



ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 348 (LAND USE AND DEVELOPMENT REGULATIONS) TO AMEND VARIOUS SECTIONS OF THE TOWNSHIP CODE

Final

BE IT ORDAINED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New as follows:

1. Chapter 348 (Land Use and Developments Regulations) of the Code of the Township of Toms River, New Jersey, is hereby amended and supplemented, as follows:

2. Section 348-2.3 is hereby amended and supplemented to read as follows:

§ 348-2.3 Terms defined.

Supplement to include the following definition:

RIPARIAN ZONE

The land and vegetation within and adjacent to a regulated water as described and defined at N.J.A.C. 7:13-4.1.

3. Section 348-5.13 is hereby amended and supplemented to read as follows:

§ 348-5.13. Preservation of natural features.

Amend subsection "I" to read as follows:

- I. Riparian zones as described and defined at N.J.A.C. 7:13-4.1 of the New Jersey Flood Hazard Area Control Act Rules

4. Section 348-5.15 is hereby amended and supplemented to read as follows:

§ 348-5.15. Easements.

Where applicable, the Planning Board shall require, as a condition of site plan approval, that the owner convey to the Township of Toms River drainage easements, conservation easements, sight triangle easements, shade tree and utility easements and/or riparian easements that may be required.

5. Section 348-5.28 (Municipal Wetlands Permit) is repealed in its entirety.

6. Section 348-6.6 is hereby amended and supplemented to read as:

§ 348-6.6. Minor site plans.

Amend subsection "8" of paragraph B to read as follows:

(8) The boundary, nature and extent of wooded areas, swamps, bogs, ponds and riparian zones within the site and within 200 feet thereof. Where required for a tree removal permit, on-site specimen trees, as defined in Chapter 471, Trees, of the Code of the Township of Toms River, shall be located on the site plan.

Oliver Carlisle

7. **Section 348-6.** is hereby amended and supplemented to read as follows:

§ 348-6.7. Sketch plat of major subdivision.

Amend subsection "f" of subparagraph "3" of Paragraph C to read as follows:

(f) The boundaries, nature and extent of wooded areas and the location of any other significant physical features, including swamps, bogs, ponds, and riparian zones within the proposed subdivision and within 200 feet thereof.

8. **Section 348-6.8** is hereby amended and supplemented to read as follows:

§ 348-6.8. Sketch plat of major site plan.

Amend subsection "12" of Paragraph C to read as follows:

(12) The boundaries, nature and extent of wooded areas, swamps, bogs, ponds and riparian zones within the site and within 200 feet thereof.

9. **Section 348-6.9** is hereby amended and supplemented to read as follows:

§ 348-6.9. Preliminary plat of major subdivision.

Amend subsection "10" of Paragraph B to read as follows:

(10) The boundaries, nature, extent and acreage of wooded areas and other important physical features, including swamps, bogs, ponds and riparian zones within the proposed subdivision and within 200 feet thereof.

10. **Section 348-6.10** is hereby amended and supplemented to read as follows:

§ 348-6.10. Preliminary plat of major site plan.

Amend subsection "7" of Paragraph B to read as follows:

(7) The boundaries, nature, extent and acreage of wooded areas swamps, bogs, ponds and riparian zones within the site and within 200 feet thereof.

11. **Section 348-6.11** is hereby amended and supplemented to read as follows:

§ 348-6.11. Final plat of major subdivision.

Amend Paragraph B to include a new subsection "27" to read as follows:

(27) The boundaries, nature, extent and acreage of wooded areas swamps, bogs, ponds and riparian zones within the site and within 200 feet thereof.

12. **Section 348-8.4** is hereby amended and supplemented to read as follows:

§ 348-8.4. Buffer areas, screening, landscaping and shade trees.

Amend the first sentence of subsections "7", "9" and "10" of Paragraph D to read as follows:

(7) In areas adjacent to salt water, such as bays, brackish rivers or lagoons but not located in a riparian zone and/or riparian easement, plantings shall be of the following kinds of trees:

(9) In areas adjacent to freshwater rivers and lakes but not located in a riparian zone and/or riparian easement, plantings shall be one of the following kinds of trees, except in Riparian zones:

(10) On outer beaches, both oceanfront and bay front but not located in a riparian zone and/or riparian easement:

13. **Section 348-8.9** is hereby amended and supplemented to read as follows:

§ 348-8.9. Common open spaces and public open spaces.

Amend subsection "b" and subsection "e" to subparagraph "4" of Paragraph A to read as follows:

(b) Reserved

(e) Existing watercourses, ponds, bogs, swamps and riparian zones.

Amend subsections "1", "2", "3" and "4" of Paragraph B to read as follows:

(1) Removal of dead or diseased trees, except in riparian zones where removal of dead or diseased trees may only be removed when they pose a threat to public safety.

(2) Thinning of tree or other growth to encourage more desirable growth, except in riparian zones where such activity is prohibited

(3) Removal of trees in areas planned for ponds, lakes, active recreational facilities or pathways, except in riparian zones where removal of trees from dams and similar manmade structures designed to impound water is permitted only.

(4) Grading and seeding, except in riparian areas where such activity is prohibited.

14. **Section 348-8.12** is hereby amended and supplemented to add a new Subsection "E" to read as follows:

§ 348-8.12. Easements.

E. Riparian Easement.

Riparian easements may be required within any Riparian Zone, as defined herein and in N.J.A.C. 7:13-4.1, as amended. Such riparian easements shall contain provisions to restrict the removal of trees and ground cover except for the following purposes:

(1) Removal of dead or diseased trees that pose a threat to public safety as determined by a Licensed Tree Expert or Certified Arborist or as determined by the Township Forester;

(2) Removal of trees from dams and similar manmade structures designed to impound water, subject to the approval of the Township Engineer.

The filling or grading of lands within a riparian easement, as well as the disposal of refuse or waste material of any type and the erection of fences, swimming pools, shed, patios, outdoor cooking facilities and other improvements are strictly prohibited within the limits of a riparian easement.

15. **Section 348-8.13** is hereby amended and supplemented to read as follows:

§ 348-8.13. Fences.

Amend Paragraph B to read as follows:

B. All fences must be erected within property lines, and no fence shall be erected so as to encroach upon a public right-of-way, or upon easements dedicated for drainage,

conservation, shade trees, riparian zones or utilities. With the exception of riparian easements, fences for residential properties that are erected in the right of way or easements are permitted if the developer or homeowner can provide evidence of a deed restriction for the property that compels the homeowner to remove this fence at their cost in the event access is required that impacts the fence in the easement.

16. **Section 348-8.28.1** is hereby amended and supplemented to read as follows:

§ 348-8.28.1. Stormwater management control.

Paragraphs A and D are amended to read as follows:

A. Scope and purpose.

- (1) **Policy statement.** Flood control, groundwater recharge, and pollutant reduction through nonstructural or low-impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- (2) **Purpose.** It is the purpose of this section to establish minimum stormwater management requirements and controls for major development, as defined in Subsection B. It is also the purpose of this section to provide for the incorporation of non-structural and/or low impact techniques for improvements requiring site plan approval for development in an urban redevelopment area involving disturbance of less than one acre (not major development as defined in Subsection B).
- (3) **Applicability.**
 - (a) This section shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
 - [1] Nonresidential major developments; and
 - [2] Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
 - [3] Site plans for nonresidential development in an urban redevelopment area, as defined in this Section, involving a disturbance of less than one acre, subject to the a determination by the Township Engineer pursuant to Subsection D(5)(a) of this ordinance. For purposes of this section, the incorporation of the following will meet this requirement:
 1. Incorporation of roof drainage directly to dry wells, rain barrels or planting beds;
 2. Intercept runoff from driveways draining onto public roads or right of ways and direct into landscape strips, bioswales or raingardens.
 3. Direct runoff from parking lots into landscape strips, bioswales or raingardens.
 - (b) This section shall also be applicable to all major developments undertaken by the Township of Toms River.

D. Stormwater management requirements for major development.

(5) Nonstructural stormwater management strategies.

- (a) To the maximum extent practicable, the standards in Subsection D(6) and (7) shall be met by incorporating nonstructural stormwater management strategies set forth at Subsection D(5) into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. Where an applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Subsection D(5)(b) below into the design of a particular project, the applicant shall request a waiver of this requirement from the review board. Any waiver requested shall be supported with adequate detail, as determined by the Township Engineer, for the Township Engineer to make a recommendation to the review board as to whether the requirements of the ordinance be waived for engineering, environmental, or safety reasons.
- (b) Nonstructural stormwater management strategies incorporated into site design shall:
- [1] Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - [2] Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - [3] Maximize the protection of natural drainage features and vegetation;
 - [4] Minimize the decrease in the time of concentration from preconstruction to postconstruction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
 - [5] Minimize land disturbance including clearing and grading;
 - [6] Minimize soil compaction;
 - [7] Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - [8] Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - [9] Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - [a] Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Subsection D(5)(c) below;
 - [b] Site design features that help to prevent discharge of trash and debris from drainage systems;
 - [c] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - [d] 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.

- (c) Site design features identified under Subsection D(5)(b)[9][b] above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Subsection D(5)(c)[3] below.

[1] Grates.

- [a] Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

[i] The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

[ii] A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inch across the smallest dimension.

- [b] Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

- [2] Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

- [3] This standard does not apply:

[a] Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

[b] Where flows from the water quality design storm as specified in Subsection D(7)(a) are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

[i] A rectangular space $4 \frac{5}{8}$ inches long and $1 \frac{1}{2}$ inches wide (this option does not apply for outfall netting facilities); or

[ii] A bar screen having a bar spacing of 0.5 inch.

[c] Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in Subsection D(7)(a); or

[d] Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register-listed historic property.

(d) Any land area used as a nonstructural stormwater management measure to meet the performance standards in Subsection D(6) and (7) shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

(e) Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Subsection G, or found on the Department's website at www.njstormwater.org.

17. **Section 348-9.26** is hereby amended and supplemented to read follows:

§ 348-9.26. Planned residential retirement developments.

Amend Paragraph C to read as follows:

C. Roadways, streams, lakes, riparian zones, parking areas, driveways, sidewalks and walkways. The developer shall provide for the ownership and maintenance of all roadways, streams, lakes, riparian zones, parking areas, driveways, sidewalks and walkways. Such responsibility shall remain with the developer excepting that it may be transferred to an organization conceived and established to maintain the roadways, streams, lakes, riparian zones, parking areas, driveways, sidewalks, and walkways for the benefit of the development. Such organization shall not be dissolved and shall not dispose of any such areas of responsibility by sale or otherwise, except to an organization conceived and established to own and maintain such properties for the benefit of such development. Each individual property owner shall own an undivided share of the properties to be maintained by the association, it being intended that each individual unit owner will own the individual unit as well as a proportionate share of such roadways, streams, lakes, riparian zones, parking areas, driveways, sidewalks, and walkways in relation to the total number of units in the development. Any transfer of responsibility to an organization shall be subject to the approval of the Toms River Township Planning Board. Those provisions of § 348-8.9 of the Toms River Township Land Use and Development Regulations which deal with the rights of the Township in the event of a failure of the organization to maintain such responsibilities shall apply. It is intended by this section that in the event of a failure of the developer or successor organization to maintain these responsibilities, causing the Township to perform such services, that the Township will obtain a lien against each of the individual units in the same way that unpaid real estate taxes and assessments are liens against each of the individual units. A statement containing the provisions of this section shall be filed as part of the Declaration of Covenants, Conditions and Restrictions, which document is filed with the Clerk of Ocean County. In addition, any contract of sale to any prospective purchaser by the developer shall contain a contract provision disclosing the requirement to join the homeowners' association and the nature of the fess that will be charged to the purchaser as a homeowner by virtue of being a member of such homeowners' association.

18. **Section 348-12.8** is hereby amended and supplemented to read as follows:

§ 348-12.8. Tree removal permits and tree management plans.

Amend Subsection "3" of Paragraph C to read as follows:

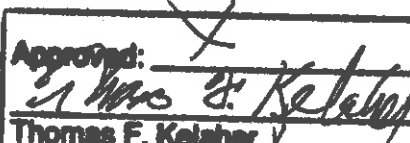
(3) Location of streams, watercourses, and riparian zones on or abutting the tract or parcel

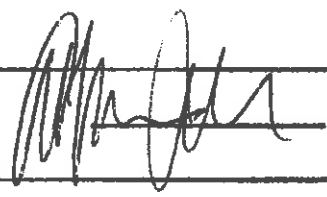
19. All ordinances or parts of ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency. All other parts of Chapter 348 of the Code of the Township of Toms River, New Jersey not inconsistent herewith are ratified and confirmed.

20. If any part or parts of this Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

21. This ordinance shall take effect following its final passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law

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Approved: 
Thomas F. Keleher
Date: 12/27/17
Not Approved: _____
Thomas F. Keleher
Date: _____

APPROVED 
NOT APPROVED _____
INCIDENT

TOMS RIVER TOWNSHIP NOTICE

ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 348 (LAND USE AND DEVELOPMENT REGULATIONS) TO AMEND VARIOUS SECTIONS OF THE TOWNSHIP CODE

PURPOSE: TO AMEND VARIOUS SECTIONS OF CHAPTER 348 (LAND USE AND DEVELOPMENT REGULATIONS) IN ACCORDANCE WITH NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION REQUIREMENTS.

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on November 14, 2017 at 6:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on December 12, 2017 at 5:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's Office in said Municipal Building to members of the general public who shall request such copies.

ALISON CARLISLE
TOWNSHIP CLERK

APPROVED AS TO FORM:



KENNETH B. FITZSIMMONS
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