

**TOWNSHIP OF HOWELL**

**ORDINANCE COVER PAGE**

Ordinance No. O-21-1

**INTRODUCTION**

February 9, 2021

**PUBLIC HEARING & ADOPTION**

February 23, 2021

**AGENDA ITEM NUMBER**

11.1

**ORDINANCE NO. 0-21-1**

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE VII, SECTION 47, ENTITLED ALLIANCE TO PREVENT ALCOHOLISM AND DRUG ABUSE OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL**

**WHEREAS**, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce ordinances to manage regulate and control the finances and property of the municipality; and

**WHEREAS**, the Township of Howell wishes to amend Chapter 2, Article VII, Section 47, entitled Alliance to Prevent Alcoholism and Drug Abuse of General Revised Ordinances of the Township of Howell;

**BE IT HEREBY ORDAINED** by the Township Council of the Township of Howell that Chapter 2, Article VII, Section 47, entitled Alliance to Prevent Alcoholism and Drug Abuse of General Revised Ordinances of the Township of Howell, is hereby amended and supplemented and shall read as follows:

**NOTE:** Sections of Chapter 2, Article VII, Section 47 that are to be amended are set forth below. All additions are shown in **bold italics with underlines**. All deletions are shown in ~~**bold italics with strikeouts**~~. All other sections will remain unchanged.

CHAPTER 2 ADMINISTRATION OF GOVERNMENT

Article VII Boards, Offices, Councils, Commissions and Committees

§ 2-47 ~~**Alliance to Prevent Alcoholism and Substance Abuse**~~ **Howell Alliance for Substance Use Prevention and Mental Health Awareness (“Howell Alliance”)**.

The Howell Alliance to Prevent Alcoholism and Substance Abuse as heretofore established and/or governed and/or adopted under Subsection 2-7.8, Paragraphs a through c, of Chapter II (Administration) of the Revised General Ordinances of the Township of Howell, New Jersey,<sup>[1]</sup> is hereby continued to the extent that it is not inconsistent with the Charter and this chapter. **So as to better reflect the purpose of the Howell Alliance, and in recognition of the fact that the needs of the community have expanded to include mental health awareness, the formal name of the Howell Alliance shall be changed from the Howell Alliance to Prevent Alcoholism and Drug Abuse to the Howell Alliance for Substance Use Prevention and Mental Health Awareness**

A. Purpose. The purposes of the ~~**Alliance to Prevent Alcoholism and Substance Abuse**~~ **Howell Alliance** are as follows:

- ~~(1) Organize and coordinate efforts involving schools, law enforcement, business groups and other community organizations for the purpose of reducing alcoholism and substance abuse;~~
- ~~(2) In cooperation with local school districts, develop comprehensive and effective alcoholism and substance abuse education programs in grades kindergarten through twelve.~~
- ~~(3) In cooperation with local school districts, develop procedures for the intervention, treatment-referral and discipline of students abusing alcohol, tobacco, or other substances;~~
- ~~(4) Develop comprehensive alcoholism and substance abuse education, support and outreach efforts for parents in the community; and~~
- ~~(5) Develop comprehensive alcoholism and substance abuse community awareness programs.~~
- ~~(6) In consultation with the Monmouth County Municipal Alliance Coordinator and the New Jersey Governor's Council on Alcohol and Drug Abuse, identify alcoholism and substance abuse prevention, education and community needs.~~
- (1) Organize and coordinate substance use prevention and mental health awareness efforts in collaboration with community leaders, school staff, law enforcement, business groups, community members, behavioral health agencies, health care professionals, public and private substance use prevention and treatment organizations and civic and other volunteer organizations for the purpose of reducing substance abuse (including but not limited to illicit drug use, prescription drug misuse/abuse, underage drinking, alcoholism, tobacco use, vaping and other at-risk behaviors) and promoting mental well-being through awareness, education, programming and resource-sharing with an emphasis on youth;
- (2) In cooperation with local school districts, develop comprehensive and effective substance use prevention and mental health awareness education programs in grades kindergarten through twelve;
- (3) Develop comprehensive substance use prevention and mental health awareness education, support and outreach efforts for parents and youth caregivers in the community;
- (4) Develop comprehensive substance use prevention and mental health awareness education, support and outreach efforts for community members;
- (5) In alignment with local, county, state, and national needs assessments, data, statistics and trends, identify appropriate substance use prevention, mental health awareness, and mental well-being programs; and

(6) *Reduce the stigmas surrounding substance use and mental health disorders to encourage those affected to seek support resources and help.*

B. Members. The *Howell* Alliance may include, but is not limited to, the following members, all of whom shall serve for a one-year term commencing on January 1 of each year, *or by rolling application throughout the year,* as appointed by the Township Council:

[Amended 3-15-2011 by Ord. No. 0-11-04]

~~(1) — *The Mayor and/or members of the governing body (or designee);*~~

~~(2) — *Chief of Police (or designee);*~~

~~(3) — *School district administrative staff and/or school board member(s);*~~

~~(4) — *Student assistance coordinators or other student support services staff member;*~~

~~(5) — *A representative of the parent-teacher association/organization or other home-school associations;*~~

~~(6) — *Parents and/or guardians;*~~

~~(7) — *A representative from youth servicing organizations;*~~

~~(8) — *A representative of the chamber of commerce or local businesses;*~~

~~(9) — *Representatives of local civic or volunteer groups;*~~

~~(10) — *Representatives of local faith-based organizations;*~~

~~(11) — *Private citizens with interest or experience in issues concerning alcohol or drug abuse, addiction or juvenile delinquency;*~~

~~(12) — *Youth representatives;*~~

~~(13) — *Older adult representatives;*~~

~~(14) — *Individuals who have been affected by alcoholism or drug abuse, including individuals who have been directly affected by their own or family member's abuse or addiction;*~~

~~(15) — *Health and human service agencies/professionals, especially health care professionals and including pharmacists, physicians or therapists, etc.;*~~

~~(16) — *Representatives of the local communications media or public relations; and*~~

~~(17) — *Representatives of public and private organizations involved in the prevention or treatment of alcoholism and drug abuse and/or the regional coalition.*~~

- (1) Mayor and/or governing body members (or designees);
- (2) Police officers;
- (3) School district administrative staff and/or school board members;
- (4) Student assistance coordinators/counselors and/or other student support services staff;
- (5) Parent-teacher association/organization and home-school association representatives;
- (6) Parents, youth caregivers and/or guardians;
- (7) Youth-serving organization representatives;
- (8) Chamber of commerce or local business representatives;
- (9) Local civic or volunteer group representatives;
- (10) Faith-based organization representatives;
- (11) Private citizens with interest in or experience with substance use and/or mental health issues;
- (12) Youth representatives;
- (13) Senior citizen representatives;
- (14) Individuals who have been affected by their own or family members' substance use or mental health disorders;
- (15) Behavioral health agency representatives and health care professionals; and
- (16) Representatives of public and private organizations involved in the prevention or treatment of substance use and mental health disorders and/or regional substance use prevention coalition members.

C. Residency requirement. ~~To the extent possible, members should be residents of Howell Township.~~ To the extent possible, members should be residents or employees of Howell Township, or represent businesses or organizations serving the Howell Township community.

D. By-Laws. The Alliance membership shall be responsible for creating by-laws for the conduct of its operations, which may be amended from time to time.

**SECTION 2. REPEALER**

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

**SECTION 3. INCONSISTENT ORDINANCES**

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

**SECTION 4. SEVERABILITY**

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect upon its passage and publication according to law.

**NOTICE**

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on February 9, 2021 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on February 23, 2021 at 6:00 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

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**Allison Ciranni, Municipal Clerk**

**EXPLANATORY STATEMENT:** An Ordinance by the Township Council of the Township of Howell Amending Chapter 2, Article VII, Section 47, Entitled Alliance To Prevent Alcoholism And Substance Abuse to update statement of purpose and membership in light of changes to state structure and participation, and to reflect a broader emphasis on substance abuse and mental health awareness.

**TOWNSHIP OF HOWELL**

**ORDINANCE COVER PAGE**

Ordinance No. O-21-2

**INTRODUCTION**

February 9, 2021

**PUBLIC HEARING & ADOPTION**

February 23, 2021

**AGENDA ITEM NUMBER**

11.2



**ORDINANCE NO: O-21-2**

**AN ORDINANCE OF THE TOWNSHIP OF HOWELL IN THE COUNTY OF MONMOUTH AND THE STATE OF NEW JERSEY REPEALING CHAPTER 188, LAND USE, ARTICLE XXIV “STORMWATER MANAGEMENT CONTROL” AND ESTABLISHING NEW ARTICLE XXIV “STORMWATER CONTROL”**

**WHEREAS**, stormwater management control is a significant priority in proper land use development; and

**WHEREAS**, the Township of Howell has established Stormwater Management Rules; and

**WHEREAS**, on March 2, 2020 the New Jersey Department of Environmental Protection published amendments to its Stormwater Management Rules, N.J.A.C. 7:8; and

**WHEREAS**, these new rules require municipalities to adopt new stormwater control ordinances that meet or exceed the State’s “Model Stormwater Control Ordinance” on or before March 2, 2021; and

**NOW, THEREFORE, BE IT ORDAINED**, by the governing body of the Township of Howell, County of Monmouth, State of New Jersey, that Chapter 188 Article XXIV “Stormwater Management Control” of the Township Code of the Township of Howell be repealed and replaced in its entirety with the following.

**ARTICLE XXIV STORMWATER CONTROL**

**Section 188-212. 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 and low impact development (LID) 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 and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls for “major development,” as defined below in Section 188-213.

C. Applicability

1. This ordinance shall be applicable to the following major developments:
  - a. Non-residential major developments; and
  - b. Aspects of residential major developments 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 Township of Howell.

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 188-213. 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 below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

“CAFRA Centers, Cores or Nodes” 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:

A. A county planning agency

or

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

“Department” means the Department of Environmental Protection.

“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 the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural land, 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, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

“Empowerment Neighborhoods” means neighborhoods designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

“Environmentally constrained area” means the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

“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 Department’s Landscape Project as approved by the Department’s 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:

- A. Treating stormwater runoff through infiltration into subsoil;
- B. Treating stormwater runoff through filtration by vegetation or soil; or
- C. Storing stormwater runoff for reuse.

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

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

“Lead planning agency” means one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

“Major development” means an individual “development,” as well as multiple developments that individually or collectively result in:

- A. The disturbance of one or more acres of land since February 2, 2004;
- B. The creation of one-quarter acre or more of “regulated impervious surface” since February 2, 2004;
- C. The creation of one-quarter acre or more of “regulated motor vehicle surface” since March 2, 2021; or
- D. 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.

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.”

“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.

“Municipality” means the Township of Howell.

“New Jersey Stormwater Best Management Practices (BMP) Manual” or “BMP Manual” means the manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this chapter. The BMP Manual is periodically amended by the Department 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 Department’s determination as to the ability of that best management practice to contribute to compliance with the standards contained in this chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with Section 188-215.F. of this ordinance 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 chapter.

“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.

“Person” means any individual, corporation, company, partnership, firm, association, the Township of Howell, political subdivision of this State and any state, interstate or Federal agency.

“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:

- A. A net increase of impervious surface;
- B. 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);

- C. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
- D. 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:

- A. The total area of motor vehicle surface that is currently receiving water;
- B. A net increase in motor vehicle surface; and/or 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.

“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 a major 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.

“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 management planning agency” means a public body authorized by legislation to prepare stormwater management plans.

“Stormwater management planning area” means the geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

“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.

“Urban Coordinating Council Empowerment Neighborhood” means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

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

“Urban Redevelopment Area” is defined as previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

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

**Section 188-214. Design and Performance Standards for Stormwater Management Measures**

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
  - 1. The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
  - 2. The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- B. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.
- C. For site improvements regulated under the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21, the RSIS shall apply in addition to this section except to the extent the RSIS are superseded by this section or alternative standards applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department regulations.

**Section 188-215. Stormwater Management Requirements for Major Development**

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 188-221.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department’s

Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmysmuhlnebergi* (bog turtle).

- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Section 188-215. P, Q and R:
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. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of Section 188-215. O, P, Q and R 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 Section 188-215. O, P, Q and R to the maximum extent practicable;
  3. The applicant demonstrates that, in order to meet the requirements of Section 188-215 .O, P, Q and R, 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 188-215. D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Section 188-215. O, P, Q and R that were not achievable onsite.
- E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in Section 188-215. O, P, Q and R. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2 (f) Tables 5-1, 5-2 and 5-3 and listed below 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 Best Management Practices 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 Department 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 Department's website at:

[https://njstormwater.org/bmp\\_manual2.htm](https://njstormwater.org/bmp_manual2.htm).

- F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this ordinance the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

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

(Notes corresponding to annotations <sup>(a)</sup> through <sup>(g)</sup> are found at the end of Table 3)

<b>Table 2</b> <b>Green Infrastructure BMPs for Stormwater Runoff Quantity</b> <b>(or for Groundwater Recharge and/or Stormwater Runoff Quality</b> <b>with a Waiver or Variance from N.J.A.C. 7:8-5.3)</b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Bioretention System	80 or 90	Yes	Yes(b) No(c)	2(b) 1(c)
Infiltration Basin	80	Yes	Yes	2
Sand Filter(b)	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond(d)	50-90	Yes	No	N/A

*(Notes corresponding to annotations <sup>(b)</sup> through <sup>(d)</sup> are found at the end of Table 3)*

<b>Table 3</b> <b>BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or</b> <b>Stormwater Runoff Quantity</b> <b>only with a Waiver or Variance from N.J.A.C. 7:8-5.3</b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device <sup>(h)</sup>	50 or 80	No	No	Dependent upon the device
Sand Filter <sup>(c)</sup>	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) subject to the applicable contributory drainage area limitation specified at Section 188-215. O.2;
- (b) designed to infiltrate into the subsoil;
- (c) designed with underdrains;
- (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 Section 188-213;
- (h) manufactured treatment devices that do not meet the definition of green infrastructure at Section 188-213.

- G. 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 Department in accordance with Section 188-217.B. Alternative stormwater management measures may be used to satisfy the requirements at Section 188-215.O only if the measures meet the definition of green infrastructure at Section 188-213. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section 188-215.O.2 are subject to the contributory drainage area limitation specified at Section 188-215. O.2 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 Section 188-215. O.2 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 N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Section 188-215.D is granted from Section 188-215.O.
- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. 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; 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 shall be designed and demonstrated not to have the potential to degrade groundwater, surface waters or wetlands either on-site or adjacent to the property.
  - c) Stormwater management measures shall be designed to minimize maintenance,

facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 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 Section 188-219.C;

- d) 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;
  - e) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at Section 188-219; and
  - f) 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.
- J. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at Section 188-213 may be used only under the circumstances described at Section 188-215.O.4.
- K. Any application for a new agricultural development that meets the definition of major development at Section 188-213 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at Sections 188-215.O, P, Q and R 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.
- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 188-215.P, Q and R 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.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Office of the Monmouth County Clerk. 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 Section 188-215.O, P, Q and R 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 Section 188-221.B.5. 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.

N. A stormwater management measure approved under the municipal stormwater management plan or ordinance 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 pursuant to Section 188-215 of this ordinance 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 Office of the Monmouth County Clerk and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with 188-215.M 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 188-215.M above.

O. Green Infrastructure Standards

1. 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.
2. To satisfy the groundwater recharge and stormwater runoff quality standards at Section 188-215.P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at Section 188-215.F. and/or an alternative stormwater management measure approved in accordance with Section 188-215.G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

<b>Best Management Practice</b>	<b>Maximum Contributory Drainage Area</b>
Dry Well	1 acre
Manufactured Treatment Device	2.5 acres
Pervious Pavement Systems	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

3. To satisfy the stormwater runoff quantity standards at Section 188-215.R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with Section 188-215.G.
4. If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Section 188-215.D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with Section 188-215.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at Section 188-215.P, Q and R.
5. 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 Section 188-215.P, Q and R, unless the project is granted a waiver from strict compliance in accordance with Section 188-215.D.

P. Groundwater Recharge Standards

1. This subsection contains the minimum design and performance standards for groundwater recharge as follows:
2. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 188-216, either:
  - a. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
  - b. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.
3. This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to 188-215.P.4 below.
4. The following types of stormwater shall not be recharged:
  - a. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
  - b. Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; 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.

Q. Stormwater Runoff Quality Standards

1. This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality

standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.

2. 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 as follows:
  - a. Eighty (80%) 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.
  - b. 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.
3. 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 188-215.Q.2 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.
4. 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**

**TabDistribution**

<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>
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	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302

5. 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.

6. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in Section 188-215.P, Q and R.
7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
8. 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.
9. 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.
10. 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.

R. Stormwater Runoff Quantity Standards

1. This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
2. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 188-216, complete one of the following:
  - a. 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;
  - b. 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;
  - c. 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
  - d. In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with 188-215.R.2.a, b and c 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.
3. The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

## **Section 188-216. Calculation of Stormwater Runoff and Groundwater Recharge:**

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

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

- a. The USDA Natural Resources Conservation Service (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. 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](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; or

- b. 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. 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. The term "runoff coefficient" applies to both the NRCS methodology above at Section 188-216.A.1.a and the Rational and Modified Rational Methods at Section 188-216.A.1.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is



woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing 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.
4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS *Technical Release 55 – Urban Hydrology for Small Watersheds* or other methods may be employed.
5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

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/greport/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.

**Section 188-217. Sources for Technical Guidance:**

A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at:

[http://www.nj.gov/dep/stormwater/bmp\\_manual2.htm](http://www.nj.gov/dep/stormwater/bmp_manual2.htm).

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices 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.

2. Additional maintenance guidance is available on the Department's website at:

[https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).

B. Submissions required for review by the Department 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.

**Section 188-218. Solids and Floatable Materials Control Standards:**

A. Site design features identified under Section 188-215.F above, or alternative designs in accordance with Section 188-215.G 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 188-218.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:

- a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
- b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

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.

- c. 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 188-218.A.1. above does not apply:

- a. 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;

- b. 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;
- c. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 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).

- d. 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
- e. 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 188-219. Safety Standards for Stormwater Management Basins:**

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins to be retrofitted to meet one or more of the safety standards in Section 188-219.C.1, 188-219.C.2, and 188-219.C.3. for trash racks, overflow grates, and escape provisions at outlet structures.
- C. Requirements for Trash Racks, Overflow Grates and Escape Provisions
  - 1. A trash rack is a device designed to catch trash and debris and prevent the clogging

of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

- a. The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
  - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
  - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
  - d. 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.
2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
- a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
  - b. The overflow grate spacing shall be no less than two inches across the smallest dimension
  - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
3. Stormwater management basins shall include escape provisions as follows:
- a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. With the prior approval of the municipality pursuant to 188-219.C, a free-standing outlet structure may be exempted from this requirement;
  - b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half 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 188-219.E for

an illustration of safety ledges in a stormwater management basin; and

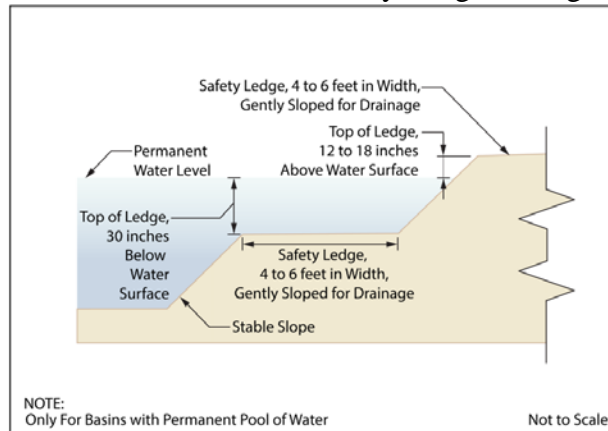
- c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

D. Variance or Exemption from Safety Standard

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

E. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



**Section 188-220. 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 188-220.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 five (5) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 188-220.C of this ordinance.

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. The map shall indicate the following: existing surface water, steep slopes, hydrologic soil group (HSG), springs, intermittent or perennial streams, wetlands and flood plains along with their appropriate buffer strips, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and any other significant natural and manmade features.

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 proposed uses along with 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 188-214 through 188-216 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

#### 5. Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- a. Total area to be 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.
- b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- c. Location of soil borings and soil test pits

#### 6. Calculations

- a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 188-215 of this ordinance.
- b. 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 188-221.

#### 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 188-220.C.1 through 188-220.C.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 188-221. Maintenance and Repair:**

**A. Applicability**

- i. Projects subject to review as in Section 188-212.C of this ordinance shall comply with the requirements of Section 188-221.B and 188-221.C.
- ii. Any entity seeking to dedicate any stormwater management facility to the Township for ownership and/or operation and/or maintenance.

**B. General Maintenance**

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks including, but not limited to, sediment, debris, or trash removal, cleaning and repairs to inflow and outflow structures, grass cutting, fence repairs, cleaning of low flow channels and trash racks, scarifying and/or replacing infiltration surfaces; 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 each 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. The maintenance plan shall also include a Maintenance Schedule of anticipated maintenance over a twenty five (25) year period along with an estimated cost associated with each item of maintenance per year.
3. 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.
4. 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.

5. If the party responsible for maintenance identified under Section 188-221.B.3 above is not a public agency, the maintenance plan and any future revisions based on Section 188-221.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
6. Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) 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.
7. The party responsible for maintenance identified under Section 188-221.B.3 above shall perform all of the following requirements:
  - a. 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;
  - b. evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
  - c. 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 188-221.B.6 and B.7 above.
8. The requirements of Section 188-221.B.3 and B.4 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.
9. 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 Township of Howell 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 Township engineer or their designee. The Township of Howell, 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 Township of Howell or Monmouth County may immediately

proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill shall result in a lien on the property.

C. Stormwater Management Basin Maintenance Access

- A. Access for maintenance vehicles and equipment shall be provided to all stormwater management basin facilities from either the surrounding right-of-way or from within the site driveway or parking areas. If access is provided from within the site, appropriate easement(s) shall be provided and approved by the Township Attorney as necessary.
- B. Access roads and any gates shall be wide enough to allow passage of necessary maintenance vehicles and equipment, including trucks, backhoes, grass mowers, etc. In general, a minimum easement width of fifteen (15') feet and a minimum roadway width of twelve (12') feet is required.
- C. To facilitate entry, a curb cut shall be provided where an access road meets a curbed roadway.
- D. To allow safe movement of maintenance vehicles, access ramps shall be provided to the bottom of all stormwater management basins greater than three feet in depth. Access ramps should not exceed ten percent in grade.
- E. Access roads and ramps shall be stable and suitably lined to prevent rutting and other damage by maintenance vehicles and equipment during all weather conditions.
- F. When backing-up is difficult or dangerous, turn-around areas should be provided at the end of all access roads.
- G. Stormwater management basin facility perimeters should be sized and stabilized to allow movement and operation of maintenance equipment. A minimum perimeter width of twenty-five (25') feet between the basin facility and adjacent structures is required along at least one side of the facility.

D. Stormwater Management Facilities Maintenance Responsibility

- 1. Stormwater management facilities required for development of commercial or industrial development. The stormwater management facilities shall be a part of an individual lot owned and maintained by the property owner. No responsibility or otherwise shall be inured to the Township.
- 2. Stormwater management facilities required for multifamily rental development. The stormwater management facilities and all drainage structures and collection systems outside of right-of-way dedicated and accepted by the Township shall be a part of the development and owned and maintained by the property owner. No maintenance responsibilities or otherwise should inure to the Township.

3. Stormwater management facilities required for development of for sale, multifamily development. The stormwater management facilities and all drainage structures and collection systems outside of right-of-way dedicated and accepted by the Township shall be the sole responsibility of the development's homeowners' association. The maintenance of the basins and associated structures shall be clearly identified within the homeowners' association documents submitted to the Township Attorney for review and approval. No maintenance responsibility or otherwise should inure to the Township.

Stormwater management facilities required for development of single-family detached residential development. The stormwater management facilities and all drainage structures and collection systems outside of right-of-way dedicated and accepted by the Township shall be the sole responsibility of the development's homeowners' association. The maintenance of the stormwater BMPs and associated structures shall be clearly identified within the homeowners' association documents submitted to the Township Attorney for review and approval. No maintenance responsibility or otherwise should inure to the Township.

Prior to the homeowners' association accepting maintenance responsibilities for any stormwater management BMP, the developer shall provide the following information to the Township:

- A. An as-built survey, prepared by an NJ licensed professional land surveyor, that includes all design features and topographic information.
  - B. A letter from the design engineer certifying the BMP was constructed in accordance with the approved plan and drainage calculations. If the BMP utilizes infiltration, post-construction permeability testing by an NJ licensed professional engineer shall be performed within the infiltration area to confirm the design infiltration rates. These test results shall be provided along with the certification letter.
4. Request for Waiver. A developer of a single-family detached residential development may petition the Township Council for a waiver from the requirements of establishing an association of homeowners for the purpose of maintaining stormwater management facilities or from requiring any such association, or homeowner(s), for the purpose of such maintenance responsibility. Said petition must propose to the Township Council a method of maintaining the stormwater management facilities over a period of at least 25 years whereby the developer will establish a maintenance fund, acceptable to the Township Engineer and Council, for such purpose.

The proposed maintenance fund shall be based on the costs set forth in the Maintenance Schedule in Section 188-221.B.2, and shall include any other costs that, in the opinion of the Township Engineer, are necessary and proper to

ensure that the costs of maintenance are borne by the fund, for the life of the fund. Any such fund shall be sufficient to cover costs reasonably anticipated to be incurred by the Township for the maintenance of such stormwater management facilities. After a maintenance fund has been established and accepted by the Township Council by a duly passed resolution, the Township shall then maintain those stormwater management facilities which have been funded upon release of the developer's performance and/or maintenance guarantees. Any such petition for waiver shall be in writing to the Township Clerk, and any action by the Township Council on the petition, shall be prior to the Approving Authority granting or denying final subdivision approval. The Township Council shall grant or deny any such request for waiver within 45 days from the date the Township Clerk receives the written petition for waiver supported by the developer's maintenance plan, including estimated annual costs. Failure on the part of the Township Council to take action on the request within the forty-five-day period shall be deemed a denial of the request unless the developer shall have granted an extension of time in writing.

- E. 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

**Section 188-222. 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 in accordance with Section 1-4 of the Township Ordinance.

**Section 188-223. 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.

**SECTION 2. REPEALER**

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

**SECTION 3. INCONSISTENT ORDINANCES**

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

**SECTION 4. EFFECTIVE DATE**

This Ordinance shall take effect upon its passage and publication according to law.

**NOTICE**

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Council on first reading at a meeting of the Township Council of the Township of Howell held on the **9<sup>th</sup> day of February, 2021**, and will be considered for second reading and final passage at a regular meeting of the Township Council to be held on the **23<sup>rd</sup> day of February, 2021**, at **5:00 p.m.**, at the Township Municipal Building, located at 4567 Route 9 North, Howell, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

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Allison Ciranni, RMC  
Howell Township Clerk

**TOWNSHIP OF HOWELL**

**ORDINANCE COVER PAGE**

Ordinance No. O-21-3

**INTRODUCTION**

February 9, 2021

**PUBLIC HEARING & ADOPTION**

February 23, 2021

**AGENDA ITEM NUMBER**

11.3

**TOWNSHIP OF HOWELL  
ORDINANCE NO O-21-3**

**AN ORDINANCE SETTING FORTH AND AMENDING AND  
SUPPLEMENTING THE SALARY RANGE SCHEDULE FOR THE SALARIES  
OF CERTAIN OFFICERS AND EMPLOYEES OF THE  
TOWNSHIP OF HOWELL**

BE IT ORDAINED by the Township Council of the Township of Howell in the County of Monmouth and State of New Jersey:

**SECTION 1.** The offices and positions under the Municipal Government of the Township of Howell shall be compensated at the amount fixed in this Ordinance.

**SECTION 2.** The Township Chief Financial Officer is hereby authorized to transfer such sums of money from the Municipal Current Account and other such accounts that may cover periodic payrolls in the amounts fixed by this Ordinance.

**SECTION 3.** The officers and positions within the Police Department (PBA) of the Township of Howell shall be compensated at the amount fixed in this Section as follows:

**SALARY GUIDE**

<b>STEP</b>	<b>2020</b>	<b>2021</b>	<b>1/1/2022- 6/30/2022</b>	<b>7/1/2022- 12/31/2022</b>	<b>1/1/2023- 6/30/2023</b>	<b>7/1/2023- 12/31/2023</b>
	<b>1%</b>	<b>2.00%</b>	<b>2.25%</b>	<b>2.25%</b>	<b>2.25%</b>	<b>2.25%</b>
<b>Academy</b>	<b>35,350</b>	<b>36,057</b>	<b>36,868</b>	<b>37,698</b>	<b>38,546</b>	<b>39,413</b>
<b>Probationary</b>	<b>41,172</b>	<b>41,995</b>	<b>42,940</b>	<b>43,906</b>	<b>44,894</b>	<b>45,904</b>
<b>1</b>	<b>46,993</b>	<b>47,933</b>	<b>49,011</b>	<b>50,114</b>	<b>51,242</b>	<b>52,395</b>
<b>2</b>	<b>52,815</b>	<b>53,871</b>	<b>55,083</b>	<b>56,322</b>	<b>57,589</b>	<b>58,885</b>
<b>3</b>	<b>58,637</b>	<b>59,810</b>	<b>61,156</b>	<b>62,532</b>	<b>63,939</b>	<b>65,378</b>
<b>4</b>	<b>64,458</b>	<b>65,747</b>	<b>67,226</b>	<b>68,739</b>	<b>70,286</b>	<b>71,867</b>
<b>5</b>	<b>70,280</b>	<b>71,686</b>	<b>73,299</b>	<b>74,948</b>	<b>76,634</b>	<b>78,358</b>
<b>6</b>	<b>76,101</b>	<b>77,623</b>	<b>79,370</b>	<b>81,156</b>	<b>82,982</b>	<b>84,849</b>
<b>7</b>	<b>81,923</b>	<b>83,561</b>	<b>85,441</b>	<b>87,363</b>	<b>89,329</b>	<b>91,339</b>
<b>8</b>	<b>87,745</b>	<b>89,500</b>	<b>91,514</b>	<b>93,573</b>	<b>95,678</b>	<b>97,831</b>
<b>9</b>	<b>93,566</b>	<b>95,437</b>	<b>97,584</b>	<b>99,780</b>	<b>102,025</b>	<b>104,321</b>
<b>10</b>	<b>99,388</b>	<b>101,376</b>	<b>103,657</b>	<b>105,989</b>	<b>108,374</b>	<b>110,812</b>
<b>11</b>	<b>106,561</b>	<b>108,692</b>	<b>111,138</b>	<b>113,639</b>	<b>116,196</b>	<b>118,810</b>
<b>12</b>	<b>111,031</b>	<b>113,252</b>	<b>115,800</b>	<b>118,406</b>	<b>121,070</b>	<b>123,794</b>
<b>13</b>	<b>125,374</b>	<b>127,881</b>	<b>130,758</b>	<b>133,700</b>	<b>136,708</b>	<b>139,784</b>

**OFFICERS HIRED ON OR AFTER 1/1/14**

**OFFICERS HIRED PRIOR TO 1/1/14**

	<b>2020</b>	<b>2021</b>	<b>1/1/2022- 6/30/2022</b>	<b>7/1/2022- 12/31/2022</b>	<b>1/1/2023- 6/30/2023</b>	<b>7/1/2023- 12/31/2023</b>
	<b>1.00%</b>	<b>2.00%</b>	<b>2.25%</b>	<b>2.25%</b>	<b>2.25%</b>	<b>2.25%</b>
<b>Probationary</b>	<b>42,202</b>	<b>43,046</b>	<b>44,015</b>	<b>45,005</b>	<b>46,018</b>	<b>47,053</b>
<b>1</b>	<b>49,600</b>	<b>50,592</b>	<b>51,730</b>	<b>52,894</b>	<b>54,084</b>	<b>55,301</b>
<b>2</b>	<b>55,472</b>	<b>56,581</b>	<b>57,854</b>	<b>59,156</b>	<b>60,487</b>	<b>61,848</b>
<b>3</b>	<b>60,845</b>	<b>62,062</b>	<b>63,458</b>	<b>64,886</b>	<b>66,346</b>	<b>67,839</b>
<b>4</b>	<b>65,930</b>	<b>67,249</b>	<b>68,762</b>	<b>70,309</b>	<b>71,891</b>	<b>73,509</b>
<b>5</b>	<b>70,687</b>	<b>72,101</b>	<b>73,723</b>	<b>75,382</b>	<b>77,078</b>	<b>78,812</b>
<b>6</b>	<b>78,499</b>	<b>80,069</b>	<b>81,871</b>	<b>83,713</b>	<b>85,597</b>	<b>87,523</b>
<b>7</b>	<b>84,930</b>	<b>86,629</b>	<b>88,578</b>	<b>90,571</b>	<b>92,609</b>	<b>94,693</b>
<b>8</b>	<b>93,077</b>	<b>94,939</b>	<b>97,075</b>	<b>99,259</b>	<b>101,492</b>	<b>103,776</b>
<b>9</b>	<b>99,633</b>	<b>101,626</b>	<b>103,913</b>	<b>106,251</b>	<b>108,642</b>	<b>111,086</b>
<b>10</b>	<b>106,561</b>	<b>108,692</b>	<b>111,138</b>	<b>113,639</b>	<b>116,196</b>	<b>118,810</b>
<b>11</b>	<b>125,374</b>	<b>127,881</b>	<b>130,758</b>	<b>133,700</b>	<b>136,708</b>	<b>139,784</b>

**SECTION 4.** In addition to the salary noted in Section 3, Longevity, Education Incentive Pay, and Clothing Allowance will be paid in accordance with the Collective Bargaining Agreement between the Township and P.B.A., Local 28.

**SECTION 5.** All salary or compensation provided for by this Ordinance shall be effective from January 1, 2020 unless otherwise stipulated by the Township Council or specific Union Contract. Employees no longer employed by the Township at the time this Ordinance is adopted shall not be eligible. Salaries shall not be paid to employees represented by any Union until such time as a collective bargaining agreement has been duly ratified and signed by both the Union and the Township.

**SECTION 8.** All Ordinances or parts of Ordinances adopted prior to this date, inconsistent with the provisions of this Ordinance are hereby repealed.

**SECTION 9.** Should any sentence, clause or other portion of this Ordinance be declared invalid by any court of law, the remaining provisions thereof shall be unaffected.



**SECTION 10.** This Ordinance shall take effect after its passage and publication according to law.

**NOTICE**

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the governing body of the Township of Howell, in the County of Monmouth, State of New Jersey, held on Tuesday February 9, 2021. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held in the Main Administration Building, 4567 Route 9 North, Howell, NJ, in the Township of Howell on February 23, 2021 at 5:00 PM and during the week prior to and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's office to the members of the general public who shall request the same.

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Allison Ciranni, Municipal Clerk

**TOWNSHIP OF HOWELL**

**ORDINANCE COVER PAGE**

Ordinance No. O-21-4

**INTRODUCTION**

February 9, 2021

**PUBLIC HEARING & ADOPTION**

February 23, 2021

**AGENDA ITEM NUMBER**

11.4

**ORDINANCE NO. O-21-4**

**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL  
AUTHORIZING THE LEASING OF CERTAIN RECREATIONAL FIELDS TO  
HOWELL UNITED SOCCER CLUB.**

**WHEREAS**, the Howell United Soccer Club (“HUSC”) serves an important public purpose by providing organized recreational activities and opportunities for the Township of Howell (“Howell”); and

**WHEREAS**, HUSC requires the use of recreational fields in order to effect the aforesaid public purpose; and

**WHEREAS**, Howell owns certain recreational fields which are suitable for such purpose; and

**WHEREAS**, *N.J.S.A. 40A:12-14 et seq.* permits the lease of municipal lands for a public purpose; and

**WHEREAS**, Howell and HUSC desire to enter in to a Lease Agreement, attached as Exhibit A, with for those certain premises located at Soldier Memorial Field as depicted on Schedule A attached to the proposed Agreement; and

**WHEREAS**, the proposed lease agreement sets forth the terms and conditions of said lease as it applies to Howell and HUSC and shall be for a term of Five (5) years; and

**WHEREAS**, the aforesaid agreement has been approved by the New Jersey Department of Green Acres and is in compliance with *N.J.A.C. 7:36-25.13* and all other governing regulations as may be required; and

**WHEREAS**, HUSC shall provide the Recreation Department with a proposed schedule on an annual basis and copies of all certificates of insurance naming Howell and the New Jersey DEP Green Acres Program as an additional insured; and

**WHEREAS**, HUSC shall provide to the CFO of the Township of Howell and the Recreation Department its annual audit statements; and

**WHEREAS**, the entire population of the Township of Howell will benefit directly or indirectly from the public purpose served by HUSC.

**BE IT ORDAINED** by the Township Council of the Township of Howell, County of Monmouth and State of New Jersey as follows:

Section 1. Pursuant to *N.J.S.A. 40A:12-14 et seq.*, the appropriate Township officials are hereby authorized to execute the Lease set forth as Exhibit A;

Section 2. This Ordinance shall take effect when passed and published according to law;  
and

Section 3. A copy of the executed Lease Agreement, along with Schedule A, shall be forwarded to the following:

- a. Township Manager;
- b. Township Attorney
- c. Howell United Soccer Club;
- d. Director of Howell Township Recreation Department;
- e. Chief Financial Officer of Howell Township; and
- f. New Jersey DEP Green Acres Program.

### **NOTICE**

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on February 9, 2021 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on February 23, 2021 at 6:00 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

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**Allison Ciranni, Municipal Clerk**

**EXPLANATORY STATEMENT:** An Ordinance by the Township Council of the Township of Howell authorizing the lease of certain municipal property for a public purpose to the Howell United Soccer Club – This Ordinance authorizes the lease of recreational fields for use by the Howell United Soccer Club consistent with *N.J.S.A. 4A:12-14-1 et seq.* Pursuant to New Jersey DEP Green Acres rules and regulations, the public’s right of access is maintained.

## LEASE AGREEMENT

**THIS LEASE**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between the Township of Howell, a municipal corporation of the State of New Jersey, located at 4567 Route 9 North, P.O. Box 580, Howell, New Jersey 07731 (“Township”), and the HOWELL UNITED SOCCER CLUB (“HUSC”), a non-profit organization with its address as P.O. Box 674, Howell Township, New Jersey.

The purpose of this lease is to promote recreation and conservation. During the term of the lease, and as detailed below, HUSC may use the Premises for its purposes provided that the Township or any member of the public, through the Township, shall have reasonable access to the leased premises for recreation and conservation purposes.

**1. PREMISES:** The Township, for and in consideration of the sum of \$1.00 per year for the term of the Lease, and the covenants and agreements hereinafter contained made on the part of HUSC does hereby demise and lease to HUSC soccer fields 1-5, 7, and 8 which are owned by the Township, and are located at Soldier Memorial Park, at the intersection of Route 547 and Maxim Road (the “Premises”).

**2. TERM:** This Lease shall start on \_\_\_\_\_, 2021 and shall be in effect for a period of five years subject, however, to the right of the Township to terminate this Lease at any time if the demised property shall be deemed necessary or useful to the Township in the performance of its public duties. If the Township intends to use the property for a use inconsistent with HUSC purposes which will cause the Township to have to terminate this Lease, the Township will promptly notify HUSC of same and to whatever extent possible permit HUSC to finish out the season. Notwithstanding the foregoing, the Township shall provide no less than thirty (30) days’ notice to HUSC of any proposed termination of this Lease, in order to permit HUSC to make suitable alternative arrangements for the continuation of HUSC activities.

**3. PURPOSE:** HUSC shall use the subject premises for the purpose of recreational activities, including soccer, which use will promote the use of the parkland for recreation and conservation.

**4. TERMS AND CONDITIONS:** In consideration of said demise and of the covenants and agreements hereinafter expressed, it is covenanted and agreed as follows:

**a.** HUSC shall keep said premises in a clean and orderly manner in conformity with any laws of the Township.

**b.** At all times during this lease, HUSC shall comply with all applicable requirements set forth by New Jersey DEP Green Acres Program Rules – *N.J.A.C. 7:36 -25.13*.

**c.** In accordance with Chapter 53 of the Revised Ordinances of the Township of Howell, HUSC shall not serve, deliver, consume nor permit alcoholic beverages on said premises.

d. It further agreed and understood that HUSC shall disclose and produce to the Township Manager and the Chief Financial Officer 501C3 financial records on an annual basis prior to April 30<sup>th</sup> for review.

e. HUSC shall not conduct or participate in any fundraising activities on said premises without prior written permission of the Township.

f. HUSC shall be responsible for the payment of all maintenance costs of the premises and any structures thereon during the term of the within lease.

g. HUSC has examined said premises and agrees to be responsible for any damage that may occur due to their usage of said premises during the term of this Lease.

h. All insurance policies required to be carried under this Lease shall provide (and any certificate evidencing the existence of any insurance policies shall certify) that unless the Township shall be given thirty (30) days' written notice of any cancellation or failure to renew, or material change to, the policies, (i) the insurance shall not be canceled and shall continue in full force and effect; (ii) the insurance carrier shall not fail to renew the insurance policies for any reason; and (iii) no material change may be made in an insurance policy. Said notice to Township shall be sent as provided herein and the thirty (30) days shall commence upon receipt of the notice by Township. The insurance policy shall be payable to Township, any designee of the Township, and HUSC as their interests may appear. The policy must also be payable whether or not there is negligence on the part of HUSC and shall provide that no act or omission of HUSC, any assignee of HUSC, of Township or any of its assignees or successors, shall excuse payment. Each insurance policy required to be maintained under this Lease shall state that with respect to the interest of Township and the Additional Insureds, the insurance maintained pursuant to each such policy shall not be invalidated by any action or inaction of HUSC and shall insure Township and the Additional Insureds regardless of any breach or violation of any warranties, declarations, conditions or exclusions by HUSC. The Township has the right to terminate this Lease immediately if it is found that HUSC does not have a current insurance policy.

i. The Township or any member of the public, through the Township, retains the right to use the premises in question for public recreational purposes during time periods when the premises are not needed for HUSC purposes. The Township must be provided HUSC's tentative season schedule for the spring season on or prior to March 1<sup>st</sup> and for the fall season on or prior to July 1<sup>st</sup> as to allow public use on days in which HUSC will not be making use of the fields. HUSC, however, shall have the right to secure any clubhouse, storage facilities, or any other structures erected and maintained by HUSC.

j. The use of the subject premises by HUSC is for soccer, which use will not have an adverse impact on the natural resource values of the parkland and which use will promote the parklands use for recreation and conservation purposes.

k. HUSC and the Township agree to work together to keep the soccer complex and its common areas safe and litter free.

5. **HUSC RESPONSIBILITIES DURING LEASE PERIOD:** In addition to any other obligations set forth herein, HUSC and the Township agree that the following shall also be

HUSC responsibilities during the period this Lease is in effect; the Township has the right to alter or amend the responsibilities should circumstances dictate.

- a. Grass cutting inside soccer fields identified as fields 1-5 on the attached Schedule A;
- b. Grass cutting around soccer fields 1-5 to property boundaries, tree & brush line, and walkway between soccer fields as agreed upon by the Township and HUSC and reflected in Schedule B;
- c. Seasonal and Periodic Turf Maintenance according to and in conjunction with DPW plan;
- d. Soccer field grading, edging, and conditioning;
- e. Soccer field goals;
- f. Apply chemical fertilizer, herbicide and pesticides requiring pesticide licensing- Copies of all labels, estimated application schedule and copies of all required licenses shall be provided to the Township two weeks prior to any application; and
- g. Provide own sanitary facilities-location of same shall be provided to the Township prior to installation of same.
- h. Provide up-to-date emergency contacts for representatives of HUSC, which shall be submitted to the Township's Department of Public Works Office.
- i. Provide Access to any building/facility for fire inspection during regular business hours.
- j. Provide Insurance Certificates
- k. HUSC shall permit Township or its authorized agents to enter the Premises at any reasonable time for the purposes of inspection. Such inspection or absence of inspection shall not be construed to relieve HUSC of its obligations herein.
- l. Removal of trash from all trash receptacles surrounding fields 1-5 to the trash bin located in the common area. The cost of removal for the bins from the common area shall be the Township's responsibility.

**6. TOWNSHIP RESPONSIBILITIES DURING LEASE PERIOD:** In addition to any other obligations set forth herein, HUSC and the Township agree that the following shall be the sole responsibility of the Township during the period this Lease is in effect:

- a. Maintain the irrigation system during the term of the lease;
- b. Maintain along the property line and fences and underbrush including the detention basins;



c. Maintain the driveways, walkways, and parking lot surfaces, guard rails, concrete stops, lights and signs at the premises;

d. Maintain the playground and its equipment and shall also maintain the picnic area and any equipment located therein; and

e. Provide trash removal dumpster(s) within Soldier Memorial Park, and garbage cans throughout the Soccer complex for use by HUSC provided, however, that HUSC shall be responsible for the removal of the trash from said receptacles.

## 7. LIMITATIONS:

a. HUSC is limited to the use of the fields described herein. HUSC shall not use any other Township field or open space without written consent of the Township. However, in the event there is a need for use of other fields by HUSC, it is understood and agreed that every effort will be made to accommodate their needs provided that any such use does not conflict with any other organizations. HUSC shall also be required to secure approvals prior to March 1<sup>st</sup> before being allowed to operate out of any building each season/year. In the event the organization fails to provide copies of these approvals to the Township prior to the opening date of the sports club, the Township reserves the right to prevent the Organization from operating out of the building and may deny the use of the building until all approvals are obtained. *HUSC agrees that because a certificate of fire inspection is only issued after all violations of the New Jersey Fire Code are corrected/abated, advance planning must be done to have inspections and re-inspections completed prior to opening day.* The following approvals, among others, may be required, and it is the responsibility of HUSC to comply with all permitting requirements:

1. Certificate of Fire Inspection: This would include a complete inspection of the facility including items such as the following but not limited to:

- Fire suppression system service certificate;
- Cooking hood cleaning certificate;
- Fire extinguisher maintenance; and
- Updated permit application/certificate posted

2. Board of Health approval for cooking/food handling.

3. Access to any building/facility for fire inspection during regular business hours-*\*Please note that a certificate of fire inspection is only issued after all violations of the New Jersey Fire Code are corrected/abated. Therefore, advanced planning must be done to have inspections and re-inspections completed prior to opening day.*

4. Board of Health approval for cooking/food handling

5. Insurance Certificates

b. Any buildings or structures constructed on or otherwise located at Soldier Memorial Park must support the use of the Park for Public Outdoor Recreation and Conservation purposes and comply with the requirements at *N.J.A.C. 7:36-25.7* as may be required. Additionally, all buildings and structures that may be maintained by the organization will be public facilities and cannot be utilized solely for one organization.

**8. SURRENDER OF PREMISES ON TERMINATION DATE:**

a. On or before the Termination Date, HUSC shall quit and surrender the Premises in good condition and repair. Upon or prior to surrender, HUSC shall remove its trade fixtures and personal property and shall repair, at HUSC's sole cost, any damage to the Premises caused thereby.

b. Should HUSC fail to fulfill its surrender obligations set forth in Subsection (a) above, Township may, at HUSC's sole cost and expense, remove from the Premises trade fixtures, appurtenances, personal property or other additions and may restore or repair the Premises as the case may be. The cost obligations of HUSC shall remain exclusive of and in addition to any price received by Township for sale of the property removed. Any trade fixtures not removed by HUSC shall become the property of Township, and any monies received from any sale of said fixtures shall be retained by Township and Township shall not be accountable to HUSC for any part of the proceeds of such sale, if any. In lieu of sale or removal, Township may, at its election, retain and use the property remaining.

**9. INDEMNIFICATION:** This Lease is made upon the express condition that HUSC shall indemnify, defend and hold harmless the Department of Environmental Protection in accordance with *N.J.A.C. 7:36-25.13* Township from all liabilities and claims for damage and/or suits for or by reason of any injury to any person(s) or property of whatever kind whatsoever, including death, whether the person or property of HUSC, its agents, servants and/or employees, or third persons from any cause(s) whatsoever while in or upon said demised premises of any part thereof during the term of this Lease or through any use of occupancy of said premises or any activity carried on by HUSC in connection therewith, and HUSC hereby covenants and agrees to indemnify and hold harmless the Township from all liabilities, charges, expenses (including counsel fees) and costs on account of or by reason of any such injuries, liabilities, claims, suits or losses, however occurring, or damages arising out of same. Each year HUSC shall provide the Township, a certificate of insurance with limits of no less than one million dollars (\$1,000,000) with the Township and the DEP Green Acres Program named as an additional insured.

In addition, HUSC, at its sole cost and expense, shall indemnify, defend and save harmless Township and its subsidiaries, agents, officials, employees, servants, invitees and any other operating authorities Township may designate (the "Indemnified Parties") against all just or unjust claims, demands, actions, suits, causes of action, damages, liabilities, judgments, losses of any kind whatsoever, penalties, costs and expenses including, but not limited to, court costs and attorneys' fees occurring as a result of any alleged injuries, deaths, illegal acts or violations of any statute or incidents or any other cause whatsoever which may in any way accrue against the Indemnified Parties, which (whether or not it shall be alleged or determined that the cause thereof was the negligence, acts or omissions of the Indemnified Parties or other persons) (a) arise from or in connection with HUSC's possession, use, occupation, management, repair, maintenance or

control of the Premises or any portion thereof; (b) arise from or in connection with any act or omission of HUSC or HUSC's agents, officials, employees, servants, or invitees; (c) result from any default, breach, violation or non-performance of this Lease or any provision thereof by HUSC; or (d) result in injury to person(s) or property or loss of life sustained in or about the Premises as a result of HUSC's use or occupancy of the Premises. HUSC shall, at its own expense, appear and defend the Indemnified Parties and pay all attorneys' fees and all costs and other expenses arising there from or incurred in connection therewith, and if any judgment shall be rendered against Township or other Indemnified Parties in any action, HUSC shall at its own expense, satisfy and discharge the same. HUSC shall make no claim against Township for or on account of any loss or damage whatsoever including, but not limited to, business losses or losses sustained by fire, wind or water and will cause its insurer to waive subrogation rights against Township or any designee of Township for any claims resulting from any such loss. The indemnification obligations under this Section shall survive the expiration or earlier termination of this Lease. HUSC further agrees to defend and indemnify New Jersey Department of Environmental Protection such that it receives the same protections and coverage as Township under this Lease.

**10. LAWS AND REGULATIONS:** HUSC shall comply with all governmental laws, regulations and rules with respect to the use, maintenance, operation and occupancy of the Premises. The provisions of this Lease and all rights and obligations herein shall be governed by and construed in accordance with the laws of the State of New Jersey.

**11. TOWNSHIP OF HOWELL'S RIGHTS:** Township hereby reserves unto itself and its agents the right to construct, use, operate, maintain, repair and renew, and have clear and unimpeded access to, any of its facilities including, but not limited to, any pipe, conduit or tunnel, and any electric communication or signal transmission lines, together with poles and guys therefore, and any other of its facilities as may now exist or may hereafter be placed upon, under or over the Premises, including, but not limited to, utility and monitor closets, it being agreed that this Lease is subject and subordinate to any and all such rights, easements and uses.

**12. TERMINATION IN THE EVENT OF CONDEMNATION:** If the whole of the Premises shall be acquired or condemned by eminent domain, the term of this Lease shall cease from the date of title vesting in the condemnor. In the event of a partial taking or condemnation of the Premises or the Building, or the land upon which the Building is located, if the taking is so substantial, in Township's or HUSC's reasonable judgment, as to make it inadvisable to continue to occupy the Premises, HUSC or Township may terminate this Lease by giving written notice to the other party no later than thirty (30) days after the date of title vesting in the condemnor, and the effective date of termination shall be the date of such title vesting. If there shall be a partial taking or condemnation of the Premises and if HUSC or Township shall not elect to terminate this Lease as provided herein, the Basic Rent shall be proportionately adjusted. In the event of any taking or condemnation, HUSC hereby assigns all of its rights to collect any award with respect thereto to Township. Notwithstanding the foregoing, HUSC shall have the right to bring a separate action to recover its relocation expenses, provided such award shall not reduce Township's award hereunder.

**13. TERMINATION DUE TO FIRE OR CASUALTY, OBLIGATION TO REBUILD:**

a. In the event the Premises or a substantial portion of the Building is partially or totally damaged or destroyed by fire or other casualty, the parties may terminate this Lease effective as of the date of such fire or casualty by providing written notice of such termination to HUSC within thirty (30) days of such casualty.

b. In the event the Premises is destroyed or damaged by fire or other casualty to the extent that the restoration could not reasonably be completed within one hundred eighty (180) days, HUSC may terminate this Lease effective as of the date of such fire or casualty by providing written notice to Township within thirty (30) days of such casualty.

c. The provisions of this Section shall be deemed to be an express agreement between Township and HUSC as to casualty situations.

**14. NON-DISCRIMINATION:** The parties agree that the provisions of *N.J.S.A. 10:2-1 through 10:2-4* and *N.J.S.A. 10:5-31, et seq.*, as amended and supplemented, and the rules and regulations promulgated pursuant thereto, are hereby made a part of this Lease and are binding upon them.

**15. NOTICE:** All notices required by this Lease shall be sent by certified letter, return receipt requested, or by nationally recognized overnight express mail delivery service to the parties at the addresses listed below, unless either party shall inform the other party in writing of any change in designated parties or addresses. In the event the Presidency of the HUSC changes, HUSC agrees to notify Township within ten (10) days of the change of the name of the new designated contact person.

**TOWNSHIP OF HOWELL:**

Township of Howell  
4567 Route 9 North  
Howell, NJ 07731  
Attn: Township Manager, Director of Public Works and  
Township Clerk

-and-

**HUSC:**

Howell United Soccer Club  
P.O. Box 674  
Howell Township, New Jersey 07731  
Attn: President of HOWELL UNITED SOCCER CLUB

**16. NON-WAIVER BY TOWNSHIP OF HOWELL OR HUSC:** The various rights, remedies, options and elections of Township and HUSC expressed herein are cumulative, and the failure of Township or HUSC to enforce strict performance by either party of the conditions and

covenants of this Lease or to exercise any election or option or to restore or have recourse to any remedy herein conferred in any one or more instances, shall not be construed or deemed to be waiver or a relinquishment for the future by either party of any such conditions and covenants, options, elections or remedies, but the same shall continue in full force and effect.

**17. ENTIRE AGREEMENT AND SEVERABILITY:** This Lease embodies the entire agreement between Township and HUSC. It may not be modified or terminated except as provided herein. If any provision is held invalid, it shall be considered deleted here from and shall not invalidate the remaining provisions.

**18. MODIFICATION/ASSIGNMENT:** This Lease may be modified or assigned only by prior written agreement of Township, and HUSC in a writing signed by both parties and specifically approved by the New Jersey Department of Environmental Protection, in writing.

**19. SUCCESSORS AND ASSIGNS:** The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Township and HUSC and their respective successors and, except as otherwise provided in this Lease, their assigns.

**20. LIMITATION OF LIABILITY:** All potential liability of Township and HUSC hereunder shall be limited to the extent of its equity in the Premises and shall be further subject to the provisions of the New Jersey Tort Claims Act, *N.J.S.A. 59:1-1, et seq.*, and the New Jersey Contractual Liability Act, *N.J.S.A. 59:13-1, et seq.*

**21. GREEN ACRES PROVISIONS:** In addition to any other requirements under the New Jersey DEP Green Acres Program Rules at *N.J.A.C. 7:36-25.13*, the parties agree as follows:

a. Compensation: All rental payments received under the lease shall be used for “operating, maintenance or capital expenses related to its funded parkland or its recreation program as a whole.” *N.J.A.C. 7:36-25.13(e)*.

b. Public Access: The parties agree that reasonable public access pursuant to *N.J.A.C. 7:36-25.13(b)(3)* shall be maintained at all times and that this lease does not give HUSC the exclusive right to utilize public lands. The public will be permitted to use the fields on those days and at those times not otherwise booked or scheduled for use by HUSC. HUSC agrees that it will not book dates and times for the fields other than those that are necessary for the purposes of this lease to be achieved. The township reserves the right to permit reasonable public access to the fields and park if, in the opinion of the Township, the public right of access is not being maintained appropriately.

c. Fees/Scheduling: Howell Township retains approval over all fees and scheduling so as to ensure that the use does not become exclusive. The presumption under this lease is that the Property or any portions thereof not used by HUSC at any given time are open to those not affiliated with the HUSC.

d. Compliance with Local Public Contracts Law: This Lease was awarded in compliance with the Local Public Contracts Law, *N.J.S.A. 40A:11-1, et seq.* and/or Local Public Buildings Law, *N.J.S.A. 13:12-1, et seq. N.J.A.C. 7:36-25.6 - N.J.A.C. 7:36-25.13(b)(1), - 25.13(d)(1)*.

e. **GREEN ACRES COMPLIANCE: NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE LESSEE'S RIGHTS UNDER THIS LEASE SHALL BE SUBJECT TO, LIMITED BY AND EXERCISED IN ACCORDANCE WITH THE GREEN ACRES RESTRICTIONS AT N.J.S.A. 13:8C-1, ET SEQ. AND N.J.A.C. 7:36, ET SEQ., AS MAY BE AMENDED AND SUPPLEMENTED. FURTHERMORE, THE LESSEE SHALL EXERCISE ITS RIGHTS UNDER THE LEASE TO ENSURE THAT THE LEASED LAND CONTINUES TO BE OPERATED FOR CONSERVATION AND RECREATION PURPOSES IN ACCORDANCE WITH THE GREEN ACRES RESTRICTIONS.**

**IN WITNESS WHEREOF**, Township has caused this Lease to be executed by its Mayor, attested by its Clerk, and its seal affixed, and HUSC has caused these presents to be executed by its President, attested to by its Secretary the day and year first above written.

WITNESS:

THE TOWNSHIP OF HOWELL

\_\_\_\_\_  
Allison Ciranni, Clerk

\_\_\_\_\_  
Theresa Berger, Mayor

\_\_\_\_\_  
ATTEST:

HUSC

\_\_\_\_\_  
BY:



**TOWNSHIP OF HOWELL**

**ORDINANCE COVER PAGE**

Ordinance No. O-21-5

**INTRODUCTION**

February 9, 2021

**PUBLIC HEARING & ADOPTION**

February 23, 2021

**AGENDA ITEM NUMBER**

11.5



## ORDINANCE NO. O-21-5

### AN ORDINANCE OF THE TOWNSHIP OF HOWELL AMENDING CHAPTER 188-4 ENTITLED DEFINITIONS AND RULES OF GENERAL APPLICABILITY OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL.

**BE IT HEREBY ORDAINED** by the Township Council of the Township of Howell that Chapter 188-4 entitled Definitions and rules of general applicability of the Revised General Ordinances of the Township of Howell shall be amended to read as follows:

**NOTE:** Sections of Chapter 188-73.5 that are to be amended by the within Ordinance is set forth below. All ***additions*** are shown in ***bold italics with underlines***. All ***deletions*** are shown in ***bold italics with strikeouts***. All other sections of Chapter 188-4 will remain unchanged.

Chapter 188. Land Use

Article I. Title; Purpose; Definitions

§ 188-4 Definitions and rules of general applicability

The following new terms and definitions shall be added to §188-4 Definitions and rules of general applicability:

#### **ASSISTED LIVING FACILITY**

**A facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance. Such facilities may provide a variety of continuum of care services that include independent living, assisted living and acute care beds and the accessory uses that are customarily incidental to and located on the same lot as the principal use. Such accessory uses shall be for the exclusive use of the residents and their guests and the staff of the facility.**

#### **CRAFT DISTILLERY**

**A facility holding a limited license issued by the State of New Jersey pursuant to N.J.S.A. 33:1-10(3d) for the distillation of alcoholic beverages.**

## **SECTION 2. REPEALER**

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

## **SECTION 3. INCONSISTENT ORDINANCES**

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

## **SECTION 4. SEVERABILITY**

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

## **SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect upon its passage and publication according to law.

## **NOTICE**

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on February 9, 2021 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, 2<sup>nd</sup> Floor, Howell, New Jersey on February 23, 2021 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

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**Allison Ciranni, Municipal Clerk**

**TOWNSHIP OF HOWELL**

**ORDINANCE COVER PAGE**

Ordinance No. O-21-6

**INTRODUCTION**

February 9, 2021

**PUBLIC HEARING & ADOPTION**

February 23, 2021

**AGENDA ITEM NUMBER**

11.6

**ORDINANCE NO. O-21-6**

**AN ORDINANCE OF THE TOWNSHIP OF HOWELL AMENDING CHAPTER 188-77 ENTITLED HIGHWAY DEVELOPMENT 1 (HD-1) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL**

**BE IT HEREBY ORDAINED** by the Township Council of the Township of Howell that Chapter 188-77 entitled Highway Development 1, of the Revised General Ordinances of the Township of Howell shall be amended as follows:

**NOTE:** Sections of Chapter 188-77 that are to be amended by the within Ordinance is set forth below. All ***additions*** are shown in ***bold italics with underlines***. All ***deletions*** are shown in ***~~bold italics with strikeouts~~***. All other sections of Chapter 188-77 will remain unchanged.

Chapter 188. Land Use

Article X. Zones

§ 188-77.B Permitted uses

(1) Principal uses:

- a) Offices.
- b) Financial institutions.
- c) Healthcare facilities/medical centers.
- d) Hospitals.
- e) Restaurants without drive-through or take-out.
- f) Restaurants with drive-through or take-out.
- g) Entertainment uses.
- h) Retail sales.
- i) Retail services.
- j) Home improvement centers.
- k) Tattoo and body piercing.
- l) Adult day-care facilities.
- m) Health club facilities/fitness centers.
- n) Indoor recreation.
- o) Micro-brewery.
- p) Schools, commercial.
- q) ***Craft distillery.***
- r) ***Assisted Living Facilities.***

## **SECTION 2. REPEALER**

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

## **SECTION 3. INCONSISTENT ORDINANCES**

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

## **SECTION 4. SEVERABILITY**

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

## **SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect upon its passage and publication according to law.

## **NOTICE**

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on February 9, 2021 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, 2<sup>nd</sup> Floor, Howell, New Jersey on February 23, 2021 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

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**Allison Ciranni, Municipal Clerk**