ORDINANCE NO. 2025-04

AN ORDINANCE BY THE TOWN OF PHILLIPSBURG COUNCIL AMENDING THE TOWN OF PHILLIPSBURG CODE OF ORDINANCES TO REPEAL AND TO READOPT

CHAPTER 172-66 EXEMPTIONS,
CHAPTER 172-71 FEEDING IN PUBLIC AND TOWN-OWNED PROPERTY; EXCEPTIONS,
CHAPTER 369-1 DEFINITIONS,
CHAPTER 369-20 ENFORCEMENT
CHAPTER 530-20 PLACEMENT OF YARD WASTE FOR COLLECTION,
CHAPTER 530-23 PURPOSE,
CHAPTER 530-26 DESIGN STANDARDS,
CHAPTER 530-30 DEFINITIONS,
CHAPTER 530-32 EXCEPTIONS TO PROHIBITIONS,
CHAPTER 535-1 SCOPE AND PURPOSE
CHAPTER 535-2 DEFINITIONS
CHAPTER 535-4 STORMWATER MANAGEMENT REQUIREMENTS FOR MAJOR DEVELOPMENT
CHAPTER 535-5 CALCULATION OF STORMWATER RUNOFF AND GROUNDWATER RECHARGE
CHAPTER 535-6 SOURCES FOR TECHNICAL GUIDANCE
CHAPTER 535-8 SAFETY STANDARDS FOR STORMWATER MANAGEMENT BASINS
CHAPTER 535-9 REQUIREMENTS FOR A SITE DEVELOPMENT STORMWATER PLAN
CHAPTER 535-10 MAINTENANCE AND REPAIR
CHAPTER 538-4 EXCEPTIONS,
CHAPTER 538-8 DEFINITIONS AND WORD USAGE;
AND TO ADOPT A NEW CHAPTERS
CHAPTER 369-20 ENFORCEMENT,
CHAPTER 538 ARTICLE III: PRIVATELY-OWNED SALT STORAGE,
CHAPTER 538-12 PURPOSE,
CHAPTER 538-13 DEFINITION,
CHAPTER 538-14 DECING MATERIAL STORAGE REQUIREMENTS,
CHAPTER 538-15 EXEMPTIONS,
CHAPTER 538-16 ENFORCEMENT,
CHAPTER 538-17 VIOLATION AND PENALTIES,
CHAPTER 591 ARTICLE I: SHADE TREE,
CHAPTER 591 ARTICLE II: TREE REMOVAL-REPLACEMENT,
CHAPTER 591-21 PURPOSE,
CHAPTER 591-22 DEFINITION,
CHAPTER 591-23 REGULATED ACTIVITIES,
CHAPTER 591-24 EXEMPTIONS,
CHAPTER 591-25 ENFORCEMENT, AND
CHAPTER 591-26 VIOLATIONS AND PENALTIES FOR THE PURPOSES OF COMPLYING NJDEP MS4 PERMIT REQUIREMENTS

WHEREAS, the Legislature of the State of New Jersey has, in N.J.S.A. 40:48 et seq and N.J.S.A. 40:55D et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the NJDEP Stormwater Regulations have been updated and require updates to town ordinances; and

WHEREAS, New Jersey Highlands Council has issued guidance/best practices for communities in

the highlands region to implement as part of stormwater management policy updates; and

WHEREAS, Chapter 172-66 Exemptions needs to be updated to provide clarification for emotional support animals.

WHEREAS, Chapter 172-71 Feeding in public and Town-owned property; exceptions needs to be updated to include exemptions on feral cats.

WHEREAS, Chapter 369-1 Definitions needs to be updated as litter receptacle is not defined and various other definitions need to be updated to comply with current State requirements.

WHEREAS, Chapter 369-20 Enforcement needs to be added per MS4 Stormwater Permit Regulations

WHEREAS, Chapter 530-20 Placement of yard waste for collection needs to be updated as requirements for containerized waste collection was added

WHEREAS, Chapter 530-23 Purpose needs to be updated to include on a narrative of the BMP Manual

WHEREAS, Chapter 530-26 Design Standards needs to be updated the exemptions

WHEREAS, Chapter 530-30 Definition needs to be updated to include the definition of refuse

WHEREAS, Chapter 530-32 Exceptions to prohibitions needs to be updated to include additional items

WHEREAS, Chapter 535-1 Scope and Purpose needs to be updated to include the stormwater requirements to enforce based on the applicant submission date.

WHEREAS, Chapter 535-2 Definitions needs to be updated to include missing definitions and include Highlands Stormwater Control Ordinance Amendments definitions.

WHEREAS, Chapter 535-4 Stormwater Management Requirements for Major Development needs to be updated per new stormwater regulations, website link, and references and needs to be updated to include Highlands Stormwater Control Ordinance Amendments additional groundwater information.

WHEREAS, Chapter 535-5 Calculation of Stormwater Runoff and Groundwater Recharge needs to be updated to remove the rational method as an option, to update the website link, and to update per new stormwater regulations.

WHEREAS, Chapter 535-6 Sources for Technical Guidance needs to be updated to update the website links.

WHEREAS, Chapter 535-8 Safety Standards for Stormwater Management Basins needs to be updated to change the requirements for the overflow grate size.

WHEREAS, Chapter 535-9 Requirements for a Site Development Stormwater Plan needs to be updated to include additional verbiage of the submission of the application.

WHEREAS, Chapter 535-10 Maintenance and Repair needs to be updated to update the applicability references.

WHEREAS, Chapter 538-4 Exceptions needs to be updated to include additional exceptions

WHEREAS, Chapter 538-8 Definitions and word usage needs to be updated to include updated verbiage on the definition of illicit connection

WHEREAS, to comply with state stormwater requirements Chapter 538 Article III: Privately-owned salt storage along with its supporting subsections is to be created.

WHEREAS, Chapter 591 needs to be repealed and replace to incorporate NJDEP requirements related to tree removal and tree replacement and establishment of existing 591 Shade Tree Commission under an article 1 and tree removal/replacement under article 2.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Phillipsburg that the following ordinances are hereby adopted.

SECTION 1

Repeal and Replacement of Article V – Pet Waste §172-66 as follows:

§ 172-66 **Exemptions**

Any owner or keeper who requires the use of a disability assistance animal for disabilities such as vision or hearing loss, or other physical disabilities, shall be exempt from the provisions of this section while such animal is being used for that purpose. This exemption is not applicable to pets that are exclusively emotional support animals.

Repeal and Replacement Article VI – Wildlife Feeding - § 172-71 as follows:

§ 172-71 **Feeding in public and Town-owned property; exceptions.**

No person shall feed, in any public park or on any other property owned or operated by the Town of Phillipsburg, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers) and feral cats as part of an approved Trap-Neuter-Release program.

Repeal and Replacement Chapter 369 Littering - § 369-1 as follows:

§ 369-1 **Definitions**

The following definitions shall apply in the interpretation of this chapter:

AIRCRAFT

Any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

COMMERCIAL HANDBILL

Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature which:

A. Advertises for sale any merchandise, product, commodity or service.

B. Directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales.

C. Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit, but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incidental to any meeting, theatrical performance, exhibition or event of any kind.

GARBAGE

Any putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER
Any substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or any natural or synthetic material, or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extracting processes, logging, sawmilling, farming or manufacturing.

LITTER RECEPTACLE
A container suitable for the depositing of litter.

NEWSPAPER
Any newspaper of general circulation, whether the same is paid or free, or whether it is primarily designed to report the news or as a form of commercial advertising, which is either delivered locally or through mails. It is intended that this definition of "newspaper" be given a broad interpretation to cover all local, regional, statewide or national newspapers.

NONCOMMERCIAL HANDBILL
Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

PARK
Any park, reservation, playground, beach, recreation center or any other public area in the Town, owned or used by the Town and devoted to active or passive recreation.

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

PRINTED MATTER OR PRINTED MATERIALS
All newspapers, shoppers, circulars, leaflets, flyers, handbills, commercial and noncommercial and all similar materials.

PRIVATE PREMISES
Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PRIVATE PROPERTY
Any privately owned or occupied lands or premises, including property owned or occupied by any public utility.

PUBLIC PLACE
Any and all streets, sidewalks, alleys or other public ways, and all public parks, squares, spaces, grounds and buildings.

REFUSE
All putrescible and nonputrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes, specifically including abandoned furniture and household equipment and scrap building materials.

RUBBISH
Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

UNSOLICITED
The printed matter referred to herein which has not been ordered, subscribed to or requested by the recipient.

Add New section Chapter 369 – Littering - § 369-20 as follows:
§ 369-20 **Enforcement**
The provisions of this article shall be enforced by the Department of Municipal Services, Housing Inspectors, code officials, zoning officers and Police Department.

Revise and amend Article IV Yard Waste Collection - Chapter 530 as follows:
§ 530-20 **Placement of yard waste for collection.**

A. No person shall sweep, rake, blow, or otherwise place yard waste into the street unless it is for a scheduled collection.

B. For non-containerized (loose) yard waste collection when such service is provided the Town or 3rd party: Placement of loose yard waste must be at least 10 feet away from any storm drain inlet and no sooner than 7 days prior to a scheduled and announced collection.

C. For containerized yard waste collection when such service is provided the Town or 3rd party: Yard waste shall be placed in an appropriate container at the curb or along the street for collection.

Placement of such yard waste at the curb or along the street at any other time or in any other manner is a violation of this article. If such placement of yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street, or said party shall be deemed in violation of this article.

Repeal and replace Article V Private Storm Drain Inlet Retrofitting - Chapter 530 subsection 530-23 as follows:
§ 530-23 **Purpose**

This article requires the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by Town of Phillipsburg to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply. Installation of all new storm drain inlets must include a catch basin or other BMP designed for solids collection in areas which drain to surface waters and that do not have any other downstream BMPs prior to the surface water discharge.

Repeal and replace Article V Private Storm Drain Inlet Retrofitting - Chapter 530 subsection 530-26 Design Standards as follows:
§ 530-26 **Design standards.**

Storm drain inlets identified in § **530-25** above 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 Subsection C below.

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

(1) Grates.

(a) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(b) A different grate, if each individual clear space in that grate has an area of no more than 7.0 square inches, or is no greater than 0.5 inch across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.

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

B. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than 7.0 square inches, or be no greater than 2.0 inches across the smallest dimension.

C. This standard does not apply:

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

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

(3) Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths inches long and one and one-half inches wide; or

(b) A bar screen having a bar spacing of 0.5 inches;

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

(4) Where flows are conveyed through a trash rack that has parallel bars with one inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in N.J.A.C. 7:8; or

(5) Where the Department 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 the standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

Repeal and replace Article VI Refuse Containers; Dumpsters - Chapter 530 subsection 530-30 Definitions as follows:

§ 530-30 **Definitions.**

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

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

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

REFUSE
Matter thrown away or rejected as waste, trash.

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

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

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

Repeal and replace Article VI Refuse Containers; Dumpsters - Chapter 530 subsection 530-32 Exceptions to prohibitions:
§ 530-32 **Exceptions to prohibitions.**

Exceptions shall be as follows:

A. Permitted temporary demolition containers.

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

C. Individual homeowner trash and recycling containers.

D. Refuse containers at facilities authorized to discharge stormwater from dumpsters at a site that is authorized under a valid NJPDES permit.

E. Large bulky items (e.g., furniture, bound carpet and padding, household appliances, white goods placed curbside for pickup).

Repeal and replace Chapter 535 Stormwater Management Subsection § 535-1 Scope and Purpose. :
§ 535-1 Scope and Purpose.

A. Policy Statement

Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs 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 § 535-2.

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 Town of Phillipsburg.

(3) An application required by ordinance pursuant to (b)1 above that has been submitted prior to adoption date of this code, shall be subject to the stormwater management requirements in effect on 1 day prior to the adoption date of this code.

(4) An application required by ordinance for approval pursuant to (b)1 above that has been submitted on or after March 2, 2021, but prior to adoption date of this code, shall be subject to the stormwater management requirements in effect on 1 day prior to the adoption date of this code.

(5) Notwithstanding any rule to the contrary, a major development for any public roadway or railroad project conducted by a public transportation entity that has determined a preferred alternative or reached an equivalent milestone before July 17, 2023, shall be subject to the stormwater management requirements in effect prior to July 17, 2023.

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 code 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.

Repeal and replace Chapter 535 Stormwater Management Subsection § 535-2 Definitions:
§ 535-2 **Definitions.**

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

CAFRA CENTERS, CORES OR NODES
Those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

CAFRA PLANNING MAP
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).

CARBONATE ROCK AREA
An area where rock consisting chiefly of calcium and magnesium carbonates, such as limestone and dolomite, has been identified.

COMMUNITY BASIN
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
The increase in soil bulk density.

CONTRIBUTORY DRAINAGE AREA
The area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

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

COUNTY REVIEW AGENCY
An agency designated by the County Commissioners to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

1. A county planning agency or

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

CURRENT DEFICIT AREA
Any United States Geological Survey 14-digit Hydrologic Unit Code subwatershed area that is identified in the Highlands Regional Master Plan as having negative Net Water Availability, meaning that existing consumptive and depletive water uses exceed the capacity of the ground water supply to sustain.

DEPARTMENT
The Department of Environmental Protection.

DESIGNATED CENTER
A State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

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

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

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
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
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.

ENVIRONMENTALLY CONSTRAINED AREA
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
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.

EMPOWERMENT NEIGHBORHOODS
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.

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

GREEN INFRASTRUCTURE
A stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

HUC 14 or HYDROLOGIC UNIT CODE 14
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
Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements. To be considered an impervious surface, the structure, surface or improvement must have the effect of reducing or preventing stormwater absorption.

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

KARST
A distinctive topography that indicates solution of underlying carbonate rocks (such as limestone and dolomite) by surface water or groundwater over time, often producing surface depressions, sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams.

LEAD PLANNING AGENCY
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
An individual "development," as well as multiple developments that individually or collectively result in:

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

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

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

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

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."

MITIGATION PLAN
An action by an applicant providing compensation or offset actions for onsite stormwater management requirements where the applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in NJAC 7:8, in an adopted regional stormwater management plan, or in this local ordinance, and has received a waiver from strict compliance from the municipality. Mitigation shall include the implementation of the approved mitigation plan within the same drainage area where the subject project is proposed, or a contribution of funding toward a municipal stormwater control project, or provision for equivalent treatment at an alternate location, or any other equivalent water quality benefit as approved by the municipality.

MOTOR VEHICLE
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
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, race-tracks, and runways.

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

MUNICIPALLY IMPORTANT GROUND WATER RECHARGE AREA
Preserved or constrained lands that cannot be developed or built upon under current regulations. These areas have recharge rates above the median recharge rate for the subwatershed in which they are located; meaning they provide 40% or greater total recharge volume for the subwatershed. Constrained lands are comprised of undeveloped lands within the Highlands Open Water buffer as well as moderately and severely constrained steep slopes. Preserved lands are those that are permanently preserved by local, county, state, federal or non-profit entities.

NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL OR BMP MANUAL
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 IV.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
An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NON-EXEMPT PROJECT
Any project not eligible for an exemption from the Highlands Water Protection and Planning Act Rules, pursuant to N.J.A.C. 7:38-2.3.

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

PERSON
Any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

POLLUTANT
Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 *et seq.*)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

PUBLIC ROADWAY OR RAILROAD
A pathway for use by motor vehicles or trains that is intended for public use and is constructed by, or on behalf of, a public transportation entity. A public roadway or railroad does not include a roadway or railroad constructed as part of a private development, regardless of whether the roadway or railroad is ultimately to be dedicated to and/or maintained by a governmental entity.

PUBLIC TRANSPORTATION ENTITY
A Federal, State, county, or municipal government, an independent State authority, or a statutorily authorized public-private partnership program pursuant to P.L. 2018, c. 90 (N.J.S.A. 40A:11-52 et seq.), that performs a public roadway or railroad project that includes new construction, expansion, reconstruction, or improvement of a public roadway or railroad.

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

REGIONAL MASTER PLAN
The Highlands regional master plan or any revision thereof adopted by the Highlands Water Protection and Planning Council pursuant to N.J.S.A. C.13:20-8.

REGULATED IMPERVIOUS SURFACE
Any of the following, alone or in combination:

1. A net increase of impervious surface;

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

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

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

REGULATED MOTOR VEHICLE SURFACE
Any of the following, alone or in combination:

1. The total area of motor vehicle surface that is currently receiving water;

2. 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
Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

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

SOIL
All unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)
An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

STATE PLAN POLICY MAP
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
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
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
Any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

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

STORMWATER MANAGEMENT PLANNING AGENCY
A public body authorized by legislation to prepare stormwater management plans.

STORMWATER MANAGEMENT PLANNING AREA

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.

TIDAL FLOOD HAZARD AREA
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.

TOWN
The Town of Phillipsburg, Warren County, New Jersey, including all of its officials, officers, committees, boards, professionals, attorneys, engineers and assigns.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD
A neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

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

URBAN REDEVELOPMENT AREA
Defined as previously developed portions of areas:

1. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;

2. Designated as CAFRA Centers, Cores or Nodes;

3. Designated as Urban Enterprise Zones; and

4. Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATER CONTROL STRUCTURE
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
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
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.

Repeal and replace Chapter 535 Stormwater Management Subsection § 535-4 Stormwater Management Requirements for Major Development:

§ 535-4. **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 § 535-10.

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 *Clemmys muhlnebergi* (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of § 535-4.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 § 535-4.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 § 535-4.O, P, Q and R to the maximum extent practicable;

(3) The applicant demonstrates that, in order to meet the requirements of § 535-4.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 D(3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 535-4.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 § 535-4.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://dep.nj.gov/stormwater/bmp-manual/.

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.

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

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

(Notes corresponding to annotations [a] through [g] are found on Page D-14)

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

Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Bioretention System	80 or 90	Yes	Yes[b] 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 [b] through [d] are found below)

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

Best Management Practice	Stormwater Runoff Quality TSS Removal Rate (percent)	Stormwater Runoff Quantity	Groundwater Recharge	Minimum Separation from Seasonal High Water Table (feet)
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device[h]	50 or 80	No	No	Dependent upon the device
Sand Filter[c]	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

(Notes corresponding to annotations [b] through [d] are found below)

Notes to Tables 1, 2, and 3:

(a) subject to the applicable contributory drainage area limitation specified at § 535-4.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 § 535-2;

(h) manufactured treatment devices that do not meet the definition of green infrastructure at § 535-2.

F. 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 § 535-4.B. Alternative stormwater management measures may be used to satisfy the requirements at § 535-4.O only if the measures meet the definition of green infrastructure at § 535-2. Alternative stormwater management measures that function in a similar manner to a BMP listed at § 535-4O.2 are subject to the contributory drainage area limitation specified at § 535-4O.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 § 535-4O.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 § 535-4D. is granted from § 535-4O.

G. 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.

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

(1) 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);

(2) 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 § 535-8.C;

(3) Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;

(4) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at § 535-8; and

(5) 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.

I. 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 § 535-2 may be used only under the circumstances described at § 535-4.O.4.

J. Any application for a new agricultural development that meets the definition of major development at § 535-2 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at § 535-4.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 deemed by the NJ state agricultural board as being agricultural use/development. This shall result in greater stormwater requirements than the minimum requirements required by State Agricultural guidance for stormwater regulations for such uses.

K. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 535-4.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.

L. 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 County Clerk. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain all requirements/BMPS of established, by DEP, items requested by the Town and its professionals including but not limited to 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 § 535-4.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 § 535-10.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.

M. 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 IV of this code/section 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 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 § 535-4M 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 § 535-4M above.

N. 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 subject to regulations/BMPs created by NJDEP.

(2) To satisfy the groundwater recharge and stormwater runoff quality standards at § 535-4.P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at § 535-4.F. and/or an alternative stormwater management measure approved in accordance with § 535-4.G subject to regulations/BMPs created by NJDEP. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

Best Management Practice	**Maximum Contributory Drainage Area**
Dry Well	1 acre
Manufactured Treatment Device	2.5 acres
Pervious Pavement 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 § 535-4.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 § 535-4.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 § 535-4.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 § 535-4.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at § 535-4.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 § 535-4.P, Q and R, unless the project is granted a waiver from strict compliance in accordance with § 535-4.D.

O. 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 § 535-5, 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 projected 2-year storm, as defined and determined pursuant to § 535-5.D of this ordinance, is infiltrated.

(c) Non-Exempt Projects located in a Current Deficit Area: Where the project is located in a Current Deficit Area as identified in New Jersey Highlands mapping datasets (available through NJ Highlands GIS database), the project shall demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures provide for enhanced recharge standards set forth in (5) below.

(d) Non-Exempt Projects located in a Municipally Important Ground Water Recharge Area: Where the project is located in a Municipally Important Ground Water Recharge Area as identified in New Jersey Highlands mapping datasets (available through NJ Highlands GIS database), the following standards shall apply:

(1) Where disturbance is permitted in accordance with this subsection, it shall be limited to no greater than 15% of the Municipally Important Ground Water Recharge Area on the site and shall preferentially be sited on that portion of Municipally Important Ground Water Recharge Area that has the lowest groundwater recharge rates.

(2) Where disturbance to the Municipally Important Ground Water Recharge Area is permitted, the project shall demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures provide for enhanced recharge standards set forth in (5.) below.

(3) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to 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 approved pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, or Department landfill closure plan and areas; 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.

(c) Carbonate Rock Areas. Where surficial or subsurface karst features have been identified and recharge facilities cannot be designed in a manner that would eliminate the concentrated subsurface release of stormwater. (Note: the mere presence of carbonate bedrock does not constitute a karst feature)

(5) Enhanced Recharge Standards: Non-Exempt Projects that are subject to the enhanced recharge requirements by § 535-4P.2.c. or § 535-4P.2.d above, shall apply the following standards, either:

(a) Recharge 125 percent of the percentage of the average annual pre-construction groundwater recharge volume for the site; or

(b) In addition to complying with the recharge requirements of § 535-4P, retain on-site with no discharge, the Stormwater Quality Design Volume (SWQDv), defined as the runoff from the 1.25-inch, 2-hour rainfall event. Where meeting the recharge requirement will not result in retention of the full SWQDv, the major development shall retain any additional volume to meet the requirements of this section through additional infiltration, or through evapotranspiration or capture and on-site re-use of rainfall.

(6) Mitigation Required for Non-Exempt Projects: In lieu of on-site recharge, the applicant shall be responsible for providing mitigation of the groundwater recharge volume in the required amount. The applicant should provide mitigation within the following areas, in order of priority:

(a) The same development site where feasible;

(b) The same HUC14 subwatershed, or

(c) An interrelated HUC14 subwatershed where no feasible option exists in the same HUC14 subwatershed.

If none of the above options are feasible or achievable, then the applicant shall comply with the mitigation requirements set forth in 7.

(7) Mitigation Required for Non-Exempt Projects: A waiver from strict compliance with the requirements of the Municipal Stormwater ordinance shall be approved by the municipality only in those cases where an applicant has demonstrated the inability to strictly comply with any standard of the municipal stormwater ordinance. A waiver from strict compliance for such projects can only be obtained if the applicant agrees to undertake a suitable mitigation measure identified in the mitigation section of the municipality's Stormwater Management Plan. In such cases, the applicant must submit a mitigation plan detailing how the project's failure to strictly comply will be compensated. In cases where a waiver is granted, an applicant should provide mitigation, if possible and/or practical, within the same drainage area within which the subject project is proposed, or contribute funding toward a municipal stormwater control project, or provide for equivalent treatment at an alternate location, or provide for another equivalent water quality benefit, in lieu of implementing the required stormwater control measures on their specific site.

P. 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 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 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

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

(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 § 535-4P, 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) The 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.

Q. 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 § 535-5, complete one of the following:

(a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected 2-, 10-, and 100-year storm events, as defined and determined in § 535-5.C and D, respectively, of this ordinance, 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 current and projected 2-, 10-, and 100-year storm events, as defined and determined pursuant to § 535-5.C and D, respectively, of

this ordinance, 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 current and projected 2-, 10-, and 100-year storm events, as defined and determined in § 535-5.C and D, respectively, of this ordinance, 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 2.i, ii and iii 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.

§ 535-5. **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 the following method:

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://directives.sc.egov.usda.gov/viewerFS.aspx?hid=21422

or at United States Department of Agriculture Natural Resources Conservation Service

For the purpose of calculating curve numbers 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 applies to the NRCS methodology above at § 535-5.A.1. A curve number or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

(a) 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.

(b) 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.

(c) 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.

(2) 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/gsreport/gsr32.pdf

or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

(3) The precipitation depths of the current two-, 10-, and 100-year storm events shall be determined by multiplying the values determined in accordance with items 1 and 2 below:

(a) The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service's Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at:

https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj; and

(b) The applicant shall utilize Table 5: Current Precipitation Adjustment Factors below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 5: Current Precipitation Adjustment Factors

	Current Precipitation Adjustment Factors		
County	**2-year Design Storm**	**10-year Design Storm**	**100-year Design Storm**
Atlantic	1.01	1.02	1.03

Bergen	1.01	1.03	1.06
Burlington	0.99	1.01	1.04
Camden	1.03	1.04	1.05
Cape May	1.03	1.03	1.04
Cumberland	1.03	1.03	1.01
Essex	1.01	1.03	1.06
Gloucester	1.05	1.06	1.06
Hudson	1.03	1.05	1.09
Hunterdon	1.02	1.05	1.13
Mercer	1.01	1.02	1.04
Middlesex	1.00	1.01	1.03
Monmouth	1.00	1.01	1.02
Morris	1.01	1.03	1.06
Ocean	1.00	1.01	1.03
Passaic	1.00	1.02	1.05
Salem	1.02	1.03	1.03
Somerset	1.00	1.03	1.09
Sussex	1.03	1.04	1.07
Union	1.01	1.03	1.06
Warren	1.02	1.07	1.15

B. Table 6: Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, 10-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, 10-, and 100-year storm events determined from the National Weather Service's Atlas 14 Point Precipitation Frequency Estimates pursuant to (c)1 above, by the change factor in the table below, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 6: Future Precipitation Change Factors

	Future Precipitation Change Factors		
	2-year	**10-year**	**10-year**
Atlantic	1.22	1.24	1.39
Bergen	1.20	1.23	1.37
Burlington	1.17	1.18	1.32
Camden	1.18	1.22	1.39
Cape May	1.21	1.24	1.32
Cumberland	1.20	1.21	1.39
Essex	1.19	1.22	1.33

Gloucester	1.19	1.23	1.41
Hudson	1.19	1.19	1.23
Hunterdon	1.19	1.23	1.42
Mercer	1.16	1.17	1.36
Middlesex	1.19	1.21	1.33
Monmouth	1.19	1.19	1.26
Morris	1.23	1.28	1.46
Ocean	1.18	1.19	1.24
Passaic	1.21	1.27	1.50
Salem	1.20	1.23	1.32
Somerset	1.19	1.24	1.48
Sussex	1.24	1.29	1.50
Union	1.20	1.23	1.35
Warren	1.20	1.25	1.37

§ 535-6. **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: https://dep.nj.gov/stormwater/bmp-manual/.

(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://dep.nj.gov/stormwater/maintenance-guidance/.

B. Submissions required for review by the Department should be mailed to:

The Division of Watershed Protection and Restoration, New Jersey Department of Environmental Protection, Mail Code 501-02A, PO Box 420, Trenton, New Jersey 08625-0420.

§ 535-8. **Safety Standards for Stormwater Management Basins:**

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

B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in § 535-8.C.1, § 535-8.2, and § 535-8.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 BMP to ensure proper functioning of the BMP 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 greater 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 BMPs shall include escape provisions as follows:

(a) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to § 535-8.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 BMPs having a permanent pool of water deeper than two and one-half feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. § 535-8.E for an illustration of safety ledges in a stormwater management BMP; and

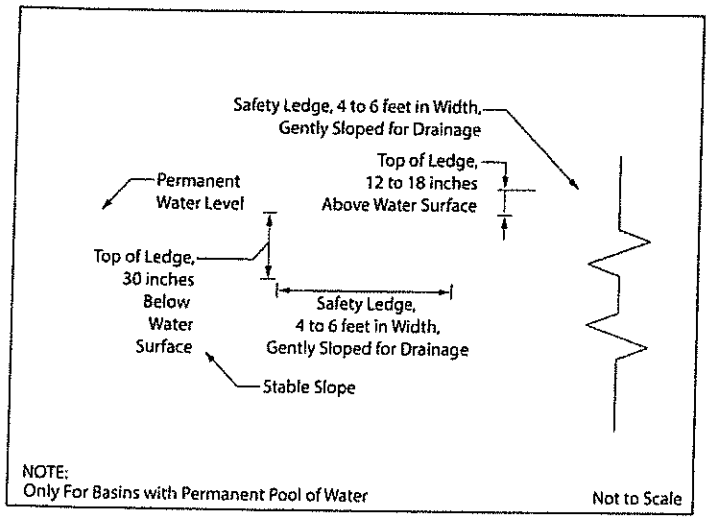
(c) In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

(4) Variance or Exemption from Safety Standard

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

(5) Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



§ 535-9. **Requirements for a Site Development Stormwater Plan:**

A. Submission of Site Development Stormwater Plan

(1) Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 535-9.C below as part of the submission of the application for approval.

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

(3) The applicant shall submit copies of the materials listed in the checklist for site development stormwater plans in accordance with § 535-9.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.

(3) Project Description and Site Plans

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

(4) Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of § 535-3 through § 535-5 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.

(6) Calculations:

(a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in § 535-4 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 § 535-10.

(8) Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipality's review engineer, waive submission of any of the requirements in § 535-9.C.1 through § 535-9.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.

§ 535-10. **Maintenance and Repair:**

A. Applicability

Projects subject to review as in § 535-1.C of this ordinance shall comply with the requirements of § 535-10.B and § 535-10.C.

B. General Maintenance

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

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

(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 § 535-10.B.3 above is not a public agency, the maintenance plan and any future revisions based on § 535-10.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 § 535-10.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 § 535-10.B.6 and B.7 above.

(8) The requirements of § 535-10.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 municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.

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

§ 535-11Penalties

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this chapter shall be subject to the penalties set forth in the Town's General Penalty Ordinance, § 1-15 of the Town Code of Ordinances, and each day that the building, structure or land is permitted to remain in violation of this chapter shall be considered a separate and distinct offense. The Municipal Court shall have jurisdiction to enforce and collect any such penalty imposed in a summary manner and in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-1, et seq.

Repeal and replace Article I Improper Disposal of Waste into Storm Sewers subsection Chapter 538-4 Exceptions

§ 538-4 **Exceptions.**

A. Potable water line flushing and discharges from potable water sources, excluding the discharge of filter backwash and first flush water from potable well development/redevelopment activities utilizing chemicals in accordance with N.J.A.C. 7:9D. The volume of first flush water, which is a minimum of three times the volume of the well water column, shall be handled and disposed of properly;

B. Uncontaminated ground water (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising ground waters);

C. Air conditioning condensate (excluding contact and non-contact cooling water; and industrial refrigerant condensate);

D. Irrigation water (including landscape and lawn watering runoff);

E. Flows from springs, riparian habitats, wetlands, water reservoir discharges and diverted stream flows;

F. Residential car washing water and dechlorinated swimming pool discharges from single family residential homes;

G. Sidewalk, driveway, and street wash water;

H. Flows from firefighting activities including the washing of fire fighting vehicles;

I. Flows from clean water rinsing of beach maintenance equipment immediately following use and only if the equipment is used for its intended purpose;

J. Rinsing of beach maintenance equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

K. Flows from clean water rinsing of equipment and vehicles used in the application of salt and deicing materials. Prior to rinsing, all equipment shall be cleaned using dry methods such as shoveling and sweeping. Recovered materials are to be returned to storage or properly discarded; and

L. Rinsing of deicing equipment is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.

Repeal and replace Article II Illicit Storm Sewer Connections subsection Chapter 538-8 Definitions and word usage.

§ 538-8 **Definitions and word usage.**

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

DOMESTIC SEWAGE
Waste and wastewater from humans or household operations.

ILLICIT CONNECTION
Any physical or non-physical connection that discharges the following to a municipal separate storm sewer system (unless that discharge is authorized under a NJPDES permit other than the NJPDES permit for discharges from that system):

1. Domestic sewage;

2. Non-contact cooling water, process wastewater, or other industrial waste (other than stormwater); or

3. Any category of non-stormwater discharges that a permittee for the MS4 identifies as a source or significant contributor of pollutants pursuant to 40 C.F.R. 122.26(d)(2)(iv)(B)(1) or 122.34(b)(3)(iii).

4. Non-physical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE
Nondomestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act [33 U.S.C. § 1317(a), (b), or (c)].

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by Town of Phillipsburg or other public body, and is designed and used for collecting and conveying stormwater.

NJPDES PERMIT
A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NONCONTACT COOLING WATER
Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Noncontact cooling water may, however, contain algaecides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

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

PROCESS WASTEWATER
Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

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

B. 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 above are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

Creation of Article III Chapter 538 Privately-Owned Salt Storage

Article III Privately-Owned Salt Storage

§ 538-12 **Purpose.**

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

§ 538-13 **Definition.**

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

DE-ICING MATERIALS
Any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

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

STORM DRAIN INLET
The point of entry into the storm sewer system.

PERMANENT STRUCTURE
A permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).
A fabric frame structure is a permanent structure if it meets the following specifications:

(1) Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;

(2) The design shall prevent stormwater run-on and run through, and the fabric cannot leak;

(3) The structure shall be erected on an impermeable slab;

(4) The structure cannot be open sided; and

(5) The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

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

RESIDENT
A person who resides on a residential property where de-icing material is stored.
§ 538-14 **Deicing Material Storage Requirements.**

A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:
(1) Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;

(2) Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;

(3) Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;

(4) Loose materials shall be covered as follows:
a. The cover shall be waterproof, impermeable, and flexible;

b. The cover shall extend to the base of the pile(s);

c. The cover shall be free from holes or tears;

d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and

e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.

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

(5) Containers must be sealed when not in use; and

(6) The site shall be free of all de-icing materials between April 16th and October 14th.

B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 -April 15.

C. All such temporary and/or permanent structures must also comply with all other local ordinances, including building and zoning regulations.

D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.
(1) Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§ 538-15 **Exemptions.**

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

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in § 626-03 above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

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

§ 538-16 **Enforcement.**

This article shall be enforced by the Police Department, Department of Municipal Services, and Public Works.

§ 538-17 **Violation and penalties**

Any person who shall violate any of the provisions or regulations of this article shall, for each and every violation, be punished as provided in Chapter 1, General Provisions, Article II, General Penalty, and each day during which any violation continues shall constitute a separate offense.

Repeal and replace Chapter 591 Trees; Shade Tree Commission in its entirety as follows:
Chapter 591 Trees & Shade Tree Commission

Article I: Shade Trees which contain

§ 591-1 Establishment of Shade Tree Commission.

A. The regulation, planning, acreage and control of shade and ornamental trees and shrubbery upon and in streets, highways, public places, parks and parkways of the Town, other than county parks and parkways, shall be managed by and under the control and the authority of a commission which shall be known as the "Shade Tree Commission of the Town of Phillipsburg" in accordance with the provisions of the enabling statutes of Title 40 of the Revised Statutes of the laws of the State of New Jersey.

B. Nothing herein shall diminish or limit in any way the property owner's obligation and sole responsibility to maintain the sidewalks, grass strip and/or other public right-of-way which fronts his or her property.

§ 591-2 Membership; qualifications; compensation.

The Shade Tree Commission shall consist of five members appointed by the Mayor. The members shall be residents of the Town of Phillipsburg and shall serve without compensation.

§ 591-3 Officers.

The Commission shall select one of its members as Chairman annually, and the Commission shall appoint a Secretary.

§ 591-4 Terms of office; vacancies.

A. The term of office of each member of the Shade Tree Commission shall commence upon the day of appointment, and, in the case of the original Commission, the five members shall be appointed for one-year, two-year, three-year, four-year and five-year appointments, respectively. Said terms on the original appointment shall be from the day of appointment until December 31 of the next calendar year. The names of the appointees and the designation of their specific terms must be set forth in the appointment by the Mayor.

B. All subsequent appointments after the original appointments, except to fill vacancies, shall be for full terms of five years each to take effect on January 1.

C. Any vacancy occurring by reason of death, resignation or removal of any Commissioner shall be filled for the unexpired term by the Mayor of the Town.

§ 591-5 Powers and duties.

Said Commission shall possess and be vested under the law with the following powers:

A. To exercise full and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, park or parkway, except such as are excluded pursuant to N.J.S.A. 40:64-1, including the planting, trimming, spraying, care and protection thereof.

B. To regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.

C. To move or require the removal of any tree or part thereof dangerous to public safety.

D. To recommend to the Town Council the creation of, amendments to or repeal of ordinances adopted by the Town Council necessary or proper for carrying out the provisions hereof.

E. To study and recommend methods of funding, outside of municipal taxation, by grants and aid, both state and federal.

F. To develop a program of tree planting and overall beautification in areas along the public right-of-way and to prepare a survey of existing trees within the public right-of-way and upon public property and to develop a master plan for the care and control of existing shade trees and ornamental trees and the planting of new trees throughout the Town. Said survey and master plan shall be submitted to the Town Council for review and approval.

G. To provide a procedure for removing or trimming existing trees where necessary because the tree is either dead, diseased or injured by storm or similar consequences.

§ 591-6 Public improvements affecting trees; effect on County Park Commission.

A. No statute giving any person or state, county or municipal board, body or official the power or authority to lay any sidewalk along or to open, construct, curb or pave any street or to do any similar act shall be construed to permit or authorize any interference with or injury to a highway shade tree without the consent of the Shade Tree Commission within whose jurisdiction such tree shall be located. In all cases, such Commission shall reasonably cooperate with such person, board, body or official for the general public good.

B. Nothing contained in this chapter shall be held to take away or diminish any of the powers or authority of any County Park Commission over the trees or shrubbery in any county park or parkway within its jurisdiction or to give any other Commission or Board any power or authority with respect to such trees or shrubbery.

§ 591-7 Annual appropriation.

The governing body of the Town shall annually appropriate such sum as it may deem necessary for said purposes.

§ 591-8 Official curbside tree species.

The official curbside tree species for the Town of Phillipsburg may be located in the publication known as "Trees for New Jersey Streets" published by the New Jersey Shade Tree Federation in conjunction with Cook College. No species other than those included in the publication may be planted as curbside trees without permission of the Shade Tree Commission. (For purposes of this chapter, "curbside" shall mean the area inside the face of the curb and the outside edge of the pedestrian walkway or the property line if no walkway exists.) No trees shall be planted without correspondence with the Shade Tree Commission.

§ 591-9 Public tree care; removal of injurious trees.

A. The Town shall have the right, after notification to abutting property owners, to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

B. The Shade Tree Commission may remove or cause or order to be removed any tree or part thereof which is in any unsafe condition or which by reason of its nature is injurious to sewer lines, gas lines, waterlines or other public improvements or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners, provided that the selection and location of said trees is in accordance with § 591-8 of this chapter.

C. Nothing herein shall diminish or limit in any way the property owner's obligation and sole responsibility to maintain the sidewalks, grass strip and/or other public right-of-way which fronts his or her property.

D. The Town may, in its discretion and on a case-by-case basis, utilize grants to provide assistance to property owners in complying with the requirements of this chapter.

E. The cost of the removal of any tree or part thereof dangerous to public safety shall, if the Commission shall so determine, in accordance with uniform rules and regulations promulgated for this purpose, be a charge upon the real estate in front of which such tree or trees shall be removed as an improvement thereof. Such costs, if it is so determined that they are to be paid by the owner, shall, unless paid directly to the Commission, be certified by it to the collector of taxes of the municipality, shall thereupon become and be a lien upon the said real estate, shall be included in the next tax bill rendered to the owner or owners thereof, and shall be collected in the same manner as other taxes against that property.

F. The Commission shall give reasonable notice of its intention to remove, or cause removal of, a tree, or part of a tree, dangerous to public safety, unless public safety requires immediate removal, in which case no notice shall be necessary.

§ 591-10 Tree topping.

It shall be unlawful as a normal practice for any person or firm to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the Shade Tree Commission.

§ 591-12 Stump removal.

All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§ 591-13 Tree removal.

Any person wishing to remove a tree must obtain approval and a permit from the Shade Tree Commission. All debris must be removed and cleaned up by persons removing or trimming the tree.

§ 591-14 License required for arborists; fee; exceptions; liability insurance.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street trees within the Town without first applying for and procuring a license. The license fee shall be $25 annually in advance; provided, however, that no license shall be required of any public service company or Town department doing such work in pursuit of their public service endeavors or private property owner performing work on his property or tree limbs that cross his property. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of $50,000 for bodily injury and $100,000 property damage indemnifying the Town or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

§ 591-15 Approval required prior to work by property owners on curbside trees.

Property owners who wish to prune or remove a curbside tree abutting their property within the street right-of-way must obtain approval from the Shade Tree Commission to perform said work, prior to commencement.

§ 591-16 Attachment of items to curbside trees prohibited.

It is unlawful to attach, in any manner, chains or signs of any sort to any curbside tree or to place any nails of any type into any curbside tree.

§ 591-17 Violations and penalties; enforcement.

The Commission may prescribe a fine for the violation of each of its ordinances in an amount not to exceed $200 for each violation, and the courts which now or hereafter shall have jurisdiction over actions for the violation of ordinances of the municipality in which the Commission has been or shall be appointed shall have jurisdiction in actions for the violation of such ordinances as the Commission shall enact.

The ordinances shall be enforced by like proceedings and process, and the practice for the enforcement thereof shall be the same as that provided by law for the enforcement of the ordinances of the municipality in which the Commission exists.

The officers authorized by law to serve and execute process in the aforementioned courts shall be the officers to serve and execute any process issued out of any court under this chapter.

A copy of any ordinance of the Commission certified to under the hand of its Secretary or Chairman shall be received in any court of this state as full and legal proof of the existence of the ordinance and that all requirements of law in relation to the ordaining, publishing and making of the same, so as to make it legal and binding, have been complied with, unless the contrary is shown.

§ 591-18 Disposition of fines and penalties.

All moneys collected in any municipality, either as fines or penalties, for any violation of a rule or regulation of a Shade Tree Commission or as a charge against real estate under any provision of this chapter shall be forthwith paid over to the municipal officer empowered to be the custodian of the funds of the municipality.

§ 591-19 Limitation of liability.

Nothing contained in this chapter shall be construed to make any Shade Tree Commission or any member thereof responsible for the death or injury of any person or for any injury to any property or highway tree or shrub.

§ 591-20 Authorization to promulgate rules and regulations.

The Shade Tree Commission is hereby authorized and empowered to promulgate such written rules and regulations as may be necessary, pursuant to statute, for the proper interpretation, administration and enforcement of this basic chapter, provided that such rules and regulations do not conflict with this chapter and conform to the general standards prescribed by this chapter. All rules and regulations promulgated by Shade Tree Commission shall be submitted to the Town Council for review.

Article II: Tree Removal-Replacement

§ 591-21 **Purpose.**

An ordinance to establish requirements for tree removal and replacement in the Town of Phillipsburg to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

§ 591-22 **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 ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

APPLICANT
Any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.

CRITICAL ROOT RADIUS (CRR)
The zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a CRR = 6"x1.5' = 9'.

DIAMETER AT BREAST HEIGHT (DBH)
The diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

HAZARD TREE
A tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees. A licensed tree expert meeting NJ requirements for such expertise will be required to make determination for private sites for review/acceptance by Town.

1. Has an infectious disease or insect infestation;
2. Is dead or dying;
3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

PERSON
Any individual, resident, corporation, utility, company, partnership, firm, or association.

PLANTING STRIP
The part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

RESIDENT
An individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

STREET TREE
A tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

TREE
A woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

TREE CALIPER
The diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

TREE REMOVAL
To kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

§ 591-23 **Regulated Activities.**

A. Tree Replacement Requirements

(1) Any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under § 591-4, shall be subject to the requirements of the Tree Replacement Requirements Table below.

(2) Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under § 591-4, shall be subject to the requirements of the Tree Replacement Requirements Table.

B. The species type and diversity of replacement trees shall be in accordance with trees permitted by State of New Jersey and/or recognized by the State of New Jersey as an official agency or authority or commission or University or Federal Agency responsible for establishing and maintaining database and standards for planting of trees and types of trees to be plant in New Jersey.

C. Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet the Tree Replacement Criteria in the table below;

2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;

3. Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and

4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed

4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

D. Replacement Alternatives:

1) If the Town of Phillipsburg determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:

a. Plant replacement trees in a separate area(s) approved by the Town of Phillipsburg.

b. Pay a fee of $3,500 per tree removed per equivalent replacement tree needed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§ 591-24 **Exemptions.**

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption and shall include photos or statements from NJ licensed tree expert as per NJ Statue 45:15C-11 or arborist.:

A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]

B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;

C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;

D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.

E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;

F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;

G. Hazard trees may be removed with no fee or replacement requirement.

§ 591-25 **Enforcement.**

This article shall be enforced by the Police Department, Department of Municipal Services, Construction Official, Housing Inspectors and Zoning Officer.

§ 591-26 **Violations and penalties.**

Any person who shall violate any of the provisions or regulations of this article shall, for each and every violation, be punished as provided in Chapter 1, General Provisions, Article II, General Penalty, and each day during which any violation continues shall constitute a separate offense.

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder off this Ordinance shall not be affected thereby.

Section 3:
Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 4:
Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law
Notice is Hereby Given that Ordinance 2025-04 will be present for 2nd reading and public hearing at a regular meeting of the Town Council of the Town of Phillipsburg held on Wednesday March 26, 2025 at 6:00PM at the Phillipsburg Senior Center located at 310 Firth Street Phillipsburg, NJ 08865

ATTEST:

TOWN OF PHILLIPSBURG

Susan Turner
Acting Municipal Clerk

RANDY PIAZZA, JR
Mayor

DATED:

CERTIFICATION

I, Susan Turner, Acting Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their March 26, 2025 meeting.

Susan Turner,
Acting Municipal Clerk