

**ORDINANCE #7-2024**

**AMENDING CHAPTER 170, LAND USE AND DEVELOPMENT, CHAPTER 233, STORMWATER CONTROL, OF THE CODE OF THE CITY OF EGG HARBOR, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY**

**WHEREAS**, the Pinelands Protection Act (N.J.S.A. 13:18A-1) requires that the municipal master plan and local land use ordinances of the City of Egg Harbor implement the objectives of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) and conform with the minimum standards contained therein; and

**WHEREAS**, the Pinelands Comprehensive Management Plan incorporates by reference certain stormwater management regulations contained at N.J.A.C. 7:8; and

**WHEREAS**, the New Jersey Department of Environmental Protection adopted amendments to certain stormwater management regulations contained at N.J.A.C. 7:8, effective July 17, 2023.

**WHEREAS**, the Pinelands Commission adopted amendments to the Pinelands Comprehensive Management Plan, effective December 4, 2023.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Egg Harbor, County of Atlantic and State of New Jersey, as follows:

**SECTION 1:** Chapter 233, Stormwater Control, Section 233-3, Stormwater Management Requirements, is hereby amended by revising subsection D. as follows:

**D.** Tables 1, 2, and 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater BMP Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and

stormwater runoff quantity standards specified in **§233-3N, O, P and Q**. When designed in accordance with the most current version of the New Jersey Stormwater BMP Manual and this Section, the stormwater management measures found in **Tables 1, 2, and 3** are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater BMP Manual to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the NJDEP shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the NJDEP website at: <https://dep.nj.gov/stormwater/bmp-manual/>.

**SECTION 2:** Chapter 233, Stormwater Control, Section 233-3, Stormwater Management

Requirements, is hereby amended by revising subsection O. as follows:

**O. Groundwater Recharge Standards**

- (1) (No change.)
- (2) For all major development, the total runoff volume generated from the net increase in impervious surfaces by a the current\_10-year, 24-hour storm, as defined and determined in **§233-4H**, shall be retained and infiltrated onsite.
- (3) For minor development that involves the construction of four or fewer dwelling units, the runoff generated from the total roof area of the dwelling(s) by a the current\_10-year, 24-hour storm, as defined and determined in **§233-4H**, shall be retained and infiltrated through installation of one or more green infrastructure stormwater management measures designed in accordance with the New Jersey Stormwater BMP Manual. Appropriate green infrastructure stormwater management measures include, but are not limited to dry wells, pervious pavement systems, and small scale bioretention systems, including rain gardens.
- (4) -- (5) (No change.)

**SECTION 3:** Chapter 233, Stormwater Control, Section 233-3, Stormwater Management

Requirements, is hereby amended by revising subsection Q. as follows:

**Q. Stormwater Runoff Quantity Standards**

- (1) (No change.)

- (2) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at **§233-4**, complete one of the following:
- (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected 2-, 10-, and 100-year storm events, as defined and determined in **§233-4H and I**, do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the current and projected 2-, 10- and 100-year storm events, as defined and determined in **§233-4H and I**, 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;
  - (c) Design stormwater management measures so that the post-construction peak runoff rates for the current and projected 2-, 10- and 100-year storm events, as defined and determined in **§233-4H and I**, are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - (d) (No change.)
- (3) -- (5) (No change.)

**SECTION 4:** Chapter 233, Stormwater Control, Section 233-4, Calculation of

Stormwater Runoff and Groundwater Recharge, is hereby amended as follows:

**§233-4. Calculation of Stormwater Runoff and Groundwater Recharge**

- A.** Stormwater runoff shall be calculated by the design engineer using the USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, ~~Hydrology National Engineering Handbook~~, incorporated herein by reference as amended and supplemented, except that the Rational Method for peak flow and the Modified Rational Method for hydrograph computations shall not be used. This methodology is additionally described in Technical Release 55 - Urban

Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at: <https://directives.sc.egov.usda.gov/viewerFS.aspx?hid=21422> or at United States Department of Agriculture Natural Resources Conservation Service, New Jersey

**B.** (No change.)

**C.** For the purpose of calculating curve numbers and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “curve number” applies to the NRCS methodology at **A.** above. A curve number 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).

**D. -- G.** (No change.)

**H.** The precipitation depths of the current two-, 10-, and 100-year storm events shall be determined by multiplying the values determined in accordance with items **(1)** and **(2)** below:

**(1)** The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service’s Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at:

[https://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html?bkmrk=nj](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj); and

**(2)** The applicant shall utilize **Table 5: Current Precipitation Adjustment Factors** below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

**Table 5: Current Precipitation Adjustment Factors**

<u>County</u>	<u>Current Precipitation Adjustment Factors</u>		
	<u>2-year Design Storm</u>	<u>10-year Design Storm</u>	<u>100-year Design Storm</u>
<u>Atlantic</u>	<u>1.01</u>	<u>1.02</u>	<u>1.03</u>
<u>Burlington</u>	<u>0.99</u>	<u>1.01</u>	<u>1.04</u>

- I. **Table 6:** Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, 10-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, 10-, and 100-year storm events determined from the National Weather Service’s Atlas 14 Point Precipitation Frequency Estimates pursuant to **H.(1)** above, by the change factor in the table below, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

**Table 6: Future Precipitation Change Factors**

<u>County</u>	<u>Future Precipitation Change Factors</u>		
	<u>2-year Design Storm</u>	<u>10-year Design Storm</u>	<u>100-year Design Storm</u>
<u>Atlantic</u>	<u>1.22</u>	<u>1.24</u>	<u>1.39</u>
<u>Burlington</u>	<u>1.17</u>	<u>1.18</u>	<u>1.32</u>

**SECTION 5:** Chapter 233, Stormwater Control, Section 233-5, Sources for Technical

Guidance, is hereby amended as follows:

**§233-5. Sources for Technical Guidance**

- A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the NJDEP’s website at: <https://dep.nj.gov/stormwater/bmp-manual/>.

(1) (No change.)

- (2) Additional maintenance guidance is available on the NJDEP's website at:  
<https://dep.nj.gov/stormwater/maintenance-guidance/>.

**B.**

- (1) Submissions required for review by the NJDEP should be mailed to:

The Division of Watershed Protection and Restoration, New Jersey Department of Environmental Protection, Mail Code 501-02A, PO Box 420, Trenton, New Jersey 08625-0420.

- (2) (No change.)

**SECTION 6:** Chapter 170, Land Use and Development, Article III, Terminology,

Section 170-17, Definitions, is hereby amended by adding the following definitions:

**DIVERT or DIVERSION** – Means the taking of water from a river, stream, lake, pond, aquifer, well, other underground source, or other waterbody, whether or not the water is returned thereto, consumed, made to flow into another stream or basin, or discharged elsewhere.

**HYDROLOGIC UNIT CODE-11 or HUC-11** – Means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

**NONCONSUMPTIVE USE** – Means the use of water diverted from surface or ground waters in such a manner that at least 90 percent of the diverted water is returned to the source surface or ground water at or near the point from which it was taken.

**SECTION 7:** Chapter 170, Water quality, Article VI, Subdivision and Site Plan Review,

Section 170-73, Water quality, is hereby amended by repealing and replacing subsection E. as follows:

**E.** Water management.

- (1) ~~Water shall not be exported from the Pinelands except as otherwise provided at N.J.S.A. 58:1A-7.1.~~

- (2) A diversion within Egg Harbor City that involves the interbasin transfer of water from sources within the Pinelands Area between the Atlantic Basin and the

Delaware Basin, as defined at **(a)** and **(b)** below, or outside of either basin, shall be prohibited.

**(a)** The Atlantic Basin is comprised of Watershed Management Areas 13, 14, 15, and 16, as identified by the New Jersey Department of Environmental Protection.

**(b)** The Delaware Basin is comprised of Watershed Management Areas 17, 18, 19, and 20 as identified by the New Jersey Department of Environmental Protection.

**(3)** A diversion within Egg Harbor City involving the intrabasin transfer of water between HUC-11 watersheds in the same basin, Atlantic Basin or Delaware Basin as defined at **(2)(a)** and **(b)** above, shall be permitted. If such an intrabasin transfer involves water sourced from the Kirkwood-Cohansey aquifer, the diversion shall meet the criteria and standards set forth at **(4)** below.

**(4)** Within Egg Harbor City a new diversion or an increase in allocation from either a single existing diversion source or from combined existing and new diversion sources in the same HUC-11 watershed and in the Kirkwood-Cohansey aquifer, that results in a total diversion of 50,000 gallons of water per day or more (hereafter referred to as "proposed diversion") shall meet the criteria and standards set forth at **(4)(c)** through **(f)** below and the water management standards of the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-6.86(d). "Allocation" shall mean a diversion permitted pursuant to a Water Allocation Permit or Water Use Registration Number issued by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:19.

**(a)** When evaluating whether the proposed diversion meets the criteria set forth at **(4)(c)** through **(f)** below, all of the applicant's allocations in an HUC-11 watershed, in addition to the proposed diversion, shall be included in the evaluation.

**(b)** The standards set forth at **(4)(c)** through **(f)** below shall not apply to:

**[1]** A new well that is to replace an existing well, provided the existing well is decommissioned in accordance with N.J.A.C. 7:9D-3 and the new replacement well will:

**[a]** Be approximately the same depth as the existing well;

**[b]** Divert from the same aquifer as the existing well;

**[c]** Have the same or lesser pump capacity as the existing well; and

- [d] Be located within 100 feet of, and in the same HUC-11 watershed as, the existing well;
- [2] Any proposed diversion that is exclusively for agricultural or horticultural use; or
- [3] Any proposed diversion for a resource extraction operation that constitutes a nonconsumptive use, provided the water returned to the source is not discharged to a stream or waterbody or otherwise results in offsite flow, and the diversion and return are located on the same parcel.
- (c) A proposed diversion shall be permitted only in the following Pinelands Management Areas: Pinelands Town.
- (d) A proposed diversion shall only be permitted if the applicant demonstrates that no alternative water supply source is available or viable. Alternative water supply sources include, but are not limited to, groundwater and surface water sources that are not part of the Kirkwood-Cohansey aquifer, and public water purveyors and suppliers, as defined at N.J.A.C. 7:19-1.3. A list of alternative water supply sources is available at the offices of the Pinelands Commission and at <https://www.nj.gov/pinelands/>.
- (e) A proposed diversion shall not have an adverse ecological impact on the Kirkwood-Cohansey aquifer. Adverse ecological impact means an adverse regional impact and/or an adverse local impact, as described at N.J.A.C. 7:50-6.86(d)6 and 7, respectively. A proposed diversion deemed to have an adverse local impact in the Pinelands Area is prohibited. A proposed diversion deemed to have an adverse regional impact shall only be permitted if an applicant permanently offsets the diversion in accordance with N.J.A.C. 7:50-6.86(d)6i.
- (f) An applicant for a proposed diversion shall provide written documentation of water conservation measures that have been implemented, or that are planned for implementation, for all areas to be served by the proposed diversion. Water conservation measures are measurable efforts by public and private water system operators and local agencies to reduce water demand by users and reduce losses in the water distribution system.

## **SECTION 8. Repealer**

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Any and all other ordinances inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.



**SECTION 9. Severability.**


In the event that any section, paragraph, clause, phrase, term, provision or part of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, paragraph, clause, term, provision or part thereof directly involved in the controversy in such judgment shall be rendered.

**SECTION 10. Effective Date**

This ordinance shall take effect upon proper publication and in accordance with law.

INTRODUCED: April 11, 2024  
PUBLICATION: April 17, 2024  
PUBLIC HEARING: April 25, 2024  
ADOPTED: April 25, 2024

ATTEST:

  
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Meg Steeb, City Clerk

APPROVED BY THE MAYOR OF THE CITY OF EGG HARBOR this 25th day of  
April, 2024.

  
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Lisa Jampetti, Mayor