

Chapter 258A

STORMWATER CONTROL

GENERAL REFERENCES

Construction codes, uniform — See Ch. 107.	Storm sewers — See Ch. 258.
Flood damage prevention — See Ch. 143.	Subdivision of land — See Ch. 263.
Garbage, rubbish and refuse — See Ch. 157.	Wells — See Ch. 303.
Littering — See Ch. 179.	Zoning — See Ch. 317.

§ 258A-1. Scope and purpose.

- A. 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 (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.
- B. Purpose. It is the purpose of this chapter to establish minimum stormwater management requirements and controls for major development, as defined in § 258A-2.
- C. Applicability.
 - (1) 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:
 - (a) Nonresidential major developments; and
 - (b) Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
 - (2) This chapter shall also be applicable to all major developments undertaken by the City of Passaic.
- D. Compatibility with other permit and ordinance requirements.
 - (1) 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.

- (2) 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.

§ 258A-2. 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.

AGRICULTURAL DEVELOPMENT — 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.

CAFRA CENTERS, CORES OR NODES — Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:7E-5B.

CAFRA PLANNING MAP — The geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

COMPACTION — The increase in soil bulk density.

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 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.

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 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. In the case of development of agricultural lands, "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.

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.

EMPOWERMENT NEIGHBORHOOD — A neighborhood 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.

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 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.

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 or increased impervious surface of 1/4 acre or more. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting or removing of vegetation.

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

NODE — An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

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, the City of Passaic 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 soil, 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.

REVIEW AGENCY — The City of Passaic Planning Board or Zoning Board of Adjustment.

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.

SOLID AND FLOATABLE MATERIALS — Sediment, debris, trash and other floating, suspended or settleable solids.

SOURCE MATERIAL — 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.

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 — 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 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 pollutants 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.

TAILWATER — A condition where an outlet of a storm drain is partially or fully submerged, thereby affecting its free flow or pressure flow capacity.

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 — Previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

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 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."

§ 258A-3. Design and performance 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 § 258A-4. 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.

§ 258A-4. Stormwater management requirements for major development.

Stormwater management requirements for major development are as follows:

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 258A-10.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department 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 muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity and stormwater runoff quality requirements of Subsection F and G:
 - (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 Subsection F and G 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 alternative analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Subsections F and G to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements of Subsections F and G, 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 Subsections F and G that were not achievable on site.
- E. Nonstructural stormwater management strategies.

- (1) To the maximum extent practicable, the standards in Subsections F and G shall be met by incorporating nonstructural stormwater management strategies set forth in this subsection into the design. The applicant shall identify the nonstructural strategies 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 strategies identified in Subsection E(2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
- (2) Nonstructural stormwater management strategies incorporated into site design shall:
 - (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - (c) Maximize the protection of natural drainage features and vegetation;
 - (d) Minimize the decrease in the time of concentration from preconstruction to postconstruction. "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;
 - (e) Minimize land disturbance, including clearing and grading;
 - (f) Minimize soil compaction;
 - (g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - (i) 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:
 - [1] Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Subsection E(3) below;
 - [2] Site design features that help to prevent discharge of trash and debris from drainage systems;
 - [3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - [4] 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.

- (3) Site design features identified under Subsection E(2)(i)[2] above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For exemptions to this standard see Subsection E(3)(c) below.

(a) Grates.

- [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 inch across the smallest dimension.

- [2] 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.

- [3] 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.

- [4] 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 Subsection G(1) 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:

- [i] A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
 - [ii] A bar screen having a bar spacing of 0.5 inch.
 - [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 Subsection G(1); 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.
- (4) Any land area used as a nonstructural stormwater management measure to meet the performance standards in Subsections F and G shall meet one of the following requirements:
- (a) Be dedicated to a government agency as approved by the appropriate reviewing agency; or
 - (b) Subjected to a conservation restriction filed with the Passaic County Clerk's office; or
 - (c) Subjected to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.
- (5) 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 § 258A-7 or found on the Department's website at www.njstormwater.org.
- F. Erosion control, groundwater recharge and runoff quantity standards.
- (1) This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge 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) The minimum design and performance standards for groundwater recharge are as follows:
 - [1] The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 258A-5, either:

- [a] 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
 - [b] Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to postconstruction for the two-year storm is infiltrated.
- [2] This groundwater recharge requirement does not apply to projects within the urban redevelopment area or to projects subject to Subsection F(1)(b)[3] below.
- [3] 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 or landfill closure plan 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 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.
- [4] 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.
- (c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 258A-5, complete one of the following:
- [1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction 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 zoning and land use ordinances in the drainage area;

[3] Design stormwater management measures so that the postconstruction 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 postconstruction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed.

(2) Any application for a new agricultural development that meets the definition of major development at § 258A-2 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.

G. Stormwater runoff quality standards.

(1) Stormwater management measures shall be designed to reduce the postconstruction 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 from this requirement under a NJPDES permit. 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. The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.

Table 1
Water Quality Design Storm Distribution

Time (minutes)	Cumulative Rainfall (inches)
0	0.0000
5	0.0083
10	0.0166
15	0.0250
20	0.0500
25	0.0750
30	0.1000
35	0.1330
40	0.1660
45	0.2000
50	0.2583
55	0.3583
60	0.6250
65	0.8917
70	0.9917
75	1.0500
80	1.0840
85	1.1170
90	1.1500
95	1.1750
100	1.2000
105	1.2250
110	1.2334
115	1.2417
120	1.2500

- (2) For purposes of TSS reduction calculations, Table 2 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 § 258A-7 or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in § 258-7. 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.

- (3) 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
- A = the TSS percent removal rate applicable to the first BMP
- B = the TSS percent removal rate applicable to the second BMP

Table 2

TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention systems	90
Constructed stormwater wetland	90
Extended detention basin	40 to 60
Infiltration structure	80
Manufactured treatment device	See § 258A-6C
Sand filter	80
Vegetative filter strip	60 to 80
Wet pond	50 to 90

- (4) 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.
- (5) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the postconstruction 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 Subsections F and G.
- (6) Additional information and examples of stormwater quality BMPs are contained in the New Jersey Stormwater Best Management Practices Manual,

which may be obtained from the address identified in § 258A-7.

- (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) 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 HUC14 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:
 - (a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - [1] 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.
 - [2] Encroachment within the designated special water resource protection area under Subsection G(8)(a)[1] above 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.
 - (b) 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.
 - (c) 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:

- [1] Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - [2] Stormwater associated with discharges allowed by this section shall achieve a ninety-five-percent TSS postconstruction removal rate;
 - [3] Temperature shall be addressed to ensure no impact on the receiving waterway;
 - [4] 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;
 - [5] A conceptual project design meeting shall be held with the appropriate Department staff and soil conservation district staff to identify necessary stabilization measures; and
 - [6] All encroachments proposed under this section shall be subject to review and approval by the Department.
- (d) 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 Subsection G(8) 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 Subsection G(8) shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Subsection G(8)(a)[1] 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.
- (e) Subsection G(8) does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

§ 258A-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 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 superseding document; 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 at § 258A-5A(1)(a) and the Rational and Modified Rational Methods at § 258A-5A(1)(b). 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 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).
 - (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.

§ 258A-6. Standards for structural and nonstructural stormwater management measures.**A. Structural stormwater management measures.**

- (1) Standards for structural stormwater management measures are as follows:
 - (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 1/3 the width of the diameter of the orifice or 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 § 258A-8D.
 - (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) Where tailwater will affect the hydraulic performance of a stormwater management measure, the design engineer shall include such effects in the measure's design.
 - (e) At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2 1/2 inches in diameter.
 - (f) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 258A-8.
- (2) 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 by Section 4 of this chapter.
- (3) Manufactured treatment devices may be used to meet the requirements of Section 4 of this chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the

Department.

B. Nonstructural stormwater strategies:

- (1) Buffers. Buffer areas (Refer to §§ 317-23, 317-28, 317-43, 317-51 and 317-53 of the City's Code.) are required along all lot and street lines separating residential uses from arterial and collector streets, separating a nonresidential use from either a residential use or residential zoning district line and along all street lines where loading and storage areas can be seen from the street. The buffer area shall use native vegetation, which requires less fertilization and watering than nonnative species. Buffer areas may be used for stormwater management by disconnecting impervious surfaces and treating runoff from these impervious surfaces. Preservation of natural wood tracts and limiting land disturbance for new construction shall be incorporated where practical.
- (2) Curbs and gutters. Curb cuts or flush curbs with curb stops are encouraged where practical to allow vegetated swales to be used for stormwater conveyance and to allow for the disconnection of impervious areas where practical.
- (3) Drainage systems. An existing ordinance (Refer to §§ 263-4, 263-11, 263-14, 263-15, 317-9, 317-18, 317-31, 317-50 and 317-51.) may require that all streets be provided with inlets and pipes where the same are necessary for proper drainage. The use of natural vegetated swales in lieu of inlets and pipes is encouraged where practical.
- (4) Driveways and accessways. The use of pervious paving materials to minimize stormwater runoff and promote groundwater recharge should be considered for driveways and accessways where practical. Consideration should be given for subsurface soil conditions. The use of crowned driveways is also encouraged to promote disconnectivity between impervious surfaces and allow grass areas to promote groundwater recharge.
- (5) Natural features. Natural features, such as trees, brooks, swamps, hilltops and views, are to be preserved whenever possible, and that care be taken to preserve selected trees to enhance soil stability and landscape treatment of the area. In addition, forested areas shall be maintained to ensure that leaf litter and other beneficial aspects of the forest are maintained in addition to the trees.
- (6) Nonconforming uses, structures or lots. The existing ordinance (Refer to §§ 317-10, 317-4 and 317-56 through 317-59) may allow an applicant/owner of an existing use to propose additions or alterations that exceed the permitted building and/or lot coverage percentages. The applicant should mitigate the impact of the additional impervious surfaces unless the stormwater management plan for the development provided for these increases in impervious surfaces. This mitigation effort must address water quality, flooding and groundwater recharge.
- (7) Off-site and off-tract improvements. Any off-site and off-tract stormwater management and drainage improvements shall conform to the design and performance standards described here-in and in the City Code.

- (8) Off-street parking and loading. Where practical, parking lots with more than 10 spaces and all loading areas should allow for flush curb with curb stop or curbing with curb cuts to encourage developers to allow for the discharge of impervious areas into landscaped areas for stormwater management. The use of natural vegetated swales for the water quality design storm with overflow for larger storm events into storm sewers should be utilized where practical. A developer may demonstrate that fewer spaces would be required, provided that area is set aside for additional spaces if necessary. Pervious paving could be provided for overflow parking areas.
- (9) Performance standards. Pollution source control must be evaluated in order to prohibit materials or wastes from being deposited upon a lot in such form or manner that they can be transferred off the lot, directly or indirectly, by natural forces such as precipitation, evaporation or wind. Materials and wastes that might create a pollutant or a hazard shall be enclosed with appropriate measures/devices.
- (10) Shade trees. The existing ordinance (Refer to §§ 263-9, 263-16, 317-33, 317-51 and 317-59.) requires shade trees to be planted along the street on which the building fronts. In addition to this section, the City may adopt a tree preservation ordinance that restricts and otherwise controls the removal of mature trees throughout the City. This ordinance should recognize that the preservation of mature trees and forested areas must be considered in the management of environmental resources, particularly watershed management, air quality, and ambient heating and cooling. A critical disturbance area that extends beyond the driveway and building footprint where clearing of trees cannot occur shall be depicted on the plan minimizing land disturbance. Identification of forested areas and the percentage of wooded areas be protected from disturbance shall also be provided.
- (11) Sidewalks. Sidewalks should be designed to discharge stormwater to neighboring lawns where feasible to disconnect these impervious surfaces or use permeable paving materials where appropriate.
- (12) Soil erosion and sediment control. The applicant shall comply with the New Jersey Soil Erosion and Sediment Control Standards and/or the City's Soil Movement Ordinance (Refer to §§ 317-55 and 263-9 of the City's Code.) as applicable and should incorporate procedures to retain and protect natural vegetation; minimize and retain water runoff to facilitate groundwater recharge; and install diversions, sediment basins and similar required structures prior to any on-site grading or disturbance.
- (13) Further guidance on the implementation of these strategies can be found in the NJDEP Stormwater Best Management Practices Manual, April 2004, as amended.

§ 258A-7. Sources for technical guidance.

- A. Technical guidance for stormwater management measures can be found in the documents listed Subsections A(1) and A(2) 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; telephone (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)4. 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;
 - (2) The Rutgers Cooperative Extension Service, (732) 932-9306; and
 - (3) Technical guidance can be obtained from the Hudson, Essex and Passaic County Soil Conservation District located at 15 Bloomfield Avenue, North Caldwell, New Jersey 07006, (973) 364-0786.

§ 258A-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 basins. This section applies to any new stormwater management basin. The provisions of this section do not preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins to be retrofitted to meet one or more of the safety standards in Subsections B(1), B(2) and B(3) for trash racks, overflow grates and escape provisions at outlet structures.
- B. 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 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

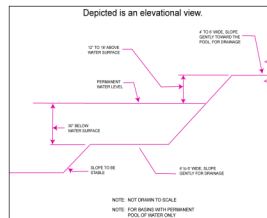
performance of the outlet pipe or structure.

- (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 feet.
- (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 C, 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 Subsection D 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.

C. Variance or exemption from safety standards.

- (1) 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.

D. Illustration of safety ledges in a new stormwater management basin:



§ 258A-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 chapter, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at 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 four copies of the materials listed in the checklist for site development stormwater plans in accordance with § 258A-9C of this chapter.

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 and/or Zoning Board (as appropriate) 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. These requirements of this section will supplement the standards outlined in §§ 317-31I, 317-10 and 317-55.
- (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 plan. This plan shall provide a demonstration of how the goals and standards of §§ 258A-3 through 258A-6 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 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 predevelopment and postdevelopment conditions for the design storms specified in § 258A-4 of this chapter.
 - (b) When the proposed stormwater management control measures (e.g., infiltration basins) depend 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 § 258A-10.

- (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 in §§ 258A-9C(1) through 258A-9C(6) of this chapter 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.

§ 258A-10. Maintenance and repair.

- A. Applicability. Projects subject to review as in § 258A-1C of this chapter shall comply with the requirements of § 258A-10B and 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 include the following:
 - (a) Contain specific preventative maintenance tasks and schedules and the name, address and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement).
 - (b) 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 § 258A-10B(2) above is not a public agency, the maintenance plan and any future revisions based on § 258A-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 § 258A-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 § 258A-10B(2) above shall evaluate the effectiveness of the maintenance plan at least once per year. Any adjustments to the management plan or deed shall require notification and approval from the applicable board prior to the filing of a revised deed.
 - (8) The person responsible for maintenance identified under § 258A-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 § 258A-10B(6) and B(7) above.
 - (9) The requirements of § 258A-10B(3) and B(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 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.
- C. 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.

§ 258A-11. Violations and penalties.

Any person who erects, constructs, alters, repairs, converts, maintains or uses any building, structure or land in violation of this chapter shall be subject to the following penalties: A fine not to exceed \$500 per day for the first offense and a fine not to exceed \$1,000 per day with the possibility of imprisonment for the second and subsequent offenses.

§ 258A-12. Effective date.

This chapter shall take effect immediately upon the approval by the county review agency or 60 days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.

§ 258A-13. Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this

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