Chapter 237

STORMWATER MANAGEMENT

GENERAL REFERENCES

Flood damage prevention — See Ch. 166.

Littering — See Ch. 190.

Subdivision of land — See Ch. 244.

Water — See Ch. 264.

Zoning — See Ch. 300.

Part 1
Disposal, Pet Waste, Wildlife Feeding, Yard Waste And Illicit Connections
[Adopted 9-26-2005 By Ord. No. 2005-18]

ARTICLE I
Improper Disposal of Waste

§ 237-1. Purpose.

An article to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system (MS4) operated by the City of Bordentown so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 237-2. Definitions.

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

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the City of Bordentown and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORMWATER — 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.

§ 237-3. Prohibited conduct.

The spilling, dumping, or disposal of materials, other than stormwater, to the municipal separate storm sewer system operated by the City of Bordentown is prohibited. The spilling, dumping, or disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

§ 237-4. Exceptions to prohibition.

The following activities are exempt from the prohibitions in § 237-3:

A. Waterline 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 condensation (excluding contact and noncontact 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 fire-fighting activities;

I. Flows from rinsing of the following equipment with clean water:

(1) Beach maintenance equipment immediately following its use for its intended purposes;

(2) Equipment used in the application of salt and deicing materials immediately following salt and deicing material applications. Prior to rinsing with clean water, all residual salt and deicing 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; and

(3) 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.

ARTICLE II
Pet Waste

§ 237-5. Purposes.

An article to establish requirements for the proper disposal of pet solid waste in the City of Bordentown so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 237-6. Definitions.

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

IMMEDIATE — Shall mean that the pet solid waste is removed at once, without delay.

OWNER/KEEPER — 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 — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PET — A domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

PET SOLID WASTE — Waste matter expelled from the bowels of the pet; excrement.

PROPER DISPOSAL — 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.

§ 237-7. 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.

§ 237-8. 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.

ARTICLE III
Wildlife Feeding

§ 237-9. Purpose.

An article to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the City of Bordentown, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 237-10. Definitions.

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

FEED — 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 — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

WILDLIFE — All animals that are neither human nor domesticated.

§ 237-11. Prohibited conduct.

No person shall feed, in any public park or on any other property owned or operated by the City of Bordentown, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers); provided, however, that this article does not prohibit the feeding of feral cats as part of an approved trap, neuter, release program.

ARTICLE IV
Yard Waste Collection Program

§ 237-12. Purpose.

An article to establish a yard waste collection and disposal program in the City of Bordentown, so as to protect public health, safely and welfare, and to prescribe penalties for the failure to comply.

§ 237-13. Definitions.

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

CONTAINERIZED — The placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STREET — 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 — Leaves and grass clippings.

§ 237-14. 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 days prior to a scheduled and announced collection, and shall not be placed closer than 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 article. If such placement of 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 article.

ARTICLE V
Illicit Connection

§ 237-15. Purpose.

An article to prohibit illicit connections to the municipal separate storm sewer system(s) operated by the City of Bordentown, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 237-16. Definitions.

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

DOMESTIC SEWAGE — Waste and wastewater from humans or household operations.

ILLICIT CONNECTION — Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the City of Bordentown, 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 — Nondomestic waste, including but not 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) — A conveyance or system of basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the City of Bordentown or other public body, and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT — 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.

NONCONTACT COOLING WATER — 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. Noncontact cooling water may, however, contain algaecides, or

biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PROCESS WASTEWATER — 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, by-product, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER — 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.

§ 237-17. 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 City of Bordentown any domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater).

ARTICLE VI
Enforcement and Penalties

§ 237-18. Enforcement.

This part shall be enforced by the Police Department and/or other municipal officials of the City of Bordentown.

§ 237-19. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this part shall be subject to a fine not to exceed $1,000.

Part 2
Major Development

[Adopted 3-27-2006 By Ord. No. 2006-11]

ARTICLE VII
Regulations for Major Development

§ 237-20. 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 BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose. It is the purpose of this part to establish minimum stormwater management requirements and controls for major development, as defined in § 237-21.

C. Applicability.

(1) This part shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

(a) Nonresidential major developments; and

(b) Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

(2) This part shall also be applicable to all major developments undertaken by the City of Bordentown.

D. Compatibility with other permit and ordinance requirements. Development approvals issued for subdivisions and site plans pursuant to this part are to be considered an integral part of development approvals under the 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 part shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This part 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 part 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.

§ 237-21. Definitions.

Unless specifically defined below, words or phrases used in this part shall be interpreted so as to give them the meaning they have in common usage and to give this part 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 — Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

CAFRA PLANNING MAP — 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-58.3.

COMPACTION — The increase in soil bulk density.

CORE — A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY — 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 county planning agency, or a county water resource association created under N.J.S.A. 58:16A55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

DEPARTMENT — The New Jersey Department of Environmental Protection.

DESIGNATED CENTER — A state development and redevelopment plan center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

DESIGN ENGINEER — 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 — 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.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

EMPOWERMENT NEIGHBORHOOD — 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 — 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 wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION — The process by which water seeps into the soil from precipitation.

MAJOR DEVELOPMENT — 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.

MUNICIPALITY — Any city, borough, town, township, or village.

NODE — An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NUTRIENT — A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERSON — Any individual, corporation, company, partnership, firm, association, the City of Bordentown, 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 — Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)] thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or

indirectly to the land, groundwaters or surface waters of the state, or to a domestic treatment works. Pollutant includes both hazardous and nonhazardous pollutants.

RECHARGE — The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

SEDIMENT — 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 — The lot or lots upon which a major development is to occur or has occurred.

SOIL — All unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1) — 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 — The geographic application of the state development and redevelopment plan's goals and state-wide policies, and the official map of these goals and policies.

STORMWATER — 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 — 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 — 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 — Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

TIDAL FLOOD HAZARD AREA — 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 — A neighborhood given priority access to state resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONES — 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 — Previously developed portions of areas:

A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), designated centers, cores or nodes;

B. Designated as CAFRA centers, cores or nodes;

C. Designated as Urban Enterprise Zones; and

D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND — 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."

§ 237-22. Design and performance standards for stormwater management measures.

A. 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 § 237-23. 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.

B. The standards in this part apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules.

§ 237-23. 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 § 237-29.

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), Clenmys muhlnebergi (bog turtle) and/or Clezmnys insculpta (wood turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsections F and G:

(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 existing conditions are maintained to the maximum extent practicable; and

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

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Subsections F and G 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 F and G to the maximum extent practicable;

(3) The applicant demonstrates that, in order to meet the requirements of Subsections F and G, 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 D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Subsections F and G that were not achievable on site.

E. Nonstructural stormwater management strategies.

(1) To the maximum extent practicable, the standards in Subsections F and G shall be met by incorporating nonstructural stormwater management strategies set forth at Subsection F 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 Subsection E(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 (such as floodplains, wetlands and streams) 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 postconstruction. "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 E(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 E(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 subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection E(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 square inches, or is no greater than 0.5 inches across the smallest dimension.

[3] 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 or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

(c) This standard does not apply:

[1] Where the review agency determines that this standard cause inadequate hydraulic performance that could practicably be overcome by using additional or larger drain inlets that meet these standards;

[2] Where flows from the water quality design storm as specified in Subsection G(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 of the following:

[a] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or

[b] A bar screen having a bar spacing of 0.5 inches.

[3] Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in Subsection G(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 F and G 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 Manual. The BMP Manual may be obtained from the address identified in § 237-26, or found on the Department's website at www.njstormwater.org.

F. Erosion control, groundwater recharge and runoff quantity standards.

(1) This subsection 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 § 237-24 either:

[a] Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or

[b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to postconstruction for the two-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 F(1)(b)[3] below.

[3] The following types of stormwater shall not be recharged:

[a] 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 CAR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

[b] Industrial stormwater exposed to source material. "Source material" means any material(s) or machinery, located at an industrial facility, 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; byproducts; industrial machinery and fuels; and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

[4] The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.

[a] In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 237-24, complete one of the following:

[i] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction runoff hydrographs for the two-, ten-, and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;

[ii] 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 two-, ten-, and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

[iii] Design stormwater management measures so that the postconstruction peak runoff rates for the two-, ten-, and one-hundred-year storm events are 50%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the postconstruction 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 postconstruction 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

[iv] In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with Subsection F(1)(b)[4][a][i], [ii] and [iii] above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

(2) Any application for a new agricultural development that meets the definition of major development at § 237-21 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater runoff quality standards.

(1) Stormwater management measures shall be designed to reduce the postconstruction load of total suspended solids (TSS) in stormwater runoff by 80% of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.

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

(2) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 237-26 or found on the Department's website at www.njstormwater.org. The BMP Manual, and other sources of technical guidance are listed in § 237-26. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418, Trenton, New Jersey, 08625-0418.

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

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

Where

R = Total TSS percent load removal from application of both BMPs

A = The TSS percent removal rate applicable to the first BMP

B = The TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention systems	90
Constructed stormwater wetland	90
Extended detention basin	40-60
Infiltration structure	80
Manufactured treatment device	See § 237-25C
Sand filter	80
Vegetative filter strip	60-80
Wet pond	50-90

(4) If there is more than one on-site drainage area, the 80% TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

(5) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the postconstruction 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 F and G.

(6) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in § 237-26.

(7) In accordance with the definition of "FW1" at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

(8) Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance,

and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

(a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

[1] A three-hundred-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 G(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 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 subsection shall be subject to review and approval by the Department.

(b) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

(c) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

[1] Stabilization measures shall not be placed within 150 feet of the Category One waterway;

[2] Stormwater associated with discharges allowed by this section shall achieve a 95% TSS postconstruction removal rate;

[3] Temperature shall be addressed to ensure no impact on the receiving waterway;

[4] The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

[5] A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

[6] All encroachments proposed under this section shall be subject to review and approval by the Department.

(d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Subsection G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to Subsection G(8) shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Subsection G(8)(a)[1] above. In no case shall a stream corridor protection plan allow the reduction of the special water resource protection area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

(e) Subsection G(8) does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

§ 237-24. Calculation of stormwater runoff and groundwater recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

(1) The design engineer shall calculate runoff using one of the following methods:

(a) The USDA Natural Resources Conservation Service (MRCS) 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 A(1)(a) and the Rational and Modified Rational Methods at Subsection A(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

(3) In computing 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 tailwaters in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following: The New Jersey Geological Survey Report GSR-32 A Method for Evaluating 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.

§ 237-25. 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 solutionprone carbonate rocks (limestone).

(2) Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch 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 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bans of six inches. In addition, the design of trash racks must comply with the requirements of § 237-27B.

(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 2 1/2 inches in diameter.

(5) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 237-27.

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 § 237-23 of this part.

C. Manufactured treatment devices may be used to meet the requirements of § 237-23 of this part, provided the pollutant removal rates are verified by the New Jersey corporation for Advanced Technology and certified by the Department.

§ 237-26. Sources for technical guidance.

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

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

(2) The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

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

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

(2) The Rutgers Cooperative Extension Service; 732-932-9306.

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

§ 237-27. Safety standards for stormwater management basins.

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

B. Requirements for trash racks, overflow grates and escape provisions.

(1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

(a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.

(b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

(c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

(d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

(2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

(a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

(b) The overflow grate spacing shall be no less than two inches across the smallest dimension.

(c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

(3) For purposes of this Subsection B(3), "escape provisions" means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

(a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure.

With the prior approval of the reviewing agency identified in § 237-28C, a freestanding outlet structure may be exempted from this requirement.

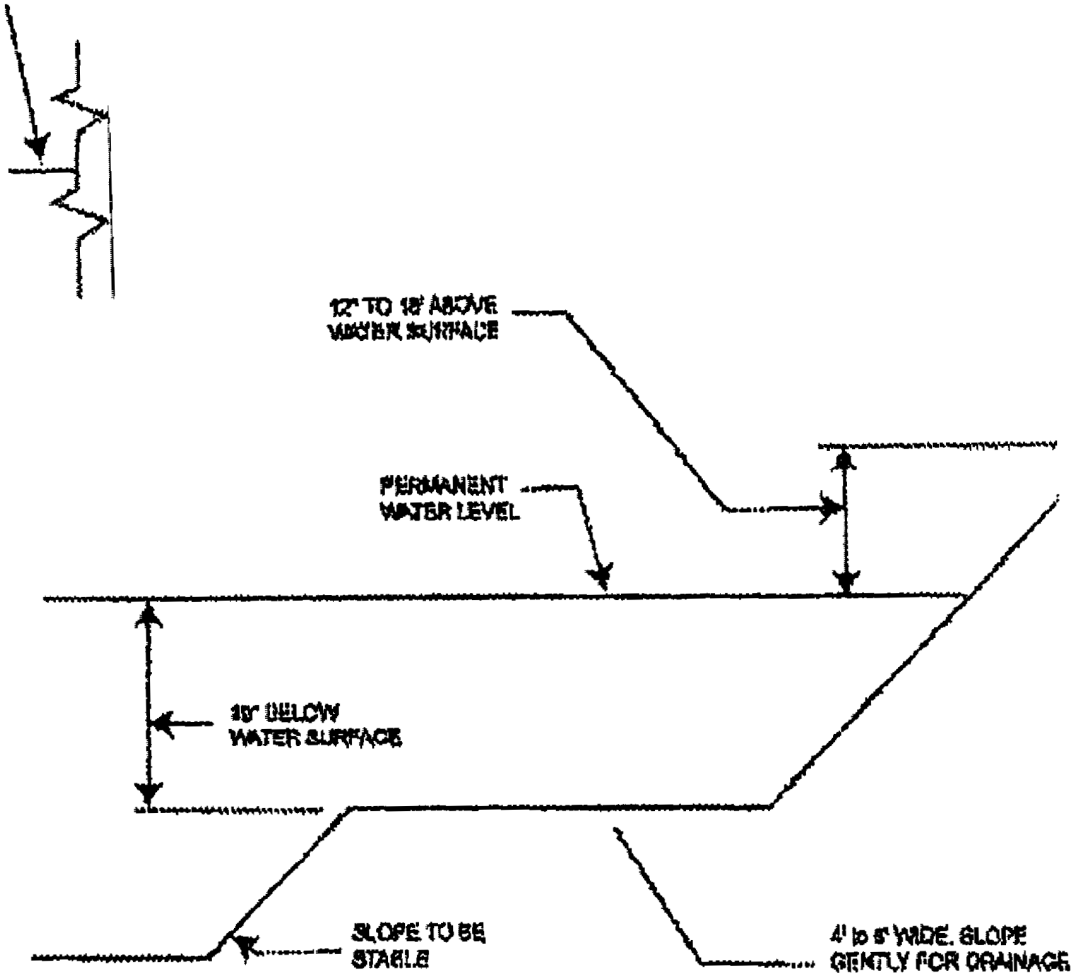
(b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one to 1 1/2 feet above the permanent water surface. See § 237-27D 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 three horizontal to one vertical.

C. Variance or exemption from safety standards. 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.

Depicted is an elevational view



NOTE: NOT DRAWN TO SCALE

NOTE: FOR BASINS WITH PERMANENT

POOL OF WATER ONLY

§ 237-28. Requirements for site development stormwater plan.

A. Submission of site development stormwater plan.

(1) Whenever an applicant seeks municipal approval of a development subject to this part, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at Subsection C below as part of the submission of the applicant's application for subdivision or site plan approval.

(2) The applicant shall demonstrate that the project meets the standards set forth in this part.

(3) The applicant shall submit four copies (i.e., Planning Board Chairman, Environmental Commission Chairman, Planning Board Secretary, and Planning Board Engineer) of the materials listed in the checklist for site development stormwater plans in accordance with Subsection C of this part.

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

C. Checklist requirements. The following information shall be required:

(1) Topographic base map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-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 floodplains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, landscape project mapping, and significant natural and man-made features not otherwise shown.

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

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

(4) Land use planning and source control plan. This plan shall provide a demonstration of how the goals and standards of § 237-22 through 237-25 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

(5) Stormwater management facilities map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

(a) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

(b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

(6) Calculations.

(a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and postdevelopment conditions for the design storms specified in § 237-23 of this part.

(b) When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on 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. The design and planning of the stormwater management facility shall meet the maintenance requirements of § 237-29.

(8) Waiver from submission requirements. The municipal official or board reviewing an application under this part may, in consultation with the Municipal Engineer, waive submission of any of the requirements in Subsection C(1) through (6) of this part 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.

§ 237-29. Maintenance and repair.

A. Applicability. Projects subject to review as in § 237-30C of this part shall comply with the requirements of Subsections B and C.

B. General maintenance.

(1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

(2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

(3) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.

(4) If the person responsible for maintenance identified under Subsection B(3) above is not a public agency, the maintenance plan and any future revisions based on Subsection B(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

(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, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetatoid linings.

(6) The person responsible for maintenance identified under Subsection B(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.

(7) The person responsible for maintenance identified under Subsection B(2) above shall evaluate the effectiveness of the

maintenance plan at least once per year and adjust the plan and the deed as needed.

(8) The person responsible for maintenance identified under Subsection B(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by subsection B(6) and (7) above.

(9) The requirements of Subsection B(3) and (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

(10) 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 14 days to effect maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or county may immediately, proceed to do so and shall bill the cost thereof to the responsible person.

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

§ 237-30. Violations and penalties.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this part shall be subject to the following penalties: $1,000 fine for each offense.

§ 237-31. When effective.

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

§ 237-32. Severability.

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

Part 3
Fertilizers

[Adopted 9-24-2007 By Ord. No. 2007-18]

ARTICLE VIII
Fertilizer Application

§ 237-33. Purpose.

This Part 3 is to regulate the outdoor application of fertilizer so as to reduce the overall amount of excess nutrients entering waterways, thereby helping to protect and improve surface water quality. This Part 3 does not apply to fertilizer application on commercial farms.

§ 237-34. Basis and background.

A. Elevated levels of nutrients, particularly phosphorus, in surface waterbodies can result in excessive and accelerated growth of algae and aquatic plants (eutrophication). Excessive plant growth can result in diurnal variations and extremes in dissolved oxygen and pH, which, in turn, can be detrimental to aquatic life. As algae and plant materials die off, the decay process creates a further demand on dissolved oxygen levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply.

B. While healthy vegetated areas are protective of water quality by stabilizing soil and filtering precipitation, when fertilizers are applied to the land surface improperly or in excess of the needs of target vegetation, nutrients can be transported by means of stormwater to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation. Most soils in New Jersey contain sufficient amounts of phosphorus to support adequate root growth for established turf. Over time, it is necessary to replenish available phosphorus, but generally not at the levels commonly applied. Other target vegetation, such as vegetable gardens and agricultural/horticultural plantings, will have a greater need for phosphorus application, as will the repair or establishment of new lawns or cover vegetation. A soils test and fertilizer application recommendation geared to the soil and planting type is the best means to determine the amount of nutrients to apply. Timing and placement of fertilizer application are also critical to avoid transport of nutrients to waterways through stormwater runoff. Fertilizer applied immediately prior to a runoff-producing rainfall, outside the growing season or to impervious surfaces is most likely to be carried away by means of runoff without accomplishing the desired objective of supporting target vegetation growth. Therefore, the management of the type, amount and techniques for fertilizer application is necessary as one tool to protect water resources.

C. This Part 3 does not apply to application of fertilizer on commercial farms, but improper application of fertilizer on farms would be problematic as well. Stewardship on the part of commercial farmers is

needed to address this potential source of excess nutrient load to waterbodies. Commercial farmers are expected to implement best management practices in accordance with conservation management plans or resource conservation plans developed for the farm by the Natural Resource Conservation Service and approved by the Soil Conservation District Board.

§ 237-35. Definitions.

For the purpose of this Part 3, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Part 3 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.

BUFFER — The land area, 25 feet in width, adjacent to any waterbody.

COMMERCIAL FARM — A farm management unit producing agricultural or horticultural products worth $2,500 or more annually.

FERTILIZER — A fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PHOSPHORUS FERTILIZER — Any fertilizer that contains phosphorus, expressed as P2O5 with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.

SOILS TEST — A technical analysis of soil conducted by an accredited soil-testing laboratory following the protocol for such a test established by Rutgers Cooperative Research and Extension.

WATERBODY — A surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

§ 237-36. Prohibited conduct.

No person may do any of the following:

A. Apply fertilizer when a runoff producing rainfall is occurring or predicted and/or when soils are saturated and a potential for fertilizer movement off site exists.

B. Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for reuse.

C. Apply fertilizer within the buffer of any waterbody.

D. Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season (March 1 to November 15).

§ 237-37. Phosphorus fertilizer application.

A. No person may apply phosphorus fertilizer in outdoor areas except as demonstrated to be needed for the specific soils and target vegetation in accordance with a soils test and the associated annual fertilizer recommendation issued by Rutgers Cooperative Research and Extension.

B. Exceptions.

(1) Application of phosphorus fertilizer needed for:

(a) Establishing vegetation for the first time, such as after land disturbance, provided the application is 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;

(b) Reestablishing or repairing a turf area.

(2) Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.

(3) Application of phosphorus fertilizer to residential container plantings, flowerbeds, or vegetable gardens.

§ 237-38. Enforcement.

This Part 3 shall be enforced by the Police Department of the City of Bordentown.

§ 237-39. Violations and penalties.

Any person found to be in violation of the provisions of this Part 3 shall be subject to a fine not to exceed $1,000.

Part 4
Conservation Zones

[Adopted 9-24-2007 By Ord. No. 2007-19]

ARTICLE IX
Riparian Buffer Conservation Zones

§ 237-40. Intent and purpose.

A. The governing body of the City of Bordentown finds that riparian lands adjacent to streams, lakes, or other surface water bodies that are adequately vegetated provide an important environmental protection and water resource management benefit. It is necessary to protect and maintain the beneficial character of riparian areas by implementing specifications for the establishment, protection, and maintenance of vegetation along the surface water bodies within the jurisdiction of the City of Bordentown, consistent with the interest of landowners in making reasonable economic use of parcels of land that include such designated areas. The purpose of this Part 4 is to designate Riparian Buffer Conservation Zones, and to provide for land use regulation therein in order to protect the streams, lakes, and other surface water bodies of the City of Bordentown; to protect the water quality of watercourses, reservoirs, lakes, and other significant water resources within the City of Bordentown; to protect the riparian and aquatic ecosystems of the City of Bordentown; to provide for the environmentally sound use of the land resources of the City of Bordentown, and to complement existing state, regional, county, and municipal stream corridor protection and management regulations and initiatives.

B. The specific purposes and intent of this Part 4 are to:

(1) Restore and maintain the chemical, physical, and biological integrity of the water resources of the City of Bordentown;

(2) Prevent excessive nutrients, sediment, and organic matter, as well as biocides and other pollutants, from reaching surface waters by optimizing opportunities for filtration, deposition, absorption, adsorption, plant uptake, biodegradation, and denitrification, which occur when stormwater runoff is conveyed through vegetated buffers as stable, distributed sheet flow prior to reaching receiving waters;

(3) Provide for shading of the aquatic environment so as to moderate temperatures, retain more dissolved oxygen, and support a healthy assemblage of aquatic flora and fauna;

(4) Provide for the availability of natural organic matter (fallen leaves and twigs) and large woody debris (fallen trees and limbs) that provide food and habitat for small bottom-dwelling organisms (insects, amphibians, crustaceans, and small fish), which are essential to maintain the food chain;

(5) Increase streambank stability and maintain natural fluvial geomorphology of the stream system, thereby reducing streambank erosion and sedimentation and protecting habitat for aquatic organisms;

(6) Maintain base flows in streams and moisture in wetlands;

(7) Control downstream flooding; and

(8) Conserve the natural features important to land and water resources, e.g., headwater areas, groundwater recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, and prime wildlife habitats.

§ 237-41. Statutory authority.

The municipality of the City of Bordentown is empowered to regulate land uses under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use in order to protect public health, safety and welfare by protecting and maintaining native vegetation in riparian areas. The City of Bordentown is also empowered to adopt and implement this Part 4 under provisions provided by the following legislative authorities of the State of New Jersey:

A. Water Pollution Control Act, N.J.S.A. 58:10A et seq.

B. Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.

C. Spill Compensation and Control Act, N.J.S.A. 58:10-23 et seq.

D. Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

E. Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

§ 237-42. Definitions.

As used in this Part 4, the following terms shall have the meanings indicated:

ADMINISTRATIVE AUTHORITY — The Planning Board or Board of Adjustment or Construction Office with all of the powers delegated, assigned, or assumed by them according to statute or ordinance.

APPLICANT — A person applying to the Planning Board, Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this Part 4, and that would be located in whole or in part within a regulated riparian buffer conservation zone.

CATEGORY ONE (C1) WATERS — The meaning ascribed to this term by the Surface Water Quality Standards at N.J.A.C. 7:9B-1.15, which have been identified for protection from degradation in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, exceptional

recreational significance, exceptional water supply significance, or exceptional fisheries resources.

CATEGORY TWO WATERS — Those waters not designated as outstanding natural resource waters or Category One in the Surface Water Quality Standards at N.J.A.C. 7:9B-1.15 for purposes of implementing the antidegradation policies set forth at N.J.A.C. 7:9B-1.5(d).

FLOODWAY — The meaning ascribed to this term by the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.) and regulations promulgated thereunder published at N.J.A.C. 7.13 et seq., and any supplementary or successor legislation and regulations from time to time enacted or promulgated.

INTERMITTENT STREAM — Surface water drainage channels with definite bed and banks in which there is not a permanent flow of water. Streams shown as a dashed line on either the USGS topographic quadrangle maps or the USDA County Soil Survey Maps of the most recent edition that includes hydrography are included as intermittent streams.

LAKE, POND or RESERVOIR — Any impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water, excluding sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

PERENNIAL STREAM — A stream that flows continuously throughout the year in most years. These streams usually appear as a blue line on USGS topographic quadrangle maps or on USDA County Soil Survey Maps.

RIPARIAN BUFFER CONSERVATION ZONE (RBCZ) — An area of land or water within or adjacent to a surface water body within the municipality and designated on the Riparian Buffer Conservation Zone Map promulgated by the City of Bordentown in accordance with § 237-43 of this Part 4.

RIPARIAN BUFFER CONSERVATION ZONE MANAGEMENT PLAN — A plan approved by the Engineer of the City of Bordentown. The plan shall be prepared by a landscape architect, professional engineer or other qualified professional, and shall evaluate the effects of any proposed activity/uses on any RBCZ. The plan shall identify existing conditions, all proposed activities, and all proposed management techniques, including any measures necessary to offset disturbances to any affected RBCZ.

SURFACE WATER BODY — Any perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein. In addition, any state open waters identified in a letter of interpretation issued by the New Jersey Department of Environmental Protection Land Use Regulation Program shall also be considered surface water bodies.

§ 237-43. Establishment.

A. Riparian buffer conservation zones (RBCZs) shall be delineated as follows:

(1) In the case of Category One (C1) waters, the RBCZ shall equal the special water resource protection area, and shall be measured as defined at N.J.A.C. 7:8-5.5(h). Special water resource protection areas are established along all waters designated as "C1" at N.J.A.C. 7:9B and perennial or intermittent streams that drain into or upstream of the C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys within the associated HUC 14 drainage.

(2) For areas adjacent to surface water bodies designated Category Two waters for trout production (FW2-TP), the RBCZ shall be measured from the defined edge of the intermittent or perennial stream, or center line if the bank is not defined, and from the defined edge of a lake, pond or reservoir at bank-full flow or level, and shall extend 150 feet horizontally outward from the perpendicular. Where steep slopes (in excess of 10% are located within the designated widths, the RBCZ shall be extended to include the entire distance of this sloped area.

(3) For areas adjacent to other surface water bodies, the RBCZ shall be measured from the top of the bank of an intermittent or perennial stream, or center line if the bank is not defined, and from the defined edge of a lake, pond or reservoir at bank-full flow or level, and shall extend 75 feet horizontally outward from the perpendicular. Where steep slopes (in excess of 15% are located within the designated widths, the RBCZ shall be extended to include the entire distance of this sloped area to a maximum of 300 feet.

(4) For areas adjacent to surface water bodies for which the floodway has been delineated, the RBCZ shall cover the entire floodway area, or the area described in § 237-43A(1) or (2), whichever area has the greatest extent. Floodway delineations shall be based upon the state's adopted floodway delineations. However, requests for alterations to the adopted delineations can be provided to the New Jersey Department of Environmental Protection for consideration if site-specific information is available.

B. An RBCZ is an overlay to the existing zoning districts. The provisions of the underlying district shall remain in full force except where the provisions of the RBCZ differ from the provisions of the underlying district, in which case the provision that is more restrictive shall apply. These provisions apply to land disturbances resulting from or related to any activity or use requiring application for any of the following permits or approvals:

(1) Building permit;

(2) Zoning variance;

(3) Special exception;

(4) Conditional use;

(5) Subdivision/land development approval.

C. A map of the RBCZs of the entire municipality of the City of Bordentown, including all land and water areas within its boundaries, which designates surface water bodies, is included as part of this Part 4, and is appended as Figure 1 of 1.[1] Maps of the municipality on which these designations have been overlain shall be on file and maintained by the offices of the Clerk of the City of Bordentown. This map conforms to all applicable laws, rules and regulations applicable to the creation, modification and promulgation of zoning maps.

D. It shall be the duty of the Engineer of the City of Bordentown, every second year after the adoption of this Part 4, to propose modifications to the map delineating riparian buffer conservation zones required by any naturally occurring or permitted change in the location of a defining feature of a surface water body occurring after the initial adoption of the RBCZ map, to record all modifications to the RBCZ map required by decisions or appeals under § 237-50, and by changes made by the New Jersey Department of Environmental Protection in surface water classifications or floodway delineations. Floodway delineations shall be based upon the state's adopted floodway delineations. However requests for alterations to the adopted delineations can be provided to the Department for consideration if site-specific information is available.

E. The applicant or designated representative shall be responsible for the initial determination of the presence of an RBCZ on a site, and for identifying the area on any plan submitted to the City of Bordentown in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. This initial determination shall be subject to review and approval by the Municipal Engineer, governing body, or its appointed representative, and, where required, by the New Jersey Department of Environmental Protection.

F. The municipal Master Plan provides the legal basis for zoning and land use regulation at the local level. The technical foundation for local RBCZs in this municipality should be incorporated into the Master Plan. A technical report on the need for riparian buffer conservation zones in the City of Bordentown may be adopted as part of the Master Plan [N.J.S.A. 40:55D-28b(11)]. The technical report should include the following information: a statement setting forth the rationale and need to protect RBCZs; and reference to the methods used to designate and delineate RBCZs.

§ 237-44. Uses permitted.

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1. Editor's Note: The RBCZ map is on file and available for review at the City offices.

A. For Category One (C1) RBCZs, permitted uses are governed by N.J.A.C. 7:8-5.5(h), unless otherwise exempt. If exempt from N.J.A.C. 7:8-5.5(h), the uses shall be governed by this Part 4 as if the RBCZ was not a Category One (C1) RBCZ.

B. Any other RBCZ area shall remain in a natural condition or, if in a disturbed condition, including agricultural activities, at the time of adoption of this Part 4 may be restored to a natural condition. There shall be no clearing or cutting of trees and brush, except for removal of dead vegetation and pruning for reasons of public safety or for the replacement of invasive species with indigenous species. There shall be no OK altering of watercourses, dumping of trash, soil, dirt, fill, vegetative or other debris, regrading or construction. The following uses are permitted either by right or after review and approval by the municipality in RBCZs. No new construction, development, use, activity, encroachment, or structure shall take place in an RBCZ, except as specifically authorized in this section. The following uses shall be permitted within an RBCZ:

(1) Open space uses that are primarily passive in character shall be permitted by right to extend into an RBCZ, provided near-stream vegetation is preserved. These uses do not require approval by the Zoning Enforcement Officer or compliance with an approved RBCZ management plan. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, game farms, fish hatcheries and fishing reserves, operated for the protection and propagation of wildlife, but excluding structures. Such uses also include passive recreation areas of public and private parklands, including unpaved hiking, bicycle and bridle trails, provided that said trails have been stabilized with pervious materials.

(2) Fences, for which a permit has been issued by the Construction Code Office, to the extent required by applicable law, rule or regulation.

(3) Crossings by farm vehicles and livestock, recreational trails, roads, railroads, stormwater lines, sanitary sewer lines, water lines and public utility transmission lines, provided that the land disturbance is the minimum required to accomplish the permitted use, subject to approval by the Zoning Enforcement Officer, provided that any applicable state permits are acquired, and provided that any disturbance is offset by buffer improvements in compliance with an approved RBCZ management plan and that the area of the crossing is stabilized against significant erosion due to its use as a crossing.

(4) Streambank stabilization or riparian reforestation, which conforms to the guidelines of an approved RBCZ management plan, or wetlands mitigation projects that have been approved by the Department of Environmental Protection, subject to approval by the Zoning Enforcement Officer and subject to compliance with an approved RBCZ management plan.

§ 237-45. Performance standards.

A. All encroachments proposed into Category One (C1) RBCZs shall comply with the requirements at N.J.A.C. 7:8-5.5(h) and shall be subject to review and approval by the New Jersey Department of Environmental Protection, unless exempt. If exempt, the encroachment shall be subject to the provisions of § 237-45B below.

B. For all other RBCZs, the following conditions shall apply:

(1) All new major and minor subdivisions and site plans shall be designed to provide sufficient areas outside of the RBCZ to accommodate primary structures, any normal accessory uses appurtenant thereto, as well as all planned lawn areas.

(2) Portions of lots within the RBCZ must be permanently restricted by deed or conservation easement held by the City of Bordentown, its agent, or another public or private land conservation organization which has the ability to provide adequate protection to prevent adverse impacts within the RBCZ. A complete copy of the recorded conservation restriction that clearly identifies the deed book and pages where it has been recorded in the office of the clerk of the applicable county or the registrar of deeds and mortgages of the applicable county must be submitted to the municipality. The applicant shall not commence with the project or activity prior to making this submittal and receiving actual approval of the plan modification and receipt of any applicable permits from the Department of Environmental Protection. The recorded conservation restriction shall be in the form approved by the municipality and shall run with the land and be binding upon the property owner and the successors in interest in the property or in any part thereof. The conservation restriction may include language reserving the right to make de minimus changes to accommodate necessary regulatory approvals upon the written consent of the municipality, provided such changes are otherwise consistent with this chapter. The recorded conservation restriction shall, at a minimum, include:

(a) A written narrative of the authorized regulated activity, date of issuance, and date of expiration, and the conservation restriction that, in addition, includes all of the prohibitions set forth at N.J.S.A. 13:8B-2b(1) through (7);

(b) Survey plans for the property as a whole and, where applicable, for any additional properties subject to the conservation restrictions. Such survey plans shall be submitted on the surveyor's letterhead, signed and sealed by the surveyor, and shall include metes and bounds descriptions of the property, the site, and the areas subject to the conservation restriction in New Jersey State Plane Coordinates, North American Datum 1983, and shall depict the boundaries of the

site and all areas subject to the conservation restriction as marked with flags or stakes on site. All such survey plans shall be submitted on paper and in digital CAD or GIS file on a media and format defined by the municipality. The flags or stakes shall be numbered and identified on the survey plan; and

(c) A copy or copies of deeds for the property as a whole that indicate the deed book and pages where it has been recorded in the office of the clerk of the applicable county or the registrar of deeds and mortgages of the applicable county.

(3) Any lands proposed for development which include all or a portion of an RBCZ shall as a condition of any major subdivision or major site plan approval, provide for the vegetation or revegetation of any portions of the RBCZ which are not vegetated at the time of the application or which were disturbed by prior land uses, including for agricultural use. Said vegetation plan shall utilize native and noninvasive tree and plant species to the maximum extent practicable in accordance with an approved riparian buffer conservation zone management plan, described in § 237-49.

(4) For building lots which exist as of the date of adoption of this Part 4, but for which a building permit or a preliminary site plan approval has not been obtained or is no longer valid, the required minimum front, side, and rear setbacks may extend into the RBCZ, provided that a deed restriction and/or conservation easement is applied which prohibits clearing or construction in the RBCZ.

(5) All stormwater shall be discharged outside of but may flow through an RBCZ 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. (See N.J.A.C. 2:90-1.3.)

(6) If stormwater discharged outside of and flowing through an RBCZ cannot comply with the Standard for Off-Site Stability cited in § 237-45B(5) then the stabilization measures in accordance with the requirements of the above standards may be placed within the RBCZ, provided that:

(a) Stabilization measures shall not be placed closer than 50 feet to the top of the bank at bank-full flow or level of affected surface water bodies;

(b) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall conditions of the RBCZ will be maintained to the maximum extent practicable;

(c) A conceptual project design meeting shall be held with the appropriate municipal staff and Soil Conservation District staff to identify necessary stabilization measures; and

(d) All encroachments proposed under this section shall be subject to review and approval by the administrative authority.

§ 237-46. Nonconforming structures and uses.

Nonconforming structures and uses of land within the RBCZ are subject to the following requirements:

A. Legally existing but nonconforming structures or uses may be continued.

B. Any proposed enlargement or expansion of the building footprint within a Category One (C1) RBCZ shall comply with the standards in N.J.A.C. 7:8-5.5(h).

C. For all other RBCZs:

(1) Encroachment within the RBCZ shall only be allowed where previous development or disturbance has occurred. Existing impervious cover shall not be increased within the RBCZ as a result of encroachments where previous development or disturbances have occurred.

(2) Discontinued nonconforming uses may be resumed any time within one year from such discontinuance but not thereafter when showing clear indications of abandonment. No change or resumption shall be permitted that is more detrimental to the RBCZ, as measured against the intent and purpose under § 237-40, than the existing or former nonconforming use. This one-year time frame shall not apply to agricultural uses that are following prescribed best management practices for crop rotation. However, resumption of agricultural uses must be strictly confined to the extent of disturbance existing at the time of adoption of this Part 4.

§ 237-47. Uses prohibited.

A. Any use within a Category One (C1) RBCZ shall comply with the standards in N.J.A.C. 7:8-5.5(h).

B. For other RBCZs, any use or activity not specifically authorized in § 237-44 or § 237-46 shall be prohibited within the RBCZ. By way of example, the following activities and facilities are prohibited:

(1) Removal or clear-cutting of trees and other vegetation or soil disturbance such as grading, except for selective vegetation removal for the purpose of stream or riparian area stabilization or restoration projects that require vegetation removal or grading prior to implementation.

(2) Storage of any hazardous or noxious materials.

(3) Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Soil Conservation District.

(4) Roads or driveways, except where permitted in compliance with § 237-44.

(5) Motor or wheeled vehicle traffic in any area, except as permitted by this Part 4.

(6) Parking lots.

(7) Any type of permanent structure, except structures needed for a use permitted by § 237-44.

(8) New subsurface sewage disposal areas. The expansion and replacement of existing subsurface sewage disposal areas for existing uses is permitted.

(9) Residential grounds or lawns, except as otherwise permitted pursuant to this Part 4.

§ 237-48. Exceptions.

A. For Category One (C1) RBCZs, requests for exemptions that fall under the purview of the Stormwater Management Rules must be authorized by the New Jersey Department of Environmental Protection, as per N.J.A.C. 7:8-5.5(h)1.ii.

B. For other RBCZs, hardship variances may be granted by the Zoning Board of Adjustment in cases of a preexisting lot (existing at the time of adoption of this Part 4) when there is insufficient room outside the RBCZ for uses permitted by the underlying zoning and there is no other reasonable or prudent alternative to placement in the RBCZ, including obtaining variances from setback or other requirements that would allow conformance with the RBCZ requirements, and provided the following demonstrations are made:

(1) An applicant shall be deemed to have established the existence of an extreme economic hardship, if the subject property is not capable of yielding a reasonable economic return if its present use is continued or if it is developed in accordance with provisions of this Part 4 and that this inability to yield a reasonable economic return results from unique economic circumstances peculiar to the subject property which:

(a) Do not apply to or affect other property in the immediate vicinity;

(b) Relate to or arise out of the characteristics of the subject property because of the particular physical surroundings, shape or topographical conditions of the property involved, rather than the personal situations of the applicant; and are

not the result of any action or inaction by the applicant or the owner or his predecessors in title.

(2) The necessity of acquiring additional land to locate development outside the RBCZ shall not be considered an economic hardship unless the applicant can demonstrate that there is no adjacent land that is reasonably available or could be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity.

(3) An applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts, that one of the following applies:

(a) The proposed project will serve an essential public health or safety need;

(b) The proposed use is required to serve an existing public health or safety need; or

(c) There is no alternative available to meet the established public health or safety need.

(4) A variance can only be granted if it is shown that the activity is in conformance with all applicable local, state, and federal regulations, and that the exception granted is the minimum relief necessary to relieve the hardship.

C. If the above demonstrations are made, then the encroachment of impervious surfaces (structures or pavement) otherwise permitted by the underlying zoning is permitted to the extent of 750 square feet total. Said encroachment is not permitted closer than 100 feet to the top of the bank at bank-full flow or level of Category Two waters for trout production (FW2-TP), or closer than 50 feet to the top of the bank at bank-full flow or level of other surface water bodies.

D. If such an exception is granted, the applicant shall rehabilitate an environmentally degraded RBCZ area within or adjacent to the same site, and at least equivalent in size to the RBCZ reduction permitted, or, if not possible, rehabilitate or expand an RBCZ area at least equivalent in size within a nearby site and, if available, within the same watershed. Rehabilitation shall include reforestation, stream bank stabilization and removal of debris, in accordance with an RBCZ management plan, as described in § 237-49 below.

§ 237-49. Riparian buffer conservation zone management plan.

A. Within any RBCZ, no construction, development, use, activity, or encroachment shall be permitted unless the effects of such development are accompanied by preparation, approval, and implementation of a riparian buffer conservation zone management plan.

B. The landowner, applicant, or developer shall submit to the Municipal Clerk, or its appointed representative, a riparian buffer conservation zone management plan prepared by an environmental professional, professional engineer or other qualified professional which fully evaluates the effects of any proposed uses on the RBCZ. The riparian buffer conservation zone management plan shall identify the existing conditions, including:

(1) Existing vegetation;

(2) Field-delineated surface water bodies;

(3) Field-delineated wetlands;

(4) The one-hundred-year floodplain;

(5) Flood hazard areas, including floodway and flood fringe areas, as delineated by the New Jersey Department of Environmental Protection;

(6) Soil classifications as found on soil surveys;

(7) Existing subdrainage areas of site with HUC-14 (Hydrologic Unit Code) designations;

(8) Slopes in each subdrainage area segmented into sections of slopes less than or equal to 15%, above 15% but less than 20%, and greater than 20%.

C. The proposed plan shall describe all proposed uses/activities, and fully evaluate the effects of all proposed uses/activities in an RBCZ, and all proposed management techniques, including proposed vegetation and any other measures necessary to offset disturbances to the RBCZ. A discussion of activities proposed as well as management techniques proposed to offset disturbances and/or enhance the site to improve the RBCZ's ability to function effectively as an RBCZ shall also be included with the RBCZ management plan submittal to the City of Bordentown.

D. The plan shall be reviewed and must be approved by the Engineer of the City of Bordentown, in consultation with the Environmental Commission, as part of the subdivision and land development process.

E. The riparian buffer conservation zone management plan must include management provisions in narrative and/or graphic form specifying:

(1) The manner in which the area within the RBCZ will be owned and by whom it will be managed and maintained.

(2) The conservation and/or land management techniques and practices that will be used to conserve and protect the RBCZ, as applicable.

(3) The professional and personnel resources that are expected to be necessary, in order to maintain and manage the RBCZ.

(4) A revegetation plan, if applicable, that includes: three layers of vegetation, including herbaceous plants that serve as ground cover, understory shrubs, and trees that when fully mature will form an overhead canopy. Vegetation selected must be native, noninvasive species, and consistent with the soil, slope and moisture conditions of the site. The revegetation plan shall be prepared by a qualified environmental professional, landscape architect, or professional engineer and shall be subject to the approval of the Municipal Engineer, in consultation with the Environmental Commission. Dominant vegetation in the riparian buffer conservation zone management plan shall consist of plant species that are suited to the stream buffer environment. The Engineer of the City of Bordentown may require species suitability to be verified by qualified experts from the Soil Conservation District, Natural Resources Conservation Service, New Jersey Department of Environmental Protection, US Fish and Wildlife Service and/or state or federal forest agencies.

F. A riparian buffer conservation zone management plan is not required where the RBCZ is not being disturbed and conservation easements/ deed restrictions are applied to ensure there will be no future clearing or disturbance of the RBCZ.

G. Performance of the riparian buffer conservation zone management plan shall be guaranteed a minimum of two years by a surety, such as a bond, cash or letter of credit, which shall be provided to the City of Bordentown prior to the City of Bordentown issuing any permits or approving any uses relating to the applicable use or activity.

§ 237-50. Boundary interpretation; appeals procedures; inspections; conflicts; severability.

A. When a landowner or applicant disputes the boundaries of an RBCZ, or the defined bank-full flow or level, the landowner or applicant shall submit evidence to the City of Bordentown that describes the RBCZ, presents the landowner or applicant's proposed RBCZ delineation, and presents all justification for the proposed boundary change. For Category One (C1) RBCZs, the landowner or applicant must first obtain approval from the New Jersey Department of Environmental Protection. A decision from the Department must be included with the evidence submitted for municipal review.

B. Within 45 days of a complete submission of Subsection A above, the Engineer of the City of Bordentown, or appointed representative, shall evaluate all material submitted and shall make a written determination, a copy of which shall be submitted to the City of Bordentown and the landowner or applicant. Failure to act within the forty-five-day period shall not be interpreted to be an approval of the proposed boundary change.

C. Any party aggrieved by any such determination or other decision or determination under Subsection B may appeal to the City of Bordentown under the provisions of this Part 4. The party contesting the location of the RBCZ boundary shall have the burden of proof in case of any such appeal.

D. Any party aggrieved by any determination or decision of the City of Bordentown under this Part 4 may appeal to the Planning Board of the City of Bordentown. The party contesting the determination or decision shall have the burden of proof in case of any such appeal.

E. Inspections.

(1) Lands within or adjacent to an identified RBCZ shall be inspected by the City of Bordentown when:

(a) A subdivision or land development plan is submitted;

(b) A building permit is requested;

(c) A change or resumption of a nonconforming use is proposed;

(d) A discontinued nonconforming use is resumed more than a year later, as described in § 237-46.

(2) The RBCZ may also be inspected periodically by representatives from the City of Bordentown if excessive or potentially problematic erosion is present, other problems are discovered, or at any time when the presence of an unauthorized activity or structure is brought to the attention of municipal officials or when the downstream surface waters are indicating reduction in quality.

F. Conflicts. All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this Part 4 are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Part 4 apply.

G. Severability.

(1) Interpretation. This Part 4 shall be so construed as not to conflict with any provision of New Jersey or federal law.

(2) Notwithstanding that any provision of this Part 4 is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of this Part 4 shall continue to be of full force and effect.

(3) The provisions of this Part 4 shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

§ 237-51. Enforcement.

A prompt investigation shall be made, by the appropriate personnel of the City of Bordentown, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Part 4 is discovered, a civil action in the Special Civil Part of the Superior Court, or in the Superior Court if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, may be initiated by the filing and serving of appropriate process. Nothing in this Part 4 shall be construed to preclude the right of the City of Bordentown, pursuant to N.J.S.A. 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this Part 4 shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Part 4. Each day a violation continues shall be considered a separate offense.

Part 5
[Adopted 7-12-2010 By Ord. No. 2010-08]
Private Storm Drain Inlets

ARTICLE X
Private Storm Drain Retrofitting

§ 237-52. Purpose.

The purpose of this Part 5 is to require 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 City of Bordentown, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 237-53. Definitions; word usage.

For the purpose of this Part 5, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the City of Bordentown or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STORM DRAIN INLET — 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 — The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 237-54. 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:

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 § 237-55 below prior to the completion of the project.

§ 237-55. Design standard.

Storm drain inlets identified in § 237-54 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this section, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see § 237-55C below.

A. Grates.

(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 square inches, or is no greater than 0.5 inch across the smallest dimension.

(2) 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 bottoms.

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 or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

C. This standard does 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 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or

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

(3) Where flows are conveyed through a trash rack that has parallel bars with one-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.

§ 237-56. Enforcement.

This Part 5 shall be enforced by the appropriate personnel of the City of Bordentown.

§ 237-57. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this Part 5 shall be subject to a fine not to exceed $500 for each storm drain inlet that is not retrofitted to meet the design standard.

§ 237-58. Severability.

Each section, subsection, sentence, clause and phrase of this Part 5 is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Part 5 to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Part 5.

§ 237-59. Effective date.

This Part 5 shall be in full force and effect from and after its adoption and any publication as may be required by law.

Part 6
Dumpsters

[Adopted 8-9-2010 By Ord. No. 2010-10; Amended In Its Entirety 9-27-2010 By Ord. No. 2010-14]

ARTICLE XI
Refuse Containers and Dumpsters

§ 237-60. Purpose.

The purpose of this Part 6 is to require the dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and to prohibit the spilling, dumping, leaking, or other discharge of liquids, semiliquids or solids from the containers to the municipal separate storm sewer system operated by the City of Bordentown and/or waters of the state, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 237-61. Definitions; word usage.

For the purpose of this Part 6, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the City of Bordentown or other public body, and is designed and used for collecting and conveying stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

REFUSE CONTAINER — Any waste container that a person controls, whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

STORMWATER — Water resulting from precipitation (including rain and snow) that run off the land's surface, is transmitted to the subsurface, is captured by separate storm sewer or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 237-62. 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, semiliquids or solids to the municipal separate storm sewer system operated by the City of Bordentown.

§ 237-63. Exceptions to prohibition.

Exceptions to prohibition are as follows:

A. Permitted temporary demolition containers.

B. Litter receptacles (other than dumpsters or other bulk containers).

C. Individual homeowner trash or 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).

§ 237-64. Enforcement.

A. Enforcement of Part 6 of this chapter shall be the responsibility of the Municipal Recycling Coordinator, Public Works Director, police officer, or the City Code Enforcement Official.

B. In addition to the Municipal Recycling Coordinator, Public Works Director, police officer, or the Code Enforcement Official, the Burlington County Health Department and the Burlington County Department of Solid Waste ("DSW") are hereby appointed as enforcement officer(s) for enforcement of all requirements of this Part 6.

C. Enforcement of this Part 6 shall be commenced in the Superior Court or in the municipal court of the City, and penalty or fine shall be collected with costs in a summary civil proceeding.

D. Any penalties or fines collected in an enforcement action shall be paid to the City when the City brings such action.

E. Any penalties or fines collected in an enforcement action shall be paid to the Treasurer of Burlington County when such action is brought by the Burlington County Health Department or the DSW.

§ 237-65. Violations and penalties.

Any person(s) who is found to be in violation of the provisions of this Part 6 shall be subject to a fine not to exceed $500.

§ 237-66. Severability.

Each section, subsection, sentence, clause and phrase of this Part 6 is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Part 6 to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Part 6.

§ 237-67. Effective date.

This Part 6 shall be in full force and effect from and after its adoption and any publication as may be required by law.