

**AN ORDINANCE AMENDING CHAPTER 267 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE
OF NEW JERSEY**

BE IT ORDAINED by the Governing Body of the Borough of Wharton that Chapter 267 is hereby amended as follows:

Chapter 267. Stormwater Control

Article I. Stormwater Management

Section 267-1. Scope and Purpose

- A. Policy Statement.** Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs 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. GI BMPs 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 green infrastructure, water quality, quantity, and groundwater recharge.
- B. Purpose.** The purpose of this ordinance is to establish minimum stormwater management requirements and controls for “major development,” as defined below in Section 267-2.
- C. Applicability.**
 - 1. This ordinance shall be applicable to the following major developments:**
 - a. Non-residential major developments and redevelopment projects; and**
 - b. Aspects of residential major developments and redevelopment projects that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.**
 - 2. This ordinance shall also be applicable to all major developments undertaken by the Borough of Wharton.**
 - 3. Applicability of this ordinance to major developments shall comply with last amended N.J.A.C. 7:8-1.6, incorporated herein by reference.**

- D. Compatibility with Other Permit and Ordinance Requirements.** Development approvals issued pursuant to this ordinance 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 ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance 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 ordinance 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.

Section 267-2. Definitions

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The definitions used in this article shall be the same as the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2, incorporated herein by reference.

Section 267-3. Design and Performance Standards for Stormwater Management Measures

- A.** This section establishes design and performance standards for stormwater management measures for major development intended to minimize the adverse impact of stormwater runoff on water quality and water quantity and loss of groundwater recharge in receiving water bodies. Design and performance standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.

Section 267-4. Stormwater Management Requirements

- A.** The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 267-10.
- B.** Requirements for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.

Section 267-5. Reserved.

Section 267-6. Sources for Technical Guidance

- A. Technical guidance for stormwater management measures can be found in the Stormwater Management Rules last amended N.J.A.C. 7:8, incorporated herein by reference.**
- B. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented.**
- C. Additional maintenance guidance is available on the Department’s website at: https://www.njstormwater.org/maintenance_guidance.htm.**

Section 267-7. Solids and Floatable Materials Control Standards

- A. Site design features identified under Section 267-3 above, or alternative designs in accordance with Section 267-3 above, 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 Section 267-7(A)(2) below.**
 - 1. 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:**
 - i. 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**
 - ii. 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. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.**

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.

- iii. 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.
2. The standard in Section 267-7(A)(1) above does not apply:
- i. 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;
 - ii. 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;
 - iii. Where flows from the water quality design storm as specified in in the last amended Stormwater Management rules at N.J.A.C. 7:8 et seq are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - b. A bar screen having a bar spacing of 0.5 inches.

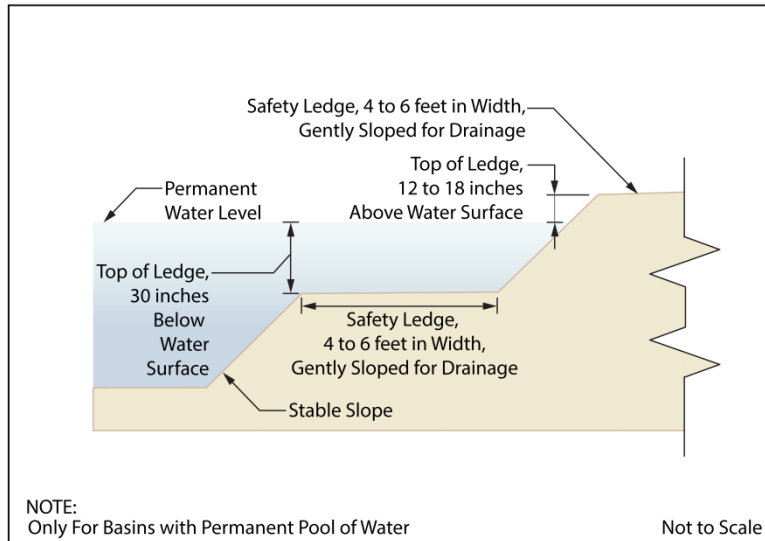
Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).
 - iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
 - v. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

Section 267-8. Safety Standards for Stormwater Management Basins

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

any new stormwater management basin. Safety standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-6, incorporated herein by reference.

B. Safety Ledge Illustration. Elevation View –Basin Safety Ledge Configuration



Section 267-9. Requirements for a Site Development Stormwater Plan

A. Submission of Site Development Stormwater Plan

- 1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 267-9(C) below as part of the submission of the application for approval.**
- 2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.**
- 3. The applicant shall submit copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 267-9(C) of this section.**

B. Site Development Stormwater Plan Approval. The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Submission of Site Development Stormwater Plan. The following information shall be required:

- 1. Topographic Base Map.** The reviewing engineer may require upstream tributary drainage system information, as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
- 2. Environmental Site Analysis.** A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
- 3. Project Description and Site Plans.** A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations 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.
- 4. Land Use Planning and Source Control Plan.** This plan shall provide a demonstration of how the goals and standards of Sections 267-3 through 267-4 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- 5. Stormwater Management Facilities Map.** The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - i. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.**

- ii. **Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.**
- 6. Calculations**
- i. **Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 267-3 of this ordinance.**
 - ii. **When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high-water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.**
- 7. Maintenance and Repair Plan.** The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 267-10.
- 8. Waiver from Submission Requirements.** The municipal official or board reviewing an application under this ordinance may, in consultation with the municipality's review engineer, waive submission of any of the requirements in Section 267-9(C)(1) through (6) of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

Section 267-10. Maintenance and Repair

- A. Applicability.** Projects subject to review as in Section 267-1(C) of this ordinance shall comply with the requirements of Section 267-10(B) and (C).
- B. General Maintenance**
 - 1. Maintenance for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5.8, incorporated herein by reference.**
 - 2. The following requirements of N.J.A.C. 7:8-5.8 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:**
 - a. 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.

- b. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. 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 of the maintenance required.
- 3. If the party responsible for maintenance identified under Section 267-10(B) is not a public agency, the maintenance plan and any future revisions shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- 4. The party responsible for maintenance identified under Section 267-10(B) shall perform all of the following requirements:
 - i. 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;
 - ii. evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
 - iii. 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 Section 267-10(B).
- 5. 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.

- C. **Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.**
- D. **Annual Inspection. The party responsible for maintenance identified under Section 267-10.B shall submit an annual inspection report and perform all of the following requirements:**
 - 1. **Submit a copy of the maintenance plan and any updates to the Department of Public Works. If no maintenance plan exists, then the party responsible for maintenance shall submit an operation and maintenance manual that complies with last amended N.J.A.C. 7:8-5.8, incorporated herein by reference.**
 - 2. **Submit an annual inspection report to the Department of Public Works by October 1 of each year. The inspection report shall include color photographs and a key map, and shall also include but not be limited to the stormwater management facility systems and structures, manufactured treatment devices with last filter installation date, vegetation condition, erosion, and required maintenance. Report shall identify any required maintenance or repairs and shall include a schedule to complete the identified work.**
 - 3. **The owner of the stormwater management facility shall complete minor repairs within 30 days form notice of maintenance issues. The owner shall submit a schedule with the report with a timeline to achieve major repairs. The owner, immediately upon notice, must complete repairs that may adversely affect the public’s health, safety, and welfare. The municipality, in its discretion, may extend the time allowed for completing repairs for good cause.**
 - 4. **Notwithstanding the penalties set forth in Section 267-11.A, any person who has not complied with this section and who, after notice, refuses to implement and maintain soil erosion and stormwater runoff control measures and facilities in conformance with these regulations, shall be subject to a fine of not more than \$10,000 or 90 days in jail, or both, plus the cost of prosecution.**

Section 267-11. Miscellaneous

A. Penalties

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

1. Violation of any of the provisions of this article shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty.

B. Severability

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

C. Effective Date

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

Article V Privately-Owned Salt Storage

§ 267-31. Purpose:

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater. This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in the Borough of Wharton to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 267-32. Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When consistent 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.

- A. “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.
- B. “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- C. “Storm drain inlet” means the point of entry into the storm sewer system.
- D. “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is

completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

- 1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;**
- 2. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;**
- 3. The structure shall be erected on an impermeable slab;**
- 4. The structure cannot be open sided; and**
- 5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.**

E. “Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

F. “Resident” means a person who resides on a residential property where de-icing material is stored.

§ 267-33. Deicing Material Storage Requirements:

A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:

- 1. Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;**
- 2. Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;**
- 3. Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;**
- 4. Loose materials shall be covered as follows:**
 - a. The cover shall be waterproof, impermeable, and flexible;**

- b. The cover shall extend to the base of the pile(s);**
- c. The cover shall be free from holes or tears;**
- d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and**
- e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.**

(1) Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;

- 5. Containers must be sealed when not in use; and**
 - 6. The site shall be free of all de-icing materials between April 16th and October 14th.**
- B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 - April 15.**
- C. All such temporary and/or permanent structures must also comply with all other local ordinances, including building and zoning regulations.**
- D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.**
- 1. Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.**

§ 267-34. Exemptions:

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in Section III above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

§ 267-35. Enforcement:

This ordinance shall be enforced by the Police Department and/or Housing and Zoning Officer of the Borough of Wharton during the course of ordinary enforcement duties.

§ 267-36. Violations and Penalties:

Violation of any of the provisions of this article shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty.

§ 267-36. Severability:

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

First Reading: October 7, 2024

Second Reading: October 21, 2024

ATTEST:

BOROUGH OF WHARTON

**Gabrielle Evangelista,
Municipal Clerk**

**WILLIAM J. CHEGWIDDEN,
MAYOR**