

PROJECT NAME: Assurance of Stormwater Best Management Practice Maintenance **PRIORITY:** 3a
TYPE: Quality, Quantity, Erosion Control, Public Safety

1. ISSUES AND CONCERNS:

As required by the stormwater rules, the Bethlehem and Union Townships have a Tier B Municipal Stormwater General Permit (NJ0141861). One requirement of the permit (a statewide basic requirement – Section F, 2, v.) requires that the Township “ensure adequate long-term operation and maintenance of stormwater best management practices (BMPs).” The Tier B Permit timeline further indicates that by April 1, 2006, the municipality must ensure maintenance for BMPs “on property not owned or operated by the municipality.” The problem identified involves existing detention basins and BMPs that predate the NJ Stormwater Management Plan regulations and the enforcement of the requirement that existing stormwater management facilities be maintained and repaired.

Maintenance and upkeep responsibilities generally depend upon ownership, the form of ownership agreement, maintenance easements, deed restrictions, or other guarantees, agreed upon at the time the property received Planning Board approval. Issues regarding responsibility for maintenance and repairs may be addressed in deed restrictions, easement agreements or other forms of agreement between the municipality and the developer or property owner. These documents should be consulted to establish the rights and obligations for maintenance for each BMP.

Through a cursory inspection of some of the deeds at the Hunterdon County Hall of Records and a review of several Developers’ Agreements, it was found that the requirements for on-going maintenance of the BMPs in the watershed vary widely and in some cases are unclear. For residential developments, responsible parties include individual lot owners, multiple lot owners, as well as homeowners associations. In one instance, the property owner was assigned the responsibility to mow a detention basin and the Township was assigned the responsibility of maintaining the concrete structures. In another, reference was made to maintenance in accordance with requirements that were never filed or were not specifically noted on the deed. There may be “orphan” BMPs with no maintenance provisions for which the Township may need to ultimately assume maintenance responsibility.

2. EXISTING CONDITION BASED ON FIELD EVALUATION:

Based on a stormwater inventory for the Mulhockaway Creek Watershed, 26 detention basins and 27 BMPs predate the NJ Stormwater Management Regulations. Of those, 13 of 26 detention basins and 12 of 27 BMPs were in need of maintenance. The BMP maintenance needed includes mowing, removal of inappropriate vegetation from the basins, removal of woody vegetation from raised berms, clearing inlet and/or outlet structures, replacement of inlet and/or outlet structures, sediment removal, erosion control, and floatables (trash and debris) control. For some detention basins, the accumulated growth of woody vegetation along raised berms may pose a serious threat to public safety because tree roots and root balls can compromise the integrity of the berm. Many of the basins have accumulated sediment and many of the discharge locations are eroded, contributing pollutants and sediment to the stream.

3. PROPOSED SOLUTIONS:

A multi-part solution is proposed to assure detention basin maintenance that includes the adoption of one or more ordinances to supplement the Townships’ existing stormwater ordinances and/or the development and implementation of a mechanism to monitor, instigate and ensure BMP maintenance.

Five model ordinances have been prepared that can be used to supplement the Townships’ stormwater control ordinances. They include imposing the same requirements for existing BMP maintenance as those for new developments under the Stormwater Rules, special assessments for stormwater BMP restoration, bonding of maintenance of BMPs for 10 years post-construction, permitting stormwater BMPs and a nuisance declaration ordinance.

Existing BMP Maintenance:

The municipal Land use Law, N.J.S.A. 40:55D-93 et seq., requires that municipalities develop stormwater management

plans and ordinances, both of which must be approved by the county planning agency prior to becoming effective. To provide the reviewing agency with a document that it is likely to approve, the attached model ordinance has been drafted to closely track the current requirements adopted by the New Jersey Department of Environmental Protection in the context of the state stormwater rules for new Major Development. Another reason for closely patterning the model ordinance on the state stormwater rules is that local legislation cannot prohibit what a state statute or regulation permits. The New Jersey Legislature did not intend to prohibit complementary local legislation; and as such, the model ordinances proposed complement the stormwater rule by addressing existing stormwater facilities that are not new Major Developments and thus are not regulated under the state stormwater rule. The model ordinance proposes to treat existing stormwater facilities in the same manner as the major developments. While alternative provisions that exceed those requirements set forth in the state stormwater rule may also be deemed valid, their justification should be firmly based and the provisions strictly scrutinized for legal sufficiency by the municipal attorney for the community proposing its adoption. A model ordinance imposing the same requirements for existing BMPs as required for new major development by the Stormwater Rules is provided for consideration.

Special Assessments for BMP Restoration:

If BMPs are not maintained regularly, municipalities may also exercise the authority established pursuant to the Municipal Land Use Law and acquire an easement under its powers of eminent domain and thereby obtain direct control and responsibility for the maintenance and repair of the facilities. Thereafter the municipality may undertake repairs and ensure that the stormwater facilities located in critical areas are properly maintained. One method to recover the costs of repairs and maintenance is to assess the costs to the specifically benefited segment of the community through a local improvement. Another common way to pay for these improvements is to assess the costs of the same in the tax base as a general improvement. A model ordinance for the collection of costs as a local improvement is recommended and provided for the municipalities use as the need for such actions are required.

Additional Requirements for Major Developments for On-going Maintenance:

Alternatively, a municipality may acquire control and responsibility for the maintenance and repair of stormwater facilities voluntarily through the gift or dedication of those facilities to the municipality. The municipality is not obligated to accept the stormwater facilities, however, if it chooses to do so, it should consider imposing a maintenance bond requirement upon the property owner to cover the costs of maintenance and repairs. A model ordinance establishing a right to require the posting of a performance or maintenance bond to cover the cost of ten (10) years of maintenance and repair services in connection with a Major Development whenever the municipality is requested to accept dedication of properties, attached for your convenient reference and consideration.

Permitting of Stormwater Management Facilities:

A model ordinance requiring the obtaining of a permit for Stormwater Management Basins has been prepared, however, there may be considerable pressure against its adoption. Homeowners that have these features on their property may be reluctant to endure the regulatory burden of a permit. Also, the mere location of the feature on ones property does not signify that it provides a benefit to that property; it may be serving the needs of other adjacent property owners, either upstream or downstream of the location of the facility. Nonetheless, the model ordinance is included as another regulatory tool available to those municipalities that choose to use it to protect public health and safety through permit compliance.

Stormwater Nuisance Ordinance:

Lastly, a simplified Stormwater Management Facilities Maintenance model ordinance has been provided to codify the fact that poorly maintained stormwater facilities can constitute a public safety hazard, which must be addressed locally. The Legislature has recognized this threat and has enacted N.J.S.A. 40:55D-95.1, et seq., requiring that NJDEP adopt rules and regulations to address this threat through the proper design of the facility. The model ordinance is intended to support these efforts and ensure that once the facility has been properly designed and constructed, it is also properly maintained.

4. ANTICIPATED BENEFITS:

When BMPs function properly, both water quality and quantity from runoff are better controlled. Through the implementation and enforcement of the ordinances, the Townships will be better suited to meet the requirements of their general municipal stormwater permit. Through improved maintenance the Townships will minimize the residents' exposure to potential threats to public safety, including mosquito breeding, detention basin berm/dam failures, flooding, and deterioration of water quality which improves their quality of life and adds to the aesthetics of the communities.

5. MAJOR IMPLEMENTATION ISSUES:

The attached model ordinances are **provided as examples**. Many issues must be evaluated prior to adapting the ordinances to a particular community and **competent legal advice should always be sought when drafting new legislation**. Homeowners that have these features on their property may be reluctant to endure the regulatory burden of a permit. Also, the mere location of the feature on ones property does not signify that it provides a benefit to that property; it may be serving the needs of other adjacent property owners, either upstream or downstream of the location of the facility.

| COMPONENT | DESCRIPTION | ESTIMATED COSTS |
|----------------------|--|-----------------|
| Ordinance Amendments | Ordinance preparation, legal review, advertising | \$12,000 |
| | TOTAL COST: | \$12,000 |
| | Cost is approximate and per ordinance. | |

TOWNSHIP OF XXXXX
ORDINANCE NO. 2007-XXXX

ORDINANCE TO ESTABLISH STORMWATER MANAGEMENT REPAIR AND MAINTENANCE REQUIREMENTS FOR EXISTING STORMWATER FACILITIES IN THE TOWNSHIP OF SUPPLEMENTING CHAPTER OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF

BE IT ORDAINED by the Township Committee of the Township of in the County of and State of New Jersey as follows:

Section 1. Chapter entitled “(insert title)” is hereby amended to include a new Chapter (insert number) entitled “Stormwater Management Maintenance and Repair Requirements for Existing Stormwater Facilities” to read as follows:

A. Policy Statement

Stormwater management is essential to reduce flood damage, including damage to life and property; to minimize stormwater runoff; to reduce soil erosion; to induce water recharge into the ground where practical; to prevent, to the greatest extent feasible, an increase in nonpoint source pollution; and to maintain the integrity of stream channels for their biological functions, as well as for drainage.

Purpose

The New Jersey Stormwater Management Rules (NJAC 7:8) effective February 2, 2004, require that municipalities take specific actions to control the adverse environmental impacts of stormwater discharges. It is the purpose of this ordinance to establish complementary requirements to those contained in the New Jersey Stormwater Management Rules applicable to Major Development, for stormwater management maintenance and repair requirements for existing stormwater facilities that are not subject to the New Jersey Stormwater Management Rules.

B. Applicability

This ordinance shall be applicable to any existing stormwater facility in the Township of .

C. General Maintenance

- 1.) A maintenance plan shall be developed for existing stormwater facilities that shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the homeowner or developer (for example, a public agency or homeowners’ association) as having the responsibility for maintenance, the plan shall include documentation of such person’s agreement to assume this responsibility, or of the developer’s obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- 2.) If the person responsible for maintenance identified under Section (insert) above is not a public agency, the maintenance plan and any future revisions based on Section (insert) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- 3.) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash;

restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.

- 4.) The person responsible for maintenance shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
- 5.) The person responsible for maintenance shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
- 6.) The person responsible for maintenance shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections (insert) above.
- 7.) The requirements of Sections (insert) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
- 8.) 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, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall assess the cost thereof as additional taxes to the responsible person.

D. Penalties

Any responsible person who violates any portion or section of this ordinance shall be subject to the penalties as specified in Chapter (insert) of the Township Ordinances.

Section 2. Effective Date

This ordinance shall take effect upon publication of the notice of final adoption and upon the approval of the county review agency, or sixty (60) days after submission to the county review agency if they fail to act.

Section 3. Severability

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

ADOPTED:

ATTEST:

TOWNSHIP OF _____,
IN THE COUNTY OF _____

By: _____,
Township Clerk

By: _____,
Mayor

LEGAL NOTICE
TOWNSHIP OF (INSERT)
(INSERT) COUNTY, NEW JERSEY
ORDINANCE NO. 2007-

**ORDINANCE AUTHORIZING A SPECIAL ASSESSMENT FOR THE
RESTORATION OF STORM WATER DRAINAGE SYSTEMS**

WHEREAS, there exists a governmental responsibility to assure the adequacy of storm water drainage systems for the general welfare and to protect the public from flooding; and

WHEREAS, under the New Jersey Municipalities and Counties Law, Local and Other Improvements, N.J.S.A. 40:56-1 et seq., a municipality may assess upon the lands in the vicinity benefited by the undertaking of a local improvement, the amount of the principal, interest, and costs for the local improvement against the real property benefited by the improvement together with interest and penalties; and

WHEREAS, the Borough has determined that it is desirable to adopt an assessment ordinance in an amount sufficient to cover the cost of a local improvement for the construction, reconstruction, enlargement, or extension of a system of storm water drainage of the wet lowlands within the municipality in, under or along (location(s)); and

WHEREAS, the principal, interest, and costs for the local improvement is \$, as more specifically identified in the attached report of , *attached hereto and made a part hereof as Schedule A*.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of (Insert), in the County of (Insert) and State of New Jersey, as follows:

1. The full cost of the principal, interest, and any associated costs, fees, or penalties, expended to complete the repair of (insert stormwater facilities) to the satisfaction of the standards established for the maintenance of (insert stormwater facility type) together with all costs associated with establishing and enforcing the assessments shall be assessed against properties within the (location of stormwater facility and those benefited thereby, which may include those within the drainage area to the stormwater facility and all those for which a benefit can be identified), as more specifically identified on the map of the area, *Schedule B attached hereto*, as well as identified as follows:
(Insert identification of properties to be assessed)
2. The procedure for making and collecting assessment shall be as provided for under N.J.S.A. 40:56-1 et seq.
3. The Township's Tax Assessor shall be responsible for making assessments.
4. The Township will not contribute to the payment of any part of the costs of this local improvement.
5. The assessment shall constitute a first and paramount lien as provided for by N.J.S.A. 40:56-33.
6. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.
7. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.
8. This Ordinance shall take effect after final passage and publication as required by law.

.....

I, (name), Clerk of the Township of (Insert), in the County of (Insert), and State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance first read by the said Township on the th day of , 2007, at a meeting duly convened by said body .

NB: The statutory authority rests in N.J.S.A. 40:56-1, et seq., which provides that a municipality may provide for the maintenance, repair or operation of the storm water drainage system as a local or general improvement. The ordinance must be definite as to cost and location of improvement.

Assessment against each property must be evaluated individually, as the assessment cannot exceed the benefit derived by the property owner from the local improvement. Accordingly, assessments per homeowner, based upon lot area or impervious surface may not survive judicial scrutiny, if the amount assessed exceeds the amount of the benefits actually received from the improvement. It may be that the owner of the property upon which the stormwater facility is located does not particularly benefit by such improvement, however, properties either upstream or downstream of that location are relieved of flooding and other impacts of uncontrolled stormwater. Each stormwater facility must be evaluated separately and assessments rendered based upon the particular benefits derived by each property assessed.

The determination of whether a particular improvement should be undertaken as a general improvement, for which the whole town will pay, or a local improvement, for which specifically benefited property owners would be assessed, rests with the municipality.

LEGAL NOTICE
TOWNSHIP OF
COUNTY, NEW JERSEY
ORDINANCE NO. 2007-

ORDINANCE TO AMEND AN ORDINANCE ESTABLISHING STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS FOR DEVELOPMENT PROJECTS IN THE TOWNSHIP OF (INSERT) AND SUPPLEMENTING THE PROVISIONS OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF (INSERT) ENTITLED "LAND USE ORDINANCE" PERTAINING THERETO

BE IT ORDAINED by the Township of (insert) in the County of (insert) and State of New Jersey as follows:

Section 1. Chapter (insert) entitled Stormwater Management and more particularly entitled, "Maintenance and Repair" is hereby amended to read as follows:

(Insert) The Township of (insert) shall have the right to require the posting of such performance or maintenance guarantees as are permitted by law, and notwithstanding any other provision providing for the posting of bonds in connection with Major Development, whenever the Township is requested to accept dedication of properties to be maintained for stormwater management purposes which will result in the Township having to expend funds in the future for the maintenance of such properties, the Township shall, unless otherwise determined by the Township Committee, require that the property owner dedicating such property post with the Township funds that will cover the estimated costs of maintenance for a ten (10) year period.

Section 2. If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or other clause of this ordinance.

Section 3. This Ordinance shall take effect after final passage and upon the approval of the county review agency, or sixty (60) days after submission to the county review agency if they fail to act, and publication as required by law.

ADOPTED:

ATTEST:

TOWNSHIP OF (INSERT)
IN THE COUNTY OF (INSERT)

BY: _____

By: _____

Purpose

The statutory authority for this ordinance is the Municipal Land Use Law, N.J.S.A. 40:55D-93 et seq., which requires that municipalities develop stormwater management plans and ordinances. This Ordinance is intended to provide for the cost of ingoing maintenance of stormwater management facilities which are voluntarily dedicated to the Township in

ORDINANCE FOR ADDITIONAL REQUIREMENTS FOR MAJOR DEVELOPMENTS FOR ON-GOING MAINTENANCE

connection with development activities under the Municipal Land Use Law and in accordance with Talcott Fromkin v. Freehold Township 383 N.J. Super 298 (Law Div. 2005).

.....

I, (name), Clerk of the Township of (insert), in the County of (insert), and State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance first read by the said Township on the th day of , 2007, at a meeting duly convened by said body.

LEGAL NOTICE
(Municipality)
COUNTY, NEW JERSEY
ORDINANCE NO. 2007-

ORDINANCE TO ESTABLISH PERMITS FOR STORMWATER MANAGEMENT BASINS IN THE (Municipality) AND SUPPLEMENTING THE PROVISIONS OF THE REVISED GENERAL ORDINANCES OF THE (Municipality) PERTAINING THERETO

BE IT ORDAINED by the (Municipality) in the County of _____ and State of New Jersey as follows:

XX Purpose and Legislative Intent

Purpose and Legislative Intent.

1. Statutory authority rests in the Municipal Land Use Law, N.J.S.A. 40:55D-93 et seq., which requires that municipalities develop stormwater management plans and ordinances. The goal of this legislative action is to reduce flooding and protect and preserve the State's water quality by reducing or eliminating pollutants discharged into waters of the State or onto the land. The major instrument used to achieve this goal is the Stormwater Management Basin permit which establishes the legal enforcement mechanism issued by the (Municipality) to owners of Stormwater Management Basins.

2. It is the intent of this Chapter to regulate and permit, for the protection of public health, safety and the welfare of persons of the (Municipality) and the environment, privately owned Stormwater Management Basins that are not subject to the New Jersey Pollutant Discharge Elimination System (NJPDES) regulations for which a NJPDES permit is required under N.J.A.C. 7:14A-24.2.

3. Further, it is the intent of this Chapter to insure that Stormwater Management Basins and related facilities shall be operated and maintained in such a manner as to create a minimal environmental impact and alleviate, to the extent practicable, the adverse effects of uncontrolled stormwater run-off.

Section 1. Chapter (insert) entitled "Definitions" is hereby added to read as follows:

"NJPDES permit" means a permit issued by the Department pursuant to the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and N.J.A.C. 7:14A for a discharge of pollutants.

"NJPDES" means the New Jersey Pollutant Discharge Elimination System as set forth in N.J.S.A. 58:10A-1 et seq. and in N.J.A.C. 7:14A.

"Permit" means a written approval issued by the administrative authority or the Department for the construction, installation, alteration or operation of an individual subsurface sewage disposal system.

"Person" means an individual, corporation, company, association, society, firm, partnership and joint stock company.

"Repair" means to fix, refurbish, upgrade or replace one or more components of a Stormwater Management Basin in a manner that will restore and preserve the functionality of the Stormwater Management Basin.

"Person" means any individual or entity, including without limitation, a public or private corporation, company, estate, association, society, firm, partnership, joint stock company, foreign individual or entity, interstate agency or authority, the United States and any of its political subdivisions, the State of New Jersey, or any of the political subdivisions of or found within the State of New Jersey, or any of the other meanings which apply to the common understanding of the term.

"Responsible party" means any person who is the owner of property upon which a Stormwater Management Basin is located including, for the purposes of this chapter, each owner or operator, and any other person obligated by law to operate and maintain a Stormwater Management Basin.

"Stormwater" means water resulting from precipitation (including rain and snow) that:

1. Runs off the land's surface;
2. Is transmitted to the subsurface; or
3. Is captured by separate storm sewers or other sewerage or drainage facilities, or conveyed by snow removal equipment.

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

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

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

"Waters of the State" means the ocean and its estuaries, all springs, streams and bodies of surface and ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.

Section 2. Chapter (insert) entitled "**Permitting**" is hereby added to read as follows:

A. Permit Required. All responsible parties shall secure a permit from the municipality to operate and maintain a Stormwater Management Basin and all such basins shall be operated and maintained in accordance with the requirements of this Chapter.

B. Application for Permits. Applications for permits required by this Chapter shall be upon forms provided by the (Municipality) Clerk and shall be signed, verified by the applicant, setting forth or accompanied by the following information.

1. The name and address of the applicant, if an individual, the name and business address of each partner, if a partnership; the name, date and state of incorporation, name and business address of all officers and stockholders, if a corporation; and if a corporation not incorporated in the State of New Jersey, whether the same is authorized to do business in the State of New Jersey; the name and address of all plant officers, plant manager and plant engineer; the name and address of all

partners if any stockholder is a partnership; and the name and address of all officers if a stockholder is a corporation.

2. Existing block and lot number(s) of the property as they appear on the municipal Tax Map.
3. Acreage of the property to the nearest tenth of an acre.
4. A copy of all restrictive covenants of every nature existing by deed or otherwise affecting the property.
5. Photographs of the site, taken during the last growing season preceding the application for a permit, in sufficient detail to show clearly, all physical features. The photos shall be marked to show location, direction and date taken.

Section 3. Chapter (insert) entitled “**Issuance and Renewal of Permit**” is hereby added to read as follows:

1. All permit applications shall be reviewed by the (Municipality) Engineer and forwarded to the (Municipality) Committee along with the (Municipality) Engineer’s recommendations. The (Municipality) Committee shall determine whether the application is in compliance with this Chapter, and, if so, shall issue a permit to operate the Stormwater Management Basin in the manner set forth in the application. The application shall be filed with the (Municipality) no later than November 1 every year. The application shall be acted upon by the governing body no later than December 15, or forty-five (45) days from the date of the filing of the application, whichever is later; but, if not acted upon by such date, the existing permit shall continue in full force and effect until so acted upon by the governing body.
2. If approved by the governing body, the permit shall be renewed every year as of January 1 and shall expire on December 31. An initial permit issued during the calendar year shall expire on December 31.
3. An approval or renewal of a permit by the governing body under this subsection shall not constitute approval of any item or matter that may require separate approval of any other municipal, county, state or federal body or agency.

Section 4. Chapter (insert) entitled “**Inspection and Submission of Reports**” is hereby added to read as follows:

The (Municipality) Engineer shall inspect the permitted premises in order to determine whether the Stormwater Management Basin is maintained and operating in accordance with the application, terms and provisions of this Chapter. These inspections may be conducted annually or as frequently as necessary as determined by the (Municipality) Engineer. The (Municipality) Engineer shall submit written reports of all inspections to the (Municipality) Committee. The (Municipality) Engineer will also investigate any and all alleged violations and issue notice of violations and/or summons as is warranted, except as otherwise provided. The (Municipality) Engineer is further designated as the enforcing officer of this Chapter and shall investigate any and all alleged violations, except as otherwise provided.

Section 5. Chapter (insert) entitled “**Most Restrictive Regulations Applicable**” is hereby added to read as follows:

Where a more restrictive regulation is not imposed by this Ordinance, the most restrictive standards established by the County, NJDEP or the federal government shall apply.

Section 6. Chapter (insert) entitled “**Enforcement, Penalties**” is hereby added to read as follows:

1. This Chapter shall be enforced on behalf of the (Municipality) by the (Municipality) Engineer, or his authorized representative, who shall investigate any violation of this Chapter coming to his attention, whether by complaint by any person or arising from his own personal knowledge. If a violation is found to exist, or have existed, the (Municipality) Engineer, or his authorized representative, shall have the authority to prosecute a complaint in Municipal Court.

2. Any responsible party who violates any provision of this Chapter or who otherwise fails to comply with any of the requirements of this Chapter shall, upon conviction, for each violation or offense be liable to a fine of not less than one hundred (\$100.00) dollars, not more than one thousand (\$1,000.00) dollars for each violation or offense and every day in which a violation or offense of any provision of this Chapter exists shall constitute a separate violation.

3. Nothing in this Section shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property or maintain any action or other appropriate proceeding thereof.

Section 7. Application fees and inspection fees shall be paid to the Township in accordance with the applicable rate schedule.

Section 8. Chapter (insert) entitled “**Applicability of Other Ordinances**” is hereby added to read as follows:

1. Nothing in this Chapter shall be construed as repealing any provision or provisions of any other municipal ordinance or ordinances which, by its terms, regulate or control Stormwater Management Basins or its incidental activities either directly or indirectly, or which further the general purposes of this Chapter in any way. In the event any regulation provided in this Chapter shall vary from the same or similar regulation of any other municipal ordinance, the more restrictive provisions of such ordinances shall be deemed to control. Nothing in this Chapter shall be construed to expand or enhance any uses permitted under any land use regulation or permit any land use or activity not otherwise permitted by the Land Use Ordinances of the (Municipality).

Section 9. If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or other clause of this ordinance.

Section 10. This Ordinance shall take effect after final passage and upon the approval of the county review agency, or sixty (60) days after submission to the county review agency if they fail to act, and publication as required by law.

ADOPTED:

ATTEST:

**MULHOCKAWAY CREEK STORMWATER MANAGEMENT AND WATERSHED RESTORATION PLAN
ORDINANCE FOR PERMITTING OF STORMWATER MANAGEMENT FACILITIES**

JUNE 2007

(Municipality)
IN THE COUNTY OF

BY: _____

By: _____

.....

I, (name), Clerk of the (Municipality), in the County of , and State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance first read by the said (Municipality) on the th day of , 2007, at a meeting duly convened by said body.

**TOWNSHIP OF
ORDINANCE NO.**

ORDINANCE TO ESTABLISH STORMWATER MANAGEMENT FACILITIES MAINTENANCE REQUIREMENTS
IN THE TOWNSHIP OF (INSERT) SUPPLEMENTING CHAPTER (INSERT) OF THE REVISED
GENERAL ORDINANCES OF THE TOWNSHIP OF (INSERT)

BE IT ORDAINED by the Township Committee of the Township of (Insert) in the County of (Insert)
and State of New Jersey as follows:

Section 1. Chapter (Insert) entitled “(insert title)” is hereby amended to include a new Chapter (insert number)
entitled “Stormwater Management Facilities Maintenance” to read as follows:

§ (Insert). Policy Statement

Stormwater management is essential to reduce flood damage, including damage to life and property; to minimize stormwater runoff; to reduce soil erosion; to induce water recharge into the ground where practical; to prevent, to the greatest extent feasible, an increase in nonpoint pollutant; and to maintain the stream the integrity of stream channels for their biological functions, as well as for drainage. As such, improperly maintained stormwater facilities may constitute a threat to public health and safety. The goal of this legislative action is to ensure that stormwater management facilities are appropriately maintained so as not to create a public nuisance or a threat to public health and safety. Statutory authority rests in the Municipal Land Use Law, N.J.S.A. 40:55D-93 et seq., which requires that municipalities develop stormwater management plans and ordinances.

§ (Insert). Applicability

This ordinance shall be applicable to any existing stormwater facility in the Township of (insert).

§ (Insert). Stormwater Management Facilities Maintenance.

Stormwater Management Facilities shall be maintained in an orderly state and in accordance with the maintenance guidelines for stormwater management established in the New Jersey Stormwater Best Management Practices Manual. Additionally, grass and bushes shall be trimmed and free from becoming overgrown and litter shall be removed where such constitutes, or may constitute a public safety hazard. Stormwater Management Facilities shall be maintained so as to eliminate accumulations of debris or other unsafe conditions. Dead or dying trees and other natural growth which, by reason of rotting or deteriorating conditions or storm damage, are or may be dangerous to persons in the vicinity thereof and shall be removed.

§ (Insert). Administration and Enforcement.

This chapter shall be enforced by the Township Code Enforcement Officer or any other Township official. In the event that a stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance, the Township Code Enforcement Officer shall so notify the responsible person(s) in writing. Upon receipt of that notice, the responsible person(s) shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. If the responsible person(s) fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall assess the cost thereof as additional taxes to the responsible person.

A fine of not more than \$2,000 shall be imposed for a violation of this chapter. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

§ (Insert). Applicability of Other Ordinances.

Nothing in this Chapter shall be construed as repealing any provision or provisions of any other municipal ordinance or ordinances which, by its terms, regulate or control Stormwater Management Basins or its incidental activities either directly or indirectly, or which further the general purposes of this Chapter in any way. In the event any regulation provided in this Chapter shall vary from the same or similar regulation of any other municipal ordinance, the more restrictive provisions of such ordinances shall be deemed to control. Nothing in this Chapter shall be construed to expand or enhance any uses permitted under any land use regulation or permit any land use or activity not otherwise permitted by the Land Use Ordinances of the (Municipality).

Section 2. If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or other clause of this ordinance.

Section 3. This Ordinance shall take effect after final passage and upon the approval of the county review agency, or sixty (60) days after submission to the county review agency if they fail to act, and publication as required by law.

