

Ordinance No. 2379-20

**ORDINANCE AMENDING THE
LAND USE ORDINANCE
OF THE TOWNSHIP OF LAWRENCE
TO REVISE SECTION 522
DRAINAGE AND STORM WATER MANAGEMENT**

WHEREAS, the Township Council of the Township of Lawrence ("Township Council"), a municipal corporation in the County of Mercer, State of New Jersey, finds that the public health, safety, morals, and general welfare of the community shall be promoted by the revision and amendment of the Land Use Ordinance of the Township to fully ensure the municipality's continued ability to comply with the New Jersey Department of Environmental Protection Standards; and

WHEREAS, these amendments to the Land Use Ordinance and the adoption of new state compliant regulations for Stormwater Management are necessary to meet new regulations adopted by New Jersey Department of Environmental Protection; and

WHEREAS, the Planning Board of the Township of Lawrence has adopted a Master Plan that comprehensively provides a foundation for the appropriate use, regulation and development of lands in the Township in a manner which will promote the public health, safety, morals, and general welfare; and

WHEREAS, the Municipal Land Use Law at *N.J.S.A. 40:55D-62a* requires substantial consistency of the provisions regulating zoning and land use with the adopted Master Plan; and

WHEREAS, the Planning Board has determined that the revisions and amendments to the Land Use Ordinance set forth herein are consistent with the goals and objectives of the Master Plan and more specifically Appendix A which contains the Municipal Stormwater Management Plan and therefore favorably recommends to the Township Council that the LUO be so amended.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Lawrence that the Land Use Ordinance be hereby amended as follows:

§522

Drainage and Storm Water Management.

[Ord. 1873-06, 2/7/2006]

- A. Purpose. It is hereby determined that the lands and waterways within the municipality are at times subjected to flooding; that such flooding is a danger to the lives and property of the public; that such flooding is also a danger to the natural resources of the municipality, the county and the State; that development tends to accentuate such flooding by increasing storm water runoff due to alteration of the hydrologic response of the watershed in changing from the undeveloped to the developed condition; that such increased flooding produced by the development of real property contributes increased quantities of waterborne pollutants and tends to increase channel erosion; that such increased flooding, increased erosion, and increased pollution constitutes deterioration of the water resources of the municipality, the county and the State; and that such

increased flooding, increased erosion and increased pollution can be controlled by the regulation of storm water runoff from such development. It is therefore determined that it is in the public interest to regulate the development of real property and to establish standards to regulate the discharge of storm water runoff from such developments as provided in this Ordinance. This ordinance shall apply to major development as defined in N.J.A.C.7:8-1.2 and any project that will increase stormwater runoff by one (1) cubic foot per second in the 100-year event.

- B. Storm Water Management Goals. Storm water management plans submitted pursuant to Article VIII or as required by the Municipal Engineer shall comply with N.J.A.C.7:8 and shall demonstrate careful consideration of the general and specific concerns, values and standards of the municipal master plan and applicable county and State storm drainage control programs, and any county mosquito commission control standards, and shall be based on environmentally sound site planning, engineering and landscape architectural techniques. [The design of all stormwater management facilities shall address water quality, flooding and groundwater recharge and shall incorporate the use of non- structural stormwater management strategies to the maximum extent practical.] Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID 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. Land subject to periodic or occasional flooding (floodplain hazard areas) shall not be developed in such a way to endanger life or property or aggravate the potential for flooding. Such land shall be reserved for open space or other similar uses. (See also §427.)
- C. Best Available Technology (BAT) Required. Development shall use the best available technology to minimize off-site storm water runoff, increase on-site infiltration, improve water quality, simulate natural drainage systems, and minimize off-site discharge of pollutants to ground and surface water and encourage natural filtration functions. Best available technology may include measures such as extended detention basins, infiltration basins, manufactured treatment devices, pervious paving systems, bio-retention areas, contour terraces [and] swales and other measures described in the New Jersey Stormwater Best Management Practices manual.
- D. Lot Grading. Lots shall be graded to secure proper drainage away from buildings and into streets. Additionally, drainage shall be provided in a manner which will prevent the collection of storm water in pools or other unauthorized concentrations of flow, and water shall not flow across adjacent property lines unless specifically approved by the Municipal Engineer. The Municipal Engineer may direct the installation of a piped under drain system and soil stabilization fabric within roadways, drives and parking lots if deemed necessary. [Ord. 1810-04, 9/21/2004]
1. Grading in lawn areas shall meet the following minimum standards:
 - a. Provide a minimum of 6 inch drop in the first 20 feet from a building.
 - b. Overland grades throughout the site shall be a minimum of 2%.
 - c. Grades for swales shall be a minimum of 1%
 - d. Maximum slopes on residential lots shall be 5:1 (horizontal: vertical) except where approved by the Municipal Engineer.
 2. All work shall be in accordance with the established design standards of the municipality and as required by the Municipal Engineer.

E. Storm Water System Strategy and Design.

Intent. The system shall be adequate to carry off or store the storm water and natural drainage water which originates not only within the lot or tract boundaries, but also that which originates upstream of the lot or tract boundaries and normally flows through the tract. Storm water runoff, natural drainage water or water discharged from any source shall not be so diverted as to overload the existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for managing these conditions.

1. Prohibited Design. Over the sidewalk, under the sidewalk and/or through the curb drains for the purpose of routing the discharge from sump pumps is prohibited. These facilities must outlet into an adequate water course or drainage system as approved by the Municipal Engineer. Roof leaders must be connected to an approved drainage system as approved by the Municipal Engineer. In the absence of a practical outlet for either sump pump or roof leaders, other systems, such as drywells, as approved by the Municipal Engineer may be used. Drywells shall be setback from all property lines a minimum of 10 feet.
3. Stormwater [runoff calculations.] management measures. Techniques, [and] designs and performance standards for stormwater management [computing storm] water runoff shall be in accordance with *N.J.A.C. 7:8-5* and *N.J.A.C. 5:21*.
4. Soil testing is required for all proposed infiltration basins, bio-retention basins, porous paving systems and drywells. Testing shall be witnessed by the Municipal Engineer, unless such requirement is waived. The testing shall confirm the permeability of the soils, depth of the water table and seasonal high water table.
5. Whenever possible, all lots shall be designed to provide positive drainage to the roadway facility fronting same without flowing onto or across adjacent property. Where this is impractical, the disposal of storm drainage through adjacent properties shall be through easement areas by underground piping and inlets, swales, et cetera. The depth of standing water at the pavement gutter line shall not exceed 9 inches for a 100-year storm event.

F. Storm Water Management [Basins]. [Ord. 2081-11, 2/15/11] Storm water management [basins] shall be required for all tracts except as subsequently noted below and shall be designed to provide adequate storage of storm water runoff for a 100-year storm event with water quality, infiltration, pollution control and other measures as required by N.J.A.C.c.7:8. Additional requirements include:

1. Basin required. A [detention] basin or other stormwater approved control method shall be required if site improvements will increase storm water runoff by one (1) cubic foot per second (CFS) in the 100-year storm event. Low impact development techniques shall be utilized to limit the creation of runoff.
2. Permitted basin location. All storm water management basins shall conform to the following siting requirements.

- a. Any storm water management basin in a residential zoning district shall be located within the setbacks for a principal building on the lot. For the purposes of this sub-paragraph, a residential district shall also include the PVD-1, PVD-2 and MX-1 zones. For purposes of determining compliance, the setback shall be measured from the toe of an exterior slope of the bermed edge of a basin or, when the edge is not bermed, the water's edge reached in a 100-year storm event, whichever provides the greater setback.
 - b. In accordance with §525.H.1.c, no storm water management facility, including basins, shall be located within a required landscape buffer.
3. Use of retaining walls. No storm water management facility shall make use of retaining walls unless approved as part of a formal landscaping plan under sub-paragraph -5 below or if located in the interior of a basin and not visible from a public right-of-way or adjacent property (whether developed or undeveloped) from ground level.
4. Naturalistic design required for detention. The detention area shall be graded creatively to blend into the surrounding landscape and imitate a natural depression with an irregular edge. Linear or geometric shapes are to be avoided unless approved as part of a formal landscaping plan under sub-paragraph -5 below.
5. Formal design permitted for retention. The design for stormwater retention facilities may use a variety of landscape forms, including formal reflecting pools, fountain features, and naturalistic lakes and ponds. Retaining walls may be utilized when essential to formal landscape designs which incorporate water features and/or stormwater management functions.
6. Conveyance. Detention basins shall be designed to convey all runoff from the 100-year storm event from the basin without creating adverse impacts on property. Backwater impacts from the filling of the basin shall also be considered in the design of the facility.
7. Detention basins shall discharge into a stable outfall structure, whether natural or manmade. Stability calculations based on the 100-year storm outflow shall be required showing adherence to Soil Conservation Service standards.
8. Any storm water facility approved as a part of site plan or subdivision application shall be constructed and functioning prior to the issuance of a building permit for construction of a building. In the event that an approved site plan includes the renovation or adaptive reuse of an existing building, the Municipal Engineer shall have the discretion to waive strict compliance with this sub-paragraph.
9. An agreement for the ownership and maintenance of detention facilities serving two or more lots, with cross easements, shall be furnished to the satisfaction of the Board of Jurisdiction.
10. Detention basins shall be constructed on individual lots (not part of a residential building lot) in all residential subdivisions and may be constructed within an easement in all residential minor subdivisions.

11. For development with less than one-quarter($\frac{1}{4}$) acre of new impervious surface coverage, a deed restriction shall be established which limits the total new impervious surface coverage to less than one-quarter($\frac{1}{4}$) acre. This impervious surface coverage limitation shall be applied to the subject lot or equally distributed between all lots within a subdivision, as deemed appropriate by the Board of Jurisdiction.

G. Landscaping. Stormwater management areas including retention and detention basins, drainage ditches and swales, and wetland areas shall be landscaped in accordance with the standards in §525 and shall contain indigenous species to the maximum extent practical. This may involve integration of these areas as aesthetic landscape features, naturalized wetland areas, or active and passive recreation areas, in addition to their stormwater management function. Detention and retention basins should be located in cleared areas where reasonably feasible.

H. Stormwater [Detention] Facility Maintenance. (See also §529.I)

1. Maintenance of the stormwater facilities [detention facility] shall be the responsibility of the owner of the property upon which the [detention] facility is located. A maintenance manual, prepared in accordance with N.J.A.C.7:8-5.8 is required and shall be recorded with the Mercer County Clerk's Office. Annual maintenance reporting requirements shall be included as required by the Municipal Engineer. The owner may be a homeowner's organization or an open space organization established for the purpose of owning and maintaining common lands and facilities including conservation, open space, floodplain, drainage, recreation and park areas and shall be in accordance with *N.J.S.A. 40:55D-43* and the following provisions except that, under certain conditions, the municipality will maintain the [detention] facility, subject to the conditions as defined herein. See also §529 for provisions concerning the establishment of homeowners' associations for open space.
2. Membership in any homeowners or created open space organization by all property owners shall be mandatory. Such required membership in any such organization and the responsibilities upon the members shall be in writing between the organization and the individual in the form of a covenant with each member accepting liability for a pro rata share of the organization's costs and providing that the municipality shall be a party beneficiary to such covenant entitled to enforce its provisions. The terms and conditions of said covenant shall be reviewed by the planning board attorney prior to final approval.
3. Executed deeds shall be tendered to the municipality simultaneously with the granting of final approval stating that the prescribed use(s) of the lands in the common ownership shall be absolute and not subject to revision for possible future development.
4. The homeowners or open space organization shall be responsible for liability insurance, municipal taxes, maintenance of land and facilities and inspection and certification of facilities that may be erected on any land deeded to such organization and shall hold the municipality harmless from any liability.
5. Any assessment levied by the homeowners or open space organization may become a lien on the private properties in the development. The duly created organization shall be allowed to adjust the assessment to meet changing needs and any deeded lands may only be sold, donated or in some other way conveyed to the municipality for public purposes only.

6. The homeowners or open space organization initially created by the developer shall clearly describe in its bylaws the rights and obligations of any homeowner and tenant in the planned development, along with the covenant and model deeds and the articles of incorporation of the association prior to the granting of final approval by the municipality.
7. Part of the development proposals submitted to and approved by the municipality shall be provisions to insure that control of the homeowners or open space organization will be transferred to the individual lot owners in the development based on a percentage of the dwelling units sold and/or occupied, together with assurances in the bylaws that the organization shall have the maintenance responsibilities for all lands to which they hold title.
8. Should the proposed development consist of stages, the Board may require that acreage proportionate in size to the stage being considered for final approval be set aside simultaneously with granting of final approval for that particular stage, even though these lands may be located in a different section of the overall development.
9. In the event that the [detention] facility becomes a danger to public safety or public health, or if it is in need of maintenance, the municipality shall so notify in writing the responsible person. From that notice, the responsible person shall have 14 days to affect such maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality may immediately proceed to do so and shall bill the cost thereof to the responsible person.
10. In certain situations, the municipality's governing body may accept the ownership and maintenance responsibilities of detention facilities subject to conditions including but not limited to the following:
 - a. Where the only facility requiring homeowners' organization maintenance is the detention basin, the governing body may consider assuming ownership and maintenance responsibilities upon agreement with the developer to pay the pro-rata share of the cost to maintain the detention facility at the time of the granting of a certificate of occupancy. The pro-rata share of cost shall be the total estimated cost of such maintenance including insurance, inspections, and certifications as required by State and local rules and regulations in accordance with a formula on file with and calculated by the Municipal Engineer.

I. Easement Requirements. See also §527, Land Use Restrictions.

1. Where required by the municipality, if a lot or tract is traversed by a watercourse, surface or underground drainage way or drainage system, channel, stream or drainage swale, there shall be provided and dedicated a drainage right-of-way easement to the municipality or other owners of private underground drainage system conforming substantially with the lines of such watercourse or drainage system and of such width or construction or both as will be adequate to accommodate expected storm water runoff in the future, based upon reasonable growth potential in the municipality and in any event, meeting any minimum widths and locations shown on any adopted Official Map or Master Plan. Such easement dedication shall be expressed on the plat as follows: "Drainage easement granted to for the purposes provided for and expressed in the Land Use Ordinance of the Township."

2. No structures, trees, shrubs or obstacles of any kind shall be installed within the limits of the drainage easements and such prohibition shall be recorded as such in the easement deeds. Fences may be constructed in drainage easements under Lawrence Township jurisdiction if the following conditions are met:
- a. Fence must cross easement at 90° angle.
 - b. Access opening 16' in width must be provided via either removable sections or gates.
 - c. Lower edge of fence must be minimum 6" above the ground for width of the easement.
 - d. No other structures, grade alterations or landscaping may be installed in the easement.
 - e. Access for Township personnel will be provided upon reasonable notice. Owner is responsible for removing fence sections, unlocking gates, etc.
 - f. Fence may not be constructed directly above a drainage pipe along a property line.
 - g. An agreement summarizing the above conditions must be recorded in the Mercer County Clerk's office. Proof of recording is required prior to issuance of a building permit.
 - h. Fences may be constructed in easements under other agency jurisdiction if written authorization from easement owner is provided. [Ord. 1585-99, 9/7/1999]

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Adopted: December 15, 2020

RECORD OF VOTE

| COUNCIL | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|----------------|-----|-----|---------|--------|---------|------|--------|
| Mr. Bobbitt | X | | | | | | |
| Ms. Lewis | X | | | | | X | |
| Mr. Powers | X | | | | | | X |
| Mr. Ryan | X | | | | | | |
| Mayor Kownacki | | | | X | | | |