

**AN ORDINANCE TO MODIFY AND AMEND BILLBOARD STANDARDS IN THE
TOWNSHIP OF BORDENTOWN.**

ORDINANCE NO. 2007-13

WHEREAS, the Township Committee of the Township of Bordentown makes the following findings:

Section 25-601.C of the Bordentown Township Land Development Ordinance currently addresses billboards within the Township. In order adequately to address the purposes stated in Section 25:601.C.1 of the Land Development Ordinance, to provide appropriate separation on non-compatible uses within the Township, and to preserve the visual character of the Township, the Township Committee of the Township of Bordentown believes that amending the Conditional Uses regulations (Section 25:601) of Land Development Ordinance to provide appropriate standards for billboards is necessary and advances the public good.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the Land Development Ordinance is hereby amended as follows:

Proposed Ordinance Revisions

25:601.C.2.a.

Currently states:

Billboards, which term shall include all off-premise advertising signs, are permitted in the following zoning districts: Manufacturing (MFG), General Commercial II (GC II), Research Engineering and Office (REO), Community Commercial (CC), Public Use (P) (limited areas) and Highway Commercial (HC) (limited areas) zones only. In the public Use (P) zone, billboards will be permitted in areas abutting the New Jersey Turnpike south of Georgetown Road only. In the Highway Commercial (HC) zone, north of Ward Avenue, only existing signs will be permitted to be upgraded to meet the requirements and standards of the ordinance. No new billboard locations will be permitted in the Highway Commercial (HC) zone north of Ward Avenue.

Shall henceforth provide:

Billboards, which term shall include all off-premise advertising signs, are permitted in the following zoning districts: General Commercial II (GC II), Research Engineering and Office (REO), Community Commercial (CC), Public Use (P) (limited areas) and Highway Commercial (HC) (limited areas) zones only. In the Public Use (P) zone, billboards will be permitted in areas abutting the New Jersey Turnpike south of Georgetown Road only. In the Highway Commercial (HC) zone, north of Ward Avenue, only existing signs will be permitted to be upgraded to meet the requirements and standards of the ordinance. No new billboard locations will be permitted in the Highway Commercial (HC) zone north of Ward Avenue.

25:601.C.2.b.

Currently states:

No billboards shall be permitted within 200 feet of a residential use or residential zone. The Planning Board may allow a reduction of the distance to 100 feet where the applicant shows that the impact on residential zone will be minimal and the benefit substantially outweighs the potential detrimental impact on residential properties.

Shall henceforth provide:

No billboards shall be permitted within 1000 feet of a residential use or residential zone. The Planning Board may allow a reduction of the distance to 750 feet where the applicant shows that the impact on residential zone will be minimal and the benefit substantially outweighs the potential detrimental impact on residential properties.

25:601.C.2.c.

Currently states:

Billboards shall require site plan approval from the Planning Board. In addition to any other requirements, the site plan shall require the provision and maintenance of a clear sight triangle whenever located on a corner lot.

Shall henceforth provide:

Billboards shall require site plan approval from the Planning Board. In addition to any other requirements, the site plan shall require the provision and maintenance of a clear sight triangle. In addition, provisions for the removal of the sign must be addressed once the sign is no longer in use. Billboards which are dormant or unused for more than one (1) year shall be removed, including below ground structures, at the owner's expense upon notification by the municipality.

25:601.C.2.d.

Currently states:

No billboards shall be allowed within a five hundred (500) foot radius of any other billboard showing to the same highway.

Shall henceforth provide:

No billboard, or portion thereof, shall be allowed within a one thousand (1,000) foot radius of any other billboard.

25:601.c.2.h.

Currently states:

- (i) The minimum front yard setback for billboards directed toward non-limited access highways shall be 30 feet from the right of way line and the maximum size of a billboard at the setback line shall be seventy-five (75') square feet. The size

of any such billboard may increase by no more than thirteen and one-half (13.5) square feet for every one (1) foot for which the sign is set back beyond the 30 foot setback line. The maximum size of any billboard shall be 300 square feet [with basic proportions of 12 feet high by 25 feet wide] on any non-limited access highway.

- (ii) For signs directed at limited access highway the minimum set back shall be ten (10') feet and the maximum size shall be 1,200 square feet [with basic proportions of 20 feet high by 60 feet wide].

Shall henceforth provide:

- (i) The minimum front yard setback for billboards directed toward non-limited access highways shall be 30 feet from the right of way line and the maximum size of a billboard at the setback line shall be seventy-five (75') square feet. The size of any such billboard may increase by no more than thirteen and one-half (13.5) square feet for every one (1) foot for which the sign is set back beyond the 30 foot setback line. The maximum size of any billboard shall be 300 square feet [with basic proportions of 12 feet high by 25 feet wide] on any non-limited access highway. No portion of the sign, excluding lighting or basic structural elements, shall project from the face of the sign.
- (ii) For signs directed at limited access highways the minimum set back shall be ten (10') feet and the maximum size shall be 1,200 square feet [with basic proportions of 20 feet high by 60 feet wide]. No portion of the sign, excluding lighting or basic structural elements, shall project from the face of the sign.

25:601.C.2.m.

Currently states:

Illumination of any billboard must be effectively shielded so as to prevent light from being directed at any portion of the main traveled way of any street or highway and shall also conform and be subject to regulations relating to illumination of billboards promulgated by the State of New Jersey. No moving parts, flashing lights, animated pictures or other distracting displays shall be permitted except those which may display the time, date or temperature. The illumination of any billboard must be effectively shielded so as to minimize the impact on residential properties.

Shall henceforth provide:

Illumination of any billboard must be effectively shielded so as to prevent light from being directed at any portion of the main traveled way of any street or highway. The illumination shall also conform and be subject to regulations relating to illumination of billboards promulgated by the State of New Jersey, but in no case shall not exceed 50 footcandles. No distracting displays are permitted including: moving parts, flashing lights, animated displays, scrolling displays, video displays, or displays that turn. Conforming signs displaying the time, date and temperature are permitted. In order to improve safety and prevent

confusion or conflict with emergency vehicles, no red lighting shall be utilized. The illumination of any billboard must be effectively shielded so as to minimize the impact on residential properties and vehicular circulation.

25:601.C.2.n.

Currently states:

Only one billboard structure may be permitted per lot except that more than one structure may be permitted on lots abutting an interstate highway and along Old York Road and Rising Sun Square Road where the viewing area of the sign is directed to a limited access highway.

Shall henceforth provide:

Only one billboard structure may be permitted per lot, except that up to two (2) billboard structures shall be permitted on lots abutting an interstate highway and along Old York Road and Rising Sun Road where the viewing area of the sign is directed to a limited access highway, and the billboards conform to the requirements of this ordinance.

25:601.C.2.o.

Currently states:

'V' shaped or double-faced billboard structures shall be permitted; however, no more than two (2) billboard structures shall be permitted per lot. Two (2) billboard faces in the same plane shall not be permitted, even if they are single sided.

Shall henceforth provide:

Back-to-back or double-faced billboards are permitted and shall be counted as a single sign provided both sides are the same size. 'V'-shaped billboards and three or more sided signs are prohibited. When a single-sided billboard is proposed, the rear or back of the sign shall be provided with a façade that obscures all structural elements satisfactory to the approving authority.

25:601.C.2.p. (New section of ordinance)

Shall henceforth provide:

Billboards shall be suitably landscaped to improve the environment of the site and surrounding area, and protect the general welfare of the public, so that the sign shall be shielded by buffers. The purpose of the buffer is to improve the visual impact from residential areas which may overlook the sign. Any and all landscaping around the billboard installation shall be placed so that it will not obstruct sight distance along any street frontage.

25:601.C.2.q. (New section of ordinance)

Shall henceforth provide:

A conscious effort shall be made to preserve and incorporate the existing vegetation on site, wherever possible. The support structure for the billboard shall be screened with evergreen

and deciduous shrubs and trees. The final spacing and species mixture shall be as approved by the Approving Authority.

25:601.C.2.r. (New section of ordinance)

Shall henceforth provide:

The billboard sign may be illuminated but shall be arranged so that no light or glare is directed or reflected to adjoining lots, streets, or into residential windows. No external beam shall be directed downward. Lighting shall be shielded to prevent spillage off the lot. The billboard sign shall not exhibit exposed incandescent bulbs, neon tubes or mirrors. Dark sky considerations shall be addressed for all lighting.

25:601.C.2.s. (New section of ordinance)

Shall henceforth provide:

The billboard sign shall be of sound construction and shall be permanently affixed to the ground in a manner conforming to the New Jersey Uniform Construction Code. Consideration shall be given to using a monopole.

25:601.C.2.t. (New section of ordinance)

Shall henceforth provide:

Access drive for billboards shall be designated to support emergency vehicles. Materials, design elements and the width of the access drive are to be based on the needs of emergency vehicles utilizing the access route, as well as the length of the access way. Emergency vehicle requirements shall be determined by the Municipal Fire Marshall and the approving authority.

25:601.C.2.u. (New section of ordinance)

Shall henceforth provide:

The billboard sign shall be periodically maintained by the owner, including painting, repairing, and cleaning as necessary. Any billboard sign that, because of improper maintenance, is deemed to be in a state of disrepair shall be repaired by the owner of said sign within fourteen (14) days of the notice requiring repair. If the repair is not done, the sign shall be considered as subject to the regulations of the Property Maintenance Code of Bordentown Township.

25:601.C.2.v. (New section of ordinance)

Shall henceforth provide:

All billboard signs shall be under current contract between the property owners and the billboard sign owner. All billboard sign messages shall be under current contract between the billboard sign owner and a third party advertiser/vendor. Otherwise, the message or images, including graffiti, shall be removed. Billboards without messages shall be reported to the municipality by the owner along with appropriate justification.

25:601.C.2.w. (New section of ordinance)

Shall henceforth provide:

No billboard sign shall contain messages advertising and/or depicting any obscene material and/or any adult entertainment.

25:601.C.2.x. (New section of ordinance)

Shall henceforth provide:

Billboard signs that are not completed within one hundred and twenty (120) days of the commencement of construction shall be removed. Failure to do so shall be considered a violation of this Ordinance and permit the Township to seek all remedies available to it for the said removal and other related relief.

25:602.C.3. (New section of ordinance)

Shall henceforth provide:

- a. All billboard signs must be in compliance with the Roadway Signs Outdoor Advertising Act (N.J.S.A.27:1A-5, 27:1A-6, 27:5-5 *et seq.*).
- b. No billboard sign shall be applied for or erected until any necessary approvals are obtained from the New Jersey Department of Transportation or the New Jersey Turnpike Authority, and a license issued for off-premises billboard signs at the specific location being applied for.
- c. No billboard shall be erected until all necessary approvals are obtained from the State of New Jersey, Burlington County and any other agency or jurisdiction.

**AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN ESTABLISHING
APPLICATION AND ESCROW FEES FOR REDEVELOPMENT PROJECTS
REVIEWED BY THE TOWNSHIP'S DULY DESIGNATED REDEVELOPMENT
ENTITY.**

ORDINANCE NO. 2007-16

WHEREAS, the Township Committee of the Township of Bordentown has previously designated the Township's governing body as the appropriate "Redevelopment Entity" pursuant to the provisions of *N.J.S.A. 40A:12A-4*. As a result, the Township Committee reviews proposed development in the Township's duly designated Redevelopment Zones. It is the purpose of this ordinance to establish and implement application and escrow review fees for such projects.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following fees shall be payable in connection with submittals to the Township Committee of the Township of Bordentown for all projects located within a duly designated Redevelopment Zone of the municipality. The fee shall be nonrefundable and shall be used solely for purposes of processing the application or review. It shall include all work done in connection with the application or review other than those fees charged for professional services.

The escrow fee charged for review shall be used exclusively for professional reviews by the "architects, engineers, planners and/or attorneys" employed by the municipality. The escrow fees shall be so segregated for each application so that the fee to be paid shall be utilized only for the particular project. In the event any of the escrow remains unused at the conclusion of the application, the amount that is not utilized shall be returned to the applicant upon written request. If the escrow fee charged is insufficient so as to cover the professional fees applicable to that particular project then that applicant shall be required to pay all deficiencies within his individual account. When it has been determined that an escrow account has been depleted by two-thirds (2/3) of the original fee, same shall be replenished by an additional one-third (1/3) of the original escrow fee.

The following fees shall be established for review by the Township Committee for projects within a duly designated Redevelopment Area:

	Application Fee (per proposed unit)	Escrow Fee (per proposed unit)
Residential per proposed unit	\$ 100.00	\$ 100.00
Commercial per proposed unit	\$1,250.00	\$5,000.00

In addition, any escrow fees remaining on account after the conclusion of review by the Township's Redevelopment entity may be utilized for purposes of escrow deposits for applications before the Township's Planning Board or returned to the applicant at the applicant's

option. All such escrow fees shall be maintained in accordance with the provisions of the New Jersey Municipal Land Use Law, *N.J.S.A. 40:55d-1 et seq.*

TOWNSHIP OF BORDETOWN
AN ORDINANCE TO AMEND CHAPTER 15.20, UNFIT BUILDINGS, OF THE REVISED
GENERAL ORDINANCES IN THE TOWNSHIP OF BORDENTOWN.

ORDINANCE NO. 2007-18

WHEREAS, the Township Committee of the Township of Bordentown has determined, in consultation with its Director of Community Development, that enforcement authority in Chapter 15.20, Unfit Buildings, of the Revised General Ordinances of the Township of Bordentown must be expanded from the zoning officer to include the County Board of Health of the County of Burlington.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the Revised General Ordinances of the Township of Bordentown are hereby amended as follows (new text is underlined) :

15.20.070 Powers of zoning officer and the County Board of Health of the County of Burlington.

The zoning officer and the County Board of Health of the County of Burlington may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including but not limited to the following powers, in addition to the others herein granted. . .

**ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
BORDENTOWN ON THE REZONING OF BLOCK 22, LOT 3.**

ORDINANCE NO. 2007-22 AS AMENDED

WHEREAS, the Township Committee of the Township of Bordentown has received a request from the property owner of Block 22, Lot 3 to rezone this parcel from Medium Density Residential (R-10) to Highway Commercial (HC); and

WHEREAS, the Township Committee of the Township of Bordentown has considered this change and believes that such a change from R-10 to HC with conditions would advance the public good.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that Block 22, Lot 3 is hereby rezoned from R-10 to HC.

Mayor George Chidley

INTRODUCED: SEPTEMBER 10, 2004
ADOPTED: SEPTEMBER 24, 2007

AN ORDINANCE ACCEPTING DEDICATION OF
CERTAIN ROADS BY THE TOWNSHIP OF BORDENTOWN
IN THE CLIFTON MILL DEVELOPMENT.

No.: 2007-26

WHEREAS, the Township Committee of the Township of Bordentown recognizes that certain roads within the Clifton Mill Development have been dedicated to the Township of Bordentown; and

WHEREAS, the Township Committee of the Township of Bordentown seeks publicly to accept dedication of these streets only in accordance with the approved development plan. All other streets not listed below in the Clifton Mill Development will remain private and under the appropriate homeowners' associations.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following streets in the Clifton Mill Development are hereby accepted as public streets by the Township of Bordentown in accordance with the approved development plan:

- Clifton Mill Drive
- Bentwood Drive
- Brighton Court
- Fox Chase Court
- Gary Court
- Kentwood Court
- Tenby Chase Drive
- Westbury Court
- Waterford Drive

Mayor George Chidley

INTRODUCED: AUGUST 27, 2007
ADOPTED: SEPTEMBER 10, 2007

AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN
ESTABLISHING A
RIPARIAN BUFFER CONSERVATION ZONE ORDINANCE

- I Intent and Purpose
- II Statutory Authority
- III Definitions
- IV Establishment of Riparian Buffer Conservation Zones

- V Uses Permitted in Riparian Buffer Conservation Zones
- VI Performance Standards for Riparian Buffer Conservation Zones
- VII Nonconforming Structures and Uses in Riparian Buffer Conservation Zones
- VIII Uses Prohibited in Riparian Buffer Conservation Zones
- IX Activities Permitted in Riparian Buffer Conservation Zones in the Case of No Reasonable or Prudent Alternative or Extreme Hardship
- X Riparian Buffer Conservation Zone Management Plan
- XI Boundary Interpretation, Appeals Procedures, Inspections, Conflicts, Severability
- XII Enforcement
- XIII Effective Date

[The requirements set forth in this Ordinance are consistent with those found in the State of New Jersey's Stormwater Management Rule (N.J.A. C. 7:8).]

I. INTENT AND PURPOSE

The governing body of Township of Bordentown finds that riparian lands adjacent to streams, lakes, or other surface water bodies that are adequately vegetated provide an important environmental protection and water resource management benefit. It is necessary to protect and maintain the beneficial character of riparian areas by implementing specifications for the establishment, protection, and maintenance of vegetation along the surface water bodies within the jurisdiction of Township of Bordentown, consistent with the interest of landowners in making reasonable economic use of parcels of land that include such designated areas. The purpose of this Ordinance is to designate Riparian Buffer Conservation Zones, and to provide for land use regulation therein in order to protect the streams, lakes, and other surface water bodies of Township of Bordentown; to protect the water quality of watercourses, reservoirs, lakes, and other significant water resources within Township of Bordentown; to protect the riparian and aquatic ecosystems of Township of Bordentown; to provide for the environmentally sound use of the land resources of Township of Bordentown, and to complement existing state, regional, county, and municipal stream corridor

protection and management regulations and initiatives. The specific purposes and intent of this Ordinance are to:

- A. Restore and maintain the chemical, physical, and biological integrity of the water resources of Township of Bordentown;
- B. Prevent excessive nutrients, sediment, and organic matter, as well as biocides and other pollutants, from reaching surface waters by optimizing opportunities for filtration, deposition, absorption, adsorption, plant uptake, biodegradation, and denitrification, which occur when stormwater runoff is conveyed through vegetated buffers as stable, distributed sheet flow prior to reaching receiving waters;
- C. Provide for shading of the aquatic environment so as to moderate temperatures, retain more dissolved oxygen, and support a healthy assemblage of aquatic flora and fauna;
- D. Provide for the availability of natural organic matter (fallen leaves and twigs) and large woody debris (fallen trees and limbs) that provide food and habitat for small bottom dwelling organisms (insects, amphibians, crustaceans, and small fish), which are essential to maintain the food chain;
- E. Increase stream bank stability and maintain natural fluvial geomorphology of the stream system, thereby reducing stream bank erosion and sedimentation and protecting habitat for aquatic organisms;
- F. Maintain base flows in streams and moisture in wetlands;
- G. Control downstream flooding; and
- H. Conserve the natural features important to land and water resources, e.g., headwater areas, groundwater recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, and prime wildlife habitats.

II. STATUTORY AUTHORITY

The municipality of Township of Bordentown is empowered to regulate land uses under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use in order to protect public health, safety and welfare by protecting and maintaining native vegetation in riparian areas. Township of Bordentown is also empowered to adopt and implement this Ordinance under provisions provided by the following legislative authorities of the State of New Jersey:

- A. Water Pollution Control Act, N.J.S.A. 58:10A et seq.
- B. Water Quality Planning Act, N.J.S.A. 58:1 1A-1 et seq.
- C. Spill Compensation and Control Act, N.J.S.A. 58:10-23 et seq.
- D. Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
- E. Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

III. DEFINITIONS

Administrative Authority means the Planning Board or Board of Adjustment or

Construction Office with all of the powers delegated, assigned, or assumed by them according to statute or ordinance.

Applicant means a person applying to the Planning Board, Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this ordinance, and that would be located in whole or in part within a regulated Riparian Buffer Conservation Zone.

Category One (C1) Waters shall have the meaning ascribed to this term by the Surface Water Quality Standards at N.J.A.C. 7:9B-1.15, which have been identified for protection from degradation in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, ~~exceptional water supply significance, or exceptional fisheries resources.~~

Category Two Waters means those waters not designated as Outstanding Natural Resource Waters or Category One in the Surface Water Quality Standards at N.J.A.C. 7:9B-1.15 for purposes of implementing the antidegradation policies set forth at N.J.A.C. 7:9B-1.5(d).

Floodway shall have the meaning ascribed to this term by the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.) and regulations promulgated there under published at N.J.A.C. 7.13 et seq., and any supplementary or successor legislation and regulations from time to time enacted or promulgated.

Intermittent Stream means surface water drainage channels with definite bed and banks in which there is not a permanent flow of water. Streams shown as a dashed line on either the USGS topographic quadrangle maps or the USDA County Soil Survey Maps of the most recent edition that includes hydrography are included as intermittent streams.

Lake, pond, or reservoir means any impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water, excluding sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

Perennial stream means a stream that flows continuously throughout the year in most years. These streams usually appear as a blue line on USGS topographic quadrangle maps or on USDA County Soil Survey Maps.

Riparian Buffer Conservation Zone (RBCZ) means an area of land or water within or adjacent to a Surface Water Body within the municipality and designated on the Riparian Buffer Conservation Zone Map promulgated by Township of Bordentown in accordance with Section IV of this Ordinance.

Riparian Buffer Conservation Zone Management Plan means a plan approved by the Engineer of Township of Bordentown. The plan shall be prepared by a landscape architect, professional engineer or other qualified professional, and shall evaluate the effects of any proposed activity/uses on any RBCZ. The plan shall identify existing conditions, all proposed activities, and all proposed management techniques, including any measures necessary to offset disturbances to any affected RBCZ.

Surface Water Body means any perennial stream, intermittent stream, lake,

pond, or reservoir, as defined herein. In addition, any state open waters identified in a letter of interpretation issued by the New Jersey Department of Environmental Protection Land Use Regulation Program shall also be considered surface water bodies.

IV. ESTABLISHMENT OF RIPARIAN BUFFER CONSERVATION ZONES

- A. Riparian Buffer Conservation Zones (RBCZs) shall be delineated as follows:
1. In the case of Category One (C1) waters, the RBCZ shall equal the Special Water Resource Protection Area, and shall be measured as defined at N.J.A.C. 7:8-5.5(h). ~~Special Water Resource Protection Areas are established along all waters designated as C1 at N.J.A.C. 7:9B and perennial or intermittent streams that drain into or upstream of the C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys within the associated HUC 14 drainage.~~
 2. For areas adjacent to surface water bodies designated Category Two Waters for Trout Production (FW2-TP) the RBCZ shall be measured from the defined edge of the intermittent or perennial stream, or centerline if the bank is not defined, and from the defined edge of a lake, pond or reservoir at bank-full flow or level, and shall extend 150 feet horizontally outward from the perpendicular. Where steep slopes (in excess of 10 percent) are located within the designated widths, the RBCZ shall be extended to include the entire distance of this sloped area.

For areas adjacent to other surface water bodies, the RBCZ shall be measured from the top of bank of an intermittent or perennial stream, or centerline if bank is not defined, and from the defined edge of a lake, pond or reservoir at bank-full flow or level, and shall extend 75 feet horizontally outward from the perpendicular. Where steep slopes (in excess of 15 percent) are located within the designated widths, the RBCZ shall be extended to include the entire distance of this sloped area to a maximum of 300 feet.

3. For areas adjacent to surface water bodies for which the Floodway has been delineated, the RBCZ shall cover the entire Floodway area, or the area described in Section IV.A. 1. or IV.A.2., whichever area has the greatest extent. Floodway delineations shall be based upon the State's adopted floodway delineations. However, requests for alterations to the adopted delineations can be provided to the New Jersey Department of Environmental Protection for consideration if site specific information is available.
- B. An RBCZ is an overlay to the existing zoning districts. The provisions of the underlying district shall remain in full force except where the provisions of the RBCZ

differ from the provisions of the underlying district, in which case the provision that is more restrictive shall apply. These provisions apply to land disturbances resulting from or related to any activity or use requiring application for any of the following permits or approvals:

- Building permit
 - Zoning variance
 - Special exception
 - Conditional use
 - Subdivision/land development approval
- C. A map of the RBCZs of the entire municipality of Township of Bordentown, including all land and water areas within its boundaries, which designates Surface Water Bodies, is included as part of this Ordinance, and is appended as Figure 1 of 1. Maps of the municipality on which these designations have been overlain shall be on file and maintained by the offices of the Clerk of Township of Bordentown. This map conforms to all applicable laws, rules and regulations applicable to the creation, modification and promulgation of zoning maps.
- D. It shall be the duty of the Engineer of Township of Bordentown, every second year after the adoption of this Ordinance, to propose modifications to the map delineating Riparian Buffer Conservation Zones required by any naturally occurring or permitted change in the location of a defining feature of a surface water body occurring after the initial adoption of the RBCZ map, to record all modifications to the RBCZ map required by decisions or appeals under Section XI, and by changes made by the New Jersey Department of Environmental Protection in surface water classifications or Floodway delineations. Floodway delineations shall be based upon the State's adopted floodway delineations. However requests for alterations to the adopted delineations can be provided to the Department for consideration if site-specific information is available.
- E. The applicant or designated representative shall be responsible for the initial determination of the presence of an RBCZ on a site, and for identifying the area on any plan submitted to the Township of Bordentown in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. This initial determination shall be subject to review and approval by the municipal engineer, governing body, or its appointed representative, and, where required, by the New Jersey Department of Environmental Protection.
- F. The municipal Master Plan provides the legal basis for zoning and land use regulation at the local level. The technical foundation for local RBCZs in this municipality should be incorporated into the Master Plan. A technical report on the need for Riparian Buffer Conservation Zones in Township of Bordentown may be adopted as part of the Master Plan (N.J.S.A 40:55D-28b(1 1)). The technical report should include the following information: a statement setting forth the rationale and need to protect RBCZs; reference to the methods used to designate and delineate RBCZs.

V. USES PERMITTED IN RIPARIAN BUFFER CONSERVATION ZONES

A. For Category One (C1) RBCZs, permitted uses are governed by N.J.A.C. 7:8-5.5(h), unless otherwise exempt. If exempt from NJAC 7:8-5.5(h), the uses shall be governed by this ordinance as if the RBCZ was not a Category One (C1) RBCZ.

B. Any other RBCZ area shall remain in a natural condition or, if in a disturbed condition, including agricultural activities, at the time of adoption of this ordinance may be restored to a natural condition. There shall be no clearing or cutting of trees and brush, except for removal of dead vegetation and pruning for reasons of public safety or for the replacement of invasive species with indigenous species. There shall be no OK altering of watercourses, dumping of trash, soil, dirt, fill, vegetative or other debris, regrading or construction. The following uses are permitted either by right or after review and approval by the municipality in RBCZs. No new construction, development, use, activity, encroachment, or structure shall take place in an RBCZ, except as specifically authorized in this Section. The following uses shall be permitted within an RBCZ:

1. Open space uses that are primarily passive in character shall be permitted by right to extend into an RBCZ, provided near stream vegetation is preserved. These uses do not require approval by the Zoning Enforcement Officer or compliance with an approved RBCZ Management Plan. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, game farms, fish hatcheries and fishing reserves, operated for the protection and propagation of wildlife, but excluding structures. Such uses also include passive recreation areas of public and private parklands, including unpaved hiking, bicycle and bridle trails, provided that said trail have been stabilized with pervious materials.
2. Fences, for which a permit has been issued by the Construction Code Office, to the extent required by applicable law, rule or regulation.
3. Crossings by farm vehicles and livestock, recreational trails, roads, railroads, storm water lines, sanitary sewer lines, water lines and public utility transmission lines, provided that the land disturbance is the minimum required to accomplish the permitted use, subject to approval by the Zoning Enforcement Officer, provided that any applicable State permits are acquired, and provided that any disturbance is offset by buffer improvements in compliance with an approved RBCZ Management Plan and that the area of the crossing is stabilized against significant erosion due to its use as a crossing.
4. Stream bank stabilization or riparian reforestation, which conform to the guidelines of an approved RBCZ Management Plan, or wetlands mitigation projects that have been approved by the Department of Environmental Protection, subject to approval by the Zoning Enforcement Officer and subject to compliance with an approved RBCZ Management Plan.

VI. PERFORMANCE STANDARDS FOR RIPARIAN BUFFER CONSERVATION ZONES

- A. All encroachments proposed into Category One (C1) RBCZs shall comply with the requirements at N.J.A.C. 7:8-5.5(h) and shall be subject to review and approval by the New Jersey Department of Environmental Protection, unless exempt. If exempt, the encroachment shall be subject to the provisions of VI. B below.
- B. For all other RBCZs, the following conditions shall apply:
1. All new major and minor subdivisions and site plans shall be designed to ~~provide sufficient areas outside of the RBCZ to accommodate primary structures, any normal accessory uses appurtenant thereto, as well as all planned lawn areas.~~
 2. Portions of lots within the RBCZ must be permanently restricted by deed or conservation easement held by Township of Bordentown, its agent, or another public or private land conservation organization which has the ability to provide adequate protection to prevent adverse impacts within the RBCZ. A complete copy of the recorded conservation restriction that clearly identifies the deed book and pages where it has been recorded in the office of the clerk of the applicable county or the registrar of deeds and mortgages of the applicable county must be submitted to the municipality. The applicant shall not commence with the project or activity prior to making this submittal and receiving actual approval of the plan modification and receipt of any applicable permits from the Department of Environmental Protection. The recorded conservation restriction shall be in the form approved by the municipality and shall run with the land and be binding upon the property owner and the successors in interest in the property or in any part thereof. The conservation restriction may include language reserving the right to make de minimus changes to accommodate necessary regulatory approvals upon the written consent of the municipality, provided such changes are otherwise consistent with this chapter. The recorded conservation restriction shall, at a minimum, include:
 - a. A written narrative of the authorized regulated activity, date of issuance, and date of expiration, and the conservation restriction that, in addition, includes all of the prohibitions set forth at N.J.S.A. 13:8B-2b(1) through (7);
 - b. Survey plans for the property as a whole and, where applicable, for any additional properties subject to the conservation restrictions. Such survey plans shall be submitted on the surveyor's letterhead, signed and sealed by the surveyor, and shall include metes and bounds descriptions of the property, the site, and the areas subject to the conservation restriction in New Jersey State Plane Coordinates, North American Datum 1983, and shall depict the boundaries of the site and all areas subject to the conservation restriction as marked with flags or

- stakes onsite. All such survey plans shall be submitted on paper and in digital CAD or GIS file on a media and format defined by the municipality. The flags or stakes shall be numbered and identified on the survey plan; and
- c. A copy or copies of deeds for the property as a whole that indicate the deed book and pages where it has been recorded in the office of the clerk of the applicable county or the registrar of deeds and mortgages of the applicable county.
3. Any lands proposed for development which include all or a portion of an RBCZ shall as a condition of any major subdivision or major site plan approval, provide for the vegetation or revegetation of any portions of the RBCZ which are not vegetated at the time of the application or which were disturbed by prior land uses, including for agricultural use. Said vegetation plan shall utilize native and non-invasive tree and plant species to the maximum extent practicable in accordance with an approved Riparian Buffer Conservation Zone Management Plan, described in Section X.
 4. For building lots which exist as of the date of adoption of this ordinance, but for which a building permit or a preliminary site plan approval has not been obtained or is no longer valid, the required minimum front, side, and rear setbacks may extend into the RBCZ, provided that a deed restriction and/or conservation easement is applied which prohibits clearing or construction in the RBCZ.
 5. All stormwater shall be discharged outside of but may flow through an RBCZ and shall comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey", established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. (See N.J.A.C. 2:90-1.3.)
 6. If stormwater discharged outside of and flowing through an RBCZ cannot comply with the Standard For Off-Site Stability cited in Section VI.5, then the stabilization measures in accordance with the requirements of the above standards may be placed within the RBCZ, provided that:
 - a. Stabilization measures shall not be placed closer than 50 feet from the top of the bank at bank-full flow or level of affected surface water bodies.
 - b. The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall conditions of the RBCZ will be maintained to the maximum extent practicable;
 - c. A conceptual project design meeting shall be held with the appropriate municipal staff and Soil Conservation District staff to identify necessary stabilization measures; and
 - d. All encroachments proposed under this section shall be subject to review and approval by the Administrative Authority.

VII. NONCONFORMING STRUCTURES AND USES IN RIPARIAN BUFFER CONSERVATION ZONES

Nonconforming structures and uses of land within the RBCZ are subject to the following requirements:

- A. Legally existing but nonconforming structures or uses may be continued.
- B. Any proposed enlargement or expansion of the building footprint within a Category One (C1) RBCZ shall comply with the standards in N.J.A.C. 7:8-5.5(h).
- C. For all other RBCZs:
 - 1. Encroachment within the RBCZ shall only be allowed where previous development or disturbance has occurred. Existing impervious cover shall not be increased within the RBCZ as a result of encroachments where ~~previous development or disturbances have occurred.~~
 - 2. Discontinued nonconforming uses may be resumed any time within one year from such discontinuance but not thereafter when showing clear indications of abandonment. No change or resumption shall be permitted that is more detrimental to the RBCZ, as measured against the intent and purpose under Section I, than the existing or former nonconforming use. This one-year time frame shall not apply to agricultural uses that are following prescribed Best Management Practices for crop rotation. However, resumption of agricultural uses must be strictly confined to the extent of disturbance existing at the time of adoption of this ordinance.

VIII. USES PROHIBITED IN RIPARIAN BUFFER CONSERVATION ZONES

- A. Any use within a Category One (C1) RBCZ shall comply with the standards in N.J.A.C. 7:8-5.5(h).
- B. For other RBCZs, any use or activity not specifically authorized in Section V or Section VII shall be prohibited within the RBCZ. By way of example, the following activities and facilities are prohibited:
 - 1. Removal or clear-cutting of trees and other vegetation or soil disturbance such as grading, except for selective vegetation removal for the purpose of stream or riparian area stabilization or restoration projects that require vegetation removal or grading prior to implementation.
 - 2. Storage of any hazardous or noxious materials.
 - 3. Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Soil Conservation District.
 - 4. Roads or driveways, except where permitted in compliance with Section V.
 - 5. Motor or wheeled vehicle traffic in any area, except as permitted by this Ordinance.
 - 6. Parking lots.
 - 7. Any type of permanent structure, except structures needed for a use permitted by Section V.
 - 8. New subsurface sewage disposal areas. The expansion and replacement

of existing subsurface sewage disposal areas for existing uses is permitted.

9. Residential grounds or lawns, except as otherwise permitted pursuant to this Ordinance.

IX. ACTIVITIES PERMITTED IN STREAM BUFFER CONSERVATION ZONES IN THE CASE OF NO REASONABLE OR PRUDENT ALTERNATIVE OR EXTREME HARDSHIP

A. For Category One (C1) RBCZs, requests for exemptions that fall under the purview of the Stormwater Management Rules must be authorized by the New Jersey Department of Environmental Protection, as per N.J.A.C 7:8-5.5(h)1.ii.

B. For other RBCZs, hardship variances may be granted by the Zoning Board of Adjustment in cases of a preexisting lot (existing at the time of adoption of this ordinance) when there is insufficient room outside the RBCZ for uses permitted by the underlying zoning and there is no other reasonable or prudent alternative to placement in the RBCZ, including obtaining variances from setback or other requirements that would allow conformance with the RBCZ requirements, and provided the following demonstrations are made:

1. An applicant shall be deemed to have established the existence of an extreme economic hardship, if the subject property is not capable of yielding a reasonable economic return if its present use is continued or if it is developed in accordance with provisions of this ordinance and that this inability to yield a reasonable economic return results from unique economic circumstances peculiar to the subject property which:

- a. Do not apply to or affect other property in the immediate vicinity;
- b. Relate to or arise out of the characteristics of the subject property because of the particular physical surroundings, shape or topographical conditions of the property involved, rather than the personal situations of the applicant; and are not the result of any action or inaction by the applicant or the owner or his predecessors in title.
- c. The necessity of acquiring additional land to locate development outside the RBCZ shall not be considered an economic hardship unless the applicant can demonstrate that there is no adjacent land that is reasonably available or could be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity.

2. An applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts, that one of the following applies:

- a. The proposed project will serve an essential public health or safety need;
- b. The proposed use is required to serve an existing public health or

safety need; or;

c. There is no alternative available to meet the established public health or safety need.

3. A variance can only be granted if it is shown that the activity is in conformance with all applicable local, state, and federal regulations, and that the exception granted is the minimum relief necessary to relieve the hardship.

C. If the above demonstrations are made, then the encroachment of impervious surfaces (structures or pavement) otherwise permitted by the underlying zoning is permitted to the extent of 750 square feet total. Said encroachment is not permitted closer than 100 feet from the top of the bank at bank-full flow or level of ~~Category Two Waters for Trout Production (FW2-TP)~~, or closer than 50 feet from the top of the bank at bank-full flow or level of other surface water bodies.

D. If such an exception is granted, the applicant shall rehabilitate an environmentally degraded RBCZ area within or adjacent to the same site, and at least equivalent in size to the RBCZ reduction permitted, or, if not possible, rehabilitate or expand an RBCZ area at least equivalent in size within a nearby site and, if available, within the same watershed. Rehabilitation shall include reforestation, stream bank stabilization and removal of debris, in accordance with an RBCZ Management Plan, as described in Section X below.

X. RIPARIAN BUFFER CONSERVATION ZONE MANAGEMENT PLAN

A. Within any RBCZ, no construction, development, use, activity, or encroachment shall be permitted unless the effects of such development are accompanied by preparation, approval, and implementation of a Riparian Buffer Conservation Zone Management Plan.

B. The landowner, applicant, or developer shall submit to [municipal contact], or its appointed representative, a Riparian Buffer Conservation Zone Management Plan prepared by an environmental professional, professional engineer or other qualified professional which fully evaluates the effects of any proposed uses on the RBCZ. The Riparian Buffer Conservation Zone Management Plan shall identify the existing conditions including:

1. Existing vegetation;
2. Field delineated surface water bodies;
3. Field delineated wetlands;
4. The 100-year floodplain;
5. Flood Hazard Areas, including Floodway and Flood Fringe areas, as delineated by the New Jersey Department of Environmental Protection;
6. Soil classifications as found on Soil Surveys;
7. Existing subdrainage areas of site with HUC-14 (Hydrologic Unit Code) designations;
8. Slopes in each subdrainage area segmented into sections of slopes less than or equal to fifteen (15) percent; above fifteen percent but less twenty

(20) percent; and greater than twenty (20) percent.

The proposed plan shall describe all proposed uses/activities, and fully evaluate the effects of all proposed uses/activities in an RBCZ, and all proposed management techniques, including proposed vegetation and any other measures necessary to offset disturbances to the RBCZ. A discussion of activities proposed as well as management techniques proposed to offset disturbances and/or enhance the site to improve the RBCZ's ability to function effectively as an RBCZ shall also be included with the RBCZ Management Plan submittal to Township of Bordentown.

- C. The Plan shall be reviewed and must be approved by the Engineer of Township of Bordentown, in consultation with the Environmental Commission, ~~as part of the subdivision and land development process.~~
-
- D. The Riparian Buffer Conservation Zone Management Plan must include management provisions in narrative and/or graphic form specifying:
1. The manner in which the area within the RBCZ will be owned and by whom it will be managed and maintained.
 2. The conservation and/or land management techniques and practices that will be used to conserve and protect the RBCZ, as applicable.
 3. The professional and personnel resources that are expected to be necessary, in order to maintain and manage the RBCZ.
 4. A revegetation plan, if applicable, that includes: three (3) layers of vegetation, including herbaceous plants that serve as ground cover, understory shrubs, and trees that when fully mature, will form an overhead canopy. Vegetation selected must be native, non-invasive species, and consistent with the soil, slope and moisture conditions of the site. The revegetation plan shall be prepared by a qualified environmental professional, landscape architect, or professional engineer, and shall be subject to the approval of the Municipal Engineer, in consultation with the Environmental Commission. Dominant vegetation in the Riparian Buffer Conservation Zone Management Plan shall consist of plant species that are suited to the stream buffer environment. The Engineer of Township of Bordentown may require species suitability to be verified by qualified experts from the Soil Conservation District, Natural Resources Conservation Service, New Jersey Department of Environmental Protection, US Fish and Wildlife Service and/or State or Federal forest agencies.
- E. A Riparian Buffer Conservation Zone Management Plan is not required where the RBCZ is not being disturbed and conservation easements/deed restrictions are applied to ensure there will be no future clearing or disturbance of the RBCZ.
- F. Performance of the Riparian Buffer Conservation Zone Management Plan shall be guaranteed a minimum of two years by a surety, such as a bond, cash or letter of credit, which shall be provided to the Township of Bordentown prior to the Township of Bordentown issuing any permits or approving any uses relating to the applicable use or activity.

XI. BOUNDARY INTERPRETATION, APPEALS PROCEDURES, INSPECTIONS, CONFLICTS, SEVERABILITY

- A. When a landowner or applicant disputes the boundaries of an RBCZ, or the defined bank-full flow or level, the landowner or applicant shall submit evidence to Township of Bordentown that describes the RBCZ, presents the landowner or applicant's proposed RBCZ delineation, and presents all justification for the proposed boundary change. For Category One (C1) RBCZs, the landowner or applicant must first obtain approval from the New Jersey Department of Environmental Protection. A decision from the Department must be included with the evidence submitted for municipal review.
- B. Within 45 days of a complete submission of Section XI.A above, the Engineer of Township of Bordentown, or appointed representative, shall evaluate all material submitted and shall make a written determination, a copy of which shall be submitted to Township of Bordentown and the landowner or applicant. Failure to act within the 45-day period shall not be interpreted to be an approval of the proposed boundary change.
- C. Any party aggrieved by any such determination or other decision or determination under Section XI.B. may appeal to the Township of Bordentown under the provisions of this ordinance. The party contesting the location of the RBCZ boundary shall have the burden of proof in case of any such appeal.
- D. Any party aggrieved by any determination or decision of the Township of Bordentown under this Ordinance may appeal to the Planning Board of Township of Bordentown. The party contesting the determination or decision shall have the burden of proof in case of any such appeal.
- E. Inspections:
 1. Lands within or adjacent to an identified RBCZ shall be inspected by Township of Bordentown when:
 - a. A subdivision or land development plan is submitted;
 - b. A building permit is requested;
 - c. A change or resumption of a nonconforming use is proposed;
 - d. A discontinued nonconforming use is resumed more than a year later, as described in Section VII.
 2. The RBCZ may also be inspected periodically by representatives from Township of Bordentown if excessive or potentially problematic erosion is present, other problems are discovered, or at any time when the presence of an unauthorized activity or structure is brought to the attention of municipal officials or when the downstream surface waters are indicating reduction in quality.
- F. Conflicts: All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.

F. Severability:

1. Interpretation: This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law.
2. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.
3. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

XII. ENFORCEMENT

A prompt investigation shall be made by the appropriate personnel of Township of Bordentown, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of Township of Bordentown, pursuant to N.J.S.A 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this Ordinance shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

XIII. EFFECTIVE DATE

This Ordinance shall take effect upon final adoption and publication in accordance with the law on

INTRODUCED: AUGUST 27, 2007
ADOPTED: SEPTEMBER 24, 2007

ORDINANCE #2007-28

AN ORDINANCE OF THE TOWNSHP OF BORDENTOWN REGULATING FERTILIZER APPLICATION

- I Purpose
- II Basis and Background
- III Definitions
- IV Prohibited Conduct
- V Phosphorus Fertilizer Application
- VI Enforcement

- VII Violations and Penalties
- VIII Severability
- IX Effective Date

I. Purpose:

An ordinance to regulate the outdoor application of fertilizer so as to reduce the overall amount of excess nutrients entering waterways, thereby helping to protect and improve surface water quality. This ordinance does not apply to fertilizer application on commercial farms.

II. Basis and Background:

Elevated levels of nutrients, particularly phosphorus, in surface waterbodies can result in excessive and accelerated growth of algae and aquatic plants (eutrophication). Excessive plant growth can result in diurnal variations and extremes in dissolved oxygen and pH, which, in turn, can be detrimental to aquatic life. As algae and plant materials die off, the decay process creates a further demand on dissolved oxygen levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply.

While healthy vegetated areas are protective of water quality by stabilizing soil and filtering precipitation, when fertilizers are applied to the land surface improperly or in excess of the needs of target vegetation, nutrients can be transported by means of stormwater to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation. Most soils in New Jersey contain sufficient amounts of phosphorus to support adequate root growth for established turf. Over time, it is necessary to replenish available phosphorus, but generally not at the levels commonly applied. Other target vegetation, such as vegetable gardens and agricultural/horticultural plantings, will have a greater need for phosphorus application, as will the repair or establishment of new lawns or cover vegetation. A soils test and fertilizer application recommendation geared to the soil and planting type is the best means to determine the amount of nutrients to apply. Timing and placement of fertilizer application is also critical to avoid transport of nutrients to waterways through stormwater runoff. Fertilizer applied immediately prior to a runoff-

producing rainfall, outside the growing season or to impervious surfaces is most likely to be carried away by means of runoff without accomplishing the desired objective of supporting target vegetation growth. Therefore, the management of the type, amount and techniques for fertilizer application is necessary as one tool to protect water resources.

This ordinance does not apply to application of fertilizer on commercial farms, but improper application of fertilizer on farms would be problematic as well. Stewardship on the part of commercial farmers is needed to address this potential source of excess nutrient load to waterbodies. Commercial farmers are expected to implement best management practices in accordance with conservation management plans or resource conservation plans developed for the farm by the Natural Resource Conservation Service and approved by the Soil Conservation District Board.

III. Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance 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.

- a. Buffer - the land area, 25 feet in width, adjacent to any waterbody.
- b. Commercial farm - a farm management unit producing agricultural or horticultural products worth \$2,500 or more annually.
- c. Fertilizer - means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.
- d. Impervious Surface - a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.
- e. Person - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- f. Phosphorus fertilizer - any fertilizer that contains phosphorus, expressed as P_2O_5 with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.
- g. Soils Test - a technical analysis of soil conducted by an accredited soil-testing laboratory following the protocol for such a test established by Rutgers Cooperative Research and Extension.
- h. Waterbody - a surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

IV. Prohibited Conduct:

No person may do any of the following:

- a) Apply fertilizer when a runoff producing rainfall is occurring or predicted and/or when soils are saturated and a potential for fertilizer movement off-site exists.
 - b) Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for reuse.
 - c) Apply fertilizer within the buffer of any waterbody.
 - d) Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season (March 1 to November 15).
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V. Phosphorus Fertilizer Application:

No person may do the following:

- a) Apply phosphorus fertilizer in outdoor areas except as demonstrated to be needed for the specific soils and target vegetation in accordance with a soils test and the associated annual fertilizer recommendation issued by Rutgers Cooperative Research and Extension.
- b) Exceptions
 - 1. Application of phosphorus fertilizer needed for
 - a. establishing vegetation for the first time, such as after land disturbance, provided the application is 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,
 - b. re-established or repairing a turf area.
 - 2. Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.
 - 3. Application of phosphorus fertilizer to residential container plantings, flowerbeds, or vegetable gardens.

VI. Enforcement:

This ordinance shall be enforced by the Police Department of the Township of Bordentown.

VII. Violations and Penalties:

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$1,000.00.

VIII. Severability:

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

IX. Effective Date:

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

ALL OF WHICH IS ADOPTED this day of , 2 , by the _____

INTRODUCED: AUGUST 27, 2007
ADOPTED: SEPTEMBER 24, 2007

ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN
APPROVING REDEVELOPMENT PLAN FOR BLOCK 57, LOTS 1.01, 1.02, AND 6, IN THE
TOWNSHIP OF BORDENTOWN.

ORDINANCE No. 2007-32

WHEREAS, the Township Committee of the Township of Bordentown in its capacity as the redevelopment authority has reviewed the Agway (Growmark)/Yates Area Redevelopment Plan prepared by Remington & Vernick Engineers for the redevelopment area designated as Block 57, Lots 1.01, 1.02, and 6, comprised of approximately 71.67 acres.

NOW, THEREFORE, BE IT ORDIANED by the Township Committee of the Township of Bordentown in its capacity as the redevelopment authority that the Agway (Growmark)/Yates Area Redevelopment Plan prepared by Remington & Vernick Engineers for the redevelopment area designated as Block 57, Lots 1.01, 1.02, and 6, comprised of approximately 71.67, acres is hereby approved.

Mayor George Chidley

**ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
BORDENTOWN AMENDING SECTION 25:501 OF THE LAND DEVELOPMENT
ORDINANCE.**

ORDINANCE No. 2007- 34

WHEREAS, the Township Committee of the Township of Bordentown has reviewed Section 25:501 of the Bordentown Township Land Development Ordinance, which addresses accessory buildings within the Township; and

WHEREAS, the Township Committee of the Township of Bordentown has concluded that in order adequately to address the purposes stated in the Land Development Ordinance and to provide appropriate standards for accessory uses, amendments to Section 25:501 are needed.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that Section 25:501 of the Land Development Ordinance is hereby amended as follows:

25:501.F – Number of Accessory Structures. There shall be no more than two (2) accessory structures per lot.

25:501.G – Size of Sheds. Sheds shall not exceed 100 square feet.

Mayor George Chidley

**ORDINANCE OF THE TOWNSHIP OF BORDENTOWN ADDING BLOCK 92, LOT 20
AND BLOCK 93, LOT 10 TO THE TOWNSHIP OF BORDENTOWN'S RECREATION
AND OPEN SPACE INVENTORY.**

ORDINANCE NO. 2008 -4

WHEREAS, the Township Committee of the Township of Bordentown has recently reviewed the fact that Block 92, Lot 20 and Block 93, Lot 10 are not currently on the Recreation and Open Space Inventory (ROSI); and

WHEREAS, the Township Committee of the Township of Bordentown recognizes that the placement of these properties on the ROSI is appropriate and consistent with the long-established open-space objectives of the Township.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee by the Township of Bordentown that the ROSI in the Township of Bordentown is hereby amended to include Block 92, Lot 20 and Block 93, Lot 10.

Colleen Eckert, Municipal Clerk

Mayor George Chidley

**ORDINANCE OF THE TOWNSHIP OF BORDENTOWN FOR
CONCRETE TESTING, STORMWATER-SYSTEM VIDEO, AND PAVING.**

ORDINANCE NO. 2008-5

WHEREAS, THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN has reviewed its Land Development Ordinance in consultation with the relevant professionals; and

WHEREAS, THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN believes that modifications to various provisions of this Ordinance regarding concrete testing, stormwater-system video, and paving are necessary and advance the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN that the Land Development Ordinance of the Township of Bordentown shall be amended as follows (new provisions are highlighted):

A new section now provides:

Section 25:502.L

A video inspection shall be performed for every stormwater system as required by 25:902.F.6. Plans shall reflect this requirement.

Section 25:508.A.3 currently reads:

[Paving.] All driveways shall be paved and all parking and loading areas and access drives shall be paved in accordance with the requirements below and shall be curbed in accordance with the standard set forth, in Section 25:508.A.1.e, unless otherwise specified by the Board and approved as part of the subdivision or site plan approval. All parking areas, regardless of size and location, shall be suitably drained and maintained.

Section 25:508.A.3 now provides:

Paving.

All driveways shall be paved and all parking and loading areas and access drives shall be paved in accordance with the requirements below and shall be curbed in accordance with the standard set forth, in Section 25:508.A.1.e, unless otherwise specified by the Board and approved as part of the subdivision or site plan approval. All parking areas, regardless of size and location, shall be suitably drained and maintained.

Section 25:508.A.3.b currently reads:

Residential driveways and other areas likely to experience similar light traffic shall be paved with not less than one of the following:

- (1) A minimum of three inches (3") of compacted base course of plant mixed bituminous, stabilized base course, prepared and constructed in accordance with Section 304, of the New Jersey Department of Transportation Specifications for Road and Bridge Construction, current edition.

- (2) A minimum of two inches (2") thick compacted wearing surface of bituminous concrete (FABC) shall be constructed in accordance with Section 404, of the New Jersey Department of Transportation Specifications for Road and Bridge Construction, current edition.

The Planning Board may require higher standards where it determines that the higher standards are appropriate for the use of the subject premises.

Section 25:508.A.3.b now provides:

Residential driveways and other areas likely to experience similar light traffic shall be paved with one of the following:

- (1) A minimum of three inches (3") of compacted base course of plant mixed bituminous, stabilized base course, prepared and constructed in accordance with Section 304, of the New Jersey Department of Transportation Specifications for Road and Bridge Construction, current edition and a minimum of two inches (2") thick compacted wearing surface of bituminous concrete (FABC) shall be constructed in accordance with Section 404, of the New Jersey Department of Transportation Specifications for Road and Bridge Construction, current edition; or
- (2) A minimum of four (4) inches thick of Portland cement concrete with 6 inch x 6 inch welded-wire fabric (WWF) mesh reinforcement or equivalent and constructed in accordance with the standards of New Jersey Department of Transportation Specifications for Road and Bridge Construction, current edition. A minimum of 4,000 psi at 28-day verification strength is required.

All paving shall be placed on a 6-inch-thick DGA sub-base or approved equal unless otherwise approved by the Board.

The Planning Board may require higher standards where it determines that the higher standards are appropriate for the use of the subject premises.

New sections now provide:

Section 25:508.A.3.d

At residential driveways and other areas likely to experience similar light traffic, driveway aprons and sidewalk at points of vehicular crossing shall be constructed of Portland cement concrete, six (6) inches thick with 6 inch x 6 inch welded-wire fabric (WWF) mesh reinforcement or equivalent and constructed in accordance with the New Jersey Department of Transportation Specifications for Road and Bridge Construction, current edition. A minimum of 4,500 psi at 28-day verification strength is required.

New sections now provide:

Section 25:515 Testing

Streets, curbs, sidewalks and driveways shall be tested in accordance with Section 25:902.F.

In addition, all concrete curb, sidewalk and driveways shall be tested as follows:

During the progress of the work, the contractor shall take concrete cylinder specimens to test compressive strength and air void content/ air entrainment in accordance with the most current ASTM Standards. Not fewer than one specimen per concrete truckload shall be made for each test.

Section 25:902.F.4 currently reads:

An “as-built” plan and profiles of all utilities and roads (three (3) black and white prints plus a mylar copy to be sent to the Township Engineer), with certification signed and sealed by a New Jersey licensed Professional Engineer as to the actual construction as approved by the Township Engineer, shall be provided.

Section 25:902.F.4 now provides:

An “as-built” plan and profiles of all utilities and roads (three (3) black and white prints plus a mylar copy to be sent to the Township Engineer), with certification signed and sealed by a New Jersey licensed Professional Engineer or New Jersey licensed Land Surveyor as to the actual construction as approved by the Township Engineer, shall be provided. When stormwater management basins or storage areas are involved, “as-built” drawings shall be accompanied by a capacity and discharge certificate, signed and sealed by a New Jersey licensed Professional Engineer. Certifications shall verify compliance with approved designs prior to releasing the performance guarantees.

New sections now provide:

Section 25:902.F.6

The owner shall employ a video inspection service to obtain closed-circuit color television examination of the interior of each and every stormwater pipe system to inspect for potential defects prior to releasing the performance guarantees. The owner should provide at least two (2) copies of color videotape record for the examination to the Township Engineer. The video inspection service provider and the format of the tape shall be approved by the Township Engineer. All costs associated with video inspections shall be the owner/applicant’s responsibility.

New sections now provide:

Section 25:902.F.7

The owners shall provide testing for any street or residential parking area(s). The owner shall employ the services of a testing laboratory to obtain cores of the pavement in accordance with New Jersey Department of Transportation Specifications for Road and Bridge Construction, current edition. Cores should be tested for thickness, composition and density of the pavement material. The owner shall provide a certified report of the results to the Township Engineer for acceptance. The testing laboratory employed, the number and location of the cores and results shall be approved by the Township Engineer. All costs associated with testing shall be the owner/applicant’s responsibility.

New sections now provide:

Section 25:902.F.8

The owner shall provide concrete test results for all curb, sidewalk and driveway sampling taken during construction per Section 515. Results shall be in the form of a report from the certified testing lab and shall indicate the locations from which the samples were taken, the dates when the

samples taken and the sample results. The testing laboratory employed and test results shall be approved by the Township Engineer. All costs associated with testing shall be the owner/applicant's responsibility.

TOWNSHIP OF BORDENTOWN

ORDINANCE #2008-8

ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN
APPROVING REDEVELOPMENT PLAN FOR BLOCK 140, LOTS 3, 5, 6, 7, 8, 10, 11, 12, 13,
14, 15, 16, 17, 18 AND 19 AND BLOCK 141, LOT 4, IN THE TOWNSHIP OF
BORDENTOWN

WHEREAS, the Township Committee of the Township of Bordentown in its capacity as the redevelopment authority has reviewed the Waterfront Village Redevelopment Plan prepared by Remington & Vernick Engineers for the redevelopment area designated as Block 140, Lots 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 and Block 141, Lot 4, comprised of approximately 127 acres.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown in its capacity as the redevelopment authority that the Waterfront Village Redevelopment Plan prepared by Remington & Vernick Engineers for the redevelopment area designated as Block 140, Lots 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 and Block 141, Lot 4, comprised of approximately 120 acres is hereby approved.

INTRODUCED: APRIL 14, 2008
ADOPTED:

**AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING
REQUIREMENTS FOR SUBMISSION OF MINOR SUBDIVISION PLATS AND MINOR
SITE PLANS AND SUBMISSION OF PRELIMINARY MAJOR SUBDIVISION PLATS
AND PRELIMINARY MAJOR SITE PLANS IN THE LAND-DEVELOPMENT
ORDINANCE.**

ORDINANCE NO. 2008-11

WHEREAS, the Township Committee of the Township of Bordentown has reviewed the requirements for submission of minor subdivision plats and minor site plans and for submission of preliminary major subdivision plats and preliminary major site plans in the Land-Development Ordinance; and

WHEREAS, the Township Committee of the Township of Bordentown has recognized the need for clarification in the form of a Counsel on Affordable Housing compliance report; and

WHEREAS, the Township Committee of the Township of Bordentown maintains that this amendment for both minor subdivision plats and minor site plans as well as preliminary major subdivision plats and preliminary major site plans advances the common good of the citizens of the Township of Bordentown.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following amendments shall be added to Chapter 25 of the Land-Development Ordinance of the Township of Bordentown:

25:803 Submission of Minor Subdivision Plats and Minor Site Plans.

25:803.B.20.

COAH Compliance Report. This report shall address the anticipated affordable-housing obligation generated by the development and how that obligation is to be satisfied by the applicant. The report shall address the anticipated obligation at the time of issuance of the final certificate of occupancy (CO), and it shall be based on the applicable regulations of the Council on Affordable Housing at the time of issuance of the final CO.

25:804 Submission of Preliminary Major Subdivision Plats and Preliminary Major Site Plans.

25:804.B.29.

COAH Compliance Report. This report shall address the anticipated affordable-housing obligation generated by the development and how that obligation is to be satisfied by the applicant. The report

shall address the anticipated obligation at the time of issuance of the final certificate of occupancy (CO), and it shall be based on the applicable regulations of the Council on Affordable Housing at the time of issuance of the final CO.

Mayor George Chidley

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
BORDENTOWN TO AMEND THE PROPOSED SIGN ORDINANCE.

ORDINANCE NO. 2008-17

WHEREAS, the Township Committee of the Township of Bordentown has reviewed its Land Development Ordinance with respect to signs; and

WHEREAS, the Township Committee of the Township of Bordentown has consulted with the relevant professionals and submitted this matter for review to the Bordentown Township Planning Board.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following amendments are made to the Bordentown Township Land Development Ordinance, Chapter 25, as follows:

25:514.E.1.

Currently states:

Animated, flashing and illusionary sign. Sign using mechanical or electrical devices to revolve, flash or display movement or the illusion of movement are prohibited.

Revised to:

Animated, flashing and illusionary sign. Sign using mechanical or electrical devices to revolve, flash or display movement or the illusion of movement are prohibited. No distracting displays are permitted including: moving parts, flashing lights, animated displays, scrolling displays, video displays, or displays that turn. Any sign which has text that changes more then once every 30 seconds shall be prohibited. Transition between sign changes shall be no longer than 2 seconds. That portion of the sign which contains changeable text shall consist of no more then 20 percent of the overall sign area, inclusive of conforming signs displaying the time, date or temperature.

25:514.E.4.

Currently states:

Illuminated signs. Illuminated signs shall be arranged to reflect the light and glare away from adjoining streets. No sign with red, green, blue or amber illumination in a beam, beacon or flashing form resembling an emergency light shall be erected in any location. No sign, display or advertising device shall be erected which in any way resembles any standard traffic control device.

Revised to:

Illuminated signs. Illuminated signs shall be arranged to reflect the light and glare away from adjoining streets, vehicular circulation and residential properties. The light intensity shall not distract or have any negative impact on vehicular circulation or residential properties. No sign with red, green, blue or amber illumination in a beam, beacon or flashing form resembling an emergency light shall be erected in any location. In order to improve safety, and prevent confusion or conflict with emergency vehicles, no red lighting shall be utilized. No sign, display or advertising device shall be erected which in any way resembles any standard traffic control device. The sign shall not exhibit exposed incandescent bulbs, neon tubes or mirrors. Dark sky considerations shall be addressed for all lighting.

25:514.E.6.

Currently states:

Maintenance. Signs and, in the case of permitted free-standing signs, the mounting area on the ground level beneath the sign, shall be constructed of durable materials, shall be maintained in good condition and shall not be allowed to become dilapidated or unsightly.

Revised to:

Maintenance. Signs and, in the case of permitted free-standing signs, the mounting area on the ground level beneath the sign, shall be constructed of durable materials, shall be maintained in good condition and shall not be allowed to become dilapidated or unsightly. The sign shall be maintained by the owner, including painting, repairing, and cleaning as necessary. Any sign that, because of improper maintenance, is deemed to be in a state of disrepair shall be repaired by the owner of said sign within fourteen (14) days of the notice requiring repair. If the repair is not satisfactorily completed, the sign shall be considered as subject to the regulations of the Property Maintenance Code of Bordentown Township.

25:514.E.17.

Currently states:

This is a new addition to the ordinance.

Revised to:

Sign messages. No sign shall contain messages advertising and/or depicting any obscene material and/or any adult entertainment material.

25:514.E.18.

Currently states:

This is a new addition to the ordinance.

Revised to:

Site/Use Abandonment. If the use of the site is abandoned, then its associated sign permit shall also be considered abandoned. Provisions for the removal of the sign must be addressed once the sign is no longer in use. Signs which are dormant or unused for more than one (1) year shall be completely removed, including below ground structures, at the owner's expense upon notification by the municipality.

25:514.E.19.

Currently states:

This is a new addition to the ordinance.

Revised to:

Sign Protrusion and Arrangement. No portion of the sign, excluding lighting or basic structural elements, shall project more than 6" from the face of the sign and shall be parallel with the face of the sign. The sign is to be arranged so it is perpendicular to the right-of-way on which the property fronts.

25:514.E.20.

Currently states:

This is a new addition to the ordinance.

Revised to:

Final Approval. Final approval of all signs shall be subject to review and inspection in the field by the Township or its designee. Any fees incurred by this inspection will be the responsibility of the applicant.

Mayor

ORDINANCE NO. 2008-23

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN REVISING AND AMENDING THE AFFORDABLE-HOUSING ORDINANCES IN THE TOWNSHIP OF BORDENTOWN.

WHEREAS, the Township Committee of the Township of Bordentown is aware that the requirements of the Roberts Bill need to be implemented in the municipality; and

WHEREAS, the Township Committee of the Township of Bordentown has conferred with the court-appointed special master for affordable-housing issues in the Township of Bordentown, Mary Beth Lonergan, P.E.; and

WHEREAS, the Township Committee of the Township of Bordentown believes that the adoption of this ordinance will reflect the changes in the law and advance the common good of the residents of the municipality.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown as follows:

1. Purpose

a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

a) This ordinance shall not be effective until approved by COAH pursuant to *N.J.A.C. 5:96-5.1*.

b) The Township of Bordentown shall not spend development fees until COAH and the Superior Court has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

3. Definitions

a) The following terms, as used in this ordinance, shall have the following meanings:

i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

iii. "Development fee" means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.

iv. "Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

v. "Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

vi. "Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development fees

a) Imposed fees

i. Within the Township of Bordentown district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.

ii. When an increase in residential density pursuant to *N.J.S.A. 40:55D-70d(5)* (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit

that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b) Eligible exaction, ineligible exactions and exemptions for residential development.

i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

iv. Developers of specific types of residential development, for example developments with one or two owner-occupied dwelling units, residential structures demolished and replaced as a result of a natural disaster, green buildings etc. shall be subject to a reduced fee of fifty percent (50%).

v. Within any zoning district permitting residential development or as a result of a use variance permitting residential development of five (5) or more market rate units, developers shall provide a minimum of one (1) affordable housing unit for every four (4) market rate housing units.

5. Non-residential Development fees

a) Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half

percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development.

i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half percent (2.5%) development fee, unless otherwise exempted below.

ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Bordentown as a lien against the real property of the owner.

6. Collection procedures

a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Construction Official.

b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

g) Should the Township of Bordentown fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

i) Appeal of development fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the

Board, collected fees shall be placed in an interest bearing escrow account by Bordentown Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Bordentown. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1. payments in lieu of on-site construction of affordable units;
2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
3. rental income from municipally operated units;
4. repayments from affordable housing program loans;
5. recapture funds;
6. proceeds from the sale of affordable units; and
7. any other funds collected in connection with the Township of Bordentown's affordable housing program.

c) Within seven days from the opening of the trust fund account, the Township of Bordentown shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Township of Bordentown's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

b) Funds shall not be expended to reimburse the Township of Bordentown for past housing activities.

c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

- i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
- ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle the Township of Bordentown to bonus credits pursuant to N.J.A.C. 5:97-3.7.
- iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d) The Township of Bordentown may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.

e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

a) The Township of Bordentown shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of Bordentown's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

a) The ability for the Township of Bordentown to impose, collect and expend development fees shall expire with its judgment of compliance unless the Township of Bordentown has filed an adopted Housing Element and Fair Share Plan with the Court has received COAH's approval of its development fee ordinance. If the Township of Bordentown fails to renew its ability to impose and collect development fees prior to the expiration of judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Township of Bordentown shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Township of Bordentown retroactively impose a development fee on such a development. The Township of Bordentown shall not expend development fees after the expiration of its judgment of compliance.

11. Effect of this Ordinance

To the extent that earlier ordinances will conflict with this Ordinance then this Ordinance supersedes the earlier enactments to the extent that there is a conflict. However, to the extent that it amends the afflicting earlier ordinances, then this the earlier ordinances remain valid.

INTRODUCED: OCTOBER 27, 2008
ADOPTED: NOVEMBER 24, 2008

ORDINANCE NO. 2009-1

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN REVISING AND AMENDING THE AFFORDABLE-HOUSING ORDINANCES IN THE TOWNSHIP OF BORDENTOWN.

WHEREAS, the Township Committee of the Township of Bordentown is aware that the requirements of the Roberts Bill need to be implemented in the municipality; and

WHEREAS, the Township Committee of the Township of Bordentown has conferred with the court-appointed special master for affordable-housing issues in the Township of Bordentown, Mary Beth Lonergan, P.E.; and

WHEREAS, the Township Committee of the Township of Bordentown believes that the adoption of this ordinance will reflect the changes in the law and advance the common good of the residents of the municipality.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown as follows:

1. Purpose

a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

a) This ordinance shall not be effective until approved by COAH pursuant to *N.J.A.C.* 5:96-5.1.

b) The Township of Bordentown shall not spend development fees until COAH and the Superior Court has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

3. Definitions

a) The following terms, as used in this ordinance, shall have the following meanings:

i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

iii. "Development fee" means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.

iv. "Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

v. "Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c. 123 (C.54:1-35a through C.54:1-35c).

vi. "Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development fees

a) Imposed fees

i. Within the Township of Bordentown district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.

ii. When an increase in residential density pursuant to *N.J.S.A. 40:55D-70d(5)* (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit

that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent (1.5%) of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b) Eligible exaction, ineligible exactions and exemptions for residential development.

i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

iv. Developers of specific types of residential development, for example developments with one or two owner-occupied dwelling units, residential structures demolished and replaced as a result of a natural disaster, green buildings etc. shall be subject to a reduced fee of fifty percent (50%).

v. Within any zoning district permitting residential development or as a result of a use variance permitting residential development of five (5) or more market rate units, developers shall provide a minimum of one (1) affordable housing unit for every four (4) market rate housing units.

5. Non-residential Development fees

a) Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half

percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development.

i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half percent (2.5%) development fee, unless otherwise exempted below.

ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Bordentown as a lien against the real property of the owner.

6. Collection procedures

a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Construction Official.

b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

g) Should the Township of Bordentown fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

i) Appeal of development fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the

Board, collected fees shall be placed in an interest bearing escrow account by Bordentown Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Bordentown. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1. payments in lieu of on-site construction of affordable units;
2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
3. rental income from municipally operated units;
4. repayments from affordable housing program loans;
5. recapture funds;
6. proceeds from the sale of affordable units; and
7. any other funds collected in connection with the Township of Bordentown's affordable housing program.

c) Within seven days from the opening of the trust fund account, the Township of Bordentown shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Township of Bordentown's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

b) Funds shall not be expended to reimburse the Township of Bordentown for past housing activities.

c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

- i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
- ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle the Township of Bordentown to bonus credits pursuant to N.J.A.C. 5:97-3.7.
- iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d) The Township of Bordentown may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.

e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

a) The Township of Bordentown shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of Bordentown's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

a) The ability for the Township of Bordentown to impose, collect and expend development fees shall expire with its judgment of compliance unless the Township of Bordentown has filed an adopted Housing Element and Fair Share Plan with the Court has received COAH's approval of its development fee ordinance. If the Township of Bordentown fails to renew its ability to impose and collect development fees prior to the expiration of judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Township of Bordentown shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Township of Bordentown retroactively impose a development fee on such a development. The Township of Bordentown shall not expend development fees after the expiration of its judgment of compliance.

11. Effect of this Ordinance

To the extent that earlier ordinances will conflict with this Ordinance then this Ordinance supersedes the earlier enactments to the extent that there is a conflict. However, to the extent that it amends the afflicting earlier ordinances, then this the earlier ordinances remain valid.

TOWNSHIP OF BORDENTOWN

**AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING THE
GENERAL REVISED ORDINANCES & LAND DEVELOPMENT ORDINANCE
WITH RESPECT TO LIVE ENTERTAINMENT**

ORDINANCE NO. 2009 - 26

WHEREAS, the Township Committee of the Township Bordentown has reviewed its Land Development Ordinance with respect to defining and permitting live entertainment as a conditional use associated with certain permitted uses; and

WHEREAS the Township Committee of Bordentown has determined that this change will result in the ability to regulate live entertainment and will result in the protection of the quality of life in the Township for residents while fostering the promotion of appropriate activities for businesses within the Township

WHEREAS the Township Committee of Bordentown has consulted with the relevant professionals and submitted this matter for review to the Bordentown Township Planning Board.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following amendments be made to the Bordentown Land Development Ordinance, Chapter 25, as follows:

Section I. Section 5.040.30 – Contents of applications shall be amended to include the following:

D. The following supplemental information shall be required as part of an annual application for a business that is legally approved to permit live entertainment:

1. A security plan must be submitted to and approved by the Township Committee and the Chief of Police. This plan must be updated and filed annually prior the granting of any business license.
2. A valid Certificate of Insurance to provide adequate coverage for the use of the site for “Live Entertainment.”

Section II. Section 25:202 – Definitions shall be amended to include the following definition.

Live Entertainment: Any performance, musical act (including karaoke), theatrical act (including stand-up comedy), play, revue, dance act, song and dance act, disc jockey, or any combination of these, or similar activity performed live by one or more persons, whether or not done for

compensation, and whether or not admission is charged. Live entertainment does not include adult entertainment.

Section III. Section 25:601 – Conditionally Permitted Uses shall be amended to include the following:

Q. *Live Entertainment.*

1. Live entertainment shall be conditionally permitted as an accessory use to a restaurant subject to the following conditions:
 - a. Live entertainment shall not occupy more than five percent (5%) of the gross floor area of entire building. Areas for a dance floor, stage or other area occupied by live entertainment shall be included as part of the total area dedicated to this use.
 - b. Live entertainment shall not be permitted on a parcel located within 100 feet of the property line to the exterior of the building of a residential property or a residential zoning district.
 - c. Live entertainment shall be permitted only entirely within a fully enclosed building with permanent walls, which shall be sufficiently insulated and separated from adjacent uses, particularly residential uses to avoid noise nuisances.
 - d. No outdoor music or public address system shall be permitted.
 - e. Live entertainment shall be permitted between the hours of operation as established by the Planning Board. This is also subject to any conditions and / or approval by the local, County, or State licenses.
 - f. All live entertainment shall conform to the Performance Standards for All Uses contained in § 25:509.
 - g. The occupancy for the proposed use shall be based on the maximum permitted by the Uniform Construction Codes and Fire Safety regulations.
 - h. Any building where live entertainment is conditionally permitted shall comply with the minimum requirements for fire safety, sanitary facilities and structure safety as

established by the Uniform Construction Code Regulations.

- i. Site plan submission shall be required. The plans must show information including but not limited to buildings, off-street parking, ingress and egress to off-street parking areas, pedestrian walkways, exterior lighting, signage, landscaping, and the interior layout of the building – seating, areas for performances, stages, equipment, and / or dance areas.
- j. All live entertainment uses shall be required to comply with the annual business licensing requirements contained in § 5.04 of the Bordentown Revised General Ordinances.
- k. All live entertainment uses must provide proof of adequate insurance coverage as part of any land development application and the annual business licensing requirements contained in § 5.04 of the Bordentown Revised General Ordinances.
- l. All live entertainment is subject to the approval of an annual security plan by the Township Committee and Chief of Police.
- m. Landscaping. All live entertainment uses shall provide adequate buffering and landscaping from surrounding land uses. The intent of the buffering is to maintain as much of the existing / mature vegetation as possible. A minimum landscape buffer of a fifty foot (50') landscape buffer is appropriate. This buffer should consist of a minimum of eight to ten feet (8' – 10') high (at time of installation) evergreen trees, planted at ten foot (10') on center in a double row configuration. The type and species of plant material shall be approved by the Planning Board and / or its professionals. Fencing may also be utilized for buffering and screening purposes. Berms may also be utilized as part of the buffer. A minimum landscaped and planted berm of four foot (4') to six (6') foot tall is required. The berm will serve to deflect noise back onto the subject property and reduce the visual aspects of the proposed use on the adjacent residential neighborhood.

n. Off-street parking shall be required to be provided for all live entertainment subject to the approval by the Planning Board. All parking must be located within the municipal boundaries and on the same site where the live entertainment use is proposed unless otherwise approved by the Planning Board. The applicant must be able to demonstrate control over the site where the off-street parking is proposed. The minimum number of required off-street parking spaces shall be the sum of the requirements for each of the individual uses, computed separately in accordance with this Ordinance; parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use. The minimum number of off-street parking spaces for each use is as follows:

- 1) One (1) off-street parking space for every two (2) seats plus ten percent (10%) of the total required parking for seating related to live entertainment.
- 2) One (1) off-street parking space shall be required for each thirty (30) square feet of dance floor, stage, or other area devoted to live entertainment.
- 3) Under no circumstances shall the required off-street parking be less than one (1) off-street parking space for every three (3) persons of the maximum permitted occupancy of such designated areas for live entertainment, as established by the Uniform Construction Code regulations.

Section IV. Severability. If for any reason any section of this Ordinance shall be declared illegal by any Court of competent jurisdiction, the remaining section of the Ordinance shall remain in full force and effect notwithstanding.

Section V. Repealer. Any Ordinance or provision thereof inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

Section VI. Publication. This Ordinance shall take effect immediately upon the adoption and publication in accordance with the law.

Colleen Eckert, Municipal Clerk

Mayor William J. Morelli

TOWNSHIP OF BORDENTOWN

**AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING THE
LAND DEVELOPMENT ORDINANCE WITH RESPECT TO
PERMITTING LOCAL OR PERSONAL SERVICES IN THE HIGHWAY
COMMERCIAL AND GENERAL COMMERCIAL ZONING DISTRICTS**

ORDINANCE NO. 2009 - 30

WHEREAS, the Township Committee of the Township Bordentown has reviewed its Land Development Ordinance (Zoning Ordinance) with respect to the zoning districts where local or personal service establishments such as beauty salons, barber shops, and nail salons; tailors; dry cleaning operations; shoe repair shops; appliance repair shops; and upholstery shops are a permitted use; and

WHEREAS the Township Committee of Bordentown has determined that this type of use is currently only a permitted use in the Professional Office (PO) zoning district; and

WHEREAS there are currently no stated purposes for any of the zoning districts contained in the current Zoning Ordinance; and

WHEREAS, the land development pattern that currently exists in the commercial zoning districts throughout the Township – particularly the Community Commercial (CC), Highway Commercial (HC), General Commercial (GC-I) – contain a number of such existing uses; and

WHEREAS, the development of these types of uses in the existing commercial zoning districts have resulted in no detriment to the current zoning scheme or Master Plan of the Township. These uses provide a complement to other existing permitted uses and are located on the major transportation corridors that traverse the Township such as Routes 130 & 206. These major transportation corridors provide appropriate and adequate access to such types of uses; and

WHEREAS, amending the existing Zoning Ordinance to permit these uses will result in the protection and enhancement of the quality of life in the Township for residents while fostering the promotion of appropriate activities for businesses within the Township; and

WHEREAS the Township Committee of Bordentown has consulted with the relevant professionals and submitted this matter for review to the Bordentown Township Planning Board.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following amendments be made to the Bordentown Land Development Ordinance, Chapter 25, as follows:

Section I. Section 25:202 – Specific Definitions – shall be amended to include the following definition:

Personal Services: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Personal services include the following types of uses: laundry, including cleaning and pressing services where the cleaning process is conducted at a separate location; beauty shops; barber shops; nail salons; shoe repair; funeral homes; weight loss centers; health clubs; health spas; and clothing rental.

Section II. Section 25:408A – Permitted Uses in the CC and HC Zoning Districts – shall be amended to include personal service establishments as a conditionally permitted use in accordance with the provisions contained in NJSA 40:55D-67 (see Section 25:601 for standards.)

Section III. Section 25:409 A– Permitted Uses in the GC-I and GC-II Zoning Districts - shall be amended to include personal service establishments as a conditionally permitted use in the GC-I Zoning District in accordance with the provisions contained in NJSA 40:55D-67 (see Section 25:601 for standards.)

Section IV. Section 25:601 shall be amended to include a new section – Personal Service Establishments. It shall read as follows:

Q. Personal Service Establishments.

1. Personal Service Establishments, with the exception of a funeral home, are a conditionally permitted use only in a mixed-use retail or shopping center. Funeral homes shall be permitted as a principal use on an individual lot or parcel of land.
2. Off-Street Parking. The minimum number of required off-street parking spaces shall be the sum of the requirements for each of the individual uses, computed separately in accordance with this Ordinance; parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use. All of the minimum number of required off-street parking spaces shall be provided on the site where the mixed-use retail or shopping center is located. The minimum number of off-street parking spaces for each use is as follows:
 - a. Barber and Beauty salons – 3 parking spaces per chair.
 - b. Nail Salons – 2 parking spaces per chair or station.

- c. Cleaning or Pressing Services – 1 parking space per 2 employees or 1 parking space per 300 square feet of gross floor area; whichever is greater.
 - d. Shoe Repair Services – 1 parking space per 350 square feet of gross floor area.
 - e. Clothing Rental or Tailor Shops – a minimum of 5 parking spaces or 1 parking space per 350 square feet of gross floor area, whichever is greater.
 - f. Funeral Homes – 1 parking space per 5 seats of capacity or 1 parking space per 150 square feet of floor area in parlors or assembly areas.
 - g. Weight loss centers, Health Spas and / or Health Clubs – 1 parking space per 250 square feet of gross floor area.
3. Beauty shops, barber shops, nail salons, weight loss centers, and health clubs must comply with any local, county, or state licenses, health codes and standards, including periodic inspections by public health inspectors.

Section V. Severability. If for any reason any section of this Ordinance shall be declared illegal by any Court of competent jurisdiction, the remaining section of the Ordinance shall remain in full force and effect notwithstanding.

Section VI. Repealer. Any Ordinance or provision thereof inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

Section VII. Publication. This Ordinance shall take effect immediately upon the adoption and publication in accordance with the law.

Colleen Eckert, Municipal Clerk

Mayor William J. Morelli

TOWNSHIP OF BORDENTOWN

**AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING THE
LAND DEVELOPMENT ORDINANCE WITH RESPECT TO
CLARIFICATION ON SECTION 521 – ARCHITECTURAL DESIGN
STANDARDS AND NATURAL RESOURCES INVENTORY**

ORDINANCE NO. 2009 - 31

WHEREAS, the Township Committee of the Township Bordentown has reviewed its Land Development Ordinance with respect to the numbering of existing sections; and

WHEREAS the Township Committee of Bordentown has determined that there currently exist two (2) sections 25:521 – one (1) relates to Architectural Design Guidelines and the second relates to a Natural Resources Inventory; and

WHEREAS the Township Committee of Bordentown has determined that the Ordinance should be revised to reduce or eliminate any confusion relating to these two (2) requirements.

WHEREAS the Township Committee of Bordentown has consulted with the relevant professionals and submitted this matter for review to the Bordentown Township Planning Board.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following amendments be made to the Bordentown Land Development Ordinance, Chapter 25, as follows:

Section I. Section 25:521 Architectural Design Standards.

Any reference to a Natural Resource Inventory shall be removed from this portion of the Ordinance.

Section I. A new section shall be added to the Ordinance. This section shall be entitled: *25:522 Natural Resource Inventory*

The Township of Bordentown hereby adopts and incorporates into this section the Environmental Resource Inventory for the Township of Bordentown. The Bordentown and Recreation Conservation Master Plan elements of the Township of Bordentown’s Master Plan are also hereby amended to include the Environmental Resource Inventory for the Township of Bordentown.

Section III. Severability. If for any reason any section of this Ordinance shall be declared illegal by any Court of competent jurisdiction, the remaining section of the Ordinance shall remain in full force and effect notwithstanding.

Section IV. Repealer. Any Ordinance or provision thereof inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

Section V. Publication. This Ordinance shall take effect immediately upon the adoption and publication in accordance with the law.

Colleen Eckert, Municipal Clerk

Mayor William J. Morelli

TOWNSHIP OF BORDENTOWN

**AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN
AMENDING THE LAND DEVELOPMENT ORDINANCE
WITH RESPECT TO CERTAIN FEES**

ORDINANCE NO. 2010 -11

WHEREAS, the Township Committee of the Township Bordentown has reviewed its Land Development Ordinance (Zoning Ordinance) with respect to certain fees charges for permits and planning documents; and

WHEREAS the Township Committee of Bordentown has determined that the fees for a Zoning Permit and Subdivision Certificate have not been raised in approximately nine (9) years; and

WHEREAS the Township Committee of Bordentown has determined that there is currently no fees in place to charge for copies of the Master Plan Re-examination Report or Housing Element and Fair Share Plan; and

WHEREAS the Township Committee of Bordentown has determined that the Ordinance should be revised to increase the fees for Zoning Permits and Subdivision Certificates and include a fixed fee for the Master Plan Re-examination Report or Housing Element and Fair Share Plan; and

WHEREAS the Township Committee of Bordentown has consulted with the relevant professionals and submitted this matter for review to the Bordentown Township Planning Board;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following amendments be made to the Bordentown Land Development Ordinance, Chapter 25, as follows:

Section I. Section 901 A – Fees – shall be revised as follows:

<i>No.</i>	<i>Subject of Application</i>	<i>Fee</i>	<i>Escrow Deposit</i>
26	Zoning Permit (Local Clearance)	25.00 \$35.00	none required
27	Subdivision Approval Certificate	25.00 \$35.00	none required
30	Copy of Master Plan	\$35.00	none required
	<i>Master Plan Re-examination Report</i>	<i>\$25.00</i>	
<u>34</u>	<u><i>Housing Element & Fair Share Plan</i></u>	<u><i>\$15.00</i></u>	<u><i>none required</i></u>

Section IV. Repealer. Any Ordinance or provision thereof inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

Section V. Publication. This Ordinance shall take effect immediately upon the adoption and publication in accordance with the law.

Colleen Eckert, Municipal Clerk

Mayor Bruce Hill

INTRODUCED: JUNE 14, 2010
ADOPTED: JULY 12, 2010

TOWNSHIP OF BORDENTOWN

AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN
AMENDING THE LAND DEVELOPMENT ORDINANCE
WITH RESPECT TO CERTAIN FEES

ORDINANCE NO. 2010 -12

WHEREAS, the Township Committee of the Township Bordentown has reviewed its Land Development Ordinance (Zoning Ordinance) with respect to certain fees charges for permits and planning documents; and

WHEREAS the Township Committee of Bordentown has determined that the fees for a Fence and Sign Permits have not been raised in approximately nine (9) years; and

WHEREAS the Township Committee of Bordentown has determined that the Ordinance should be revised to increase the fees for Sign and Fence Permits; and

WHEREAS the Township Committee of Bordentown has consulted with the relevant professionals and submitted this matter for review to the Bordentown Township Planning Board;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that the following amendments be made to the Bordentown Land Development Ordinance, Chapter 25, as follows:

Section I. Section 901 A – Fees – shall be revised as follows:

<i>No.</i>	<i>Subject of Application</i>	<i>Fee</i>	<i>Escrow Deposit</i>
21	Fence Permit	25.00 \$35.00	none required
22	Sign Permit	25.00 \$35.00	none required

Section IV. Repealer. Any Ordinance or provision thereof inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

Section V. Publication. This Ordinance shall take effect immediately upon the adoption and publication in accordance with the law.

Colleen Eckert, Municipal Clerk

Mayor Bruce Hill

INTRODUCED: JUNE 28, 2010

ADOPTED: JULY 12, 2010

ORDINANCE No. 2011-24

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES
AND THE TOWNSHIP CODE AND REVISING THE ESCROW DEPOSIT AMOUNT FOR
APPLICATIONS FOR BULK VARIANCES

WHEREAS, the fee schedule for development applications is codified in the Township Code at Chapter 16, Section 16.76.010; and

WHEREAS, the Township fee schedule includes both application charges, which are flat fees to cover administrative expenses, and dollar amounts for deposits into escrow accounts for development application, which are established in order to cover the cost of professional services including engineering, planning, legal and other expenses associated with the review of submitted materials, and where billings for professional services are charged back to applicants, and where applicants are obligated to maintain the escrow account at the dollar amount specified while the application is under review; and

WHEREAS, the existing amount for deposits into escrow accounts for applications for bulk variances is \$200.00; and

WHEREAS, Township staff has determined that the deposit amount for those applications was established over ten years ago, and has not been properly adjusted since to account for period costs increases; and

WHEREAS, in order to maintain the required dollar amount in those escrow accounts, Township staff have expended an inordinate amount of time and expense to compel applicants to maintain their escrow accounts at the required amounts, which has resulted in an increased work load on the Township's limited staff in the finance and community development departments; and

WHEREAS, the Township Committee has determined that, upon the recommendation of Township staff, raising the dollar amount for escrow deposits for bulk variance applications to \$500.00 is reasonable and appropriate, and will help avoid unnecessary collection efforts by the Township in these matters;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown, as follows:

1. Chapter 16 of the Township Code is amended as follows:

Section 16.76.010 Fees

No.	Subject of Application	Fee	Escrow Account
13.	Bulk Variances (40:55D-70c)	\$50	\$500

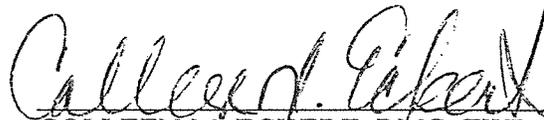
TOWNSHIP OF BORDENTOWN
BURLINGTON COUNTY, NEW JERSEY

TOWNSHIP COMMITTEE:

Michael Dauber, *Mayor*
Karl Feltes, *Deputy Mayor*
Bruce Hill, *Committeeman*
Jason Medina, *Committeeman*
Anita DiMattia, *Committeewoman*

1 MUNICIPAL DRIVE, BORDENTOWN TOWNSHIP
BORDENTOWN, NJ 08505-2193
Telephone: (609) 298-2800
FAX: (609) 291-0788

It is hereby certified that the foregoing ORDINANCE #2011-24 entitled AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES AND THE TOWNSHIP CODE AND REVISING THE ESCROW DEPOSIT AMOUNT FOR APPLICATIONS FOR BULK VARIANCES was finally adopted by the Township Committee of the Township of Bordentown at a meeting held on November 14, 2011.


COLLEEN M. ECKERT, RMC, TWP. CLERK

TOWNSHIP OF BORDENTOWN

AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING CHAPTER 25 OF THE MUNICIPAL CODE TO INCLUDE THE ENVIRONMENTAL RESOURCE INVENTORY FOR THE TOWNSHIP OF BORDENTOWN.

ORDINANCE #2013-13

WHEREAS, the Township Committee of the Township of Bordentown has received and reviewed the Environmental Resource Inventory for the Township of Bordentown; and

WHEREAS, the Township Committee of the Township of Bordentown recognizes the need to incorporate this Environmental Resource Inventory into its Land-Use Ordinance, specifically Chapter 25, and Master Plan;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown as follows:

The Land Development Ordinance of the Township of Bordentown is hereby amended by the Township Committee of the Township of Bordentown to establish Section 25:521 entitled "Natural Resource Inventory", which provides:

25:521 Natural Resource Inventory

The Township of Bordentown hereby adopts and incorporates into this section the Environmental Resource Inventory for the Township of Bordentown dated May 9, 2013.

BE IT FURTHER ORDAINED by the Township Committee of the Township of Bordentown as follows:

The Bordentown Recreation and Conservation Master Plan elements of the Township of Bordentown's Master Plan is also hereby amended to include the Environmental Resource Inventory for the Township of Bordentown.

INTRODUCED: JUNE 24, 2013

ADOPTED: JULY 8, 2013

TOWNSHIP OF BORDENTOWN

ORDINANCE NO. 2013-12

AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF BORDENTOWN PROVIDING FOR THE PERMITTED USES WITHIN THE REO DISTRICT TO ALLOW PARKING ON A SUBSERVIENT LOT UNDER CERTAIN CIRCUMSTANCES, PROVIDING FOR A DEED RESTRICTION ON THE SUBSERVIENT LOT AND PROVIDING A PROCEDURE FOR THE RELEASE OF ANY SUCH DEED RESTRICTION

WHEREAS, it appears that certain facilities within the REO Zoning District may have a need to use s separate lot for parking provided that the lot used for parking is deed restricted as subservient to the primary developed lot,

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown, in the County of Burlington, and State of New Jersey, as follow:

Section 1. Section 25:410 A of the Revised General Ordinances of the Township of Bordentown providing for permitted uses in the REO zoning district is hereby amended by adding the following language as a permitted principal use:

17. Within a subdivided business park, parking only may be a permitted use provided that the lot used for parking is deed restricted as subservient to a lot on which a building of not less than one million (1,000,000) square feet is constructed. The two lots must be located within 1,000 feet of each other. In the event of changed circumstances, the Township may release the deed restriction by adopting an Ordinance authorizing such release.

Section 2. Severability.

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

Section 3. Repealer.

All ordinances or parts of ordinances which are inconsistent with any provisions of this ordinance are hereby repealed as to the extent of such inconsistencies.

Section 4. Effective Date.

This Ordinance shall take effect upon adoption and publication according to law.

INTRODUCED: JUNE 10, 2013

ADOPTED: JUNE 24, 2013