

ORDINANCE 05-2020
AN ORDINANCE TO AMEND CHAPTER 172 OF
THE CODE ENTITLED “STORMWATER CONTROL” AND
CHAPTER 176 ARTICLE XIII IN THE LAND USE ORDINANCE ENTITLED
“SUBDIVISION AND SITE PLAN REVIEW”, TO ADDRESS NEW
REQUIREMENTS IN THE BOROUGH’S
TIER ‘A’ MUNICIPAL STORMWATER GENERAL PERMIT

WHEREAS, the Borough of Kinnelon has authorization to discharge stormwater in accordance with a Tier ‘A’ Municipal Stormwater Permit that was issued by the New Jersey Department of Environmental Protection (“NJDEP”) on December 8, 2017; and

WHEREAS, the permit issued by the NJDEP on December 8, 2017 became effective on January 1, 2018; and

WHEREAS, the permit issued by the NJDEP on December 8, 2017 has a five (5) year term and shall expire on December 31, 2022; and

WHEREAS, the permit that became effective on January 1, 2018 replaced a permit that became effective on January 1, 2009; and

WHEREAS, the permit that became effective on January 1, 2018 contained several new requirements; and

WHEREAS, several of the new requirements require changes to the Land Development Ordinance to revise certain documents to be submitted either as part of a subdivision plan or site plan submission or in accordance with an approved or recorded maintenance plan;

NOW THEREFORE BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF KINNELON IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY THAT THE CODE OF THE BOROUGH OF KINNELON IS AMENDED AS FOLLOWS:

Section One - Section 172-23 (B) in Chapter 172 of the Code entitled “Stormwater Control” shall be amended to read as follows:

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. Maintenance Plans.
 - a) 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.
 - b) Stormwater facilities shall be constantly maintained by the owner or association to assure continual functioning of the system at design capacity and to prevent the health hazards associated with debris

buildup and stagnant water. Maintenance responsibilities, inspection schedules and tasks will be clearly shown in the proposed plan. In no case shall water be allowed to remain in any facility long enough to trigger a mosquito breeding disease or cause any other type of health problem. The maintenance plan must include inspection routines to reduce the potential for extensive, difficult, and costly remedial or emergency maintenance efforts, including inspection checklists. Inspection checklists may address, but not limited to such items as:

- (1) Obstruction of inlet or outlet devices by trash and debris, trash rack inspection;
 - (2) Evidence of erosion, loss of vegetation, sedimentation or instability;
 - (3) Malfunctioning of valves, gates, locks, access hatches or equipment;
 - (4) Deteriorated conduit outlet protection (riprap) or seepage around outlet;
 - (5) Cracks or other deterioration of inlets, outlets, pipes, and conduits;
 - (6) Inadequate basin draining, clearing or clogging of control devices;
 - (7) Trimming, cutting or mowing of vegetation as required;
 - (8) Erosion and debris in emergency spillways and/or filter strips;
 - (9) Deterioration of downstream channels/conduits;
 - (10) Invasive or noxious weeds out of character with those specified;
 - (11) Saturated conditions or standing water;
 - (12) Animal burrowing; and
 - (13) Vandalism or other non-specified occurrences.
 - (14) Accumulation of Sediment Inspection and Removal Schedule
- (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 b. (2) above is not a public agency, the maintenance plan and any future revisions based on Subsection b. (7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- (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 non-vegetated linings.
- (6) The person responsible for maintenance identified under Subsection b. (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 b. (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 b. (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 Subsection b. (6) and b. (7) above. Beginning on January 31, 2019, persons responsible for maintenance under Subsection b. (2) above shall make annual submissions to the municipality, by January 31st, containing excerpts of the detailed log of all preventative and corrective maintenance that was performed for the calendar year that just ended for all structural stormwater measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance related work orders.

(9) The requirements of Subsection b. (3) and b. (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency. Where the ordinance requires the facility to be dedicated to the municipality, certain aspects of the maintenance and repair plan may be deleted, but otherwise should require the posting of a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53. Guidelines for developing a maintenance and inspection program are provided in the New Jersey Stormwater Best Management Practices Manual and the NJDEP Ocean County Demonstration Study, Stormwater Management Facilities Maintenance Manual, dated June 1989, available from the NJDEP, Watershed Management Program.

(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.

Section Two - Chapter 176 Article XIII of the Land Use Ordinance entitled "Subdivision and Site Plan Review" shall be amended to add the following checklist items:

- A Stormwater Maintenance Plan pursuant to the requirements in Section 176-23 (B) of the Code of the Borough.
- Completed Major Development Stormwater Summary Form that is contained within Attachment D in the Borough's Tier A Municipal Stormwater General Permit for each stormwater basin that is proposed on the project.

Section Three: If any section, subdivision, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, subdivision, paragraph, clause, or provision and the remainder of this ordinance shall be deemed valid and effective. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section Four: This ordinance shall take effect upon the publication of notice of final adoption as provided by law.

I hereby certify the foregoing to be a true copy of an Ordinance passed by the Kinnelon Borough Council at


a duly convened meeting held on April 16 2020.

Adopted: Kinnelon Council

William Yago, Council President

Date

Approved:



James Freda, Mayor

Date

4-16-2020

Attest:



Karen Iuele, Municipal Clerk

Date

4-16-2020