

## Chapter 258. STORMWATER CONTROL

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### Attachments:

**258a Tables 1 and 2** 

**[HISTORY: Adopted by the Town Council of the Town of Newton 6-8-1970 as Ch. 19B of the Revised General Ordinances. Amendments noted where applicable.]**

### GENERAL REFERENCES

- Flood damage prevention — See Ch. **120**.
- Land subdivision — See Ch. **162**.
- Land use procedures — See Ch. **166**.
- Sewer and water — See Ch. **228**.
- Site plan review — See Ch. **240**.
- Stream obstruction — See Ch. **262**
- Zoning — See Ch. **320**.

### § 258-1. Policy statement.

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low-impact techniques shall be explored before relying on structural best management practices (hereinafter referred to as BMPs). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans 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.

## § 258-2. Purpose.

It is the purpose of this chapter to establish minimum stormwater management requirements and controls for major development, as defined in § **258-5**.

## § 258-3. Applicability.

A. This chapter shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

- (1) Nonresidential major developments; and
- (2) Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

B. This chapter shall also be applicable to all major developments undertaken by the Town of Newton.

## § 258-4. Compatibility with other permit and ordinance requirements.

Development approvals issued for subdivisions and site plans pursuant to this chapter are to be considered an integral part of development approvals under the subdivision and site plan review process 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 chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. This chapter 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 chapter 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.

## § 258-5. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. 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.

### **COMPACTION**

The increase in soil bulk density.

### **COUNTY REVIEW AGENCY**

An agency designated by the County Board of Chosen Freeholders to review municipal

stormwater management plans and implementing ordinance(s). The county review agency may either be:

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

## **DEPARTMENT**

The New Jersey Department of Environmental Protection.

## **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 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 by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

## **DRAINAGE AREA**

A geographic area within which stormwater, sediments or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

## **ENVIRONMENTALLY CRITICAL AREAS**

An area or feature which is of significant environmental value, including but not limited to stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

## **EROSION**

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

## **IMPERVIOUS SURFACE**

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

## **INFILTRATION**

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

## **MAJOR DEVELOPMENT**

Any development that provides for ultimately disturbing one or more acres of land. "Disturbance" for the purpose of this definition is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting or removing of vegetation.

**MUNICIPALITY**

The Town of Newton.

**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, Town of Newton, or political subdivision of this state subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

**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, groundwaters or surface waters of the state, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

**RECHARGE**

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

**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.

**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 BASIN**

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

**STORMWATER MANAGEMENT MEASURE**

Any structural or nonstructural strategy, practice, technology, process, program or other method intended to control or reduce stormwater runoff and associated pollutant, or to induce or

control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

### **STORMWATER RUNOFF**

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

### **WATERS OF THE STATE**

All springs, streams, wetland, and bodies of surface water 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 groundwater 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.

## **§ 258-6. General standards for stormwater management measures.**

- A. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in §§ **258-9**, **258-10** and **258-11**. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
- B. The standards in this chapter apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with Department rules.

## **§ 258-7. Stormwater management requirements for major developments.**

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § **258-14**.
- 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 13:1B-15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge,

stormwater runoff quantity, and stormwater runoff quality requirements of §§ **258-9, 258-10** and **258-11**.

- (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 groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of §§ **258-9, 258-10** and **258-11** 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 nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of §§ **258-9, 258-10** and **258-11** to the maximum extent practicable;
- (3) The applicant demonstrates that, in order to meet the requirements of §§ **258-9, 258-10** and **258-11**, 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 Subsection **D(3)** above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of §§ **258-9, 258-10** and **258-11** that were not achievable on site.

## § 258-8. Nonstructural stormwater management strategies.

A. To the maximum extent practicable, the standards in §§ **258-9, 258-10** and **258-11** should be met by incorporating nonstructural stormwater management strategies into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

B. Nonstructural stormwater management strategies incorporated into site design shall:

- (1) Protect areas that provide water quality benefits or areas particularly susceptible to

erosion and sediment loss;

- (2) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
  - (3) Maximize the protection of natural drainage features and vegetation;
  - (4) Minimize the decrease in the time of concentration from preconstruction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
  - (5) Minimize land disturbance, including clearing and grading;
  - (6) Minimize soil compaction;
  - (7) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
  - (8) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas; and
  - (9) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
    - (a) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Subsection **C** below;
    - (b) Site design features that help to prevent discharge of trash and debris from drainage systems;
    - (c) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
    - (d) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
- C. Site design features identified in Subsection **B(9)** above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash and other floating, suspended or settleable solids. For exemptions to this standard see Subsection **C(3)** below.
- (1) 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:
    - (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 seven square inches or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
- (2) 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 seven square inches or be no greater than two inches across the smallest dimension.
- (3) This standard does not apply:
- (a) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
  - (b) Where flows from the water quality design storm as specified in § **258-10** are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
    - [1] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
    - [2] A bar screen having a bar spacing of 0.5 inches.
  - (c) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in § **258-10**; or
  - (d) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.
- D. Any land area used as a nonstructural stormwater management measure to meet the performance standards in §§ **258-9**, **258-10** and **258-11** shall be dedicated to a government agency, subjected to a conservation restriction filed with the Sussex County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

- E. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § **258-14** or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org).

## § 258-9. Stormwater runoff quantity standards.

This subsection contains minimum design and performance standards to control erosion and control stormwater runoff quantity impacts of major development.

- A. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
- B. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § **258-12**, complete one of the following:
- (1) Demonstrate through hydrologic and hydraulic analysis that, for stormwater leaving the site, post-construction runoff hydrographs for the two-, ten-, and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;
  - (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing Chapter **320**, Zoning, and Chapter **166**, Land Use Procedures, in the drainage area; or
  - (3) Design stormwater management measures so that the post-construction peak runoff rates for the two-, ten-, and one-hundred-year storm events are 50%, 75% and 80%, respectively, of the preconstruction 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. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge.
- C. Any application for a new agricultural development that meets the definition of major development as set forth in § **258-5** shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

## § 258-10. Stormwater runoff quality standards.

- A. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80% of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. 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 Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. 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 1. *Editor's Note: Table 1 is included at the end of this chapter.* The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.
- B. For purposes of TSS reduction calculations, Table 2 *Editor's Note: Table 2 is included at the end of this chapter.* below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 258-14 or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in § 258-14. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, New Jersey 08625-0418.
- C. If more than one BMP in series is necessary to achieve the required eighty-percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

**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

- D. If there is more than one on-site drainage area, the eighty-percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site, in which case the removal rate can be demonstrated through a calculation using a weighted average.
- E. 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 nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in §§ **258-9**, **258-10** and **258-11**.

- F. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in § **258-14**.
- G. 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.
- H. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys within the associated HUC<sub>14</sub> drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows.
- (1) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
    - (a) A three-hundred-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the center line of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.
    - (b) Encroachment within the designated special water resource protection area shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top-of-bank of the waterway or center line of the waterway where the bank is undefined. All encroachments proposed under this subsection shall be subject to review and approval by the Department.
  - (2) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
  - (3) If stormwater discharged outside of and flowing through the special water resource

protection area cannot comply with the Standard for Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

- (a) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
  - (b) Stormwater associated with discharges allowed by this section shall achieve a ninety-five-percent TSS post-construction removal rate;
  - (c) Temperature shall be addressed to ensure no impact on the receiving waterway;
  - (d) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
  - (e) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
  - (f) All encroachments proposed under this section shall be subject to review and approval by the Department.
- (4) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to this Subsection **H** has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to this Subsection **H** shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in this Subsection **H** above. In no case shall a stream corridor protection plan allow the reduction of the special water resource protection area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.
- (5) This Subsection **H** does not apply to the following types of construction:
- (a) Construction of an individual single-family dwelling on an existing vacant lot, provided that construction of the dwelling commences prior to February 2, 2009.
  - (b) Construction of an individual single-family dwelling as part of a larger planned development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction of said dwelling commences on or before February 2, 2009.

## § 258-11. Groundwater recharge standards.

This section contains minimum design and performance standards to encourage and control infiltration and groundwater recharge. The minimum design and performance standards for groundwater recharge are as follows:

- A. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations within § **258-12**, either:
- (1) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual preconstruction groundwater recharge volume for the site; or
  - (2) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to post construction for the two-year storm is infiltrated.
- B. The following types of stormwater shall not be recharged:
- (1) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities," as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
  - (2) 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. 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 and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.

## § 258-12. Calculation of stormwater runoff and groundwater recharge.

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

- (1) The design engineer shall calculate runoff using one of the following methods:
  - (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 — Hydrology and Technical Release 55 — Urban Hydrology for Small Watersheds; or
  - (b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
- (2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology and the Rational and Modified Rational Methods. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (3) In computing preconstruction 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 preconstruction stormwater runoff rates and volumes.
- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 — Urban Hydrology for Small Watersheds and other methods may be employed.
- (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

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

- (1) 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 <http://www.state.nj.us/dep/njgs/> or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New

Jersey 08625-0427; (609) 984-6587.

## § 258-13. Standards for structural stormwater management measures.

- A. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high-water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
- B. Structural 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  $\frac{1}{3}$  the width of the diameter of the orifice or  $\frac{1}{3}$  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 § **258-15A(1)**. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- C. Structural 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.
- D. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2  $\frac{1}{2}$  inches in diameter.
- E. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins in § **258-15**.
- F. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized, provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established within this chapter.
- G. Manufactured treatment devices may be used to meet the requirements of this chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

## § 258-14. Sources for technical guidance.

- A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available from Maps and Publications, New Jersey Department of

Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey 08625; (609) 777-1038.

- (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
- (2) The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

- (1) The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the soil conservation districts listed in N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number of each soil conservation district may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540; *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (2) The Rutgers Cooperative Extension Service, (732) 932-9306; and
- (3) The soil conservation districts listed in N.J.A.C. 2:90-1.3(a)3. Information pertaining to each soil conservation district may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625, (609) 292-5540. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

## § 258-15. Safety standards for stormwater management basins.

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

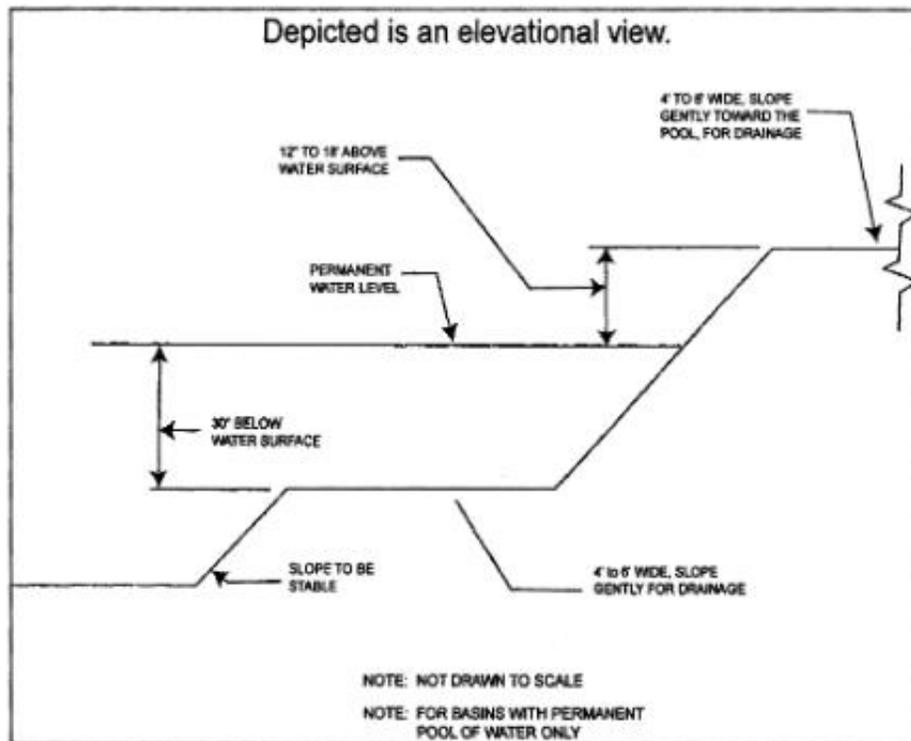
A. The requirements for trash racks, overflow grates and escape provisions are as follows:

- (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
  - (a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.
  - (b) The trash rack shall be designed so as not to adversely affect the hydraulic

performance of the outlet pipe or structure.

- (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
  - (d) The trash rack 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.
- (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
- (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
  - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension.
  - (c) The overflow grate shall be constructed and installed to be rigid, durable and corrosion-resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
- (3) For purposes of this subsection, escape provisions means the permanent installation of ladders, steps, rungs or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
- (a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Subsection **B** below, a freestanding outlet structure may be exempted from this requirement.
  - (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one to 1 1/2 feet above the permanent water surface. See below for an illustration of safety ledges in a stormwater management basin.
  - (c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment or berm shall not be steeper than three horizontal to one vertical.
- B. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or department) that the variance or exemption will not constitute a threat to public safety.

## Illustration of Safety Ledges in a New Stormwater Management Basin



## § 258-16. 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 chapter, the applicant shall submit all of the required components of the checklist for the site development stormwater plan within Subsection **C** below as part of the submission of the applicant's application for subdivision or site plan approval.
- (2) The applicant shall demonstrate that the project meets the standards set forth in this chapter.
- (3) The applicant shall submit three copies of the materials listed in the checklist for site development stormwater plans in accordance with Subsection **C** of this section.

B. Site development stormwater plan approval. The applicant's site development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning Board to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this chapter.

### C. Checklist requirements. 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 one inch equals 200 feet or greater, showing two-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 floodplains 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 man-made 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 environs. 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 plan(s). 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 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 of proposed changes in natural conditions may also be provided.
- (4) Land use planning and source control report. This report shall provide a written and graphical demonstration of how the goals and standards of this chapter are being met. The focus of this report 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 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. All details shall be illustrated at a scale which properly depicts the stormwater management facility design and is satisfactory to the Planning Board.
- (6) Calculations.
  - (a) Comprehensive hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in this chapter.

- (b) When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site 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 § **258-17**.
- (8) Waiver from submission requirements. The municipal official or board reviewing an application under this chapter may, in consultation with the Municipal Engineer, waive submission of any of the requirements 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.

## § 258-17. Maintenance and repair.

- A. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- B. 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). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- C. 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.
- D. If the person responsible for maintenance identified under Subsection **B** above is not a public agency, the maintenance plan and any future revisions based on Subsection **G** below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- E. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
- F. The person responsible for maintenance identified under Subsection **B** above shall maintain a

detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.

- G. The person responsible for maintenance identified under Subsection **B** above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
- H. The person responsible for maintenance identified under Subsection **B** above shall retain and make available, upon request by any public entity with administrative, health, environmental or safety authority over the site, the maintenance plan and the documentation required by Subsections **F** and **G** above.
- I. The requirements of Subsections **C** and **D** above do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
- J. 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 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.
- K. Nothing in this chapter 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.

## § 258-18. Refuse containers and/or dumpsters.

**[Added 8-9-2010 by Ord. No. 2010-8]** The purpose of this section is to require that all dumpsters and other refuse containers that are outdoors or exposed to stormwater be covered at all times and to prohibit the spilling, dumping, leaking or otherwise discharge of liquids, semiliquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Town of Newton and/or the waters of the state, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

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

### **MUNICIPAL SEPARATE STORM 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 the Town of Newton 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 CONTAINER**

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

**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.

**WATERS OF THE STATE**

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

**B. Prohibited conduct.**

- (1) Any person who controls, whether owned, leased or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.
- (2) Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semiliquids or solids to the municipal separate storm sewer system(s) operated by the Town of Newton.

**C. Exceptions to prohibition:**

- (1) Permitted temporary demolition and/or construction containers.
- (2) Litter receptacles (other than dumpsters or other bulk containers).
- (3) Individual homeowner's trash and recycling containers.
- (4) Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
- (5) Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).

**D. Enforcement.** The Town Manager, through the Town Zoning Officer, shall enforce the provisions of this section. It shall be unlawful for any reason to violate any part of this section adopted by the Town Council of the Town of Newton.**E. Violations and penalties.** Any person(s) who is found to be in violation of the provisions of this section shall be first notified of the violation, and if the violation is not remediated within 30 days, that person(s) shall be liable to a penalty in accordance with the following schedule

for each day on which the violation exists beyond the thirty-day limit:

<b>Offense</b>	<b>Fine</b>
First	\$100 per day
Second	\$250 per day
Third and subsequent	\$500 per day

## § 258-19. Private storm drain inlet retrofitting.

### [Added 8-9-2010 by Ord. No. 2010-9]

A. The purpose of this section is to require 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 the Town of Newton, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

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

#### **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 the Town of Newton 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.

#### **STORM DRAIN INLET**

An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

#### **WATERS OF THE STATE**

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

C. Prohibited conduct. No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- (1) Already meets the design standard below to control passage of solid and floatable materials; or
- (2) Is retrofitted or replaced to meet the standard in Subsection **D** below prior to the completion of the project.

D. Design standards. Storm drain inlets shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection **D(3)** below.

- (1) 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:
  - (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 seven square inches or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
- (2) 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 seven square inches or be no greater than two inches across the smallest dimension.
- (3) This standard does not apply:
  - (a) Where the Municipal Engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards.
  - (b) Where flows are conveyed through any device (e.g., end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
    - [1] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
    - [2] A bar screen having a bar spacing of 0.5 inches.
  - (c) Where flows are conveyed through a trash rack that has parallel bars with one-inch

spacing between the bars.

- (d) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

E. Enforcement. The Town Manager, through the Public Works Supervisor, shall enforce the provisions of this section. It shall be unlawful for any reason to violate any part of this section adopted by the Town Council of the Town of Newton.

F. Violations and penalties. Any person(s) who is found to be in violation of the provisions of this section shall be first notified of the violation, and if the violation is not remediated within 30 days, that person(s) shall be liable to a penalty in accord with the following schedule for each day on which the violation exists beyond the thirty-day limit:

<b>Offense</b>	<b>Fine</b>
First	\$100 per day
Second	\$250 per day
Third and subsequent	\$500 per day

## § 258-20. Violations and penalties.

*Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).* Unless otherwise specified, violations of the provisions of this chapter shall be punishable as provided in Chapter 1, Article III, General Penalty.

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