

NOV 29 2018

RECEIVED

BOROUGH OF ALLENTOWN  
COUNTY OF MONMOUTH  
STATE OF NEW JERSEY

ORDINANCE NO. 12-2018

INTRODUCTION/1<sup>st</sup> READING

## AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ALLENTOWN CHAPTER 30: "LAND SUBDIVISION", SPECIFICALLY, SECTION 30-13.10 THEREOF, TO IMPLEMENT A PROGRAM TO ENSURE ADEQUATE LONG-TERM CLEANING, OPERATION, AND MAINTENANCE OF NON-MUNICIPAL STORMWATER FACILITIES

**BE IT ORDAINED** by the Mayor and Council of the Borough of Allentown, County of Monmouth, State of New Jersey, that Chapter 30 of the Revised General Ordinances of the Borough of Allentown, is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

**30-13.10 Maintenance and Repair.**a. *Applicability.*

1. Projects subject to review as in subsection 30-13.1c. of this section shall comply with the requirements of subsections 30-13.10b. and 30-13.10c.

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). 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.
3. 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.
4. If the person responsible for maintenance identified under subsection 30-13.10b,2 above is not a public agency, the maintenance plan and any future revisions based on subsection 30-13.10b,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.

5. 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.
6. The person responsible for maintenance identified under subsection 30-13.10b,2 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.
7. The person responsible for maintenance identified under subsection 30-13.10b,2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
8. The person responsible for maintenance identified under subsection 30-13.10b,2 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 30-13.10b,6 and 30-13.10b,7 above.
9. The requirements of subsections 30-13.10b,3 and 30-13.10b,4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
10. 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.
11. Responsibility for operation and maintenance of stormwater management facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with owner or owners' property within permanent arrangements that it shall pass to any successive owner, unless assumed by a government agency. If portions, of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall be designate for each project the property owner, governmental agency or other legally established entity to be permanently responsible for maintenance, hereinafter in this section referred to as the responsible person.
12. The owner of a private stormwater facility is required to inspect the facility after each major storm event and preform any maintenance and/or repairs that may be required in addition to routine mowing and removal and disposal of accumulated debris from

the facility. The Borough shall inspect the facility once per year and maintain a log to demonstrate compliance with maintenance requirements and any actions taken by the Borough to enforce compliance. If inspection reveals that maintenance has not been maintained by the owner of the stormwater facility, then the Borough Official will issue an order to correct the deficiency within 30 days. If the deficiency is not corrected within 30 days, the Borough will correct the deficiency and recover the cost under the Property Maintenance Section of the Borough Code. The Borough, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause as approved by the Borough Engineer or his/her designee.

- ~~12~~13. The applicant shall enter into any agreement with the Borough (or County) to ensure the continued operation and maintenance of the facility. This agreement shall be in a form satisfactory to the Borough Attorney, and may include, but may not necessarily be limited to, personal guarantees, deed restrictions, covenants, and bonds, in case where property subdivided and sold separately, a homeowners association or similar permanent entity governmental agency to assume responsibility.
- (a) An applicant seeking approval for construction of a stormwater management facility shall provide the funds necessary to permanently maintain the facility. The amount necessary to permanently maintain the facility shall be calculated by the Planning Board Engineer based upon current estimates for maintenance with an annual increase of four (4%) percent. The Planning Board Engineer shall also assume that the investment will yield a return equal to the ninety day certificate of deposit interest rate paid by Bank of America or its successor on the date the calculation is made.
  - (b) The form of security for the maintenance of the facility shall be approved by the municipal officer and Finance Officer.
- ~~13~~14. Dedication of Facilities. Where required, the stormwater management facilities shall be dedicated to the Borough of Allentown as a drainage easement or right-of-way. Detention or retention facility dedication shall be fifteen (15) feet from the top of bank of facilities constructed in fill, inlet and outlet piping and maintenance access shall be contained within thirty-foot-side, minimum, drainage utility easements. No relocation, construction or reconstruction shall take place within the area of the easement, nor shall any structures be located within such area, nor shall any action be taken which may alter or impair the effectiveness of present or future drainage facilities without prior approval from the Borough Council.
- ~~14~~15. Surface Water Runoff Control Plan Standards for Residential Lots.
- (a) All blocks and lots in all subdivisions shall be graded to secure proper drainage away from building and to prevent the collection of pools of stormwater. Finished floor elevation and exterior grading shall be shown on all lots.
  - (b) At the time of application to the Borough Construction Code Official for a building permit for any building within an individual lot or part of an approved subdivision or site plan, the applicant shall submit a Surface Water Runoff Control Plan to the Borough Engineer for review and approval.

- (c) At a minimum, the following items are required as part of the Surface Water Runoff Control Plan:
- (1) An outbound survey, inclusive of all easements, of the property on which the structure is proposed, as prepared by a New Jersey licensed land surveyor, indicating the name and the development and/or applicant, Tax Map, lot, block and street address. The scale of the survey shall be no smaller than one (1) inch equals thirty (30) feet.
  - (2) Footprint of the proposed dwelling unit.
  - (3) The basement elevation, garage elevation, and finished floor elevation of the proposed building upon USGS MSL data. Spot grades should be provided at all corners of the building footprint and garage apron.
  - (4) Data showing that the lowest finished floor of the structure, including the basement, is at least one (1) foot above the delineated one hundred-year flood elevation of any watercourse on or near the property, or one (1) foot above the seasonal high water table, as determined by test pit, soil boring, or investigative work done in conjunction with a disconnected on-site individual sewage disposal system.
  - (5) Provision of sufficient, existing and proposed contour lines and spot elevations to show the direction of surface water runoff, yard slopes greater than two (2%) percent or less than one (1) vertical to three (3) horizontal, elimination of any standing water conditions and grading which will not adversely impact adjoining properties.
  - (6) The location of proposed potable water and sanitary sewer services or potable water supply water well, and a disconnected on-site individual sewage disposal system. The applicant shall show the location of any proposed sump pump pit and the point of discharge on the property.
  - (7) Driveway location.
- (d) Any or all the above standards may be waived by the Borough Engineer, as site conditions may require. An acceptable Surface Water Runoff Control Plan report must be issued by the Borough Engineer prior to the issuance of a building permit by the Borough Construction Code Official.

Nothing in this section 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.

**BE IT FURTHER ORDAINED** that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

**BE IT FURTHER ORDAINED** that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

**BE IT FURTHER ORDAINED** that this ordinance shall be in full force and take effect immediately after final passage and publication, as required by law.

Offered by: C/Elder

Seconded by: C/Schmitt

Roll Call: Ayes: C/Stinemire, C/Strovinsky, C/Fritts C/Elder, C/Anthony, & C/ Schmitt

Nays: None

Abstain: None

Absent: None

ATTEST:

  
\_\_\_\_\_  
GREGORY WESTFALL, Mayor

  
\_\_\_\_\_  
LAURIE A. GAVIN, R.M.C

DATED: 11/27/18

DATED: 11/27/18

**PUBLIC NOTICE**

**PLEASE TAKE NOTICE** that the foregoing Ordinance was introduced and passed on first reading on the 13<sup>th</sup> day of November, 2018, at a meeting of the Mayor and Council of the Borough of Allentown and will be taken up for final consideration and passage at a regularly scheduled meeting of the Mayor and Council of the Borough of Allentown to be held on the 27<sup>th</sup> day of November, 2018 at the Municipal Building, 8 N. Main Street, Allentown, NJ.

  
\_\_\_\_\_  
LAURIE A. GAVIN, R.M.C.