TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR AUGUST 28, 2023

REGULAR MEETING OF THE TOWNSHIP COMMITTEE – 4:30 P.M.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

Deputy Mayor Hayes read the following Open Public meeting notice into the record:
"In compliance with the Open Public Meetings Law, I wish to state that on August 25, 2023, the notice of this meeting of the Upper Township Committee was posted on the official Township Bulletin Board, the Upper Township Website, and mailed to the Cape May County Gazette, the Atlantic City Press, the Ocean City Sentinel-Ledger, the Herald Times and filed with the Township Clerk. Tonight's meeting is being video recorded up until the closed session portion of this meeting and will be available on the Upper Township website. I hereby direct that this announcement be made a part of the minutes of this meeting."

SALUTE TO THE FLAG

ROLL CALL

Curtis Corson	Present
Kimberly Hayes	Present
Victor Nappen	Present
Mark Pancoast	Present
Jay Newman	Absent

Also present were Municipal Clerk Joanne Herron, Municipal Attorney Anthony Monzo, Chief Financial Officer Barbara Ludy, Engineer Zachary Jordan, and Township Administrator Gary DeMarzo.

APPROVAL OF MINUTES - August 14, 2023 Regular and Closed Session Minutes

Motion by Mark Pancoast, second by Curtis Corson, to approve the August 14, 2023 Regular and Closed Session Minutes as submitted. During roll call vote all four Committee members present voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Curtis Corson, Committeeman, reported on a recent meeting he and Mayor Newman had with Congressman Van Drew regarding the ZIP Code issue in Upper Township. He stated that it was a productive meeting but the process will be an uphill battle. He next thanked the Department of Public Works for cleaning up illegal dumping on Bailey Road, and reminded everyone that there is a reward program for reporting and catching illegal dumpers. He next reported that a potential storm this week may cause even more erosion, and implored all beach goers to make sure they swim on protected beaches only.

Victor Nappen, Committeeman, reported that he attended the monthly staff meeting today.

Kimberly Hayes, Deputy Mayor, reported that with the departure of the former Engineer, the Township currently does not have a Floodplain Manager. She made a motion, seconded by Mark

Pancoast, to temporarily appoint CME as floodplain manager. During roll call vote all four Committee members voted in the affirmative.

ADMINISTRATOR OVERVIEW

Gary DeMarzo, Township Administrator, gave a brief update on several issues including the beach fill replenishment project, the Community Center floor project which has been delayed again until after Labor Day, the repair of the Senior Center HVAC system, and several employee HR system upgrades.

Joanne Herron, Township Clerk, stated that Town Hall offices will be closed on Monday September 4th for the Labor Day holiday. Trash and recycling will be collected as usual.

Zachary Jordan, Township Engineer, gave an update on the County projects for Church Road and New Bridge Road.

Barbara Ludy, Chief Financial Officer, requested to add employee requests for conference/seminar attendance to New Business. She next recommended forming a subcommittee to review and recommend the use of Opioid Abatement funds. After a brief discussion there was a general consensus to appoint Kim Hayes, Mark Pancoast, Larry Cole, and Barbara Ludy to the subcommittee.

CONSENT AGENDA

All Consent Agenda items listed below are routine in nature and will be enacted by one motion. If the Mayor or any Committee member wishes a particular agenda item to be considered separately, it will be removed from the consent agenda and acted on separately.

Motion by Mark Pancoast, second by Victor Nappen, to approve the consent agenda items. During roll call vote all four Committee members present voted in the affirmative.

RESOLUTIONS TO BE APPROVED BY CONSENT

1. Commemorating the 22nd anniversary of September 11, 2001.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 261-2023

RE: COMMEMORATING THE 22ND ANNIVERSARY OF SEPTEMBER 11, 2001

WHEREAS, 22 years ago, on September 11, 2001, terrorists hijacked four civilian aircraft, crashing two into the World Trade Center in New York City, a third into the Pentagon outside of Washington, D.C., and a fourth into the countryside of Pennsylvania; and

WHEREAS, thousands of innocent people were killed and injured as a result of these reprehensible attacks; and

WHEREAS, countless fire departments, police departments, first responders, emergency medical personnel, and volunteers responded heroically to those horrific events: and

WHEREAS, 22 years later, the men and women in the United States Armed Forces continue to defend and protect the United States of America against those who seek to threaten her people; and

WHEREAS, on the 22nd anniversary of this tragic day, the thoughts of the citizens of Upper Township are with all of the victims of the events of September 11, 2001 and their families.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, that we do hereby observe the 22nd anniversary of September 11 as "Always Remember Day", to honor the innocent victims of September 11, 2001, the heroic actions of those who rushed to help their fellow citizens, and those who continue to fight for the freedom of this great Nation; and

BE IT FURTHER RESOLVED, that all persons within this municipality are urged to commemorate the 22nd anniversary of September 11, 2001.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 28th day of August 2023.

Resolution No. 261-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

2. Appointing Donald Polo as school traffic guard.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 262-2023

RE: APPOINTING DONALD POLO AS SCHOOL TRAFFIC GUARD

WHEREAS, a need exists to appoint qualified part-time personnel as School Traffic Guard; and

WHEREAS, this resolution is intended to ratify the action heretofore taken; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. Donald Polo is hereby appointed to the part-time position of School Traffic Guard effective September 6, 2023, on an as needed basis, at an hourly rate of $17.00 per hour in accordance with the Salary Ordinance.

3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 262-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

3. Appointing members to the Upper Township Mount Laurel Subcommittee.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 263-2023

RE: APPOINTING MEMBERS TO THE UPPER TOWNSHIP MOUNT LAUREL SUBCOMMITTEE

WHEREAS, the Township Committee of the Township of Upper has determined that it is necessary to create a Mount Laurel Subcommittee to facilitate the Township's efforts to comply with its Mount Laurel obligations; and

WHEREAS, a need exists to appoint suitable persons to this subcommittee; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. The Township of Upper hereby creates the Mount Laurel Subcommittee, tasked with the coordination of all activities surrounding the Township's compliance with the Mount Laurel doctrine as defined by the State Legislature and endorsed by the State Supreme Court.

3. The following persons are hereby appointed to the Upper Township Mount Laurel Subcommittee:

Jay Newman, Mayor
Curtis T. Corson, Jr., Committeeman
Gary DeMarzo, Township Administrator
Daniel J. Young, Esquire
Michael J. Edwards, Esquire
Tiffany Morrisey, PP
Township Engineer

4. The forgoing appointees shall constitute the sole members of the Mount Laurel Subcommittee, subject to the provision of Paragraph 5 hereof.

5. The Township Committee expressly reserves the right to supplement this Resolution at any time it deems it appropriate to change the membership or mission of the Upper Township Mount Laurel Subcommittee.

Resolution No. 263-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

4. Appointing Linwood Chatten as a seasonal Parking/Code Enforcement Officer to the Upper Township Division of Emergency Medical Services.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 264-2023

RE: APPOINTING LINWOOD CHATTEN AS A SEASONAL PARKING/CODE ENFORCEMENT OFFICER TO THE UPPER TOWNSHIP DIVISION OF EMERGENCY MEDICAL SERVICES

WHEREAS, a need exists to appoint qualified personnel as seasonal employees to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Linwood Chatten possesses all the requisite qualifications for appointment as a seasonal Parking/Code Enforcement Officer; and

WHEREAS, a recommendation had been made to the Township Committee and duly considered at the meeting of August 14, 2023; and

WHEREAS, this Resolution is intended to ratify the action heretofore taken; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. Linwood Chatten is hereby appointed to the Division of Emergency Medical Services as a seasonal Parking/Code Enforcement Officer, pending pre-employment testing, effective August 24, 2023 at a rate of $20.00 per hour, in accordance with the Salary Ordinance.

3. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of August 14, 2023.

4. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 264-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

5. Certification of costs for abatement of nuisance on Block 453.11, Lot 1.02; Block 549, Lot 85; Block 566, Lot 7; Block 303, Lot 7; and Block 653.01, Lot 4.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 265-2023

CERTIFICATION OF COSTS FOR ABATEMENT OF NUISANCE

ON BLOCK 453.11, LOT 1.02; BLOCK 549, LOT 85; BLOCK 566, LOT 7; BLOCK 303, LOT 7; AND BLOCK 653.01, LOT 4

WHEREAS, pursuant to Township Code Section 11-1, the Code Enforcement Officer is empowered to enforce the Township's Property Maintenance Code; and

WHEREAS, in accordance with Township Code, the Code Enforcement Officer served a notice of violation of Section 11-1.9 (Grass, Weeds and Debris), to the property owners/agents of Block 453.11, Lot 1.02; Block 549, Lot 85; Block 566, Lot 7; Block 303, Lot 7; and Block 653.01, Lot 4; and

WHEREAS, 10 days passed from the date of such notice of violation with no response from the property owners/agents and the Township thereafter remedied the violation; and

WHERAS, pursuant to Township Code Section 11-1.19(a) and N.J.S.A. 40:48-2.14, the Code Enforcement Officer has certified the costs of remedying the said violations as set forth on the attached list; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee hereby declares that the costs as set forth on the attached list shall be certified to the Township Tax Collector as a lien against the properties in question which lien shall become and form a part of the taxes assessed and levied upon the properties pursuant to Township Code Section 11-1.19(b) and N.J.S.A. 40:48-2.14.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 265-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

ABATEMENT OF GRASS, WEEDS, AND DEBRIS

BLOCK/LOT	LOCATION	COST	ADMIN FEE	TOTAL
453.11/1.02	12 Wyncroft Dr.	$150.00	$ 30.00	$ 180.00
549/85	40 Linda Lane	$150.00	$ 30.00	$ 180.00
566/7	6 Edward Terrace	$150.00	$ 30.00	$ 180.00
303/7	129 Reading Ave	$150.00	$ 30.00	$ 180.00
653.01/4	10 RT US 9 SO	$967.79	$193.56	$1,161.35

6. Canceling tax on exempt property Block 523, Lot 9.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 266-2023

CANCELING TAX ON EXEMPT PROPERTY
BLOCK 523, LOT 9

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to correct tax records; and

WHEREAS, the Township of Upper Tax Assessor created a line item in 2022 known as Block 523,

Lot 9, assessed to the Township of Upper and located at Redwood Ave on the municipal tax map: and

WHEREAS, Block 523, Lot 9 was created with an incorrect class code establishing taxes on exempt property; and

WHEREAS, Block 523, Lot 9 is owned by the Township of Upper and is therefor exempt from property taxes; and

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 266-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

CANCEL TAX 2022

BLOCK/LOT	AMOUNT
523/9	$37.84

7. Tax refund Block 453, Lot 75.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 267-2023

TAX REFUND
BLOCK 453, LOT 75

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

WHEREAS, the Title Company of Jersey and the Mortgage Company both paid 2023 3rd quarter taxes on the above property. It is therefore necessary to refund Title Company of Jersey in the amount of $ 1,202.82; and

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 267-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

REFUND BLOCK/LOT	AMOUNT	NAME
453/75	$ 1,202.82	Title Company of Jersey 701 West Ave., Suite 101 Ocean City NJ 08226

8. Refunding tax on exempt property Block 348, Lot 82.05.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 268-2023

REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 348, LOT 82.05

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

WHEREAS, certain properties became tax exempt in the year 2023; and

WHEREAS, the Department of Veterans Affairs has determined that Mr. Zyckowski's 100% permanent military service-connected disability was effective November 12, 2021 and exemption was granted in the first quarter of 2023; and

WHEREAS, the Mortgage Company paid the 2023 3rd quarter taxes; and

WHEREAS, Township of Upper Ordinance No. 009-2012 allows for the refund of property taxes paid for the calendar year in which claim is made.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 268-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

BLOCK/LOT	**AMOUNT**	**NAME**
348/82.05	$ 2,266.34	Thomas J. Zyckowski 9 Deerfield Trail Woodbine NJ 08270

100% Totally Disabled Veteran

9. Refunding tax on exempt property Block 450, Lot 13.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 269-2023

REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 450, LOT 13

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

WHEREAS, certain properties became tax exempt in the year 2023; and

WHEREAS, the Department of Veterans Affairs determined that Mr. Bond's 100% permanent military service-connected disability was effective December 20, 2022 and exemption was granted in the first quarter of 2023; and

WHEREAS, the Mortgage Company paid the 2023 3rd quarter taxes; and

WHEREAS, Township of Upper Ordinance No. 009-2012 allows for the refund of property taxes paid for the calendar year in which claim is made.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 269-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

BLOCK/LOT	**AMOUNT**	**NAME**
450/13	$ 1290.67	Robert Bond 1001 Rt. 50 Petersburg NJ 08270

100% Totally Disabled Veteran

10. Refunding tax on exempt property Block 453, Lot 48.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 270-2023

REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 453, LOT 48

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

WHEREAS, certain properties became tax exempt in the year 2023; and

WHEREAS, the Department of Veterans Affairs determined that Mr. Gregorich's 100% permanent military service-connected disability was effective September 1, 2022 and exemption was granted in the first quarter of 2023; and

WHEREAS, the Mortgage Company paid the 2023 3rd quarter taxes; and

WHEREAS, Township of Upper Ordinance No. 009-2012 allows for the refund of property taxes paid for the calendar year in which claim is made.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 270-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

BLOCK/LOT	**AMOUNT**	**NAME**
453/48	$ 1,609.73	Robert Gregorich 35 Mockingbird Lane Petersburg NJ 08270

100% Totally Disabled Veteran

11. Refunding tax on exempt property Block 548, Lot 6.02.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 271-2023

REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 548, LOT 6.02

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

WHEREAS, certain properties became tax exempt in the year 2023; and

WHEREAS, the Department of Veterans Affairs determined that Mr. Bailey's 100% permanent military service-connected disability was effective July 31, 2020 and exemption was granted in the first quarter of 2023; and

WHEREAS, the Mortgage Company paid the 2023 3rd quarter taxes; and

WHEREAS, Township of Upper Ordinance No. 009-2012 allows for the refund of property taxes paid for the calendar year in which claim is made.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 271-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

BLOCK/LOT	**AMOUNT**	**NAME**
548/6.02	$ 976.98	Johnathan Bailey 16 Tyler Rd. Seaville NJ 08230

100% Totally Disabled Veteran

12. Authorizing a contract with Atlantic Investigations, LLC for an alcohol and controlled substances training and testing program.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 272-2023

RE: AUTHORIZING A CONTRACT WITH ATLANTIC INVESTIGATIONS, LLC FOR AN ALCOHOL AND CONTROLLED SUBSTANCES TRAINING AND TESTING PROGRAM

WHEREAS, the Omnibus Transportation Employee Testing Act of 1991 became applicable to the Township of Upper in 1996 in accordance with 49 C.F.R. §382.115(B) and mandates drug and alcohol testing for employees holding commercial driver's licenses engaged in safety sensitive duties, and further requires each employer to maintain a testing policy as required by 49 C.F.R. §382.401(C)(6)(ib); and

WHEREAS, the Township has previously determined to extend that policy to all employees working in hazardous or safety sensitive areas and also to public safety employees including the Division of EMS and Township lifeguards; and

WHEREAS, to administer such a program in accordance with the Federal rules, regulations and guidelines, it is necessary to employ the services of a firm possessing such specialized skill and training; and

WHEREAS, Atlantic Investigations, LLC has the required expertise to provide such services; and

WHEREAS, the Township Committee intends to engage the services of Atlantic Investigations, LLC as a Professional Services Contract; and

WHEREAS, Atlantic Investigations, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that the contractor has not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit the contractor from making any contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer has certified the availability of funds to permit said Contract to be entered into;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. Atlantic Investigations, LLC, with offices at 583 13th Street, Suite 101 Hammonton, NJ 08037, is hereby appointed to administer an alcohol and controlled substances training and testing program in compliance with Federal rules, regulations and guidelines and Township policy and to provide other training and testing services as the Township may request.

3. This Contract has been awarded without competitive bidding for the following reason or reasons:

(A) Professional services of the type herein sought are of such a nature as to require a high degree of trust or confidence in the individual providing the service and, in fact, may require the creation of a confidential or fiduciary relationship between that individual and the municipality;

(B) The services required are highly specialized or technical in nature;

(C) The services require peculiar ability or skill and demand a high degree of specialized knowledge or expertise;

(D) The services are such that their relative work must be judged by subjective considerations that are not susceptible of valuation by competitive bidding; and

(E) The individual who will provide these services has demonstrated his competence and particular expertise in the services required.

4. This contract shall have a term of one (1) year commencing upon full execution.

NOTICE OF CONTRACT AWARD

5. The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Atlantic Investigations, LLC. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

6. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Atlantic Investigations, LLC in

accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

7. Atlantic Investigations, LLC has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township.

8. A notice of this contract award shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 272-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

13. Authorizing the execution of a Shared Services Agreement with the Borough of Woodbine for legal services.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N

RESOLUTION NO. 273-2023

RE: AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE BOROUGH OF WOODBINE FOR LEGAL SERVICES

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. seq., ("Act") provides that any local governmental unit may enter into a contract with any other local governmental unit to provide or receive any service that each local unit is empowered to provide or receive within its own jurisdiction; and

WHEREAS, the Township of Upper and the Borough of Woodbine desire to enter into an Agreement whereby the firm of Monzo Catanese DeLollis, PC, counsel for the Township of Upper, will negotiate terms for a new Host Community Benefit Agreement with the Cape May County Municipal Utilities Authority; and

WHEREAS, the Township of Upper and the Borough of Woodbine deem that a Shared Services Agreement for the purposes expressed herein is in the mutual interest of both parties and is also in the public interest such that the sharing of this service will promote public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee, the governing body of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. **SHARED SERVICES AGREEMENT**. Pursuant to the provisions of the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. seq., the Township of Upper is hereby authorized and empowered to enter into a Shared Services Agreement with the Borough of Woodbine for legal representation for Host Benefit negotiation with the County of Cape May.

2. **SERVICES TO BE PROVIDED BY CONTRACT.** The Shared Services Agreement authorized in paragraph 1 shall delineate the services, promises and covenants of each party and a copy of such Agreement shall be maintained by the Township Clerk and shall be available for public inspection.

3. **AUTHORIZATION TO MUNICIPAL OFFICIALS.** The appropriate Township officers and officials are hereby authorized to take any action necessary or advisable to carry out the intent and purpose of this Resolution. Specifically, the Mayor and Township Clerk are hereby authorized and directed to execute such Shared Services Agreement on behalf of the Township of Upper pursuant to the authority conferred by this Resolution. The Township Clerk is further authorized and directed to seal the Agreement with the official seal of the Township of Upper.

4. **COMPLIANCE WITH STATUTORY REQUIREMENTS.** The Shared Services Agreement between the Township of Upper and the Borough of Woodbine meets and satisfies the requirements of N.J.S.A. 40A:65-7, as may be amended and supplemented.

5. **SEVERABILITY.** If any action, subsection, paragraph, sentence, or other part of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Resolution directly involved in the controversy in

which said judgment shall have been rendered and all other provisions of this Resolution shall remain in full force and effect.

Resolution No. 273-2023
Offered by: Pancoast Seconded by: Nappen
Adopted: August 28, 2023
Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman				X

ORDINANCES

14. Public hearing and final adoption of Ordinance No. 013-2023 RE: AN ORDINANCE AMENDING CHAPTER 19 (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) AND CHAPTER 20 (ZONING) OF THE CODE OF THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY. **During the public hearing portion there were no speakers. Motion by Curtis Corson, second by Victor Nappen, to adopt Ordinance No. 013-2023. During roll call vote all four Committee members present voted in the affirmative.**

TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E

ORDINANCE NO. 013-2023

AN ORDINANCE AMENDING CHAPTER 19 (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) AND CHAPTER 20 (ZONING) OF THE CODE OF THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY

WHEREAS, the Pinelands Protection Act (N.J.S.A. 13:18A-1) requires that the municipal master plan and local land use ordinances of the Township of Upper implement the objectives of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) and conform with the minimum standards contained therein; and

WHEREAS, the Pinelands Commission amended the stormwater regulations contained in the Pinelands Comprehensive Management Plan, effective January 18, 2022.

NOW, THEREFORE, BE IT ORDAINED BE IT ORDAINED by the Township Committee of the Township of Upper, County of Cape May and State of New Jersey, as follows:

SECTION 1: Chapter 20, Zoning, §20-5.17, Pervious Paving Systems, is hereby amended by establishing subsection **i.** as follows:

i. Within the Pinelands Area portion of the Township, any pervious paving system installed as a stormwater management measure in accordance with **§19-7.7** shall be consistent with the standards contained therein.

SECTION 2: Chapter 19 Land Subdivision, Site Plan and Land Use Administration, Section 19-7.7, Stormwater Control, is hereby replaced with the following:

§19-7.7 Stormwater Control.

a. Scope and Purpose

1. Policy Statement

Flood control, groundwater recharge, erosion control and pollutant reduction shall be achieved using stormwater management measures, including green infrastructure best management practices (BMPs) and nonstructural stormwater management strategies. Green infrastructure BMPs and low impact development should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. Green infrastructure BMPs and low impact development 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 contained in this Section.

2. Purpose

The purpose of this Section is to establish minimum stormwater management requirements and controls as authorized by the New Jersey Department of Environmental Protection (NJDEP) Stormwater Management Regulations (N.J.A.C. 7:8-1.1 et seq.) and the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.) and consistent with the Pinelands Comprehensive Management Plan (CMP) (N.J.A.C. 7:50-1.1 et seq.). The standards in this Section are intended to minimize the adverse impact of stormwater runoff on water quality and water quantity, to facilitate groundwater recharge, and to control and minimize soil erosion, stream channel erosion, sedimentation and pollution associated with stormwater runoff. Moreover, Pinelands Area resources are to be protected in accordance with the antidegradation policies contained in the New Jersey Surface Water Quality Standards (N.J.A.C. 7:9B-1.1 et seq.). Additionally, this Section is intended to ensure the adequacy of existing and proposed culverts and bridges and to protect public safety through the proper design and operation of stormwater BMPs. If there are any conflicts between a provision required by the Pinelands CMP and a provision required by the NJDEP, the Pinelands CMP provision shall apply.

3. Applicability

(a) The terms “development,” “major development” and “minor development” are defined in **§17-7.7b** in accordance with the Pinelands CMP (N.J.A.C. 7:50-2.11) and the NJDEP Stormwater Management Regulations (N.J.A.C. 7:8-1.2).

(b) This Section shall apply to all major development, and to minor development within the Pinelands Area meeting the following criteria:

(1) Development involving the construction of four or fewer dwelling units;

(2) Development involving any non-residential use and resulting in an increase of greater than 1,000 square feet of regulated motor vehicle surfaces; and

(3) Development involving the grading, clearing, or disturbance of an area in excess of 5,000 square feet within any five-year period. For development meeting this criterion, the stormwater management standards for major development set forth in this Section shall apply.

(c) This Section shall apply to all development meeting the criteria of **(b)** above that is undertaken by Upper Township.

(d) Except as provided in **§19-7.7j**, the exemptions, exceptions, applicability standards, and waivers of strict compliance contained in the NJDEP Stormwater Management Regulations at N.J.A.C. 7:8-1.1 et seq. shall not apply within the Pinelands Area.

4. Compatibility with Other Permit and Ordinance Requirements

(a) Development approvals issued pursuant to this Section are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this Section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

(b) This Section is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

(c) In the event that a regional stormwater management plan(s) is prepared and formally adopted pursuant to N.J.A.C. 7:8-1.1 et seq. for any drainage area(s) or watershed(s) of which Upper Township is a part, the stormwater provisions of such a plan(s) shall be adopted by Upper Township within one year of the adoption of a Regional Stormwater Management Plan (RSWMP) as an amendment to an Areawide Water Quality Management Plan. Local ordinances proposed to implement the RSWMP shall be submitted to the Pinelands Commission for certification within six months of the adoption of the RSWMP per N.J.A.C. 7:8 and the Pinelands CMP.

b. Definitions

For the purpose of this Section , the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Section clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on the corresponding definitions in the NJDEP Stormwater Management Rules at N.J.A.C. 7:8-1.2 unless otherwise defined in the Pinelands CMP at N.J.A.C. 7:50-2.11 in which case the definition corresponds to the CMP definition.

"CAFRA Centers, Cores or Nodes" means those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

"CAFRA Planning Map" means the map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

"Community basin" means an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8- 4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the
requirements of this chapter.

"Compaction" means the increase in soil bulk density.

"Contributory drainage area" means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

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

"County review agency" means an agency designated by the County Commissioners to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

(1) A county planning agency; or

(2) A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"Designated Center" means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

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

"Development" means:

A. Within the Pinelands Area, the change of or enlargement of any use or disturbance of any land, the performance of any building or mining operation, the division of land into two or more parcels, and the creation or termination of rights of access or riparian rights including, but not limited to:

(1) A change in type of use of a structure or land;

(2) A reconstruction, alteration of the size, or material change in the external appearance of a structure or land;

(3) A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;

(4) Commencement of resource extraction or drilling or excavation on a parcel of land;

(5) Demolition of a structure or removal of trees;

(6) Commencement of forestry activities;

(7) Deposit of refuse, solid or liquid waste or fill on a parcel of land;

(8) In connection with the use of land, the making of any material change in noise levels, thermal conditions, or emissions of waste material; and

(9) Alteration, either physically or chemically, of a shore, bank, or flood plain, seacoast, river, stream, lake, pond, wetlands or artificial body of water.

B. Outside the Pinelands Areas, the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

C. In the case of development on agricultural land, i.e. lands use for an agricultural use or purpose as defined at N.J.A.C. 7:50-2.11, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

"Disturbance" means the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

"Drainage area" means a geographic area within which stormwater runoff, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

"Environmentally critical area" means an area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats of endangered or threatened species, large areas of contiguous open space or upland forest, steep slopes, and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the NJDEP Landscape Project as approved by the NJDEP Endangered and Nongame Species Program.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

"Green infrastructure" means a stormwater management measure that manages stormwater close to its source by:

(1) Treating stormwater runoff through infiltration into subsoil;

(2) Treating stormwater runoff through filtration by vegetation or soil; or

(3) Storing stormwater runoff for reuse.

"High Pollutant Loading Areas" means areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with NJDEP 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.

"HUC-11" or "hydrologic unit code 11" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

"HUC 14" or "hydrologic unit code 14" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

"Impervious surface" means any surface that has been compacted or covered with a layer of material so that it prevents, impedes or slows infiltration or absorption of fluid, including stormwater directly into the ground, and results in either reduced groundwater recharge or increased stormwater runoff sufficient to be classified as impervious in Urban Areas by the United States Department of Agriculture, Natural Resources Conservation Service Title 210 - Engineering, 210-3-1 - Small Watershed Hydrology (WINTR-55) Version 1.0, incorporated herein by reference, as amended and supplemented, available with user guide and tutorials at http://www.wsi.nrcs.usda.gov/products/W2Q/H&H/Tools_Models/WinTr55.html or at Natural Resources Conservation Service, 220 Davidson Avenue, Somerset, NJ 08873. Such surfaces may have varying degrees of permeability.

"Infiltration" is the process by which water seeps into the soil from precipitation.

"Major development" means:

A. Within the Pinelands Area:

(1) any division of land into five or more lots; or

(2) any construction or expansion of any housing development of five or more dwelling units; or

(3) any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or

(4) any grading, clearing or disturbance of an area in excess of 5,000 square feet.

B. Outside the Pinelands Area, an individual "development," as well as multiple developments that individually or collectively result in:

(1) The disturbance of one or more acres of land since February 2, 2004;

(2) The creation of one-quarter acre or more of "regulated impervious surface" since February 2, 2004;

(3) The creation of one-quarter acre or more of "regulated motor vehicle surface" since March 2, 2021 ; or

(4) A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

(5) Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of paragraphs (1), (2), (3), or (4) above. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

"Minor development" means all development other than major development.

"Motor vehicle" means land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

"Motor vehicle surface" means any pervious or impervious surface that is intended to be used by "motor vehicles" and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

"New Jersey Stormwater Best Management Practices (BMP) Manual" or "BMP Manual" means the manual maintained by the NJDEP providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the NJDEP as being capable of contributing to the achievement of the stormwater management standards specified in this Section. The BMP Manual is periodically amended by the NJDEP as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the NJDEP's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this Section. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this Section, provided the design engineer demonstrates to the municipality, in accordance with **§19-7.7c6** and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this Section.

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

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

"Permeability" means the rate at which water moves through a unit area of soil, rock, or other material at hydraulic gradient of one.

"Person" means an individual, corporation, public agency, business trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological

materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

"Recharge" means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

"Regulated impervious surface" means any of the following, alone or in combination: I

(1) A net increase of impervious surface;

(2) The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);

(3) The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or

(4) The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

"Regulated motor vehicle surface" means any of the following, alone or in combination:

(1) A net increase in motor vehicle surface; and/or

(2) The total area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

"Seasonal high water table" means the level below the natural surface of the ground to which water seasonally rises in the soil in most years.

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

"Site" means the lot or lots upon which development is to occur or has occurred.

"Soil" means all unconsolidated mineral and organic material of any origin.

"State Development and Redevelopment Plan Metropolitan Planning Area (PA1)" means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

"State Plan Policy Map" is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

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

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

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

“Stormwater management measure” means any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Tidal Flood Hazard Area” means a flood hazard area in which the flood elevation resulting from the two-, 10-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

“Water control structure” means a structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, 10-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

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

“Wetlands” or “wetland” means lands which are inundated or saturated by water at a magnitude, duration and frequency sufficient to support the growth of hydrophytes. Wetlands include lands with poorly drained or very poorly drained soils as designated by the National Cooperative Soils Survey of the Soil Conservation Service of the United States Department of Agriculture. Wetlands include coastal wetlands and inland wetlands, including submerged lands. The "New Jersey Pinelands Commission Manual for Identifying and Delineating Pinelands Area Wetlands--a Pinelands Supplement to the Federal Manual for Identifying and Delineating Jurisdictional Wetlands," dated January, 1991, as amended, may be utilized in delineating the extent of wetlands based on the definitions of wetlands and wetlands soils contained in N.J.A.C. 7:50-2.11, 6.3, 6.4 and 6.5.

“Wetland transition area” means an area within 300 feet of any wetland.

c. Stormwater Management Requirements

1. Stormwater management measures for development regulated under this Section shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control and stormwater runoff quality treatment in accordance with this Section.

(a) Major development shall meet the minimum design and performance standards for erosion control established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90 and 16:25A.

(b) All development regulated under this Section shall meet the minimum design and performance standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity at **§19-7.7c15, 16, and 17** by incorporating green infrastructure as provided at **§19-7.7c14**.

(c) Outside the Pinelands Area, the following linear development projects are exempt from the groundwater recharge, stormwater runoff quality and stormwater runoff quantity requirements of **§19-7.7c15, 16, and 17:**

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

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

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

(d) Outside the Pinelands Area, a waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of **§19-7.7c14, 15, 16, and 17** may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

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

(2) The applicant demonstrates through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of **§19-7.7c14, 15, 16, and 17** to the maximum extent practicable;

(3) The applicant demonstrates that, in order to meet the requirements of **§19-7.7c14, 15, 16, and 17**, 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 **(3)** above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of **§19-7.7c14, 15, 16, and 17** that were not achievable onsite.

2. All development regulated under this Section shall incorporate a maintenance plan for the stormwater management measures in accordance with **§19-7.7i**.

3. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species in accordance with N.J.A.C. 7:8-5.2(c) and N.J.A.C. 7:50-6.27 and 6.33.

4. **Tables 1, 2, and 3** below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater BMP Manual to satisfy the green

infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in **§19-7.7c14, 15, 16, and 17**. When designed in accordance with the most current version of the New Jersey Stormwater BMP Manual and this Section, the stormwater management measures found in **Tables 1, 2, and 3** are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater BMP Manual to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the NJDEP shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the NJDEP website at: https://njstormwater.org/bmp_manual2.htm.

5. Where the BMP tables at N.J.A.C. 7:8-5.2(f) differ with **Tables 1, 2 and 3** below due to amendment, the BMP Tables at N.J.A.C. 7:8-5.2(f) shall take precedence, except that in all cases the lowest point of infiltration must maintain a minimum separation of two (2) feet to seasonal high water table as required by **§19-7.7c8(b)**, unless otherwise noted.

Table 1: Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity

Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (Feet)
Cistern	0	Yes	No	--
Dry Well[a]	0	No	Yes	2
Grass Swale	50 or less	No	No	2[e]
				1[f]
Green Roof	0	Yes	No	--
Manufactured Treatment Device[a], [g]	50 or 80	No	No	Dependent upon the device
Pervious Paving System[a]	80	Yes	Yes[b]	2[b]
			No[c]	2[c]
Small-Scale Bioretention Basin[a]	80 or 90	Yes	Yes[b]	2[b]
			No[c]	1[c]
Small-Scale Infiltration Basin[a]	80	Yes	Yes	2
Small Scale Sand Filter[a]	80	Yes	Yes	2
Vegetative Filter Strip	60-80	No	No	--

Table 2: Green Infrastructure BMPs for Stormwater Runoff Quantity (or for Groundwater Recharge and/or Stormwater Runoff Quality with a Variance from N.J.A.C. 7:8-5.3)

Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (Feet)
Bioretention System	80 or 90	Yes	Yes[b]	2[b]
			No[c]	1[c]
Infiltration Basin	80	Yes	Yes	2

Sand Filter[(b)]	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	2[(i)]
Wet Pond[(d)]	50-90	Yes	No	2[(i)]

Table 3: BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity only with a Variance from N.J.A.C. 7:8-5.3

Best Management Practice	**Stormwater Runoff Quality TSS Removal Rate (percent)**	**Stormwater Runoff Quantity**	**Groundwater Recharge**	**Minimum Separation from Seasonal High Water Table (Feet)**
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	2
Manufactured Treatment Device[(h)]	50 or 80	No	No	Dependent upon the device
Sand Filter[(c)]	80	Yes	No	2
Subsurface Gravel Wetland	90	No	No	2
Wet Pond	50-90	Yes	No	2[(i)]

Footnotes to **Tables 1, 2, and 3**:

(a) subject to the applicable contributory drainage area limitation specified at **§19-7.7c14(b)**.
(b) designed to infiltrate into the subsoil.
(c) designed with underdrains, where stormwater percolates into the underdrain through the soils and is not directed to the underdrain by an outlet control structure.
(d) designed to maintain at least a 10-foot wide area of native vegetation along at least 50 percent of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation.
(e) designed with a slope of less than two percent.
(f) designed with a slope of equal to or greater than two percent.
(g) manufactured treatment devices that meet the definition of green infrastructure at **§19-7.7b**.
(h) manufactured treatment devices that do not meet the definition of green infrastructure at **§19-7.7b**.
(i) the top elevation of the impermeable layer or liner must maintain this 2-foot minimum separation to the seasonal high water table.

6. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the NJDEP and the Pinelands Commission in accordance with **§19-7.7e2**. Alternative stormwater management measures may be used to satisfy the requirements at **§19-7.7c14** only if the measures meet the definition of green infrastructure at **§19-7.7b**. Alternative stormwater management measures that function in a similar manner to a BMP listed at **§19-7.7c14(b)** are subject to the contributory drainage area limitation specified at **§19-7.7c14(b)** for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at **§19-7.7c14(b)** shall have a contributory drainage area less than or equal to 2.5

acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with **§19-7.7j** or a waiver from strict compliance in accordance with **§19-7.7c1(d)** is granted from **§19-7.7c14**.

7. Hydraulic Impacts

(a) For all major development, groundwater mounding analysis shall be required for purposes of assessing the hydraulic impacts of mounding of the water table resulting from infiltration of stormwater runoff from the maximum storm designed for infiltration. The mounding analysis shall provide details and supporting documentation on the methodology used. Groundwater mounds shall not cause stormwater or groundwater to breakout to the land surface or cause adverse impacts to adjacent water bodies, wetlands, or subsurface structures, including, but not limited to, basements and septic systems. Where the mounding analysis identifies adverse impacts, the stormwater management measure shall be redesigned or relocated, as appropriate.

(b) For all applicable minor development, a design engineer's certification that each green infrastructure stormwater management measure will not adversely impact basements or septic systems of the proposed development shall be required.

8. Design standards for stormwater management measures are as follows:

(a) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; wetland transition areas; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);

(b) Stormwater management measures designed to infiltrate stormwater shall be designed, constructed, and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of infiltration and the seasonal high water table;

(c) Stormwater management measures designed to infiltrate stormwater shall be sited in suitable soils verified by testing to have permeability rates between one and 20 inches per hour. A factor of safety of two shall be applied to the soil's permeability rate in determining the infiltration measure's design permeability rate. If such soils do not exist on the parcel proposed for development or if it is demonstrated that it is not practical for engineering, environmental, or safety reasons to site the stormwater infiltration measure(s) in such soils, the stormwater infiltration measure(s) may be sited in soils verified by testing to have permeability rates in excess of 20 inches per hour, provided that stormwater is routed through a bioretention system prior to infiltration. Said bioretention system shall be designed, installed, and maintained in accordance with the New Jersey Stormwater BMP Manual;

(d) The use of stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than the use of a single, larger stormwater management measure shall be required;

(e) Methods of treating stormwater prior to entering any stormwater management measure shall be incorporated into the design of the stormwater management measure to the maximum extent practical;

(f) To avoid sedimentation that may result in clogging and reduction of infiltration capability and to maintain maximum soil infiltration capacity, the construction of stormwater management measures that rely upon infiltration shall be managed in accordance with the following standards:

(1) No stormwater management measure shall be placed into operation until its drainage area has been completely stabilized. Instead, upstream runoff shall be diverted around the measure and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment control until stabilization is achieved in accordance with N.J.A.C. 2:90;

(2) If, for engineering, environmental, or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the parcel in accordance with **(1)** above, the stormwater management measure may be placed into operation prior to the complete stabilization of its drainage area provided that the measure's bottom during this period is constructed at a depth at least two feet higher than its final design elevation. When the drainage area has been completely stabilized, all accumulated sediment shall be removed from the stormwater management measure, which shall then be excavated to its final design elevation; and

(3) To avoid compacting the soils below a stormwater management measure designed to infiltrate stormwater, no heavy equipment, such as backhoes, dump trucks, or bulldozers shall be permitted to operate within the footprint of the stormwater management measure. All excavation required to construct a stormwater management measure that relies on infiltration shall be performed by equipment placed outside the footprint of the stormwater management measure. If this is not possible, the soils within the excavated area shall be renovated and tilled after construction is completed. Earthwork associated with stormwater management measure construction, including excavation, grading, cutting, or filling, shall not be performed when soil moisture content is above the lower plastic limit;

(g) Dry wells shall be designed to prevent access by amphibian and reptiles;

(h) 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 established at **§19-7.7c16(d)**. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of **§19-7.7g3(a)**;

(i) 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;

(j) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at **§19-7.7g**; and

(k) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.

9. Manufactured treatment devices may be used to meet the requirements of this Section, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the NJDEP. Manufactured treatment devices that do not meet the definition of green infrastructure at **§19-7.7b** may be used only under the circumstances described at **§19-7.7c14(d)**.

10. Any application for a new agricultural development that meets the definition of major development at N.J.A.C. 7:8-1.2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at **§19-7.7c14, 15, 16, and 17** and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.

11. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at **§19-7.7c15, 16, and 17** shall be met in each drainage area, unless the runoff from the drainage areas converge onsite and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.

12. Any stormwater management measure authorized under the municipal stormwater management plan or this Section shall be reflected in a deed notice recorded in the Cape May County Clerk's Office. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at **§19-7.7c14, 15, 16, and 17** and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to **§19-7.7i2(e)**. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.

13. A stormwater management measure approved under the municipal stormwater management plan or this Section may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards contained in **§19-7.7c15, 16, and 17** and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Cape May County Clerk's Office and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with **12.** above. Prior to the

commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with **12.** above.

14. Green Infrastructure Standards

(a) This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards of this Section.

(b) To satisfy the groundwater recharge and stormwater runoff quality standards at **§19-7.7c15 and 16**, the design engineer shall utilize BMPs identified in **Table 1** at **§19-7.7c5** and/or an alternative stormwater management measure approved in accordance with **§19-7.7c6**. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

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

(c) To satisfy the stormwater runoff quantity standards at **§19-7.7c17**, the design engineer shall utilize BMPs identified in **Table 1** or **2** at **§19-7.7c5** and/or an alternative stormwater management measure approved in accordance with **§19-7.7c6**.

(d) If a variance in accordance with **§19-7.7j** or a waiver from strict compliance in accordance with **§19-7.7c1(d)** is granted from the requirements of this subsection, then BMPs from **Table 1, 2, or 3** at **§19-7.7c5** and/or an alternative stormwater management measure approved in accordance with **§19-7.7c6** may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at **§19-7.7c15, 16, and 17**.

(e) For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at **§19-7.7c15, 16, and 17** unless the project is granted a waiver from strict compliance in accordance with **§19-7.7c1(d)**.

15. Groundwater Recharge Standards

(a) This subsection contains the minimum design and performance standards for groundwater recharge as follows:

(b) For all major development in the Pinelands Area, the total runoff volume generated from the net increase in impervious surfaces by a 10-year, 24-hour storm shall be

retained and infiltrated onsite and outside the Pinelands area the total runoff volume generated from the net increase in impervious surfaces by the 1-year storm shall be retained an infiltrated onsite.

(c) For minor development that involves the construction of four or fewer dwelling units, the runoff generated from the total roof area of the dwelling(s) by a 10-year, 24-hour storm shall be retained and infiltrated through installation of one or more green infrastructure stormwater management measures designed in accordance with the New Jersey Stormwater BMP Manual. Appropriate green infrastructure stormwater management measures include, but are not limited to dry wells, pervious pavement systems, and small scale bioretention systems, including rain gardens.

(d) For minor development that involves any nonresidential use and will result in an increase of greater than 1,000 square feet of regulated motor vehicle surfaces, the water quality design storm volume generated from these surfaces shall be recharged onsite.

(e) Stormwater from areas of high pollutant loading and/or industrial stormwater exposed to source material shall only be recharged in accordance with **§19-7.7c16(h)**.

16. Stormwater Runoff Quality Standards

(a) This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of:

(1) Major development;

(2) In the Pinelands Area: Minor development that involves any nonresidential use and will result in an increase of greater than 1,000 square feet of regulated motor vehicle surfaces; and

(3) In the Pinelands Area: Any development involving the grading, clearing, or disturbance of an area in excess of 5,000 square feet within any five-year period.

(b) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm established at **§19-7.7c16(d)** as follows:

(1) Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.

(2) If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.

(c) The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with **(b)** above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the

NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.

(d) The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in **Table 4**, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4: Water Quality Design Storm Distribution

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.0083	45	0.2	85	1.117
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.235	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.0166	50	0.2583	90	1.15
11	0.01828	51	0.2783	91	1.155
12	0.01996	52	0.2983	92	1.16
13	0.02164	53	0.3183	93	1.165
14	0.02332	54	0.3383	94	1.17
15	0.025	55	0.3583	95	1.175
16	0.03	56	0.4116	96	1.18
17	0.035	57	0.465	97	1.185
18	0.04	58	0.5183	98	1.19
19	0.045	59	0.5717	99	1.195
20	0.05	60	0.625	100	1.2
21	0.055	61	0.6783	101	1.205
22	0.06	62	0.7317	102	1.21
23	0.065	63	0.785	103	1.215
24	0.07	64	0.8384	104	1.22
25	0.075	65	0.8917	105	1.225
26	0.08	66	0.9117	106	1.2267
27	0.085	67	0.9317	107	1.2284
28	0.09	68	0.9517	108	1.23
29	0.095	69	0.9717	109	1.2317
30	0.1	70	0.9917	110	1.2334
31	0.1066	71	1.0034	111	1.2351
32	0.1132	72	1.015	112	1.2367
33	0.1198	73	1.0267	113	1.2384
34	0.1264	74	1.0383	114	1.24
35	0.133	75	1.05	115	1.2417
36	0.1396	76	1.0568	116	1.2434
37	0.1462	77	1.0636	117	1.245
38	0.1528	78	1.0704	118	1.2467
39	0.1594	79	1.0772	119	1.2483
40	0.166	80	1.084	120	1.25

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

$R = A + B – (A \times B) / 100$

Where,

R = total TSS Percent Load Removal from application of both BMPs, and
A = the TSS Percent Removal Rate applicable to the first BMP
B = the TSS Percent Removal Rate applicable to the second BMP.

(f) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm established at **§19-7.7c16(d)**. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in **§19-7.7c15, 16, and 17**.

(g) For all major development in the Pinelands Area, stormwater management measures shall be designed to achieve a minimum of 65 percent reduction of the post-construction total nitrogen load from the developed site, including those permanent lawn or turf areas that are specifically intended for active human use as described at N.J.A.C. 7:50-6.24(c)3, in stormwater runoff generated from the water quality design storm established at **§19-7.7c16(d)**. In achieving a minimum 65 percent reduction of total nitrogen, the design of the site shall include green infrastructure in accordance with the New Jersey Stormwater BMP Manual and shall optimize nutrient removal. The minimum 65 percent total nitrogen reduction may be achieved by using a singular stormwater management measure or multiple stormwater management measures in series.

(h) In high pollutant loading areas (HPLAs) and/or areas where stormwater runoff is exposed to source material, as defined in **§19-7.7b**, the following additional water quality standards shall apply:

(1) The areal extent and amount of precipitation falling directly on or flowing over HPLAs and/or areas where stormwater is exposed to source material shall be minimized through the use of roof covers, canopies, curbing or other physical means to the maximum extent practical in order to minimize the quantity of stormwater generated from HPLA areas and areas where stormwater runoff is exposed to source material;

(2) The stormwater runoff originating from HPLAs and/or areas where stormwater runoff is exposed to source material shall be segregated and prohibited from co-mingling with stormwater runoff originating from the remainder of the parcel unless it is first routed through one or more stormwater management measures required at **(3)** below;

(3) The stormwater runoff from HPLAs and/or areas where stormwater runoff is exposed to source material shall incorporate stormwater management measures designed to reduce the post-construction load of TSS by at least 90 percent in stormwater runoff generated from the water quality design storm established at **§19-7.7c16(d)** using one or more of the measures identified at **i.** or **ii.** below. In meeting this requirement, the minimum 90 percent removal of total suspended

solids may be achieved by utilizing multiple stormwater management measures in series:

i. Any measure designed in accordance with the New Jersey Stormwater BMP Manual to remove total suspended solids. Any such measure must be constructed to ensure that the lowest point of infiltration within the measure maintains a minimum of two feet of vertical separation from the seasonal high-water table; and

ii. Other measures certified by the NJDEP, including a Media Filtration System manufactured treatment device with a minimum 80 percent removal of total suspended solids as verified by the New Jersey Corporation for Advanced Technology; and

(4) If the potential for contamination of stormwater runoff by petroleum products exists onsite, prior to being conveyed to the stormwater management measure required at **(3)** above, the stormwater runoff from the HPLAs and areas where stormwater runoff is exposed to source material shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device providing for the removal of petroleum hydrocarbons. The applicant shall provide the review agency with sufficient data to demonstrate acceptable performance of the device.

(i) 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.

(j) The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.

(k) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.

(l) This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

17. Stormwater Runoff Quantity Standards

(a) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts related to applicable major and minor development.

(b) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at **§19-7.7d**, complete one of the following:

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

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

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or

(4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with **(1), (2), and (3)** above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.

(c) The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

(d) There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area, or surface waterbody. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and rate of discharge into any wetlands, wetlands transition area, or surface water body from that which existed prior to development of the parcel.

(e) To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields to protect farm crops from damage due to flooding, erosion, and long-term saturation of cultivated crops and cropland.

18. As-built requirements for major development are as follows:

(a) After all construction activities have been completed on the parcel and finished grade has been established in each stormwater management measure designed to infiltrate stormwater, replicate post-development permeability tests shall be conducted to determine if as-built soil permeability rates are consistent with design permeability rates. The results of such tests shall be submitted to the municipal engineer or other appropriate reviewing engineer. If the results of the post-development permeability tests fail to achieve the minimum required design permeability rate, utilizing a factor of safety of two, the stormwater management measure shall be renovated and re-tested until the required permeability rates are achieved; and

(b) After all construction activities and required testing have been completed on the parcel, as-built plans, including as-built elevations of all stormwater management

measures shall be submitted to the municipal engineer or other appropriate reviewing engineer to serve as a document of record. Based upon that engineer's review of the as-built plans, all corrections or remedial actions deemed necessary due to the failure to comply with design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review.

d. Calculation of Stormwater Runoff and Groundwater Recharge

1. Stormwater runoff shall be calculated by the design engineer using the USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented, except that the Rational Method for peak flow and the Modified Rational Method for hydrograph computations shall not be used. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at: https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873. In areas outside of the Pinelands Area the following method may be used: The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at: http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf.

2. In calculating stormwater runoff using the NRCS methodology, the appropriate 24-hour rainfall depths as developed for the parcel by the National Oceanic and Atmospheric Administration, https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj, shall be utilized.

3. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. 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 has 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).

4. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.

5. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds or other methods may be employed.

6. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

7. Groundwater recharge may be calculated in accordance with the New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at: https://www.nj.gov/dep/njgs/pricelst/gsreport/gsr32.pdf or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

e. Sources for Technical Guidance

1. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the NJDEP's website at: http://www.nj.gov/dep/stormwater/bmp_manual2.htm.

   (a) Guidelines for stormwater management measures are contained in the New Jersey Stormwater BMP Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in **Tables 1, 2, and 3** of **§19-7.7c5**. The New Jersey Stormwater BMP Manual may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of this Section.

   (b) Additional maintenance guidance is available on the NJDEP's website at: https://www.njstormwater.org/maintenance_guidance.htm.

2.
   (a) Submissions required for review by the NJDEP should be mailed to:

   The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

   (b) Submissions required for review by the Pinelands Commission should be emailed to appinfo@pinelands.nj.gov.

f. Solids and Floatable Materials Control Standards

1. Site design features identified under **§19-7.7c5**, or alternative designs in accordance with **§19-7.7c6**, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see **(b)** below.

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

(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; or

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

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

(3) For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

(b) The standard in **(a)** above does not apply:

(1) Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;

(2) Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;

(3) Where flows from the water quality design storm established at **§19-7.7c16(d)** 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:

i. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or

ii. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

(4) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm established at **§19-7.7c16(d)**; or

(5) Where the NJDEP 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.

g. Safety Standards for Stormwater Management Basins

1. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.

2. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in **3(a), (b) or (c)** below for trash racks, overflow grates, and escape provisions at outlet structures.

3. Requirements for Trash Racks, Overflow Grates and Escape Provisions

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

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

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

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

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

(b) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, the grate shall comply with the following requirements:

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

(2) The overflow grate spacing shall be no greater than two inches across the smallest dimension

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

(c) Stormwater management BMPs shall include escape provisions as follows:

(1) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to **4.** below, a free-standing outlet structure may be exempted from this requirement;

(2) Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See **5.** below for an illustration of safety ledges in a stormwater management BMP; and

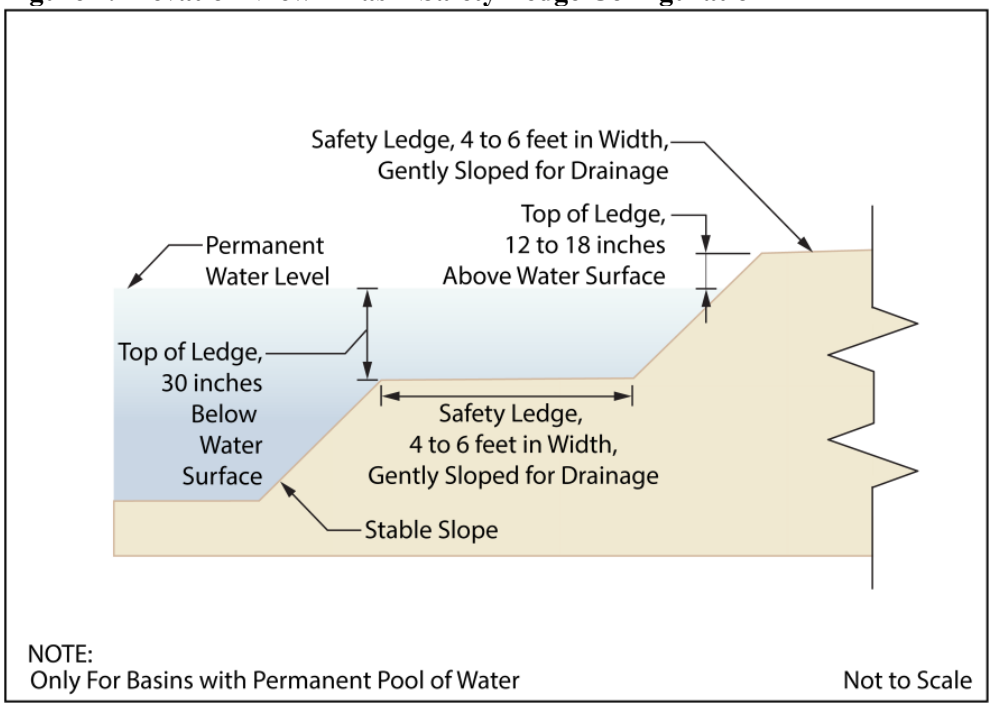
(3) In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

4. Variance or Exemption from Safety Standard

A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

5. Safety Ledge Illustration

Figure 1. Elevation View – Basin Safety Ledge Configuration



h. Requirements for a Site Development Stormwater Plan

1. Submission of Site Development Stormwater Plan.

(a) Any application for major development approval shall include a Site Development Stormwater Plan containing all information required in **§19-7.7h3**.

(b) Any application for minor development approval that is subject to this Section shall include a Site Development Stormwater Plan containing all information required in **§19-7.7h4**

(c) The Site Development Stormwater Plan shall demonstrate that the proposed development meets the standards of this Section.

(d) The Site Development Stormwater Plan shall contain comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in **§19-7.7c16(d)**. The standards for groundwater recharge and stormwater runoff rate, volume and quality required by **§19-7.7c15, 16, and 17** and shall be met using the methods, calculations and assumptions provided in **§19-7.7d**.

(e) The application submission requirements of **(a)** and **(b)** above shall be in addition to all other applicable application submission requirements of the municipality's land development regulations.

(f) The applicant shall submit four (4) copies of the Site Development Stormwater Plan. All required engineering plans shall be in CAD Format 15 or higher, registered and rectified to NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Shape Format NAD 1983 State Plane New Jersey FIPS 2900 US Feet. All other required documents shall be submitted in both paper and commonly used electronic file formats such as .pdf, word processing, database or spreadsheet files.

2. Site Development Stormwater Plan Approval.

The Site Development Stormwater Plan shall be reviewed as a part of the development review process by the municipal board or official from whom 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 the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this Section.

3. Checklist Requirements for major development.

Any application for major development approval shall include a Site Development Stormwater Plan containing, at minimum, the following information.

(a) Topographic Base Map.

The Site Development Stormwater Plan shall contain a topographic base map of the site that extends a minimum of three hundred (300) feet beyond the limits of the proposed development, at a scale of one (1) inch = two hundred (200) feet or greater, showing one (1) foot contour intervals. The map shall indicate the following: existing surface water drainage, shorelines, steep slopes, soils, highly erodible soils, perennial or intermittent streams that drain into or upstream of any Category One or Pinelands Waters, wetlands and floodplains along with any required wetlands transition areas, marshlands and other wetlands, pervious or vegetative surfaces, existing surface and subsurface human-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown. Upper Township or the Pinelands Commission may require upstream tributary drainage system information as necessary.

(b) Environmental Site Analysis.

The Site Development Stormwater Plan shall contain a written description along with the drawings of the natural and human-made features of the site and its environs. This description shall include:

(1) A discussion of environmentally critical areas, soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention shall be given to unique, unusual or environmentally sensitive features and to those features that provide particular opportunities for or constraints on development; and

(2) Detailed soil and other environmental conditions on the portion of the site proposed for installation of any stormwater management measures, including, at a minimum:

i. A soils report based on onsite soil tests;
ii. Location and spot elevations in plan view of all test pits and permeability tests;
iii. Permeability test data and calculations;
iv. Any other required soil or hydrogeologic data (e.g., mounding analyses results) correlated with location and elevation of each test site;
v. A cross-section of all proposed stormwater management measures with side-by-side depiction of soil profile drawn to scale and seasonal high water table elevation identified; and
vi. Any other information necessary to demonstrate the suitability of the specific proposed stormwater management measures relative to the environmental conditions on the portion(s) of the site proposed for implementation of those measures.

(c) Project description and site plan(s).

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

(d) Land Use Planning and Source Control Plan.

The Site Development Stormwater Plan shall contain a Land Use Planning and Source Control Plan demonstrating compliance with the erosion control, groundwater recharge, stormwater runoff quantity control and stormwater quality treatment required by this Section. This shall include, but is not limited to:

(1) Information demonstrating that the proposed stormwater management measures are able to achieve a minimum 65 percent reduction of the post-construction total nitrogen load, in accordance with **§19-7.7c16(g)**.

(2) Where any stormwater generated from high pollutant loading areas or where stormwater will be exposed to source material, information demonstrating that the proposed stormwater management measures are consistent with **§19-7.7c16(h)**.

(e) Stormwater Management Facilities Map.

The Site Development Stormwater Plan shall contain a Stormwater Management Facilities Map, at the same scale as the topographic base map, depicting the following information:

(1) The total area to be disturbed, paved and/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 manage and recharge stormwater; and

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

(f) Groundwater Mounding Analysis.

The Site Development Stormwater Plan shall contain a groundwater mounding analysis in accordance with **§19-7.7c7(a).**

(g) Inspection, Maintenance and Repair Plan.

The Site Development Stormwater Plan shall contain an Inspection, Maintenance and Repair Plan containing information meeting the requirements of **§19-7.7i2** of this Section.

4. Checklist Requirements for minor development.

Any application for minor development approval that is subject to this Section shall include a Site Development Stormwater Plan, certified by a design engineer, containing, at minimum, the following information:

(a) All existing and proposed development, including limits of clearing and land disturbance.

(b) All existing and proposed lot lines.

(c) All wetlands and required wetland transition areas.

(d) The type and location of each green infrastructure stormwater management measure.

(e) A cross sectional drawing of each stormwater management measure showing the associated:

(1) soil profile;

(2) soil permeability test elevation;

(3) soil permeability rate; and

(4) the elevation of, and vertical separation to, the seasonal high water table.

(f) A design engineer's certification that each green infrastructure stormwater management measure will not adversely impact basements or septic systems of the proposed development, in accordance with **§19-7.7c7(b)**.

(g) A Maintenance Plan containing information meeting the requirements of **§19-7.7i2** of this Section.

5. Exception from submission requirements.

With the exception of **3(g)** and **4(g)** above, the municipality may modify or waive any required element of the Site Development Stormwater Plan, provided that sufficient information can be provided to demonstrate compliance with the standards of this Section. However, application information required in accordance with the Pinelands CMP (N.J.A.C. 7:50-4.2(b)) shall be submitted to the Pinelands Commission, unless the Executive Director of the Pinelands Commission waives or modifies the application requirements.

i. Maintenance and Repair

1. All development regulated under this Section shall incorporate a maintenance plan, prepared by the design engineer, consistent with **2.** below. Maintenance and repair shall be implemented in accordance with maintenance plan and **3.** below.

2. The maintenance plan shall include the following:

(a) Specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.

(b) Responsibility for maintenance of stormwater management measures approved as part of an application for major development shall not be assigned or transferred to the owner or tenant of an individual property, unless such owner or tenant owns or leases the entire site subject to the major development approval. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all the maintenance required.

(c) Responsibility for maintenance of stormwater management measures approved as part of an application for minor development may be assigned or transferred to the owner or tenant of the parcel.

(d) If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

(e) If the person responsible for maintenance identified under **(a)** above is not a public agency, the maintenance plan and any future revisions based on **§19-7.7i3(b)(2)** shall

be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

(f) For all major development, the following additional standards apply:

(1) The maintenance plan shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure. Maintenance plans shall specify that an inspection, maintenance, and repair report will be updated and submitted annually to the municipality;

(2) Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement; and

(3) An adequate means of ensuring permanent financing of the inspection, maintenance, repair, and replacement plan shall be implemented and shall be detailed in the maintenance plan. Financing methods shall include, but not be limited to:

i. The assumption of the inspection and maintenance program by a municipality, county, public utility, or homeowners association; or

ii. The required payment of fees to a municipal stormwater fund in an amount equivalent to the cost of both ongoing maintenance activities and necessary structural replacements; or

iii. The property owner shall be required to post a two year maintenance guarantee in accordance with N.J.S.A. 40:55D-53

(g) For all minor development, maintenance plans shall be required for all stormwater management measures installed in accordance with this Section and shall include, at a minimum, the following information:

(1) A copy of the certified plan required pursuant to **§19-7.7h4;**

(2) **A desc**ription of the required maintenance activities for each stormwater management measure; and

(3) The frequency of each required maintenance activity.

3. General Maintenance and Repair

(a) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.

(b) The person responsible for maintenance identified under **§19-7.7i2(b)** shall perform all of the following requirements:

(1) 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;

(2) evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and

(3) 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 **(1) and (2)** above.

(c) The requirements of **2(b), (c), and (d)** above do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.

(d) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.

4. 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.

j. Variances

1. The exemptions, exceptions, applicability standards, and waivers of strict compliance contained in the NJDEP Stormwater Management Regulations at N.J.A.C. 7:8-1.1 et seq. shall not apply within the Pinelands Area except in accordance with this Section.

2. The municipal review agency may grant a variance from the design and performance standards for stormwater management measures set forth in its municipal stormwater management plan and this Section, provided that:

(a) No variances shall be granted from **§19-7.7c17(d)**, which prohibits the direct discharge of stormwater runoff to any wetlands, wetlands transition area, or surface waterbody and the direction of stormwater runoff in such a way as to increase in volume and rate of discharge into any wetlands, wetlands transition area, or surface water body from that which existed prior to development of the parcel;

(b) The municipal stormwater plan includes a mitigation plan in accordance with N.J.A.C. 7:8-4.2(c)11 and N.J.A.C. 7:50-3.39(a)2viii;

(c) The applicant demonstrates that it is technically impracticable to meet any one or more of the design and performance standards on-site. For the purposes of this analysis, technical impracticability exists only when the design and performance standard cannot be met for engineering, environmental, or safety reasons. A municipality's approval of a variance shall apply to an individual drainage area and design and performance standard and shall not apply to an entire site or project,

unless an applicant provides the required analysis for each drainage area within the site and each design and performance standard;

(d) The applicant demonstrates that the proposed design achieves the maximum possible compliance with the design and performance standards of this Section on-site; and

(e) A mitigation project is implemented, in accordance with the following:

(1) All mitigation projects shall be located in the same HUC-14 as the parcel proposed for development. If the applicant demonstrates that no such mitigation project is available, the municipality may approve a variance that provides for mitigation within the same HUC-11 as the parcel proposed for development, provided that if the project is located in the Pinelands Area then the mitigation project shall be located in the Pinelands Area.

(2) The proposed mitigation project shall be consistent with the municipal stormwater management plan certified by the Pinelands Commission. If said stormwater management plan does not identify appropriate parcels or projects where mitigation may occur, the applicant may propose a mitigation project that meets the criteria in **(1)** above.

(3) The mitigation project shall be approved no later than preliminary or final site plan approval of the major development.

(4) The mitigation project shall be constructed prior to, or concurrently with, the development receiving the variance.

(5) The mitigation project shall comply with the green infrastructure standards at **c14**.

(6) If the variance that resulted in the mitigation project being required is from the green infrastructure standards at **§19-7.7c14**, then the mitigation project must use green infrastructure BMPs in **Table 1** contained at **§19-7.7c5**, and/or an alternative stormwater management measure approved in accordance with **§19-7.7c6** that meets the definition of green infrastructure to manage an equivalent or greater area of impervious surface and an equivalent or greater area of motor vehicle surface as the area of the major development subject to the variance. Grass swales and vegetative filter strips may only be used in the mitigation project if the proposed project additionally includes a green infrastructure BMP other than a grass swale or vegetative filter strip. The green infrastructure used in the mitigation project must be sized to manage the water quality design storm established at **§19-7.7c16(d)**, at a minimum, and is subject to the applicable contributory drainage area limitation specified at **§19-7.7c14(b)**, as applicable.

(7) A variance from the groundwater recharge standards at **§19-7.7c15** may be granted provided that the total volume of stormwater infiltrated by the mitigation project equals or exceeds the volume required at **§19-7.7c15.**

(8) A variance from the stormwater runoff quality standards at **§19-7.7c16** may be granted if the following are met:

i. The total drainage area of motor vehicle surface managed by the mitigation project(s) must equal or exceed the drainage area of the area of the major development subject to the variance and must provide sufficient TSS removal to equal or exceed the deficit resulting from granting the variance for the major development; and

ii. The mitigation project must remove nutrients to the maximum extent feasible in accordance with **§19-7.7c16(g)**.

(9) A variance from the stormwater runoff quantity standards at **§19-7.7c17** may be granted if the following are met:

i. The applicant demonstrates, through hydrologic and hydraulic analysis, including the effects of the mitigation project, that the variance will not result in increased flooding damage below each point of discharge of the major development;

ii. The mitigation project indirectly discharges to the same watercourse and is located upstream of the major development subject to the variance; and

iii. The mitigation project provides peak flow rate attenuation in accordance with **§19-7.7c17(b)(3)** for an equivalent or greater area than the area of the major development subject to the variance. For the purposes of this demonstration, equivalent includes both size of the area and percentage of impervious surface and/or motor vehicle surface.

(10) The applicant or the entity assuming maintenance responsibility for the associated major development shall be responsible for preventive and corrective maintenance (including replacement) of the mitigation project and shall be identified as such in the maintenance plan established in accordance with §19-7.7i. This responsibility is not transferable to any entity other than a public agency, in which case a written agreement with that public agency must be submitted to the review agency.

3. Any approved variance shall be submitted by the municipal review agency to the county review agency and the NJDEP, by way of a written report describing the variance, as well as the required mitigation, within 30 days of the approval.

k. Penalties

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this Section shall be subject to the following penalties as listed in Section 19-10.3.

SECTION 3: EFFECTIVE DATE: This ordinance shall take effect after second reading and publication as required by law and upon certification by the New Jersey Pinelands Commission.

SECTION 4: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 5: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 6: CODIFICATION: This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 10TH DAY OF JULY, 2023 AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 28TH DAY OF AUGUST, 2023 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

NEW BUSINESS

15. Historical Preservation Society of Upper Township request use of the Tuckahoe Train Station grounds for the Tuckahoe Transportation Heritage Festival on September 23, 2023. **Motion by Curtis Corson, second by Mark Pancoast, to approve the request. During roll call vote all four Committee members present voted in the affirmative.**

16. Planning Board recommendation to amend Chapter 20 (Zoning) of the Code of Upper Township. **The Township Administrator reported on a recommendation from the Planning Board to add farms as a permitted use to the CM2 zone. The Township Administrator was directed to gain more information from the Engineer and Attorney for the Committee's review.**

17. Employee requests for conference/seminar attendance. **The CFO reported on a request from the Zoning Officer and the Technical Assistant to the Construction Official Elizabeth to attend a three-day class at a cost of $634.00 each. Motion by Kimberly Hayes, second by Mark Pancoast, to approve the request pending the ability to have the office covered during the absences. During roll call vote all four Committee members present voted in the affirmative.**

UNFINISHED BUSINESS

PAYMENT OF BILLS

18. "I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting." **Motion by Curtis Corson, second by Mark Pancoast. During roll call vote all four Committee members present voted in the affirmative.**

    Bills approved for payment: **$763,171.91**
    Payroll: **$239,778.45**

PUBLIC COMMENT – LIMITED TO FIVE (5) MINUTES PER PERSON

Elaine Holsomback, Palermo and Strathmere, inquired as to how many streets have mobi mats installed right now. It was stated that currently six streets have mobi mats. She next requested that a pedestrian crosswalk be installed on Commonwealth Avenue between the Strathmere Fire Hall and the parking lot across the street. It was stated that the Township would need to ask the County to review the request, and also request a speed study of the area. Lastly, she submitted a political cartoon to the Committee.

Janice Connell, Strathmere, stated that the County may have already done a speed study of that area of Commonwealth Avenue.

Bob Dilullo, 246 Route 50, spoke about the short term rental issue, and stated that as an owner of a property that is used as an Airbnb, the rental proceeds from doing so are what allow him to own his home. He stated that he has successfully rented his home with no complaints. He further stated that short term rentals are enabling more people to come into the Township and support our local businesses. Deputy Mayor Hayes stated that the Committee had received his letter and were planning on inviting him to join the short term rental subcommittee.

CLOSED SESSION

19. Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded.

TOWNSHIP OF UPPER
RESOLUTION NO. 274-2023
MOTION GOING INTO CLOSED SESSION
AUGUST 28, 2023

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

MATTERS
1. Personnel
2. Potential litigation - Bushong v. Upper Township
3. Contract negotiation - State Health Benefits
4. Contract negotiation - QAR EMS Collections
5. Contract negotiation - Animal Control
6. Contract negotiation - Substitute Municipal Court Judge
7. Contract negotiation - KD National Force Security, LLC
8. Contract negotiation - Appraisal Services
9. Contract negotiation - State Aid Agreement Amendment

I also include in my motion the estimated time and the circumstances under which the discussion conducted in closed session can be disclosed to the public as follows:

A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.

B. With respect to employment and personnel matters such discussions will be made public if and when formal action is taken or when the individuals involved consent that it can be made public.

C. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.

D. With respect to litigation matters such discussions will be made public when litigation is complete, and the applicable appeal period has expired.

Moved by: Mark Pancoast
Motion seconded by: Curtis Corson
Roll Call Vote with all four Committee members present voting in the affirmative.

RECONVENE PUBLIC PORTION OF MEETING

Motion by Kimberly Hayes, second by Victor Nappen, to reconvene the public portion of the meeting. During roll call vote all four Committee members present voted in the affirmative.

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 6:01 P.M., with a motion by Kimberly Hayes, second by Victor Nappen, and all four Committee members present voting in the affirmative. The next regular Committee meeting is scheduled for September 11, 2023 at 6:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
Township Clerk

Bills
82042 08/28/23 A0018 ACTION SUPPLY INC. 81.76 3317
82043 08/28/23 A0025 ADVANTAGE RENTAL & SALES 692.84 3317
82044 08/28/23 A0027 ACE PLUMBING SUPPLY,INC 172.01 3317
82045 08/28/23 A0075 ADAMS, JOSHUA 62.93 3317
82046 08/28/23 A0091 ATLANTIC CITY ELECTRIC 9,010.46 3317
82047 08/28/23 A0193 ATLANTIC INVESTIGATIONS, LLC 1,223.00 3317
82048 08/28/23 A0212 ANCERO, LLC 880.00 3317
82049 08/28/23 A0231 ALL UNIQUE GIFTS, INC. 3,660.00 3317
82050 08/28/23 A0235 AMAZON CAPITAL SERVICES, INC. 33.99 3317
82051 08/28/23 A0251 ACT ENGINEERS, INC. 6,622.00 3317
82052 08/28/23 B0035 BELMONT & CRYSTAL SPRINGS 160.06 3317
82053 08/28/23 B0093 BARRY,CORRADO & GRASSI,PC 40.00 3317
82054 08/28/23 B0209 BOFFA, BLAKE 31.75 3317
82055 08/28/23 B0288 KINGBARNES LLC 2,513.06 3317
82056 08/28/23 C0021 CIVIL SOLUTION A DIVISION 748.00 3317
82057 08/28/23 C0042 CAMPBELL SUPPLY COMPANY 1,066.58 3317
82058 08/28/23 C0046 CAPE MAY COUNTY CLERK 4,691.64 3317
82059 08/28/23 C0048 CAPE MAY COUNTY MUA 44,862.19 3317
82060 08/28/23 C0068 COMCAST 1,710.45 3317
82061 08/28/23 C0223 CASA PAYROLL SERVICE 328.50 3317
82062 08/28/23 C0307 CNS ACQUISITION CORPORATION 875.00 3317
82063 08/28/23 D0016 DALEYS PIT 260.00 3317
82064 08/28/23 D0040 DELTA DENTAL OF N.J. INC. 5,803.29 3317
82065 08/28/23 D0186 DOCUTREND, INC. 33.52 3317
82066 08/28/23 D0237 DIETZ, KERRY 125.00 3317
82067 08/28/23 D0240 DEVLIN, EDMUND F. 1,048.45 3317
82068 08/28/23 F0016 FAZZIO, JOSEPH INC. 244.18 3317
82069 08/28/23 F0053 FORD, SCOTT & ASSOCIATES 4,500.00 3317
82070 08/28/23 F0224 FERRIER, SEAN 117.45 3317
82071 08/28/23 G0016 GARDNER HARDWARE INC. 522.74 3317
82072 08/28/23 G0120 PATRICK F. MARTIN 1,966.58 3317
82073 08/28/23 G0169 GROFF TRACTOR MID ATLANTIC LLC 54.70 3317
82074 08/28/23 G0199 GLOBAL INTERACTIVE SOLUTIONS 194.87 3317
82075 08/28/23 H0022 HR DIRECT 269.97 3317
82076 08/28/23 H0148 THOMAS H. HEIST INS AGENCY INC 500.00 3317
82077 08/28/23 J0315 Johnson, Lauren 44.50 3317
82078 08/28/23 K0038 KINDLE FORD LINCOLN, INC. 429.85 3317
82079 08/28/23 L0007 LC EQUIPMENT, INC. 1,119.98 3317
82080 08/28/23 M0012 McCAULEY, RICHARD 74.78 3317
82081 08/28/23 M0277 EQUITABLE FINANCIAL LIFE INS. 178.77 3317
82082 08/28/23 M0303 MALEY GIVENS, A PROF CORP 172.00 3317
82083 08/28/23 M0327 MONZO CATANESE DeLOLLIS, P.C. 10,520.00 3317
82084 08/28/23 P0032 PEDRONI FUEL CO. 5,035.14 3317
82085 08/28/23 P0195 PHOENIX ADVISORS, LLC 3,750.00 3317
82086 08/28/23 R0030 RIGGINS, INC. 6,484.35 3317
82087 08/28/23 R0092 RUTGERS, THE STATE UNIVERSITY 944.00 3317
82088 08/28/23 R0100 ROBERTS OXYGEN COMPANY, INC. 212.75 3317
82089 08/28/23 S0020 THE HOME DEPOT PRO 99.62 3317
82090 08/28/23 S0056 SEASHORE ASPHALT CORPORATION 1,740.16 3317
82091 08/28/23 S0065 SEAVILLE FIRE CO. DISTRICT #4 306,015.00 3317
82092 08/28/23 S0134 SO. JERSEY GAS COMPANY 300.13 3317
82093 08/28/23 S0191 STRATHMERE FIRE CO.DISTRICT #1 52,163.22 3317

82094 08/28/23 S0196 STEWART BUSINESS SYSTEMS LLC 274.40 3317
82095 08/28/23 S0209 STAPLES ADVANTAGE 409.45 3317
82096 08/28/23 S0254 SHOPRITE 181.98 3317
82097 08/28/23 S0292 SURENIAN EDWARDS BUZAK & NOLAN 1,520.00 3317
82098 08/28/23 S0303 SITEONE LANDSCAPE SUPPLY, LLC 1,623.59 3317
82099 08/28/23 T0032 THE PRESS OF ATLANTIC CITY 567.20 3317
82100 08/28/23 T0080 TREASURER STATE OF N.J. 1,075.00 3317
82101 08/28/23 T0089 TREASURER, STATE OF N.J. 976.00 3317
82102 08/28/23 T0117 TUCKAHOE FIRE DISTRICT #2 271,400.00 3317
82103 08/28/23 V0013 VERIZON WIRELESS 595.62 3317
82104 08/28/23 Z0003 ZEP SALES AND SERVICE 112.95 3317
82105 08/28/23 Z0018 Zappasodi, Arnold 44.50 3317
Total: $763,171.91