

MEMORANDUM



MEMO TO: William P. Lucia, Administrator
Borough of Eatontown

FROM: Edward W. Herrman, PE, PP, CME, CFM

DATE: January 25, 2021

SUBJECT: New Mandatory Stormwater Control Ordinance

As part of new NJDEP requirements, the Borough must adopt an updated Stormwater Control Ordinance. The new ordinance must be effective by March 3, 2021. The last major overhaul of stormwater regulations was back in 2004. Similar to the last updates, NJDEP has once again prepared a model ordinance for the Borough's adoption.

The following is a high level overview of the major updates and changes associated with the new requirements and ordinance:

1. The most notable change is that "Green Infrastructure" is now required as part of any major development. Green Infrastructure means 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

The intent is to design facilities that use or mimic the natural water cycle to capture, filter, absorb, and/or re-use stormwater.

2. Many sites were previously designed with one large drainage basin to capture stormwater runoff from the entire site. A goal of the new regulations is to limit the contributing area of such basins. Instead of one large basin, sites will need to have smaller, more frequent stormwater management facilities. "Green" features such as porous asphalt and rain gardens will likely be used more frequently as well.
3. Under the previous rules, a site with multiple drainage areas and discharge points could sometimes average their required reductions across the entire site to show compliance. With the new rules, it is much clearer that each individual drainage area of a site must meet all water quantity, quality, and groundwater recharge standards individually.
4. The previous trigger for water quality requirements was the creation of ¼ acre or more of new impervious surface. There were often questions over whether or not gravel and other porous parking areas counted as new impervious surface. Developers could argue that

some parking areas did not require water quality treatment. The new water quality trigger is ¼ acre or more of new “motor vehicle surface” which clearly includes both pervious and impervious surfaces.

5. There are new requirements for a groundwater mounding analysis to be completed for all infiltration facilities like sand basins and recharge trenches. This will assess the hydraulic impact of the new facility on the groundwater table to avoid adverse impacts such as surface ponding, flooding of basements, and interference with the functionality of the stormwater facility itself.
6. All stormwater management facilities must now be reflected on a deed notice to be filed with the County. An operations and maintenance manual must also be filed with the deed. This will help ensure long term awareness and maintenance of the facilities.
7. The definitions now clearly indicate that minor subdivisions (i.e. two or three new properties out of one existing lot) also require stormwater management compliance if they have the potential to trigger the major development thresholds when the site is fully built out (even at a later date by separate home builders).

The draft model ordinance prepared by NJDEP can be adopted by each municipality without any changes or revisions. However, some municipalities have decided to go above and beyond what NJDEP requires and add additional or more stringent requirements.

Below is a summary of a few changes that the Borough could consider for inclusion in the new ordinance. These changes are highlighted in yellow in the attached ordinance:

1. Per existing and proposed DEP regulations, stormwater management requirements do not typically apply to redeveloped areas. For example, say there is an office complex or shopping center that was built in the 70’s or 80’s with no stormwater management facilities. If a new developer wants to demolish everything down to the dirt and build a new site, they are allowed to take into consideration all of the prior impervious surfaces when completing their new stormwater calculations. This could result in a very minimal need for new stormwater management facilities. We are proposing to remove this exception for previously developed sites and require full compliance with all stormwater regulations with the assumption that the previously developed site was in a wooded condition prior to redevelopment.
2. We are proposing to add a requirement to the Maintenance and Repair section of the ordinance that would require developers to create and file a drainage easement around all stormwater management facilities. The easement would allow the Borough access to inspect the facilities on a private site to confirm they are being properly maintained. In addition, the easement would allow the Borough to complete necessary repairs or maintenance if the developer is not doing so and then place a lien on the property for reimbursement. This is something we typically require anyway, but that has not been an official ordinance requirement.

If you have any questions on the proposed ordinance, please do not hesitate to reach out.