

Township of Berkeley Heights Union County, New Jersey

March 18, 2025

Adequate notice of this meeting has been provided by forwarding a copy to the Courier News, Star Ledger and posting on the Township website, at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act. This meeting will not substantially go past 10:30 p.m.

COUNCIL MEMBERS:

Manuel Couto
John Foster - President
Margaret Illis
Bill Machado
Andrew Moran
Susan Poage – Vice President
Angie Devanney- Mayor

AGENDA FOR PUBLIC MEETING

Meeting will be held IN-PERSON and livestreamed via Zoom.

To join the meeting, use the link: <http://zoom.us/j/3575747364> **Passcode:** 260284

If you need to enter a meeting ID, it is: 357-574-7364.

- I. CALL TO ORDER – 7:00 p.m.**
- II. ROLL CALL**
- III. FLAG SALUTE**
- IV. EXECUTIVE SESSION (Resolution 2025-143)**
 - 1. Potential Sale of Township Property**
 - 2. Affordable Housing**
- V. CONFERENCE SESSION – Affordable Housing – Mike Mistretta**
- VI. REGULAR AGENDA**
- VII. APPROVAL OF MINUTES**

Public Meetings: October 8, 2024, October 29, 2024
Special Public Meeting: September 24, 2024
- VIII. PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCE(S):**

Comments on ordinances up for final adoption are welcome during the public hearing. There will be one public hearing for all the ordinances listed. Before making a comment, all speakers must identify their name and address. Each speaker shall be limited to 3 minutes.

Ordinance(s) Introduced on: March 4, 2025

Ordinance 2025-09

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO REGULATE STORMWATER MANAGEMENT AND CONTROL

Ordinance 2025-10

ESTABLISHING AN ORDINANCE FOR PRIVATELY OWNED SALT STORAGE PER NEW JERSEY STATE STORMWATER REGULATIONS

Ordinance 2025-11

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO CLARIFY SEWAGE FEES

Ordinance 2025-12

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO REGULATE THE BUREAU OF FIRE PREVENTION

IX. CITIZENS HEARING - (3) minutes per resident

Comments are welcome during the public comment period during this meeting on any matter over which the Township has jurisdiction. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The Mayor and/or Council will keep time. Please promptly yield the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

X. NEW BUSINESS – RESOLUTIONS OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

RESOLUTIONS:

No. 2025-

144. Resolution committing to fourth round present and prospective need affordable housing obligations in agreement with Fair Share Housing Center.

CONSENT AGENDA – All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Resolution No. 2025-

145. Resolution approving Bill List dated March 18, 2025, in the amount of \$818,966.86.

146. Resolution awarding a contract to Regional Industries, LLC for the 2025 Residential Clean-Up Program for the amount not to exceed \$148,000.00.
147. Resolution to adopt procedures for administration and inspection of Federal Aid Highway Projects.
148. Resolution authorizing the clerk to go out to bid for Phase I of the Sherman Avenue Revitalization project, which encompasses Sherman Avenue from Plainfield Avenue to South Sherman Avenue/Summit Avenue & Peppertown Park.
149. Resolution consenting to the expansion of use of the Leased Premises to permit the collocation of additional equipment on the tower on the Leased Premises for AT&T. (Tower at 110 Circle View Avenue).
150. Resolution authorizing a contract with Edmunds GovTech for an employee payroll application.
151. Resolution authorizing a contract with Spatial Data Logic LLC for software and related services.

XI. ORDINANCES FOR INTRODUCTION

XII. TOWNSHIP COUNCIL REPORTS

- A. Manuel Couto**
- B. John Foster - President**
- C. Margaret Illis**
- D. Bill Machado**
- E. Andrew Moran**
- F. Susan Poage – Vice President**

ADMINISTRATION REPORTS

Mayor Devanney
Liza Viana

XIII. EXECUTIVE SESSION

XII. ADJOURNMENT

Angela Lazzari, Township Clerk

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

A RESOLUTION PURSUANT TO N.J.S.A.10:4-12 MOVING
THE PUBLIC MEETING INTO EXECUTIVE SESSION

WHEREAS, the provisions of the Open Public Meetings Act (N.J.S.A.10:4-1 et seq.) expressly provide that a public body may move into Executive Session and exclude the public from that portion of a meeting at which the public body discusses any of the nine areas set forth in N.J.S.A.10:4-12b; and

WHEREAS, the Township Council of the Township of Berkeley Heights has determined it necessary to move into Executive Session to discuss the following subjects, all of which are included in the aforesaid exceptions:

- 1. Potential Sale of Township Property
- 2. Affordable Housing

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that it does hereby move into Executive Session pursuant to N.J.S.A.10:4-12b to discuss the aforesaid matters; and

IT IS FURTHER RESOLVED that the aforesaid discussions shall be made public either at the Public Meeting following said Executive Session or at such time as any litigated or personnel matters are concluded; or upon conclusion of any negotiations or related discussions; or as otherwise specified; and

IT IS FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

Approved this 18th day of March, 2025.

ATTEST:

Angela Lazzari
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO				
FOSTER				
ILLIS				
MACHADO				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2025-09

**AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY
HEIGHTS TO REGULATE STORMWATER MANAGEMENT AND CONTROL**

WHEREAS, from time to time, the State of New Jersey promulgates certain requirements as to stormwater management to minimize pollution caused by stormwater in order to restore, enhance, and maintain the integrity of waters of the State; and

WHEREAS, under New Jersey Municipal Separate Storm Sewer System Permits (“MS4”), the stormwater program must incorporate additional measures when the Department of Environmental Protection (“DEP”) provides a written notice of the adoption of any additional measure(s) to any affected municipalities; and

WHEREAS, the DEP has informed the Township of Berkeley Heights that certain additional measures must be adopted by the Township to stay in compliance with state law; and

WHEREAS, the Mayor and Township Council believe it is in the best interests of the Township to adopt these additional measures.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council that:

SECTION I. Article VIII, “Stormwater Management and Control” of Chapter 13.17, “Stormwater Control,” of the Township Code of the Township of Berkeley Heights is hereby amended as follows:

13.17.310 Scope and Purpose:

- A. Policy Statement. 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 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 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 green infrastructure, water quality, quantity, and groundwater recharge.
- B. Purpose. The purpose of this article is to establish minimum stormwater management requirements and controls for “major development” and “minor development,” as defined below in 13.17.320.
- C. Applicability
 - 1. This article shall be applicable to the following major developments:
 - a. Non-residential major developments and redevelopment projects; and

b. Aspects of residential major developments and redevelopment projects that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21 et seq.

2. This article shall also be applicable to all major developments undertaken by the Township of Berkeley Heights, Board of Education, and other agencies subject to review by the Township.

3. This article shall be applicable to all exempt developments and minor developments as defined below in 13.17.320.

4. Applicability of this article to major developments shall comply with last amended N.J.A.C. 7:8-1.6, incorporated herein by reference.

D. **Compatibility with Other Permit and Ordinance Requirements.** Development approvals issued pursuant to this article are to be considered an integral part of development approvals 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, chapter, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This article 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 article 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.

13.17.320 Definitions:

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions used in this article shall be the same as the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2, incorporated herein by reference. The following additional terms are defined for this article only.

EXEMPT DEVELOPMENT

Any development that creates less than 500 square feet of new net impervious area. Further, an exempt development shall not meet the definition of "minor development."

MINOR DEVELOPMENT

Any development, and/or phased development(s) since January 1, 2025, that results in the cumulative creation of 500 square feet or more of new net impervious area. Further, a minor development shall not meet the definition of "major development" as defined per the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2.

MAJOR DEVELOPMENT

Shall mean any individual "development," as well as multiple developments that individually or collectively result in:

- a. The disturbance of one or more acres of land since February 2, 2004;
- b. The creation of one-quarter acre or more of "regulated impervious surface" since February 2, 2004;
- c. The creation of one-quarter acre or more of "regulated motor vehicle surface" since March 2, 2021; or
- d. A combination of subsections b and c above, which total an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of conditions 1, 2, 3, or 4 above. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

13.17.330 Design and Performance Standards for Stormwater Management Measures

- A. Exempt Development. Any project meeting the definition of "exempt development" shall be exempt from the provisions of this article. (Note: Changes to impervious area(s) resulting from phased developments shall be considered as a cumulative calculation. Should an application be deemed exempt, but a future application result in a cumulative increase of 500 square feet or more, the provisions of this article shall apply to the full cumulative impervious coverage increase across all applications, since January 1, 2025.
- B. Minor Development. Any project meeting the definition of an "Minor Development," as per 13.17.320, shall be designed to include the following stormwater management measures:
 1. Water Quality. Soil erosion and sediment control measures shall be installed in accordance with the standards for soil erosion and sediment control in New Jersey.
 2. Rate/Volume Control. Seepage pit(s) and/or any other approved infiltration measures/stormwater BMPs (i.e., small-scale bioretention system, small-scale infiltration system, pervious pavement system, or any other measure as identified in the NJ Stormwater Best Management Practices Manual), shall be provided with a capacity of three (3) inches of runoff for each square foot of new impervious area. Stone used in the infiltration devices shall be 2 1/2 inches clean stone, and design void ratio of 40% shall be used.
 - a. The infiltration measures/stormwater BMPs shall be designed with an overflow to the surface which shall be stabilized and directed to an

existing stormwater conveyance system or in a manner to keep the overflow on the developed property to the greatest extent feasible. If the new impervious surface is not roof area, an equivalent area of existing roof may be directed to the infiltration system. This shall be permitted where the existing roof is not already directed to infiltration devices.

3. Soil Testing. The Applicant shall be required to demonstrate (i.e., groundwater mounding analysis, Percolation/ permeability testing, etc.) that the proposed seepage pit system will not adversely impact any adjacent structures (i.e., basements, foundations, etc.). Percolation/permeability testing shall be performed in the vicinity of the proposed systems to confirm that infiltration is viable for the site. All testing results and information shall be signed, sealed, and prepared by a New Jersey licensed professional engineer and shall contain the following:
 - a. The seasonal groundwater table shall be confirmed at an elevation two feet or more below the proposed bottom of the minor development BMP, including any associated stone base.
 - b. Should percolation/permeability testing yield unacceptable results, the Applicant may be required to provide an alternate design which does not rely on percolation (i.e., detention basin, closed chambers, etc.).
4. Waiver from Requirements. The Township Engineer, or their designee, reviewing an application classified as an "minor development" under this article may waive submission of any of the requirements listed above 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.

C. Major Development. This article establishes design and performance standards for stormwater management measures for major development intended to minimize the adverse impact of stormwater runoff on water quality and water quantity and loss of groundwater recharge in receiving water bodies. Design and performance standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.

13.17.340 Solids and Floatable Materials Control Standards:

- A. Site design features identified under 13.17.330 above, or alternative designs in accordance with 13.17.330 above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see 13.17.340.2 below.
 1. Design engineers shall use one 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; or
- b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.

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 system floors used to collect stormwater from the surface into a storm drain or surface water body.

- c. For curb-opening inlets, including curb-opening inlets in combination inlets, 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 (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
2. The standard in 13.17.340.a.1 above does not apply:
 - a. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
 - b. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
 - c. Where flows from the water quality design storm as specified in the last amended Stormwater Management rules at N.J.A.C. 7:8 et seq. 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 four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - ii. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new

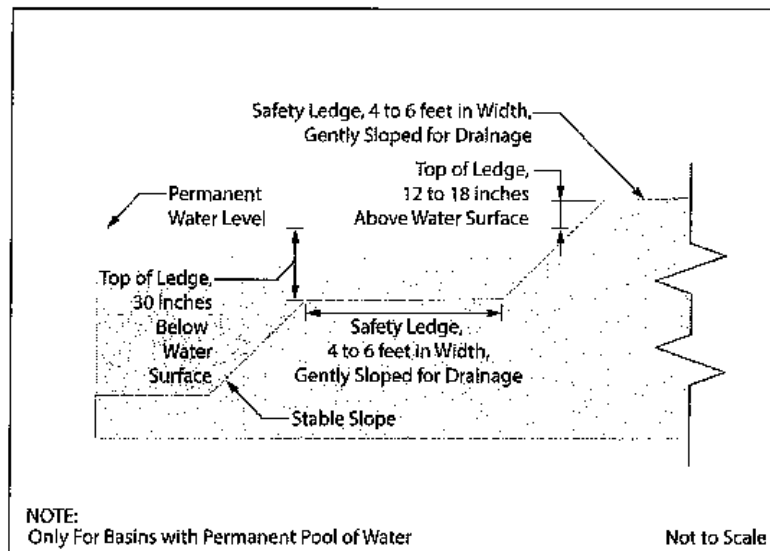
residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- d. Where flows are conveyed through a trash rack that has parallel bars with one inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- e. 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.

13.17.350 Safety Standards for Stormwater Management Basins:

- A. This article sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This article applies to any new stormwater management basin. Safety standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-6, incorporated herein by reference.
- B. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



13.17.360 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 article, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at 13.17.360.C below as part of the submission of the application for approval.
 - 2. The applicant shall demonstrate that the project meets the standards set forth in

this article.

3. The applicant shall submit the copies required under Article 40-801 or Article 40-904 of the materials listed in the checklist for site development stormwater plans of the Land Use Chapter in accordance with 13.17.360.C of this article.
- B. Site Development Stormwater Plan Approval. The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this article.
- C. Submission of Site Development Stormwater Plan. 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 1"=200' or greater, showing 2-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 flood plains 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 manmade features not otherwise shown.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. 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.

Incorporation of nonstructural strategies demonstrates adherence to a low impact development (LID) approach. The written description should include a list of the following nonstructural strategies, with a clear yes/no indication if the strategy was included in the plan:

- 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 nature drainage features and vegetation;
- d. Minimize the decrease in "time of concentration" from pre-construction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the drainage area 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; and
- 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. These source controls include, but are not limited to:
 - i. Site design features that help to prevent accumulation of trash and debris in drainage systems;
 - ii. Site design features that help to prevent discharge of trash and debris in drainage systems;
 - iii. Site design features that help prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - iv. 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. Project Description and Site Plans

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 will 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 for proposed changes in natural conditions shall also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of 13.17.330 is 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 disturbed, 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 pre-development and post-development conditions for the design storms specified in 13.17.330 of this article.
 - b. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite 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 13.17.370.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this article may, in consultation with the municipality's review engineer, waive submission of any of the requirements in 13.17.360.C.1 through 13.17.360.C.6 of this article 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.

13.17.370 Maintenance and Repair:

A. Applicability

Major and minor development projects subject to review as noted within 13.17.310.C of this article shall comply with the requirements of 13.17.370.B and 13.17.370.C.

B. General Maintenance

1. Maintenance for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5.8, incorporated herein by reference.
2. The following requirements of N.J.A.C. 7:8-5.8 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department:
 - a. If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation; and
 - b. 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. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
 - c. A two-year maintenance guarantee shall be required and posted in accordance with N.J.S.A. 40:55D-53.
3. 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 fourteen (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. Nonpayment of such bill may result in a lien on the property.
4. All applications that propose stormwater mitigation system(s) will require the Applicant and/or Property Owner to submit an operation and maintenance (O&M) manual to the Township Engineer for review after the system is installed. Inspection of all stormwater mitigation systems shall be performed by the Property Owner after each rainfall event of three (3) inches or more, but not less

than twice annually. Maintenance of the stormwater management feature shall be the responsibility of the property owner and said responsibility shall transfer over to any future property owner.

- C. Nothing in this sub-article 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.

13.17.380 Township Discharge Requirement:

When altering and/or constructing stormwater mitigation/management improvements, the Applicant and/or Property Owner shall ensure that all roof leader and/or sump pump discharge pipe(s) do not discharge directly into the roadway. The same shall be designed to discharge into an approved stormwater BMP at least 10 feet away from the edge of the roadway and any adjacent structures or property lines. All proposed discharges shall be reviewed and approved by the Township Engineer, or their designee, prior to installation.

13.17.390 Township Stormwater Runoff Requirement:

When re-grading or constructing improvements to a site, the Applicant and/or Property Owner shall be ultimately responsible for ensuring that stormwater runoff does not negatively affect neighboring properties, during and after construction. Any damage caused by an increase in runoff or improper drainage shall be repaired by the Applicant/ Property Owner. All proposed grading and/or drainage improvements shall be reviewed and approved by the Township Engineer, or their designee, prior to construction. Additionally, at the discretion of the Township Engineer, the Applicant or Property Owner may be required to submit a post construction survey or as-built, as prepared by a New Jersey licensed surveyor, to adequately evaluate the pre and post construction conditions of the site.

13.17.400 Penalties:

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this article shall be subject to the following penalties: A fine of up to one thousand five hundred (\$1,500.00) dollars; or, if upon default in the payment, thereof to imprisonment in the county jail for a period not exceeding thirty (30) days or both, in the discretion of the magistrate before whom such conviction may be had.

13.17.410 Severability:

Each article, sub-article, sentence, clause and phrase of this article is declared to be an independent article, sub-article, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

13.17.420 Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

SECTION II. Section 13.17.070, "Exceptions to Prohibition" of Chapter 13.17, "Stormwater Control," of the Township Code is hereby amended as follows:

13.17.070 Exceptions to Prohibition:

- A. Water line flushing and discharges from potable water sources.
- B. Uncontaminated groundwater (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising groundwaters) as deemed appropriate and approved by the Township Engineer or designee.
- C. Air conditioning condensate, excluding contact and noncontact cooling water.
- D. Irrigation water, including landscape and lawn watering runoff.
- E. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- F. Residential car washing water, and residential swimming pool discharges.
- G. Sidewalk, driveway and street wash water.
- H. Flows from fire fighting activities.
- I. Flows from rinsing of the following equipment with clean water:
 - 1. Beach maintenance equipment immediately following their use for their intended purposes; and
 - 2. Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded.

Rinsing of equipment, as noted in this situation, is limited to exterior, undercarriage and exposed parts and does not apply to engines or other enclosed machinery.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

 Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				Manuel Couto						
	X	X				John Foster						
X		X				Margaret Illis						
		X				Bill Machado						
		X				Andrew Moran						
		X				Susan Poage						
Introduced: March 4, 2025						I hereby certify the above ordinance was adopted by the Borough Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: March 18, 2025												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF INTRODUCTION

Ordinance 2025-09

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO REGULATE STORMWATER MANAGEMENT AND CONTROL

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on **March 4, 2025** and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on **March 18, 2025** at **7:00** p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

Angela Lazzari
Township Clerk

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

Ordinance 2025-09

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO REGULATE STORMWATER MANAGEMENT AND CONTROL

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on March 18, 2025.

**Angela Lazzari, RMC
Township Clerk
Township of Berkeley Heights**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2025-10

**ESTABLISHING AN ORDINANCE FOR PRIVATELY OWNED SALT STORAGE
PER NEW JERSEY STATE STORMWATER REGULATIONS**

WHEREAS, the NJDEP has promulgated a model Privately Owned Salt Storage ordinance to establish requirements for the storage of salt and other solid de-icing materials on privately owned properties to prevent them from being exposed to stormwater; and

WHEREAS, the Township now wishes to adopt the within ordinance based on the NJDEP Privately Owned Salt Storage model ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council that:

SECTION I. Article XII, "Privately-owned salt storage" of Chapter 13.17, "Stormwater Control," of the Township Code of the Township of Berkeley Heights by is hereby created as follows:

Chapter 13.17 - STORMWATER CONTROL

Article XII. - Privately-Owned Salt Storage

13.17.640 - Purpose.

The purpose of this Article is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This Article establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in Township of Berkeley Heights to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

13.17.650 - Definitions.

For the purpose of this Article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Article clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"De-Icing Materials" means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

"Impervious Surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“Permanent Structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

“Fabric Frame Structure” means a permanent structure if it meets the following specifications:

- A. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
- B. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
- C. The structure shall be erected on an impermeable slab;
- D. The structure cannot be open sided; and
- E. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

“Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of the State of New Jersey subject to municipal jurisdiction.

“Resident” means a person who resides on a residential property where de-icing material is stored.

“Storm Drain Inlet” means the point of entry into the storm sewer system.

13.17.660 - Deicing Material Storage Requirements.

- A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between the Fifteenth day of October (10/15) and the Fifteenth day of April (4/15), inclusive:
 1. Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
 2. Loose materials shall be placed at least fifty (50) feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
 3. Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked

materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;

4. Loose materials shall be covered as follows:
 - a. The cover shall be waterproof, impermeable, and flexible;
 - b. The cover shall extend to the base of the pile(s);
 - c. The cover shall be free from holes or tears;
 - d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
 - e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.
 - i. Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;
5. Containers must be sealed when not in use; and
6. The site shall be free of all de-icing materials between the Sixteenth day of April (4/16) and the Fourteenth day of October (10/14), inclusive.
 - B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to the timeframe listed under Section 15.17.660.A.
 - C. Any and all temporary and/or permanent deicing storage structures must also comply with all other local ordinances, including building and zoning regulations.
 - D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this chapter are met. Inspection records shall be kept on site and made available to the municipality upon request.
 1. Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

13.17.670 - Exemptions.

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-

icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within fourteen (14) days.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements under Section 13.17.660. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This Article does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

13.17.680 - Enforcement.

This chapter shall be enforced by the Director of Public Works of the Township of Berkeley Heights during the course of ordinary enforcement duties.

13.17.690 - Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this Article shall have seventy-two (72) hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows:

- A. The fine for any offense which is a first repeat offense shall be five hundred (\$500.00) dollars; and
- B. The fine for any offense which is a second repeat offense, or any subsequent repeat offense shall be one thousand five hundred (\$1,500.00) dollars.

13.17.700 - Severability.

Each section, subsection, sentence, clause, and phrase of this Article is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Article to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Article.

SECTION II. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				Manuel Couto						
	X	X				John Foster						
		X				Margaret Illis						
X		X				Bill Machado						
		X				Andrew Moran						
		X				Susan Poage						
Introduced: March 4, 2025						I hereby certify the above ordinance was adopted by the Borough Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: March 18, 2025												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF INTRODUCTION

Ordinance 2025-10

**ESTABLISHING AN ORDINANCE FOR PRIVATELY OWNED SALT STORAGE
PER NEW JERSEY STATE STORMWATER REGULATIONS**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on **March 4, 2025** and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on **March 18, 2025** at **7:00** p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

Ordinance 2025-10

**ESTABLISHING AN ORDINANCE FOR PRIVATELY OWNED SALT STORAGE
PER NEW JERSEY STATE STORMWATER REGULATIONS**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on March 18, 2025.

**Angela Lazzari, RMC
Township Clerk
Township of Berkeley Heights**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2025-11

**AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY
HEIGHTS TO CLARIFY SEWAGE FEES**

WHEREAS, pursuant to N.J.S.A. 40A:26A-11, the Township may charge connection fees such that the revenues of sewerage facilities shall be adequate to pay the expenses of operation and maintenance of the sewerage facilities, including improvements, extensions, enlargements and replacements to sewerage facilities, reserves, insurance, principal and interest on any bonds, and to maintain reserves or sinking funds therefor as may be required under the bond covenants or any contracts, or as may be deemed necessary or desirable, and;

WHEREAS, the Mayor and Township Council find it necessary to amend the Township code to clarify sewage fees; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council that:

SECTION I. Section 280 "Charges for Use—Residential, Commercial and Tax-Exempt," of Chapter 13.12, "Sewer Service System," of the Township Code of the Township of Berkeley Heights by is hereby amended as follows:

13.12.280 Charges for Use—Residential, Commercial and Tax-Exempt.

~~A. There shall be no separate annual sewerage service charge for the use, operation, maintenance or construction of the sewerage system of the township imposed upon any single-family residential property which is located on an individual lot and is subject to a separate real estate tax levy imposed and collected by the township. (Condominium units which are treated as separate units for taxing purposes shall be exempt from the annual charge. Valid multi-family dwellings shall also be exempt from any annual fees.) Any residential property which is not so subject to the assessment of real estate property tax by the township (e.g., residences outside the township but being serviced by the township system) shall pay an annual use fee of five hundred dollars (\$500.00) unless such property is subject to an intermunicipal sewer use agreement in which case such agreement shall govern.~~

~~B. Any residential dwelling unit located on a lot or parcel of land containing two or more separate residential buildings which are not separately taxed by the township shall pay an annual use charge of five hundred dollars (\$500.00).~~

~~C. Any commercial or industrial concern meeting the provisions of Section 13.12.220 shall be subject to such annual use charge as may be established by agreement with the township at the time permission is granted for the discharge of such waste into the township system.~~

~~D. Any property within the township which is exempt from the imposition of local real estate property taxes shall pay an annual sewer use fee based upon the actual discharge into the~~

township sewer system at a rate per gallon established annually by the council or as set forth in a written agreement with the township.

A. All properties in the Township shall be obligated to pay an annual sewer use fee in accordance with the following:

- 1. Single-Family and Multi-Family Uses. Except as set forth below, the Township shall not charge a separate annual sewer service charge for the use, operation, maintenance or construction of the Township's sewerage system for any property that is subject to the assessment and levy of real estate taxes imposed and collected by the Township. By February 24th of each year, the Chief Financial Officer for the Township shall calculate the portion of the previous year's overall budget to be spent on sewer fees, less anticipated revenues. The Chief Financial Officer shall convert that sum to a tax rate and multiply that amount by the assessed property value of each such property, which shall be made a part of the annual property taxes. In the case of multi-family uses such as a condominium, each property owner shall be assessed similarly. Any residential property which is not subject to the assessment of real estate property taxes by the Township (e.g., residences outside the Township but being serviced by the Township's system) shall pay an annual use fee of five hundred dollars (\$500.00) unless such property is subject to an intermunicipal sewer use agreement, in which case, payment for the use, operation, maintenance or construction of the Township's sewerage system shall be made pursuant to the terms of such agreement.**

- 2. Commercial, Farmland, Industrial, and Mixed-Uses. Any property that is zoned as a "commercial use," "farmland," "industrial use," or which contains a mixed-use building and which pays conventional property taxes shall be billed in accordance with the provisions of Section 13.12.280(A)(1), above. In addition, if the: (1) volume per property exceeds 3,500 gallons per day ("GPD") total output; (2) effluent contains material that could be damaging to the Township's sewer system; (3) effluent puts the Township at risk for being in violation of New Jersey Department of Environmental Protection regulations and standards; and/or (4) usage requires additional oversight of the Waste Water Treatment Plant staff, the property will be required to enter into an End User Sewer Agreement ("EUSA") with the Township in accordance with Chapter 12.12.260 of the Township Code. In addition, the EUSA may require additional contributions to Waste Water Treatment Plant infrastructure upgrades, in order to effectively convey, treat and otherwise process the property's flow. All EUSAs shall be approved via resolution by the Township Council. The Township reserves the right to require a commercial or industrial user to install a sewer flow meter if deemed necessary to preserve the integrity of the Township's infrastructure and/or**

for accurate billing. If a meter is required, the details of such installation will be outlined in the EUSA. Any such fees payable pursuant to the terms of the EUSA shall be in addition to any real estate taxes assessed, levied and paid to the Township.

3. Tax-Exempt Uses. Any property that is categorized as exempt from the assessment and levy of real estate taxes imposed and collected by the Township, shall pay an annual sewer use fee. That fee shall be based on the volume of discharge by all such properties proportionate to that year's overall budget to be spent on sewer fees, divided by the number of equivalent dwelling units on each such property.
4. Properties Subject to a Short- or Long-Term Tax Exemption (PILOTs). Any property that has entered into Financial Agreement with the Township under either the Short- or Long-Term Tax Exemption Laws and pays a payment-in-lieu of taxes ("PILOT") and does not pay conventional property taxes shall pay annual sewer fees in accordance with the provisions of Section 13.12.280(A)(1), above.

- B. The term "single-family" use shall mean a residential building consisting of only one dwelling unit within said property. The term "multi-family" use shall mean each unit in a residential building containing two or more separate dwelling units.
- C. Sewer use fees shall be determined based on the zoning of the property or, in the case of mixed-use and PILOT-based buildings, the use of the property, without regard for whether the property is vacant.
- D. Sewer use fees for all non-metered properties shall be due no later than April 1 of each year. There shall be a ten-day grace period from the due date. Sewer user fees shall be a lien upon the property until paid, and the Township shall have the right to exercise the same remedies it has for the collection of taxes upon real estate with interest, cost and penalties as provided in N.J.S.A. 54:4-67.
- E. Owners of all properties who are senior citizens or permanently and totally disabled persons and who qualify for a senior citizen or disabled person tax deduction pursuant to the provisions of N.J.S.A. 54:4-8.40, et seq., shall receive a deduction of \$25 from their fee.

SECTION II. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				Manuel Couto						
	X	X				John Foster						
		X				Margaret Illis						
		X				Bill Machado						
X		X				Andrew Moran						
		X				Susan Poage						
Introduced: March 4, 2025						I hereby certify the above ordinance was adopted by the Borough Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: March 18, 2025												
						<u>Angela Lazzari, Township Clerk</u>						

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF INTRODUCTION

Ordinance 2025-11

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO CLARIFY SEWAGE FEES

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on **March 4, 2025** and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on **March 18, 2025** at **7:00** p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

Angela Lazzari
Township Clerk

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

Ordinance 2025-11

**AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY
HEIGHTS TO CLARIFY SEWAGE FEES**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on March 18, 2025.

**Angela Lazzari, RMC
Township Clerk
Township of Berkeley Heights**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2025-12

**AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO REGULATE
THE BUREAU OF FIRE PREVENTION**

WHEREAS, the Uniform Fire Safety Act (P.L. 1983, c. 383) was enacted for the purpose of establishing a system for the enforcement of minimum fire safety standards throughout the State of New Jersey; and

WHEREAS, the Uniform Fire Safety Act authorizes municipalities to provide for local enforcement and to establish local enforcement agencies for that purpose; and

WHEREAS, the Mayor and Township Council for the Township of Berkeley Heights have determined that it is in the best interest of the Township to have the Uniform Fire Safety Act enacted locally, by and through the Bureau of Fire Prevention; and

WHEREAS, the Mayor and Township Council for the Township of Berkeley Heights have determined that it is in the best interest of the Township to re-organize and re-structure the Bureau of Fire Prevention as set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council that:

SECTION I. Section 8.20.040, "Fire Prevention Bureau" of Chapter 8.20, "Fire Prevention Code," of the Township Code of the Township of Berkeley Heights is hereby amended as follows:

There is hereby established, as a division of ~~the Berkeley Heights Volunteer Fire Department Number 1 Code Enforcement~~, a bureau to be designated as the "Bureau of Fire Prevention."

- A. The Council shall annually appoint a Fire Official and such number of fire inspectors as the council, ~~upon the recommendation of the Fire Chief,~~ shall deem adequate to perform the services required by this chapter. The term of office shall be from January 1 to December 31. Any unexpired term shall be filled for the balance of the year only. The Fire Official shall be certified by the state as set forth in N.J.A.C. 5:71-4.3, et seq., but need not be a member of the Fire Department and appointed from a list of three names submitted by the chief of the fire department. There shall be at least one paid inspector. The Council may appoint such additional employees as it may deem appropriate.
- B. The members of the Fire Prevention Bureau shall be appointed by the Council ~~based upon the recommendation of the Chief of the Fire Department.~~ Members should, but are not required, to have and shall be individuals with a minimum of five years of service with the Fire Department and, in the event the duties to be performed so require, shall hold the appropriate license or certificate from the State of New Jersey.

C. The Fire Official, inspectors, and other employees of the agency shall be subject to removal by the governing body for just cause. Before removal from office, all persons shall be afforded an opportunity to be heard by the governing body of a hearing officer designated by same.

~~D. Under the supervision of the Fire Official,~~ The Bureau of Fire Prevention shall be that arm of ~~the Fire Code Enforcement Department~~ enforcing the provisions of the New Jersey Uniform Fire Code in the Township designed to conserve life and property. It shall be the duty of the Fire Official to enforce or have enforced the provisions of the Fire Prevention Code, all laws, ordinances, and state, county or federal laws having to do with fire prevention, safety, and control and the Fire Official shall supervise all activities of the Fire Prevention Bureau.

~~D.E.~~ The Bureau shall submit written reports no less than once per month to the Department Head for Code Enforcement ~~chief~~ describing the activities of the Bureau for the preceding month. Those reports shall contain accounts of all proceedings under this code and shall include statistics as may be requested by the ~~chief~~ Department Head for Code Enforcement. Those reports may contain such recommendations for improved fire prevention as the Bureau shall deem necessary.

~~E.F.~~ The Township Attorney shall be legal counsel to assist the Bureau in enforcing the New Jersey Uniform Fire Code.

SECTION II. Section 2.112.190, "Fire Prevention Code" of Chapter 2.112, "Fire Department," of the Township Code is hereby deleted in its entirety and marked as RESERVED.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				Manuel Couto						
	X	X				John Foster						
		X				Margaret Illis						
			X			Bill Machado						
		X				Andrew Moran						
X		X				Susan Poage						
Introduced: <p style="text-align: center;">March 4, 2025</p>						I hereby certify the above ordinance was adopted by the Borough Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: <p style="text-align: center;">March 18, 2025</p>												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF INTRODUCTION

Ordinance 2025-12

AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY HEIGHTS TO REGULATE THE BUREAU OF FIRE PREVENTION

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on **March 4, 2025** and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on **March 18, 2025** at **7:00** p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

Angela Lazzari
Township Clerk

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

Ordinance 2025-12

**AMENDING THE TOWNSHIP CODE FOR THE TOWNSHIP OF BERKELEY
HEIGHTS TO REGULATE THE BUREAU OF FIRE PREVENTION**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on March 18, 2025.

**Angela Lazzari, RMC
Township Clerk
Township of Berkeley Heights**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

RESOLUTION OF THE COUNCIL OF THE TOWNSHIP OF BERKELEY HEIGHTS COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS IN AGREEMENT WITH FAIR SHARE HOUSING CENTER

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 (hereinafter "A4" or "Amended FHA"); and

WHEREAS, P.L. 2024, c.2, modified the process upon which municipalities could comply with their affordable housing obligations pursuant to the Mount Laurel doctrine; and

WHEREAS, P.L. 2024, c.2 required the Township to pass a binding resolution determining its Fourth Round Present Need Obligation and its Fourth Round Prospective Need Obligation by January 31, 2025, and file it, along with a Declaratory Judgment Complaint ("DJ Complaint") in the Superior Court of New Jersey, Union Vicinage; and

WHEREAS, in furtherance of P.L. 2024, c.2, the Township adopted Resolution 2025-72 on January 21, 2025, and thereafter filed a DJ complaint with the Court within 48 hours of its passage, which has resulted in the case In the Matter of the Application of the Township of Berkeley Heights, Docket No. UNN-L-340-25; and

WHEREAS, the Township determined its Fourth Round Present Need Obligation to be Zero (0) and its Fourth Round Prospective Need Obligation to be 208; and

WHEREAS, P.L. 2024, c.2 enabled interested parties to challenge a municipality's number prior to February 28, 2025; and

WHEREAS, the New Jersey Builders Association ("NJBA") and Fair Share Housing Center ("FSHC") filed objections to the Township's Round 4 number; and

WHEREAS, the NJBA argued that the Township's Fourth Round Prospective Need Obligation was 275; and

WHEREAS, FSHC argued the Township's Fourth Round Prospective Need Obligation was 264; and

WHEREAS, pursuant to P.L. 2024, c.2, the Township, the NJBA, and FSHC were to engage in good faith negotiations regarding the Township's Round 4 number; and

WHEREAS, the NJBA filed a letter with the Program in the Berkeley Heights DJ Action on March 13, 2025, which stated that the NJBA would not be participating in any settlement conferences and "has no intention of objecting to or appealing any settlement agreement that may be reached between Plaintiff and Fair Share Housing Center ("FSHC") that establishes a Fourth Round prospective need number for Plaintiff"; and

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, representatives of the Township and FSHC engaged in good faith negotiations and, as a result of those negotiations, the Township and FSHC agreed to a Fourth Round Present Need Obligation of Zero (0) and a Fourth Round Prospective Need Obligation of 240 for the Township; and

WHEREAS, the Township seeks to bind itself to the agreed upon numbers between itself, and FSHC for a Fourth Round Present Need Obligation of Zero (0) and a Fourth Round Prospective Need Obligation of 240; and

WHEREAS, nothing in this resolution shall be interpreted as an acknowledgement that the Township improperly calculated its Fourth Round Prospective Need Obligation in Resolution 2025-72, nor diminish its immunity from all Mount Laurel lawsuits it has maintained as a result of following the procedural requirements of P.L. 2024, c.2.; and

NOW, THEREFORE, BE IT RESOLVED on this 18th day of March, 2025, by the Council of the Township of Berkeley Heights, Union County, State of New Jersey, as follows:

1. The Mayor and Council hereby commit to a Fourth Round Present Need Obligation of Zero (0) and a Fourth Round Prospective Need Obligation of 240 units, as agreed upon by FSHC, subject to the following conditions and/or reservations of rights:
 - a. Nothing in this resolution shall be interpreted as an adjudication or determination of the Township's right to an adjustment of its Fourth Round Prospective Need Obligation predicated upon a lack of developable land, sewer, water or similar adjustments.
 - b. It is anticipated that any order effectively implementing this resolution will expressly recognize the Borough's continuing immunity from all Mount Laurel exclusionary lawsuits during the Fourth Round process.
 - c. If a third party successfully challenges this resolution or any order, judgment or determination effectuating this agreed-upon number, the Township reserves the right to return to *status quo ante* and reserve all litigation rights.
2. The Mayor and Council hereby authorize the Township's affordable housing special counsel to take whatever steps are necessary to effectuate the terms of this resolution with the Program or a court of competent jurisdiction, which authorization shall include, but is not limited to, the execution of an agreement, MOU, consent order or similar document effectuating only the terms of this resolution.
3. This resolution shall take effect immediately.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Council of the Township of Berkeley Heights at a regular meeting held on the **18th day of March 2025**, a quorum being present and voting in the majority.

Approved this 18th day of March, 2025.

ATTEST:

**Angela Lazzari
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO				
FOSTER				
ILLIS				
MACHADO				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, authorizes and directs the Township Treasurer to make payment of vouchers listed on the Bill List dated **03/18/2025**, in the amount of **\$818,966.86** such vouchers having been received by the Township Council, having been satisfied that appropriate procedure has been followed in the processing of said vouchers.

Approved this 18th day of March, 2025.

ATTEST:

Angela Lazzari
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO				
FOSTER				
ILLIS				
MACHADO				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

WHEREAS, after the proper advertisement of same, pursuant to the Local Public Contracts Laws, N.J.S.A. 40A:11-1 et seq., the Township of Berkeley Heights received sealed bids on March 4, 2025, in connection with the Township's annual **Residential Clean-Up Program**; and

WHEREAS, the Director of Public Works has recommended that the lowest responsible bid be awarded to **Regional Industries, LLC**, 800 E. Grand Street, Elizabeth, N.J. 07201; and

WHEREAS, the Township Council has determined that it is in the best interest to accept the bid proposal and execute a contract for the **2025 Residential Clean-Up Program**, with the lowest responsible bidder, **Regional Industries, LLC**, for the amount not to exceed **\$148,000.00**; and

WHEREAS, the public advertisement, the receipt of public bids and the award of the contract to the lowest responsible bidder, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., for the **2025 Residential Clean-Up Program**, constitutes a Fair and Open Process pursuant to the Local Pay to Play Law, N.J.S.A. 19:44A:20.5, et seq.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, New Jersey, that:

1. The appropriate municipal officials are hereby authorized to accept the bid submitted and execute a contract with the lowest responsible bidder, **Regional Industries, LLC**, for the **2025 Residential Clean-Up Program** in the amount not to exceed **\$148,000.00**.
2. The Township Clerk shall advertise the award of this contract in accordance with law.
3. The Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$148,000.00** from account # 5-01-26-305-028, Solid Waste Collection, subject to the approval of the 2025 Budget.
4. A copy of this Resolution is to be forwarded to the Township Treasurer, and Regional Industries, LLC.
5. This resolution shall take effect upon publication and pursuant to law.

Approved this 18th day of March, 2025.

ATTEST:

Angela Lazzari
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO				
FOSTER				
ILLIS				
MACHADO				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**A RESOLUTION TO ADOPT PROCEDURES FOR ADMINISTRATION AND
INSPECTION OF FEDERAL AID HIGHWAY PROJECTS**

WHEREAS, the Federal Highway Administration (FHWA) provides opportunities for Local Public Agencies (LPA), such as the Township of Berkeley Heights, to receive Federal Aid Highway Program (FAHP or federal-aid) funds through New Jersey Department of Transportation (NJDOT); and

WHEREAS, the **Township of Berkeley Heights** is presently the recipient of federal-aid funds through a project awarded under the 2024 Safe Routes to School Program (SRTS) for Safe Streets, Happy Feet: Berkeley Heights Mountain Ave Sidewalk Project; and

WHEREAS, the **Township of Berkeley Heights** as an LPA, is responsible for administering federal-aid funded projects in compliance with all federal-aid requirements established by the FHWA; and

WHEREAS, the NJDOT, through its Stewardship Agreement with FHWA, is responsible for ensuring that the **Township of Berkeley Heights** is adequately staffed and suitably equipped to undertake federal-aid projects, and ensure that federal requirements are met; and

WHEREAS, the **Township of Berkeley Heights**, as required by the NJDOT, has developed a Policy outlining the required procedures for the Administration of Federally Funded Transportation Projects administered through the NJDOT;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the **Township Berkeley Heights**, County of Union, State of New Jersey, that the **Township of Berkeley Heights** adopts the policy entitled, "**Township of Berkeley Heights** Procedure for Administration and Inspection of Federal Aid Highway Projects" dated April 2024.

I, **Angela Lazzari**, Municipal Clerk of the **TOWNSHIP OF BERKELEY HEIGHTS**, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the Township Council of the Berkeley Heights Township held this **18th day of March, 2025**.

Approved this 18th day of March, 2025.

ATTEST:

Angela Lazzari
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO				
FOSTER				
ILLIS				
MACHADO				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, as part of the Sherman Avenue Revitalization project, the Township of Berkeley Heights has secured grant funds for Sherman Avenue Transit Access Project and the Sherman Avenue Bike Path Installation; and

WHEREAS, Phase I of the Sherman Avenue Revitalization project entails walkway and bicycle path improvements along Sherman Avenue from the east side of Plainfield Avenue to the west side of Summit Avenue/Sherman Avenue South and improvements to Peppertown Park; and

WHEREAS, the Township wishes to solicit bids for Phase I of the Sherman Avenue Revitalization project.

NOW THEREFORE, BE IT RESOLVED, that the Governing Body of the Township of Berkeley Heights authorizes the Clerk to proceed with going out to bid in accordance with New Jersey Local Contracts Law N.J.S.A. 40:11-1 et seq. for Phase I of the Sherman Avenue Revitalization project.

Approved this 18th day of March, 2025.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO				
FOSTER				
ILLIS				
MACHADO				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights own the property identified as Block 3401, Lot 49 on the Official tax map of the Township of Berkeley Heights (the "Property"); and

WHEREAS, pursuant to a Lease Agreement dated June 23, 1987 (the "Lease Agreement"), the Township leased a portion of the Property to Jersey Central Power & Light Company ("JCP&L") for the construction and operation of a telecommunications tower on the Property and related facilities on the Property (the "Leased Premises"); and

WHEREAS, the Lease Agreement was thereafter amended by a First Amendment to the Lease Agreement dated January 1, 1996 (the "First Amendment"); and

WHEREAS, the Lease Agreement was thereafter further amended by a Second Amendment to Lease Agreement dated August 28, 1998 (the "Second Amendment"); and

WHEREAS, pursuant to the terms of the Lease Agreement, as amended by the First Amendment and Second Amendment, prior to JCP&L expanding the use of the Leased Premises, including any additional subleases and collocations of additional antennae on the tower, the Township must consent to same by way of Resolution; and

WHEREAS, also pursuant to Section 7.1.5J.3 of the Township Land Use Ordinances "additional users may be authorized by the Town Council to erect antennae on the tower in locations previously approved"; and

WHEREAS, Diamond Communications, on behalf of JCP&L, has requested the Township's consent for the collocation of additional equipment on the tower on the Leased Premises for AT&T; and

WHEREAS, the Township Council of the Township of Berkeley Heights finds it to be in the best interest of the Township to consent to the additional collocation for AT&T, pursuant to the terms and conditions of the Lease Agreement, as amended by the First Amendment and the Second Amendment, and applicable Township ordinances.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township hereby consents to the expansion of use of the Leased Premises to permit the collocation of additional equipment on the tower on the Leased Premises for AT&T, for an additional monthly rent in the amount of \$2,000.00, of which Berkeley Heights will receive \$1,000.00, pursuant to the terms and conditions of the Lease Agreement, as amended by the First Amendment and Second Amendment, applicable Township ordinances, along with the terms and conditions of all required municipal approvals, including, without limitation, zoning permit approval.

BE IT FURTHER RESOLVED that the consent provided herein shall not obviate the necessity of JCP&L or its successors or assigns, to secure all other relevant municipal or other governmental

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

approvals for such expansion and collocation, including, without limitation, Planning Board of Board of Adjustment approvals to the extent legally required.

BE IT FURTHER RESOLVED that the Township, as owner of the Property, hereby consents to the filing of the applications for any such approval required in connection with the expansion and collocation of the Leased Premises herein provided.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be provided to Diamond Communications and JCP&L.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

Approved this 18th day of March, 2025.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
COUTO				
FOSTER				
ILLIS				
MACHADO				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				