requirements of subsections 16-2.12b and 16-2.12c.

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 subsection 16-2.12b above is not a public agency, the maintenance plan and any future revisions based on subsection 16-2.12b,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.

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

6. The person responsible for maintenance identified under subsection 16-2.12b,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.

7. The person responsible for maintenance identified under subsection 16-2.12b,2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.

8. The person responsible for maintenance identified under subsection 16-2.12b,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 subsections 16-2.12b,6 and 16-2.12b,7 above.

9. The requirements of subsections 16-2.12b,3 and 16-2.12b,4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

10. Borough staff, or their designees, shall have the right to enter private property for the purpose of inspecting stormwater management facilities. 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 Borough may immediately proceed to do so and shall bill the cost thereof to the responsible person.

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

(Ord. 12/15/05, §1; Ord. No. 16-006G § 10)

### **16-2.13 Violations and Penalties.**

a. Any person(s), firm(s) or corporation(s) who violates any provision of this section shall, upon conviction thereof in Municipal Court, be punishable by imposition of the penalties set forth in Chapter III, Section 3-1.

b. Each instance of engaging in a separate regulated activity, in violation of this section shall be deemed a separate offense.

c. In addition, the Borough may institute civil action for injunctive or other relief to enforce the provision of this section.

(Ord. 12/15/05, §1; Ord. No. 08-016G, §1)

## **16-3 YARD WASTE COLLECTION PROGRAM.**

### **16-3.1 Purpose.**

The purpose of this section is to establish a yard waste collection and disposal program in the Borough of Rumson, so as to protect public health, safety, and welfare, and to prescribe penalties for the failure to comply. (Ord. 12/1/05, §1)

### **16-3.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Containerized* shall mean the placement of yard waste in biodegradable bags only, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

*Street* shall mean any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing State, County, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

*Yard waste* shall mean leaves, brush, and thatch, but does not include grass clippings. (Ord. 12/1/05, §1)

### **16-3.3 Yard Waste Collection.**

Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven (7) days prior to a Borough scheduled and announced collection, and shall not be placed closer than ten (10) feet from any storm drain inlet. Placement of such yard waste at the curb or along the street at any other time, or in any other manner is a violation of this section. If such placement of the yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this section. (Ord. 12/1/05, §1)

### **16-3.4 Container Required.**

The owner or occupant of any residential property shall provide biodegradable bags for contractors of such owner or occupant engaged to provide lawn care or landscaping services should the schedule of work on the property preclude compliance with "seven day rule" for placement of yard waste along the street. (Ord. 12/1/05, §1)

### **16-3.5 Prohibited Acts.**

- a. Placement of grass clippings at the curb or along the street at any time.
- b. Placement of yard waste at curb or along the street prior to Borough scheduled periods as specified in this section.
- c. Placement of brush at the curb or along the street from November through March of the following year.
- d. Placement of leaves at the curb or along the street in the months of January, February, March, July and August.
- e. Placement of yard waste within ten (10) feet from any storm drain.
- f. Containers shall not be placed at street curb at any time except on the Borough scheduled pickup date. (Ord. 12/1/05, §1)

### **16-3.6 Enforcement.**

The provisions of this section shall be enforced by the Police Department of the Borough of Rumson or Code Enforcement. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

### **16-3.7 Violations and Penalties.**

Any person(s), firms(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation pursuant thereto, shall be subject to the penalty as stated in Chapter III, Section 3-1. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

## **16-4 CONTAINERIZED YARD WASTE.**

### **16-4.1 Purpose.**

The purpose of this section is to establish requirements for the proper handling of yard waste in the Borough of Rumson, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply. (Ord. 12/1/05, §1)

### **16-4.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Containerized* shall mean the placement of yard waste in biodegradable bags only, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

*Street* shall mean any street, avenue, boulevard, road, parkway, viaduct, drive or other way, which is an existing State, County, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

*Yard waste* shall mean leaves, brush, and thatch, but does not include grass clippings. (Ord. 12/1/05, §1)

### **16-4.3 Prohibited Conduct.**

The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste, unless the yard waste is containerized, at the curb or along the street, which shall be only allowed during the seven (7) days prior to a Borough scheduled and announced collection, and shall not be placed closer than ten (10) feet from any storm drain inlet. If yard waste that is not containerized is placed in the street, the party responsible for placement of yard waste must remove the yard waste from the street or said party shall be deemed in violation of this section. (Ord. 12/1/05, §1)

#### **16-4.4 Enforcement.**

The provisions of this section shall be enforced by the Police Department or Code Enforcement. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

#### **16-4.5 Violations and Penalties.**

Any person(s), firms(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation pursuant thereto, shall be subject to the penalty as stated in Chapter III, Section 3-1. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

### **16-5 PET WASTE.**

#### **16-5.1 Purpose.**

The purpose of this section is to establish requirements for the proper disposal of pet solid waste in the Borough of Rumson, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply. (Ord. 12/1/05, §1)

#### **16-5.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Immediate* shall mean that the pet solid waste is removed at once, without delay.

*Owner/keeper* shall mean any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

*Pet* shall mean a domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

*Pet solid waste* shall mean waste matter expelled from the bowels of the pet; excrement.

*Proper disposal* shall mean placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal. (Ord. 12/1/05, §1)

#### **16-5.3 Requirement for Disposal.**

All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person. (Ord. 12/1/05, §1)

#### **16-5.4 Exemptions.**

Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose. (Ord. 12/1/05, §1)

#### **16-5.5 Enforcement.**

The provisions of this section shall be enforced by the Police Department of the Borough of Rumson, Code Enforcement or Animal Control. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

#### **16-5.6 Violations and Penalties.**

Any person(s), firms(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation pursuant thereto, shall be subject to the penalty as stated in Chapter III, Section 3-1. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

### **16-6 WILDLIFE FEEDING.**

#### **16-6.1 Purpose.**

The purpose of this section is to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Rumson or on any other private property, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply. (Ord. 12/1/05, § 1; Ord. No. 13-009G)

#### **16-6.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Feed* shall mean to give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

*Wildlife* shall mean all animals that are not domesticated and shall include wild (feral) cats; wildlife shall exclude songbirds.

(Ord. 12/1/05 § 1; Ord. No. 13-009G)

#### **16-6.3 Prohibited Conduct.**

No person shall feed, in any public park or on any other property owned or operated by the Borough of Rumson or on any other private property, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers). (Ord. 12/1/05 § 1; Ord. No. 13-009G)

#### **16-6.4 Enforcement.**

This section shall be enforced by the Police Department or Code Enforcement of the Borough of Rumson. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

### **16-6.5 Violations and Penalties.**

Any person(s), firms(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation pursuant thereto, shall be subject to the penalty as stated in Chapter III, Section 3-1. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

## **16-7 LITTER CONTROL.**

### **16-7.1 Purpose.**

The purpose of this section is to establish requirements to control littering in the Borough of Rumson, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply. (Ord. 12/1/05, §1)

### **16-7.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Litter* shall mean any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

*Litter receptacle* shall mean a container suitable for the depositing of litter.

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

(Ord. 12/1/05, §1)

### **16-7.3 Prohibited Acts and Regulated Activities.**

a. It shall be unlawful for any person to throw, drop, discard or otherwise place any litter of any nature upon public or private property other than in a litter receptacle, or having done so, to allow such litter to remain.

b. Whenever any litter is thrown or discarded or allowed to fall from a vehicle or boat in violation of this section, the operator or owner, or both, of the motor vehicle or boat shall also be deemed to have violated this section.

(Ord. 12/1/05, §1)

### **16-7.4 Enforcement.**

This section shall be enforced by the Police Department or Code Enforcement of the Borough of Rumson. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

### **16-7.5 Violations and Penalties.**

Any person(s), firms(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation pursuant thereto, shall be subject to the penalty as stated in Chapter III, Section 3-1. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

## **16-8 IMPROPER DISPOSAL OF WASTE.**

### **16-8.1 Purpose.**

The purpose of this section is to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the Borough of Rumson, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply. (Ord. 12/1/05, §1)

### **16-8.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Municipal separate storm sewer system (MS4)* shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Rumson or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

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

(Ord. 12/1/05, §1)

### **16-8.3 Prohibited Conduct.**

The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system operated by the Borough of Rumson is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such manner as to cause the discharge of pollutants to the municipal separate stormwater system is also prohibited. (Ord. 12/1/05, §1)

### **16-8.4 Exceptions to Prohibition.**

- a. Water line flushing and discharges from potable water sources.
- b. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters).
- c. Air conditioning condensate (excluding contact and non-contact cooling water).
- d. Irrigation water (including landscape and lawn watering runoff).
- e. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- f. Residential car washing water, and residential swimming pool discharges.
- g. Sidewalk, driveway and street wash water.
- h. Flows from firefighting activities.
- i. Flows from rinsing of the following equipment with clean water:



1. Beach maintenance equipment immediately following their use for their intended purposes; and
2. Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded.

Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

(Ord. 12/1/05, §1)

#### **16-8.5 Enforcement.**

This section shall be enforced by the Police Department or Code Enforcement of the Borough of Rumson. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

#### **16-8.6 Violations and Penalties.**

Any person(s), firms(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation promulgated pursuant thereto, shall be subject to the penalty as stated in Chapter III, Section 3-1. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

### **16-9 ILLICIT CONNECTION.**

#### **16-9.1 Purpose.**

The purpose of this section is to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the Borough of Rumson, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply. (Ord. 12/1/05, §1)

#### **16-9.2 Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

*Domestic sewage* shall mean waste and wastewater from humans or household operations.

*Illicit connection* shall mean any physical or nonphysical connection that discharges domestic sewage, non-contact cooling water, process wastewater, hydraulic fracturing wastewater and/or solids or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the Borough of Rumson, unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852). Nonphysical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

*Industrial waste* shall mean nondomestic waste, including, but limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act (33 U.S.C. § 1317(a), (b), or (c)).

*Municipal separate storm sewer system (MS4)* shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Rumson or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems,

which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

*NJPDES permit* shall mean a permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

*Non-contact cooling water* shall mean water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Non-contact cooling water may however contain algacides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

*Process wastewater* shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water.

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

(Ord. 12/1/05, §1; Ord. No. 16-001G § 7)

### **16-9.3 Prohibited Conduct.**

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system operated by the Borough of Rumson any domestic sewage, non-contact cooling water, process wastewater, hydraulic fracturing wastewater and/or solids or other industrial waste (other than stormwater). (Ord. 12/1/05, §1; Ord. No. 16-001G § 7)

### **16-9.4 Enforcement.**

The provisions of this section shall be enforced by the Police Department of the Borough of Rumson, Code Enforcement and the Superintendent of Wastewater Management. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

### **16-9.5 Violations and Penalties.**

Any person(s), firms(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation pursuant thereto, shall be subject to the penalty as stated in Chapter III, Section 3-1. (Ord. 12/1/05, §1; Ord. No. 08-016G, §1)

## **16-10 REFUSE CONTAINERS/DUMPSTERS.**

### **16-10.1 Purpose.**

The purpose of this section is to establish requirements for dumpsters and other refuse containers that are outdoors or exposed to stormwater, requiring dumpsters and refuse containers to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Rumson and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply. (Ord. No. 10-007G, §1)

### **16-10.2 Definitions.**

For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Municipal separate storm sewer system (MS4)* shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Rumson or other public body, and is designed and used for collecting and conveying stormwater. "MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources."

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

*Refuse container* shall mean any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

*Stormwater* shall mean water resulting from precipitation (including rain and snow) that runs of the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

*Waters of the State* shall mean the ocean and its estuaries, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

(Ord. No. 10-007G, §1)

### **16-10.3 Prohibited Conduct.**

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm water sewer system(s) operated by the Borough of Rumson. (Ord. No. 10-007G, §1)

### **16-10.4 Exceptions to Prohibition.**

- a. Permitted temporary demolition containers.
  - b. Litter receptacles (other than dumpsters or other bulk containers).
  - c. Individual homeowner trash and recycling containers.
  - d. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
  - e. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).
- (Ord. No. 10-007G, §1)

### **16-10.5 Enforcement.**

This section shall be enforced by the Police Department or Code Enforcement of the Borough of Rumson. (Ord. No. 10-007G, §1)

### **16-10.6 Violations and Penalties.**

Any person(s), firm(s) or corporation(s) who violates or neglects to comply with any provision of this section or any rule or regulation pursuant thereto, shall be subject to the penalties as stated in Chapter III, Section 3-1. (Ord. No. 10-007G, §1)

## **16-11 PRIVATE STORM DRAIN INLET RETROFITTING.**

### **16-11.1 Purpose.**

The purpose of this section is to establish requirements for the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of Rumson so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply. (Ord. No. 10-007G, §2)

### **16-11.2 Definitions.**

For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Municipal separate storm sewer system (MS4)* shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Rumson or other public body, and is designed and used for collecting and conveying stormwater. "MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources."

*Person* shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

*Storm drain inlet* shall mean an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

*Waters of the State* shall mean the ocean and its estuaries, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

(Ord. No. 10-007G, §2)

### **16-11.3 Prohibited Conduct.**

No person in control of private property (except a residential lot with one (1) single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion of a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- a. Already meets the design standard below to control passage of solid and floatable materials; or
- b. Is retrofitted or replaced to meet the standard in subsection 16-11.4 below prior to the completion of the project.

(Ord. No. 10-007G, §2)

### **16-11.4 Design Standards.**

Storm drain inlets identified in subsection 16-11.3 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash and other floating, suspended, or settleable solids. For exemptions to this standard see subsection 16-11.4d. below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

2. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than one-half (0.5) inch across the smallest dimension.

b. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channel, and stormwater basin floors.

c. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two (2.0) or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

d. This standard shall not apply:

1. Where the Municipal Engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

2. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths (4 5/8) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or

(b) A bar screen having a bar spacing of one-half (0.5) inch.

3. Where flows are conveyed through a trash rack that has parallel bars with one (1.0) inch spacing between the bars; or

4. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

(Ord. No. 10-007G, §2)

### **16-11.5 Enforcement.**

This section shall be enforced by the Police Department or Code Enforcement of the Borough of Rumson. (Ord. No. 10-007G, §2)

### **16-11.6 Violations and Penalties.**

Any person(s), firm(s) or corporation(s) who violates or neglects to comply with any provision of this section or any rule or regulation pursuant thereto, shall be subject to the penalties as stated in Chapter III, Section 3-1. (Ord. No. 10-007G, §2)