

ORDINANCE NO. 2009-26

ORDINANCE OF THE BOROUGH OF RED BANK,
COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING
CHAPTER XXV, "PLANNING AND DEVELOPMENT REGULATIONS,"
SECTION 25-8.29-1, "STORMWATER MANAGEMENT AND CONTROL"

BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter XXV of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, "Planning and Development Regulations, Stormwater Management and Control" is hereby amended and supplemented, as follows:

SECTION ONE: Section 25-8.29-1, entitled, "Stormwater Management and Control", is added as follows:

25-8.29-1 TITLE.

This section shall be known as and may be cited as the "Stormwater Management Ordinance of the Borough of Red Bank"

25-8.29-1.1 Permit Required.

a. *Scope and Purpose*

1. Policy Statement. [No change...]
2. Purpose. It is the purpose of this section to establish minimum stormwater management requirements and controls for "major development" as defined in Section 25-8.29-1.2, "Definitions"; as well as for private properties, other than residential lots with one single family house, with respect to Storm Drain Inlet Retrofitting.
3. Applicability.
 - (a) This section shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
 - (1) Non-residential major developments; and
 - (2) Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. §5:21; and
 - (b) This ordinance shall also be applicable to all major developments undertaken by the Borough of Red Bank; and
 - (c) This ordinance shall be applicable to all private properties, other than residential lots with one single family house, with respect to Storm Drain Inlet Retrofitting, as set forth below.
4. Compatibility with Other Permit and Ordinance Requirements. [No change...]

25-8.29-1.2 Definitions. 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.

- a. *CAFRA Planning Map* means [No change...]
- b. *CAFRA Centers, Cores or Nodes* [No change...]
- c. *Compaction* [No change...]

- d. *Core* [No change...]
- e. *County Review Agency* [No change...]
- f. *Department* [No change...]
- g. *Designated Center* [No change...]
- h. *Design Engineer* [No change...]
- i. *Development* means, for the purposes of this section only the division of a parcel of land into two 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.* Development also means any reconstruction or altering of any service located on private property, except for residential lots with one single family home, that is in direct contact with an existing storm drain inlet on that property only with respect to the Storm Drain Retrofitting provisions of this section.
- j. *Drainage Area* [No change...]
- k. *Environmentally Critical Areas* [No change...]
- l. *Empowerment Neighborhood* [No change...]
- m. *Erosion* [No change...]
- n. *Impervious Surface* [No change...]
- o. *Infiltration* [No change...]
- p. *Major Development*, for the purposes of this section only, means any development that provides for ultimately disturbing one or more acres of land. 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.
- q. *Municipality* [No change...]
- r. *Municipal Separate Storm Sewer System (MS4)* means 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 Red Bank or other public body, and is designed and used for collecting and conveying stormwater.
- s. ~~r.~~ *Node* [No change...]
- t. ~~s.~~ *Nutrient* [No change...]
- u. ~~t.~~ *Person* [No change...]
- v. ~~u.~~ *Pollutant* [No change...]
- w. ~~v.~~ *Recharge* [No change...]
- x. *Refuse Container* means any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.
- y. ~~w.~~ *Sediment* [No change...]

- z. x. *Site* [No change...]
- aa. y. *Soil* [No change...]
- bb. z. *State Development and Redevelopment Plan Metropolitan Planning Area (PA1)* [No change...]
- cc. aa. *State Plan Policy Map* [No change...]
- dd. bb. *Stormwater* [No change...]
- ee. cc. *Stormwater Runoff* [No change...]
- ff. dd. *Stormwater Management Basin* [No change...]
- gg. ee. *Stormwater Management Measure* [No change...]
- hh. *Storm Drain Inlet* means 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.
- ii. ff. *Tidal Flood Hazard Area* [No change...]
- jj. gg. *Urban Coordinating Council Empowerment Neighborhood* [No change...]
- kk. hh. *Urban Enterprise Zone* [No change...]
- ll. ii. *Urban Redevelopment Area* [No change...]
- mm. jj. *Waters of the State* [No change...]
- nn. kk. *Wetlands or Wetland* [No change...]

25-8.29-1.3 General Standards. Design and Performance Standards for Stormwater Management Measures

- a. Stormwater management measures for major development ... [No change...]
- b. The standards in this Section apply only to new major development ... [No change...]

25-8.29-1.4 General Stormwater Management Requirements for Major Development

- a. The development shall incorporate a maintenance plan [No change...]
- b. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat ... [No change...]
- c. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements [No change...]
- d. Nonstructural Stormwater Management Strategies ... [No change...]
- e. Erosion Control, Groundwater Recharge and Runoff Quantity Standards ... [No change...]
- f. The minimum design and performance standards for groundwater recharge [No change...]
- g. Any application for a new agricultural development that meets the definition of major development in Section 2.1 shall be submitted to the appropriate Soil Conservation District for review... [No change...]
- h. Stormwater Runoff Quality Standards... [No change...]

25-8.29-1.5 Calculation of Stormwater Runoff and Groundwater Recharge

- a. Stormwater runoff shall be calculated in accordance with the following: ... [No change...]
- b. Groundwater recharge may be calculated in accordance with ... [No change...]

25-8.29-1.6 Standards for Structural Stormwater Management Measures

- a. Standards for structural stormwater management measures are as follows: ... [No change...]

25-8.29-1.7 Sources for Technical Guidance

- a. Technical guidance for stormwater management measures can be found ... [No change...]

25-8.29-1.8 Safety Standards for Stormwater Management Basins ... [No change...]

25-8.29-1.8 Requirements for a Site Development Stormwater Plan ... [No change...]

25-8.29-1.10 Safety Standards for Stormwater Management Basins... [No change...]

25-8.29-1.11 Penalties and Enforcement.

- a. Any person who violates any provision of this Section shall, upon conviction thereof in municipal Court, be punishable by imposition of the penalties set forth at Section 1-5.1 of this Code.
- 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.
- d. This section shall be enforced by the Construction Official, or his designees, the Department of Public Utilities and/or the Code Enforcement Department.

25-8.29-1.12 Private Storm Drain Inlet Retrofitting

- a. Prohibited Conduct. No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or 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:
 1. Already meets the design standard below to control passage of solid and floatable materials; or
 2. Is retrofitted or replaced to meet the standard in Section 8.29-1.12(b) below prior to the completion of the project.
- b. Design Standards: Storm drain inlets identified in 8.29-1.12(a) above shall comply with the following standards to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" mean sediment, debris, trash, and other floating, suspended, or settleable solids.
 1. 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:
 - (a) 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
 - (b) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

(c) Examples of grates subject to this standard include grates in grade 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.

2. 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 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.

3. This standard does not apply:

(a) 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;

(b) 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:

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

(2) A bar screen having a bar spacing of 0.5 inches.

(c) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or

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

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

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

First Reading: July 13, 2009

Final Reading: July 27, 2009