

THE LAND DEVELOPMENT ORDINANCE
OF THE TOWNSHIP OF GREEN BROOK
(1982)

Printed with amendments through 2020

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THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF GREEN BROOK (1982)

[AS AMENDED TO MAY 2008]

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TOWNSHIP OF GREEN BROOK

ORDINANCE

**THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF
GREEN BROOK (1982)**

BE IT ORDAINED by the Township of Green Brook, in the County of Somerset, State of New Jersey, as follows.

ARTICLE I

GENERAL PROVISIONS

101. **SHORT TITLE.**

This Ordinance shall be known and may be cited as ***THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF GREEN BROOK.***

102. **PURPOSE AND SCOPE.**

This Ordinance is adopted pursuant to the *Municipal Land Use Law* of the State of New Jersey, Chapter 291, Laws of 1975, as amended and supplemented, and as the same may hereafter be amended and supplemented, and is intended to encompass the primary ordinances of the Township of Green Brook relating to land development and land utilization in said Township, and in furtherance of the purposes expressed in said *Municipal Land Use Law*, with the exception of the Zoning Ordinance of the Township of Green Brook, which is separately adopted.

103. **DEFINITIONS.**

For the purpose of this Ordinance, unless the context clearly indicates a different meaning, the following definitions shall apply:

103.1 See Definitions contained in Article 3, The Zoning Ordinance of the Township of Green Brook.

103.2 It is intended that the words used in this Ordinance shall be defined as set forth in Sections 3, 3.1, 3.2, 3.3, and 3.4 (N.J.S.A. 40:55D-3 through 40:55D-7, both inclusive) of the *Municipal Land Use Law*, as amended and supplemented, and as the same may hereafter be amended and supplemented.

103.3 ADMINISTRATIVE OFFICER. The Clerk of the Board to whom the application for development is submitted, except for the purposes of reviewing, issuing and enforcing zoning permits, the zoning officer shall be administrative officer.

103.4 ADVERSE EFFECT. Development designs, situations, or existing features on a developer's property, or any nearby property, creating, imposing, aggravating or leading to impractical, unsafe, unsatisfactory or non-complying conditions such as insufficient number of shade trees; a layout inconsistent with the zoning regulations: insufficient street width; unsuitable street grade; unsuitable street location; inconvenient street system; inadequate utilities such as water, drainage, and sewerage; unsuitable size, shape and location for any area reserved for public use or land for open space in a planned development: infringement upon land designated as subject to flooding; and the creation of conditions leading to soil erosion from wind or water from excavation or grading, all as set forth in 40:55D-38 and measured against the design and performance standards of this Ordinance.

103.5 APPROVING AUTHORITY. The Planning Board of the Township of Green Brook, unless a different agency is designated in the text of this Ordinance when acting pursuant to the authority of the Municipal Land use Law.

103.6 CRITICAL AREA. See Article 5, Section 502(d).

103.7 DEVELOPMENT COMMITTEE. The Planning Board Chairman may appoint a committee of at least three members of the Planning Board, for the purpose of reviewing subdivision and site plan applications prior to action by the entire Planning Board, to provide initial review as to whether such applications comply with all ordinance provisions and to make recommendations to the Planning Board for classification and action. In the event that no such Development committee shall be appointed, the functions shall be performed by the Planning Board itself. Such Development Committee shall have no authority to act for the Board nor to bind the Board, but is merely an initial review and recommendatory body.

103.8 SITE PLAN. "Site plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and

(3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the Planning Board adopted pursuant to Article 6 (C.40:55D-37 et seq.) the *Municipal Land Use Law*. “*Minor Site Plan*” see Section 302.2b.

103.9 SITE TRIANGLE. A triangular area abutting two intersecting streets where vision is unobstructed. The sight triangle is formed by the intersecting street side lines and a line connecting a point on each side line a set distance from the intersection.

103.9A SPECIMEN TREE. Tree(s) which by their singular nature, condition, size, location and/or appearance, impart particular value to a property or landscape, as determined by the Green Brook Township Engineer or designated as an endangered species as noted on State or National Registers. The criteria for a specimen tree shall include, but not be limited to, the following:

- (i) The tree is rare.
- (ii) The tree is more than one hundred years old.
- (iii) The tree is of an abnormal height or has an abnormal diameter or drip line for a tree of its species.
- (iv) The quality of the tree foliage is abnormal for a tree of its species.
- (v) The location, shade value, fragrance, erosion control, aesthetic features, or scenic enhancements of such tree is of special importance to the Township.

103.10 STREET. A street shall be defined as set forth in the Municipal Land Use Law. classifications of streets shall be as follows.

- a. Arterial streets are those which are used primarily for fast or heavy traffic.
- b. Collector streets are those which carry traffic from minor streets to the major system of arterial streets including the principal entrance streets of a residential development and streets for circulation within such a development.
- c. Minor streets are those which are used primarily for access to the abutting properties.
- d. Marginal service streets are streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

e. Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street. See Section 702.1.

103.10 A Tree

Any deciduous/coniferous woody perennial plant which reaches a typical mature height of ten feet or more and having a diameter of 2 ½ inches or greater, measured 4 ½ feet above the ground on the downhill side.

103.11 SUBDIVISION; RESUBDIVISION; MINOR SUBDIVISION.

(a) “**Subdivision**” means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels or any nearby property, creating, imposing, aggravating or leading to impractical, unsafe, unsatisfactory or non-complying conditions such as insufficient number of shade trees; a layout inconsistent with the zoning regulations; insufficient street width; unsuitable street grade; unsuitable street location; inconvenient street system; inadequate utilities such as water, drainage, and sewerage; unsuitable size, shape and location for any area reserved for public use or land for open space in a planned development; infringement upon land designated as subject to flooding; and the creation of conditions leading to soil erosion from wind or water from excavation or grading, all as set forth in 40:55D-38 and measured against the design and performance standards of this Ordinance.

(b) “**Resubdivision**” means (1) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or (2) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instruments.

(c) “**Minor Subdivision**”. A subdivision of land that does not involve (1) the creation of more than 3 lots, including the remainder of the original lot; (2) planned development as defined in the *Municipal Land Use Law*; (3) any new street; or (4) extension of any off-tract improvement, the cost of which is to be prorated pursuant to Section 30 of the *Municipal Land Use Law* (C.

40:55D-42).

104. COMPLIANCE. All developments resulting from subdivision and site plan approvals shall comply with all the design and performance standards (Article 7) and requirements of the Zoning Ordinance, and conditions imposed by the Approving Authority as shown on the approved plat and/or included in the resolution adopted by the Approving Authority.

105. PERMITS. No Zoning Permit, Construction Permit or Certificate of Occupancy [See Art. XII of the Zoning Ordinance] shall be issued for any parcel of land or structure which was sold or on which improvements were undertaken in violation of the provisions of this Ordinance or for use of a lot which was created by subdivision after the effective date of, and not in conformity with the provisions of this Ordinance. No site improvements such as, but not limited to, excavation or construction of public or private improvements shall be commenced except in conformance with this Ordinance in accordance with plat approvals and the issuance of required permits. No Certificate of Occupancy shall be issued where improvements required under site plan review have not been completed.

106. EXCEPTIONS.

The Approving Authority, when acting upon applications for preliminary or minor subdivision approval, and preliminary site plan approval, shall have the power to grant such exceptions from the "Design and Performance Standards" in Article 7 of this Ordinance as may be reasonable and within the general purpose and intent of the provisions for subdivision/site plan review and approval, if the literal enforcement of one or more provisions of this Ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

In applications for development involving lower income housing, the Approving Authority shall give particular attention to granting exceptions to such design and performance standards, in accordance with sound engineering and environmental considerations, where the cost savings from such exceptions may reduce the cost of construction of the lower income housing. If no cost reduction will result, and the standards of the first paragraph of this Section 106 (and N.J.S.A. 40:55D-51 a and b) are not determined to be present, then the design and performance standards of Article 7 shall continue to apply.

107. PREPARATION OF PLANS BY LICENSED PROFESSIONALS.

Except for plats submitted under the "Informal Discussion" provisions of Article 5, and Sketch Plats of minor subdivisions and minor site plans, all plans, plats and drawings, and all studies and certifications

which require a particular expertise, shall be prepared by a person licensed by the State of New Jersey to perform the particular work so presented or certified, and shall bear the seal of such persons. See, for example, Sections 308.1, 309.1, 309.4, 603(D), and 709.

108. PUBLIC UTILITIES.

Where specific data is called for in this Ordinance relating to a public utility installation, such as location and cross-sections, circuit arrangement, system flow, and the like, and the public utility involved is electric, gas, water or communications, due consideration shall be given to the Board of Regulatory Commission guidelines as to proprietary interests of such public utilities concerning system security and public safety. Information as required by this Ordinance (i.e. Sections 307.1-4, 308.3-6, 308.3-10, and 308.5) is for general review purpose relating to land development as expressed in the *Municipal Land Use Law*. Additional information as required by the Township Engineer for review and approval of construction plans of a developer, which the public utility does not furnish directly to the developer, may be discussed with and provided by the public utility to the Township Engineer.

ARTICLE 2

LAND USE BOARD

201.1 Establishment of Land Use Board.

Pursuant to N.J.S.A. 40:55D-25c, the Township of Green Brook hereby creates a nine (9) member Land Use Board which Board shall have the right to exercise, to the same extent and subject to the same restrictions,

all of the powers of the Zoning Board of Adjustment.

The Land Use Board shall consist of nine (9) members and four (4) alternate members as hereinafter set forth. The members shall consist of the following four classes:

Class I. The Mayor or the Mayor's designee.

Class II. One of the officials of the municipality other than a member of the governing body to be appointed by the Mayor.

Class III. A member of the governing body to be appointed by it.

Class IV. Six (6) other residents of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office position or employment, except that one (1) member may be a member of the Historic Preservation commission, and one (1) member may be a member of the Board of Education and one (1) member must be a member of the Environmental Commission as required by N.J.S.A. 40:56A-1 provided, however, that if there be any designated Class IV regular or Class IV alternate members of the Land Use Board being a member of the Historic Preservation Commission and a member of the Board of Education, then the member of the Environmental Commission shall be deemed the Class II member of the Land Use Board. The Class IV regular members shall be appointed and designated as "Seat 1," "Seat 2," "Seat 3," "Seat 4," "Seat 5," and "Seat 6."

Class IV Alternate Members: Four (4) other municipal residents who may be appointed by the Mayor. Alternate members shall meet the qualifications of Class IV Regular Members. The alternate shall be designated by the Mayor at the time of their appointments as "Alternate No. 1", "Alternate No. 2", "Alternate No. 3", and "Alternate No. 4."

201.2 Terms.

The term of the member composing Class I shall correspond with the official tenure of such member as Mayor. However, if the member is the Mayor's designee in the absence of the Mayor, the designee

shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective term of office, whichever occurs first. The term of the Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his or her term of office as a member of the Environmental Commission, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term as a member of the Environmental Commission, whichever comes first. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he is no longer a member of the Board of Education or at the completion of his Class IV term, whichever comes first.

The terms of all Class IV members of the existing Planning Board shall continue in office in Land Use Board until the completion of their respective terms. Thereafter all Class IV members shall be appointed for terms of four years except as otherwise hereinabove provided. All terms shall run from January 1 of the year in which the appointment is made.

All present Class IV Alternate Members of the Land Use Board shall continue in office until completion of the terms to which they were appointed. Thereafter, the term of each Class IV alternate member shall be two years. Alternate members may participate in the discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

A vacancy occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term only.

201.3 Vacancies.

If a vacancy in any class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term.

201.4 Removal from office.

Any member other than a Class I member, after a public hearing if he or she requests one, may be removed by the governing body for cause.

201.5 Eligibility to vote where hearing missed.

A member of the Planning Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings, providing, however, that such board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the board that he has read such transcript or listened to such recording.

201.6 Organization of Land Use Board.

The Land Use Board shall elect a chairman and vice chairman from the members of Class IV, select a

secretary who may or may not be a member of the Land Use Board or municipal employee. It may employ, or contract for, and fix the compensation of legal counsel, other than the municipal attorney, and experts and other staff and services as it may deem necessary not exceeding exclusive gifts or grants, the amount appropriated by the governing body for its use.

201.7 Powers and Jurisdiction of the Land Use Board.

The Land Use Board shall have the powers listed below in addition to other powers established by law:

- a. Make, adopt and, from time to time, amend a Master Plan for the physical development of the Township, including any areas outside its boundaries which, in the Board's judgment, bear essential relationship to the planning of the Township.
- b. Administer the Subdivision and Site Plan Review provisions of the Land Development Ordinance in accordance with the applicable provisions of said Ordinance.
- c. Hear and decide applications for conditional uses in accordance with the applicable provisions of this Ordinance.
- d. Participate in the preparation and review of programs and plans in accordance with N.J.S.A. 40:55D-31 or Federal law or regulation.
- e. Assemble data on a continuing basis as part of a continuous planning process.
- f. Annually, at the request of the Township Committee, prepare a program of municipal capital improvements projects projected over a term of six (6) years and recommend same to the Township Committee.
- g. Consider and report to the Township Committee within thirty-five (35) days after referral as to any proposed development regulation submitted to it and also pass upon other matters specifically referred to the Land Use Board by the Township Committee.
- h. Perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies and officers.

201.8 Powers and Duties Generally.

- a. The Class I and Class III members of the Land Use Board shall not participate in consideration of applications for the Board which involve relief pursuant to subsection D of Section 57 of Public 1975, Chapter 291 (N.J.S.A. 55D-70).
- b. All powers and responsibility previously established and given to the Zoning Board of

Adjustment by Ordinance and Statute are hereby specifically transferred to the newly created Land Use Board.

c. The previously established Zoning Board of Adjustment is hereby terminated and abolished as of the effective date of this Ordinance.

d. Any pending applications before the Zoning Board of Adjustment as of the effective date of this Ordinance shall be transferred as of that date to the Land Use Board.

201.9 Advisory Committee

The Mayor may appoint one or more persons as a citizens advisory committee to assist or collaborate with the Land Use Board in its duties, but such person or persons shall have no power to vote or take other action required by the Board. Such person or persons shall serve at the pleasure of the Mayor. Whenever the Environmental Commission has prepared and submitted to the Land Use Board an index of the natural resources of the municipality, the Land Use Board shall make available to the Environmental Commission an informational copy of every application for development to the Land Use Board. Failure of the Land Use Board to act to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

3. Section 202 of Article 2 is hereby deleted in its entirety and replaced with the following:

202.1 Land Use Board to act as Zoning Board of Adjustment.

Pursuant to N.J.S.A. 40:55d-25(c), the Land Use Board shall exercise all of the powers of the Board of Adjustment. Specifically, the Land Use Board acting pursuant to N.J.S.A. 40:55D-25(c) shall have the powers set forth in the statutes of the State of New Jersey and herein.

202.2 Rules and Regulations.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this Ordinance. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the *County and Municipal Investigations Law of 1953* (N.J.S. 2A:67A-I et seq.) shall apply.

202.3 Powers Granted by Law

The Land Use Board shall have all such powers as are granted by law and set forth in N.J.S.A. 55D-70;

a. Hear and decide appeals where it is alleged by the applicant that there is an error in any order,

requirement, decision or refusal made by an official based on or made in the enforcement of the zoning provisions of this chapter.

b. Hear and decide requests for interpretation of the Zoning Map or the zoning provisions of this chapter or for decisions upon other special questions upon which the Board is authorized to pass by any zoning provisions of this chapter or by any duly adopted Official Map.

c. Grant variances pursuant to N.J.S.A. 40:55D-70 as set forth in Sections 202.4 and 202.5 below.

d. Provide direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.

e. Provide direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.

The Class I and Class III members shall not participate in the consideration of applications which involve relief pursuant to N.J.S.A. 40:55D-70(d).

202.4 General Bulk Variances

a. Pursuant to N.J.S.A. 40:55D-70(c), where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation of this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship;

b. Where, in an application or appeal relating to a specific piece of property, the purposes of this chapter would be advanced by a deviation from the zoning requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from such zoning requirements;

c. No variance from those departures enumerated in N.J.S.A. 40:55D-70(d) shall be granted under this subsection.

202.5 Use Variances and Variances from Conditional Use Standards

In particular cases and for special reasons, the Land Use Board may grant a variance to allow departure from the zoning provisions of this chapter to permit:

- a. A use or principal structure in a district restricted against such use or principal structure;
- b. An expansion of a nonconforming use;
- c. a deviation from a particular specification or standard set forth in this chapter as pertaining solely to a conditional use;
- d. An increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4;
- e. An increase in the permitted density as defined in Section 301.50 of the Zoning Ordinance and in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one (1) or two (2) dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision, in which event applications would be made pursuant to subsection 202.4 hereinabove; or
- f. A height of a principal structure which exceeds by ten (10 \emptyset) feet or ten (10%) percent the maximum height permitted in the zone district for a principal structure.

A variance under this subsection shall be granted only by affirmative vote of at least five (5) members of the Board. Pursuant to D.Lobi Ent. V. Planning/Zoning Bd., Sea Bright, 408 N.J.Super. 345 ((App. Div. 2009), when a variance application is heard before the nine member Land Use Board, the Class I and Class III members, who are prohibited by the statute from considering the application, may not be replaced by alternatives, and the application must be heard by a seven member board. If an application for development requests one (1) or more variances but not a variance for a purpose enumerated in this subsection, the decision on the requested variance or variances shall be rendered under subsection 202.4 of this chapter.

202.6 Additional Powers.

- a. The Land Use Board shall, in addition to the powers specified in Section 202.7, have power given by law to:
 1. Direct issuance of a permit pursuant to section 25 of the *Municipal Land Use Law* [40:55D-34], for a building or structure in the bed or a mapped street or public drainage way, flood control basin or public area reserved on the official map.
 2. Direct issuance of a permit pursuant to the *Municipal Land Use Law* for a building or structure not related to a street.

202.7 Power to Reverse or Modify Decisions.

In exercising the above mentioned power, the Land Use Board may, in conformity with the provisions of C.291, P.L. 1975 or amendments thereto or subsequent statutes applying reverse or affirm wholly or partly or may modify the other, requirement, decision, or determination appealed from, and make such other requirement, decision, or determination appealed from, and make such other requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken.

202.8 Appeals and Applications to the Land Use Board.

- a. Appeals to the Land Use Board may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the zoning provisions of this chapter or a duly adopted Official Map. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the official from whom the appeal is taken, with three (3) copies of the notice given to the Secretary of the Land Use Board. The notice shall specify the grounds for the appeal. The official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- b. The Land Use Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all powers of the municipal official from whom the appeal is taken.
- c. An appeal to the Land Use Board shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the municipal official from whose action the appeal is taken certifies to the Land Use Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the municipal official from whom the appeal is taken and due cause shown.
- d. A developer may file an application for development with the Land Use Board for action under any of its powers without prior application to a municipal official.
- e. The Land Use Board shall act upon any appeal or any application for development within one hundred twenty (120) days either from the date the appeal is taken from the decision of the municipal official or from the date the application is certified as a complete application, as the case may be, or

within such further time as may be consented to by the applicant, except that when an applicant elects to submit separate consecutive applications for use variance approval and site plan, subdivision or conditional use approval, the one hundred twenty (120) day time period for action shall apply to the application for approval of the use variance, and the time period for granting or denying any subsequent approval shall be as otherwise provided in this chapter.

4. Section 203 of Article 2 of The Land Development Ordinance of the Township of Green Brook (1982) now entitled "Provisions Applicable to both Planning Board and Board of Adjustment" shall be re-titled "Provisions Applicable to Land Use Board."

5. The Revised General Ordinances of the Township of Green Brook and all other Ordinances of the Township of Green Brook, are hereby supplemented and amended by deleting all references to the terms "Zoning Board of Adjustment" and "Planning Board" and "Zoning Board" and replacing same with the term "Land Use Board."

6. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

7. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Green Brook, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Green Brook are hereby ratified and confirmed, except where inconsistent with the terms hereof.

8. This Ordinance shall take effect immediately upon final passage and publication according to law.

9. Notwithstanding the effective date of this Ordinance, all applications presently pending before the Township of Green Brook Planning Board and the Township of Green Brook Board of Adjustment shall be continued until the adoption of the appropriate resolution by the appropriate board.

203. PROVISIONS APPLICABLE TO BOTH THE PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT.

203.1 Conflicts of Interest.

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the

hearing of such matter nor participate in any discussion or decision relating thereto.

203.2 Meetings.

Each Board shall by its rules fix the time and place for holding its regular meetings for business authorized to be conducted by such board. Regular meetings of the board shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development to process. Each board may provide for special meetings, as the call of the chairman, or on the request of any two of its members, which shall be held on notice to its members and the public in accordance with municipal regulations.

No action shall be taken at any meeting without a quorum being present.

All actions shall be taken by a majority vote of the members of the board present at the meeting, except as otherwise required by sections 23, 25, 49, 50 and subsections 8e, 17a, 17b and 57d of the *Municipal Land Use Law*.

203.3 Minutes.

Minutes of every regular or special meeting shall be kept and, shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the municipal clerk. any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

203.4 Conduct of Meetings.

a. Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties and the provisions of the "*County and Municipal Investigations Law*" C. 38, P.L. 1953 (C. 2A:67A-I et seq.) shall apply.

b. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly if not represented,

subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

c. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

d. Records. Each board shall provide - for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The board shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense. The Board, in furnishing a transcript of the proceedings to an interested party at his expense shall not charge such interested party more than the maximum permitted in N.J.S.A. 2A:11-15. Said transcript shall be certified in writing by the transcriber to be accurate.

203.5 Decisions.

a. Each decision on any application for development shall be reduced to writing as provided in this subsection, and shall include findings of facts and conclusions based thereon.

b. Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application.

c. The board may provide such written decision and findings and conclusions either on the date of the meeting at which the board takes to grant or deny approval, or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of Memorialization setting forth the decision and the findings and conclusions of the board thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

d. The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the board who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the board, and not to be an action of the board; except that failure to adopt such a resolution within the 45 day period shall result in the

approval of the application for development, notwithstanding any prior action taken thereon.

e. Whenever a resolution of memorialization is adopted in accordance with this subsection, the date of such adoption shall constitute the date of the decision for the purposes of the mailings, filings and publications required by Section 203.6 of this Ordinance.

203.6 Mailing and publication of decision.

a. A copy of the decision shall be mailed by the board within 10 days of the date of decision to the applicant, or if represented then to his attorney, without separate charge, and to all who request a copy of the decision and have paid the fee established by the Board for such service. A copy of the decision shall also be filed in the office of the Township Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the Township.

b. A brief notice of every final decision shall be published in the official newspaper of the Township. Such publication shall be arranged by the secretary of the Planning Board, or Zoning Board of Adjustment, as the case may be, without separate charge to the applicant. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision.

203.7 Payment of taxes.

Pursuant to the provisions of C. 40:55D-39 and C. 40:55D-65, every application for development submitted to the Planning Board or to the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are clue or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either board shall be conditioned upon either the prompt payment of such taxes or assessments, or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

203.8 Conditional Approvals.

a. Regulations of the development of land and the attachment of reasonable conditions to development applications is an exercise of valid police power delegated by the state to this municipality. The applicant has the duty of compliance with reasonable conditions laid down by the Approving Authority for design, dedication, improvements, and the use of land so as to conform to the physical and economical development of the municipality and to the safety and general welfare of the

future residents and/or owners in the development and in the community at large.

b. Where County Planning Board review or approval is required on a subdivision or site plan, the Approving Authority shall condition any approval it grants upon either timely receipt of a favorable report by the County Planning Board or approval by the County Planning Board due to its failure to submit a report within the required time period. If the County Report is negative or attaches conditions, and is within time, the original action by the Municipal Approving Authority shall be null and void and a new resolution shall be adopted which considers the County Planning Board's report.

203.9 Use of other Boards and Agencies.

The Approving Authority (whether the Planning Board or the Board of Adjustment) is encouraged to seek advice from other boards, agencies and departments of the Township, such as the fire company, police department, Board of Health, Board of Education, and Rescue Squad, with respect to any application for land development or utilization.

The referral of any matter to any appropriate person or agency shall not extend the period of time within which the Approving Authority shall act.

204. EXEMPTIONS.

204.1 Exemptions from Subdivision Regulations.

As provided in the *Municipal Land Use Law*, the following shall not be considered subdivisions within the meaning of said Law or this ordinance, if no new streets are created:

- (1) divisions of land found by the Planning Board or Development Committee thereof appointed by the Chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size;
- (2) divisions of property by testamentary or intestate provisions;
- (3) divisions of property upon court order; and
- (4) conveyances so as to combine existing lots by deed or other instrument.

The agricultural exemption in subparagraph (1) above shall apply only following submission of documentation to the Planning Board demonstrating compliance with the intent of the Law, and until affirmative action of the Planning Board making such determination, no person shall transfer, sell or agree to transfer or sell, as owner or agent, any land which forms part of a proposed subdivision.

204.2 Exemptions from Site Plan Review Requirements.

An application for a building permit to construct, alter or repair a one or two dwelling-unit building, to be used exclusively for residential purposes, and located in a Residential District as delineated in The Zoning Ordinance, shall not require site plan review or approval. All other applications for land utilization shall require site plan review (See The Zoning Ordinance, Section 1203.2). *Note: See Sec. 302.2- b as to Minor Site Plans.*

205. TECHNICAL REVIEW COMMITTEE

205.1 There is hereby established a Technical Review Committee (TRC) whose purpose is to review and approve/disapprove minor site plans and Certificate of Occupancy permits that are deemed by the TRC to be waived from Site Plan approval from the Planning Board or Zoning Board of Adjustment. The membership of the Technical Review Committee shall consist of the following (or their designees):

- (1) Chair of the Land Use Board
- (1) Vice-Chair of the Land Use Board
- (1) Township Engineer
- (1) Fire Chief
- (1) Construction Official

205.2 The Technical Review Committee shall be subject to the following rules and regulations:

- a. All five (5) members of the TRC must vote to approve an application for a site plan to receive approval. Any application not receiving unanimous approval will be referred to the appropriate body by the TRC
- b. All applications shall be reviewed and voted upon within ten (10) days of the date upon which they are deemed complete by the Administrative Officer. If not acted upon within this time period, the application will be automatically transferred to the appropriate body; or an extension of time for review by the TRC may be granted by the Applicant.
- c. A written resolution shall be prepared for each application that is voted upon.
- d. A secretary shall be appointed by the TRC to distribute all plans and applications to the members, prepare resolutions, and sign off on approved plans. The secretary may perform other duties as the TRC may assign.

ARTICLE 3

DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS

301. INTRODUCTION AND PURPOSES.

This Article is to provide the procedures required for subdivision and site plan-review. In addition to the preliminary and final review procedures outlined in the *Municipal Land Use Law*, this Article provides for sketch plat review and the opportunity, in major subdivision and site plan situations, for the developer to have an informal discussion prior to submission of a format application and prior to the incurring of substantial engineering expenses.

Site plan approval shall be for the general purpose of enhancing the neighborhood; providing adequate access to off-street parking and loading facilities for employees, visitors and residents; providing buffering techniques for safety and/or aesthetic purposes; preventing uses which violate applicable state and federal safety and environmental regulations; preserving floodways and flood hazard areas; and requiring that all raw materials, fuel, goods in process, finished goods, machinery and equipment shall be housed and/or screened from residential areas.

302. EXEMPTIONS.

302.1 Exemptions from Subdivision Regulations.

As provided in the *Municipal Land Use Law*, as amended, the following shall not be considered subdivisions within the meaning of said Law or this ordinance, if no new streets are created:

- (1) Divisions of land found by the Planning Board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size,
- (2) Divisions of property by testamentary or intestate provisions,
- (3) Divisions of property upon court order, including but not limited to judgments of foreclosure,
- (4) Consolidation of existing lots by deed or other recorded instrument, and
- (5) The conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations (this ordinance and the Zoning Ordinance of the Township of Green Brook), and are shown and designated as separate lots, tracts or parcels on the tax map of the Township of Green Brook.

The agricultural exemption in subparagraph (1) above shall apply only following submission of documentation to the Planning Board demonstrating compliance with the intent of the Law, and until affirmative action of the Planning Board making such determination, no person shall transfer, sell or agree to transfer or sell, as owner or agent, any land which forms part of a proposed subdivision.

302.2 Exemptions from Site Plan Review Requirements; Minor Site Plans.

a. Exemptions.

An application for a building permit to construct, alter or repair a one or two dwelling unit building, to be used exclusively for residential purposes, and located in a Residential District as delineated in The Zoning Ordinance, shall not require site plan review or approval. All other applications for land utilization shall require site plan review. (See The Zoning Ordinance, Section 1203.2).

b. Minor Site Plans.

A "minor site plan" means a development plan of one or more lots which:

- (1) Proposed disturbance or proposed structure is less than 2,000 s.f. in total area on a property that had formerly received site plan approval from either the Planning Board or Zoning Board of Adjustment, and no additional parking is proposed; and
- (2) does not involve a planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of the *Municipal Land Use Law* (40:55D-42);
- (3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by this ordinance for approval of a minor site plan have been met;
- (4) Modification to Parking Lot Striping without expansion of impervious surface area; and
- (5) Modification of Parking Lot Lighting Fixtures.

If the Technical Review Committee (TRC) determines that the application conforms to the definition of "minor site plan", that no adverse impacts will occur from such proposed development, the application does not require any new relief from any provisions of the land development regulations, and there is no

other reason for notice and public hearing, such notice and public hearing may be waived and minor site plan shall be deemed to be final approval of the site plan, provided that the TRC may condition such approval on terms ensuring the provisions of improvements pursuant to Sections 29, 29.1, 29.3, and 41 of the Municipal Land Use Law (40:55-D38, 40:55D-39, 40:55D-41, and 40:55D-53).;

Minor site plan approval shall be granted or denied within 45 days of the date of submission of a complete application to the Administrative Officer, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor site plan approval.

Whenever review or approval of the application by the County Planning Board is required by Section 8 of P.L. 1968, C. 285 (40:27-6.6), the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of 2 years after the date of Minor site plan approval.

303. SIMULTANEOUS REVIEW.

The Approving Authority shall have the power to review and approve or deny conditional uses or site plans simultaneously with a review for subdivision approval without the developer being required to make further applications, or the Approving Authority being required to hold further hearings. The longest time period for action by the Approving Authority, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer in conjunction with a site plan or subdivision, notice of the hearing on the plat shall include reference to the request for such conditional use.

304. INFORMAL DISCUSSION.

304.1 An informal submission is optional. Any person may appear at a regular meeting of the Approving Authority for informal discussion with reference to an informally prepared plat of sufficient accuracy to be used for purpose of discussion. The purpose of such a discussion will be to review overall development concepts in order to assist the applicant in the preparation of subsequent plans. No decisions will be made and no formal action taken on an informal discussion.

304.2 An informal submission of a site plan shall include sufficient basic data to enable the Approving Authority and the applicant to comment upon design concepts such as building location, ingress and egress, parking, major natural features that will have to be recognized or may influence certain design criteria, and the applicant's basic intent for water, sewerage, and storm drainage facilities. Informal submissions are sketches to scale of possible plan(s) for the development of an area. They are not binding on the Township or upon the developer and do not necessitate accurate engineered drawings.

305. SUBMISSION OF SKETCH PLAT.

Whether or not an informal discussion has been held on an application for development (subdivision and/or site plan review) a sketch plat is required to record in the public record the plat's classification and, in the case of a minor site plan or minor subdivision, to take final action on the application.

305.1 Filing Procedure.

The developer shall file with the Administrative Officer at least twenty (20) calendar days prior to the meeting of the Approving Authority 10 black on white or blue print copies of the sketch plat, four (4) completed copies of the application form for sketch plat classification; five (5) copies of covenants, deed restrictions and easements applying to the land being developed, 3 copies of deeds for any lands offered to the Township; the applicable fee, and such other data as the Approving Authority may require.

305.2 Action by the Approving Authority.

305.2-1 The Approving Authority shall review the submission for its completeness and take action on accepting no later than its first regular meeting following the review period. If incomplete, the material shall be returned to the developer for a re-submission at least twenty (20) calendar days prior to a subsequent meeting. If complete, the Approving Authority shall classify the application as a minor or major development and shall approve, approve with conditions, or deny the application within forty-five (45) days of the date of submission to the Administrative Officer, or within such further time as may be consented to by the applicant. The decision shall be in writing and shall be sent to the applicant and the newspaper as required in Section 203.5 and 203.6.

305.2-2 Before any approved sketch plat of a major subdivision or site plan or any approved final plat of a minor subdivision or site plan is returned to the developer, the administrative officer shall have sufficient signed copies of the plat (and deed if a deed is also prepared) to forward a copy to each of the following, retaining one (1) copy for the Approving Authority's file:

- (a) Township Engineer,
- (b) Construction Official,
- (c) Tax Assessor,
- (d) County Planning Board,
- (e) Township Clerk,
- (f) Township Board of Health.

305.2-3 Approval of a minor subdivision shall expire 190 days from the date of Township approval unless within such period a plat in conformity with such approval, including any conditions imposed by the Approving Authority, and in conformity with the provisions of the “*Map Filing Law*” P.L. 1960, Ch. 141 (46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed by the developer with the County Recording officer, the Township Engineer and the Township Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the Approving Authority (or the vice chairman or assistant secretary in their absence, respectively). In reviewing the application for development for a proposed minor subdivision the Approving Authority may accept a plat not in conformity with the “*Map Filing Law*” P.L. 1960, Ch. 141 (46:23-9.9 et seq.), provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of said act.

In accordance with R.S. 40:55D-54, the County Recording Officer shall notify the Approving Authority of the filing of any plat within seven (7) days of the filing.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date of minor subdivision approval: provided that the approved minor subdivision shall have been duly recorded.

305.2-4 When the Approving Authority determines that any proposed development may create, either directly or indirectly, an adverse effect on either the remainder of the property being developed or nearby property, the Approving Authority may require the developer to review the plat. Where the remaining portion of the original tract is of sufficient size to be developed or subdivided further, the developer may be required to submit a sketch plat of the entire remaining portion of the tract to indicate a feasible plan whereby the design of the proposed development together with subsequent subdivisions or development will not create, impose, aggravate, or lead to any such adverse effect(s).

305.2-6 If classified as a major development and either approved or approved with conditions as a major development, a notation to that effect including the date of the Approving Authority's action shall be made on all copies of the plat and shall be signed by the chairman and secretary of the Approving Authority (or the vice chairman or assistant secretary in their absence, respectively) except that the minor plats shall not be signed until all conditions are incorporated on the plat. All conditions on minor developments shall be complied with within ninety (90) days of the meeting at which conditional approval was granted, otherwise the conditional approval shall lapse. If classified as a major development, sketch plat modifications are not required. Any conditions shall be incorporated on the preliminary plat.

306. SUBMISSION OF PRELIMINARY PLAT.

Preliminary plats are required for all major site plans and major subdivisions.

306.1 Filing Procedure.

Any developer shall submit to the administrative officer at least two (2) weeks prior to the meeting of the Approving Authority, 10 black on white or blueprint copies of the preliminary plat, 4 completed copies of the application form for preliminary approval; 5 copies of any protective covenants, deed restrictions and easements, applying to the land being developed; 4 copies of the drainage calculations, Environmental Impact Statement as required in Article 5, and Soil Erosion and Sediment Control data as required in Article 4 of this ordinance; the application fee, and such other data as may be required by the Approving Authority.

306.2 Action by the Approving Authority.

306.2-1 The submission for preliminary approval of a major subdivision shall be examined by the Administrative Officer and a determination made as to whether the same constitutes a "complete application" as defined in the Municipal Land Use Law as amended. If the application is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the board or the board's designee for the determination of completeness within forty-five (45) days of submission of such application or it shall be deemed to be properly submitted. If determined to be a "complete application" a public hearing date shall be set and notice given as required by this ordinance in Article 10.

306.2-2 Upon submission of a plat and before approval of a plat, the administrative officer

shall submit one (1) copy of the plat and supporting data to the County Planning Board, Township Engineer, Environmental-Commission, and any other agency or person as directed by the Approving Authority for their review and action, each shall have thirty (30) days from receipt of the plat to report to the Approving Authority. In the event of disapproval, such report shall state the reasons therefore. If any agency or person fails to report to the Approving Authority within the thirty (30) day period, said plat shall be deemed to have been approved by them. Upon mutual agreement between the County Planning Board and the Approving Authority, with approval of the applicant, the thirty (30) day period for a County Planning Board report may be extended for an additional thirty (30) days and any extension shall so extend the time within which the Approving Authority is required to act.

306.2-3 If the submission is accepted as a subdivision, the Approving Authority shall grant or deny preliminary approval of a subdivision of ten (10) or fewer lots within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer: Upon the submission of a complete application for a subdivision of more than ten (10) lots, the Approving Authority shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Approving Authority shall be deemed to have granted preliminary approval to the subdivision.

306.2-4 The submission for preliminary approval of a site plan shall be examined by the Administrative Officer and a determination made as to whether the same constitutes a complete application as defined in the Municipal Land Use Law as amended. If the application is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the Administrative officer within forty-five (45) days of the submission of such application or it shall be deemed to be properly submitted.

Upon the submission to the Administrative officer of a complete application for a site plan which involves ten (10) acres of land or less, and ten (10) dwelling units or less the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a site plan which involves more than ten (10) acres, or more than ten (10) dwelling units, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer.

Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan.

- a. A site plan for ten (10) acres of land or less: within forty-five (45) days of the date of submission.
- b. A site plan of more than ten (10) acres: within ninety-five (95) days of the date of submission.

Before any action is taken on any preliminary site plan containing more than ten (10) acres or for a site plan containing a flood hazard area, the Approving Authority shall conduct a public hearing as established in this ordinance. Action may be taken on a preliminary site plan for ten (10) acres of land or less without a public hearing unless, in the opinion of the Approving Authority, the proposed use, proposed intensity of development, location of the tract, traffic conditions, or environmental concerns for a property of ten (10) acres or less are of sufficient concern that the Approving Authority desires to receive the public's comments. Where a public hearing is scheduled for a site plan, no action shall be taken until completion of the public hearing and the scheduling and notifications for the hearing shall be in accordance with this ordinance.

306.2-5 If the Approving Authority required any substantial amendment in the layout of Improvements in either a site plan or subdivision as proposed by the developer and that plan had been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Approving Authority shall, if the proposed development complies with this ordinance, grant preliminary approval.

306.2-6 The Approving Authority may approve, disapprove, or approve with conditions the application, including action on the Environmental Impact Statement in Article 5. such action shall not take place until after any required public hearing has been conducted. The decision shall be in writing and shall be sent to the applicant and the newspaper as required by Section 2-3.6. If the Approving Authority grants preliminary approval, its chairman and secretary (or vice chairman or assistant secretary in their absence, respectively) and Township Engineer shall sign each page of the plat indicating the approval. If the plat is conditionally approved, it shall not be signed until all conditions are complied with. If all conditions are not complied with within one hundred eighty (180) days from the date of the meeting at which a plat was conditionally approved, the conditional approval shall lapse.

306.2-7 Effect of Preliminary Approval.

Preliminary approval shall, except as provided in paragraph (d) below, confer upon the applicant the following rights for a three (3) year period from the date of the preliminary approval,

- a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to: use requirements; layout and design standards for streets; curbs and sidewalks; lot size, yard dimensions and off-tract improvements; any requirements peculiar to site plan approval; except that nothing herein shall be construed to prevent the Township from modifying by ordinance such general terms and conditions of preliminary approval as related to public health and safety; and
- b. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary plat; and
- c. That the applicant may apply for and the Approving Authority may grant extensions on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
- d. In the case of a development for an area of fifty (50) acres or more, the Approving Authority may grant the rights referred to in subsection a, b and c above for such period of time, longer than three (3) years, as shall be determined by the Approving Authority to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, and (2) the potential number of dwelling units and nonresidential floor area of the section(s) awaiting final approval, (3) economic conditions and (4) the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards may govern.

307. SUBMISSION OF FINAL PLAT

307.1 Filing Procedures.

307.1-1 The developer shall file with the Administrative Officer at least twenty (20) calendar days prior to the meeting of the Approving Authority, one (1) mylar, two (2) cloth and black on white or blueprint prints of the plat and 4 completed copies of the application form for final approval, the performance guarantee including off-tract improvements, if any, any maintenance guarantees, and the

applicable fee.

307.1-2 Letters directed to the Chairman of the Approving Authority and signed by a responsible office of the water company, and gas, telephone and electric utility that has jurisdiction in the area, approving each proposed utility installation design and stating who will construct the facility.

307.1-3 Developer shall file proof that all taxes are paid to date on the property. (see Section 203.7)

307.1-4 The final plat shall be accompanied by a statement by the Township Engineer that he is in receipt of a map showing all utilities and other improvements (both in the development and off-tract improvements) in exact location and elevation, that he has examined the drainage, erosion, storm water control, and excavation plans and found that the interests of the Township and of nearby properties are fully protected, and identifying those portions of any improvement already installed and that the developer has either.

- a. Installed all improvements in accordance with the requirements of this ordinance and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or
- b. Posted a performance guarantee in accordance with this ordinance and the preliminary plat approval for all partially completed improvements or improvements not yet initiated.

307.2 Action by the Approving Authority.

307.2-1 The Approving Authority shall grant final approval if the detailed drawings, specifications, and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions of preliminary approval, and in the case of a major subdivision, the standards prescribed by the "*Map Filing Law*", 46:23-9.9 et seq.; provided that in the case of a planned development, the Approving Authority may permit minimal deviations from the conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for preliminary approval.

307.2-2 Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. An approved final plat shall be signed by the chairman and secretary of the

Approving Authority (or vice chairman or assistant secretary in their absence, respectively). Failure of the Approving Authority to act within the period prescribed shall constitute final approval and a certificate of the administrative officer as to the failure of the Approving Authority to act shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

307.2-3 Whenever review or approval of the application by the County Planning Board is required by 40:27-6.3 or 40:27-6.6, or other statute, the Township Approving Authority shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

307.2-4 The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to the Municipal Land Use Law, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval. If the developer has followed the standards prescribed for final approval, the Approving Authority may extend such period of protection for extensions of one (1) year, but not to exceed three (3) extensions. Upon granting of final approval, the rights conferred upon the applicant by the granting of preliminary approval shall be terminated upon final approval.

307.2-5 In the case of a subdivision or site plan of one hundred fifty (150) acres or more, the Approving Authority may grant the rights referred to in the above paragraph for such period of time longer than two (2) years, as shall be determined by the Approving Authority to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions and (3) the comprehensiveness of the development. The developer may apply for thereafter, and the Approving Authority may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Approving Authority to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) the number of dwelling units and nonresidential floor area remaining to be developed, (3) economic conditions and (4) the comprehensiveness of the development.

307.2-6 Upon final approval, the applicant shall provide:

- a. Three (3) sets of final plans and one (1) signed linen and one (1) mylar of the final plan to

the Township Engineer.

- b. One (1) mylar and opaque linen copies to the County Clerk per law.
- c. One (1) linen to the Township Clerk.
- d. One (1) signed paper print to the Planning Board, Building Inspector, Tax Assessor, County Planning Board and such other township, county or state officials or other individuals as directed by the Board.
- e. One (1) set of final plans to the Approval Authority.

307.2-7 Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The Approving Authority may for good cause shown extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat. No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the Approving Authority as indicated on the instrument by the signature of the Chairman and Secretary of the Approving Authority or a certificate has been issued as to the failure of the Approving Authority to act within the required guarantees. If the County Recording Officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the Township, the plat shall be expunged from the official records. It shall be the duty of the County Recording Officer to notify the Approving Authority in writing within seven (7) days of the filing of the plat, identifying such instrument by its title, date of filing and official number.

308. PLAT DESIGN STANDARDS FOR SUBDIVISIONS.

308.1 Plat Conformity.

No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information, and complies with the provisions of N.J.S.A. 46:23-1 et seq. (Map filing law), and Section 107 of this ordinance.

308.2 Sketch Plat for Classification.

A sketch plat shall be clearly and legibly drawn at an accurate scale of not less than one (1) inch

equals one hundred (100) feet in order to include the entire tract on one (1) sheet and shall be based on a certified boundary survey. Plat shall be presented on sheet(s) of one of the following dimensions: thirty by forty-two (30 x 42) inches, twenty-four by thirty-six (24 x 36) inches, eighteen by twenty-four (18 x 24) inches, fifteen by twenty-one (15 x 21) inches, twelve by eighteen (12 x 18) inches, nine by twelve (9 x 12) inches or eight and one-half by thirteen (8 1/2 x 13) inches. The plat shall be designed in compliance with the provisions of Article I and shall include a key map with North arrow showing the entire subdivision and its relation to surrounding areas at a scale of not less than one (1) inch equals one thousand (1,000) feet, together with the following information:

308.2-1 The boundary and acreage of the original tract measured to the nearest-one-hundredth (0.01) of an acre; the number, acreage and configuration of all lots being created: the area of each lot correct to one-tenth (0.1) of an acre; all existing and proposed lot lines correct to one (1) foot. If the plat is to be submitted for approval as a minor subdivision, existing lot lines as well as proposed lot lines shall be accurately shown by precise metes and bounds, distances to nearest 0.01 ft.

308.2-2 All existing buildings and structures and their use(s), with the shortest distance from existing building(s) to any proposed or existing lot line, and wooded areas, rock outcrops, streams, lakes, drainage rights-of-way and streets within the limits of the tract(s) being subdivided and within two hundred (200) feet thereof, including the location, width and direction of flow of all streams, brooks, drainage structures and drainage rights of way. Any existing features to be removed or relocated shall be indicated. Flood hazard area lines and wetlands and swamps within the tract shall be shown, as well as contours, inside the tract and within fifty (50) feet of its boundaries, at sufficient intervals to determine the general surface drainage.

308.2-3 The existing and proposed rights-of-way with dimensions of all easements, sight triangles and all streets within the premises and within two hundred (200) feet thereof, together with existing driveways, street names and the purpose of any easement, The type of street surface material and existing utilities within two hundred (200) feet of the tract shall be shown, including at least one (1) street intersection using the foreshortened tie distance when same is remote from the property in question.

308.2-4 The Tax Map sheet, block and lot number for the tract and all adjacent lots; the name of the owner and all adjoining property owners as disclosed by the most recent township tax records; date, title, graphic scale, North arrow and space for the subdivision application number; zoning

district(s), and if the property lies in more than one zoning district, the plat shall indicate all the zoning district lines; and the name, address, phone number and signature of the owner, subdivider and person preparing the plat.

308.2-5 When on-lot water and/or on-lot sewage disposal are proposed, the plat shall be accompanied by the results of percolation tests. A minimum of two percolation tests shall have been located on each proposed lot at the site of a potential or proposed septic tank and appropriate additional locations in the leeching field and shall be approved by the Board of Health. The percolation tests shall include all required data including, but not limited to, the date of the tests, the location of each test shown on the plat, soil lot at least ten (10) feet below finished grade, ground water level, the rate of percolation, the weather conditions prevailing at the time of the tests, as well as for the preceding 48 hours, and the layout and grades for the proposed septic field. The tests shall be performed at applicant's expense. Each lot proposed shall show the location of the proposed individual water supply and its location relative to the sewage disposal system.

The foregoing data is required in all such cases, whether or not construction on the lot in the immediate future is contemplated or not, in order to protect prospective purchasers of such lot and in order not to place the Township in the position of permitting a subdivision upon which there is no reasonable prospect of building.

Approval of a subdivision based upon such percolation data submitted by the applicant, however, shall constitute no guarantee by the Township that percolation standards may not be changed, or that percolation may be accomplished at the time of the application for construction, or that an individual sewage disposal system and/or water supply will function satisfactorily on such property, or that the lot will meet the requirements for issuance of a construction permit at the time of application therefore.

308.3 Preliminary Plat of Major Subdivision.

The preliminary plat shall be titled as such and shall be clearly and legibly drawn by a licensed New Jersey engineer and/or land surveyor and shall be based on a certified boundary survey by a licensed New Jersey land surveyor, at a scale of not less than one (1) inch equals fifty (50) feet, and shall include a key map with North arrow showing the entire subdivision and its relation to surrounding areas at a scale of not less than one (1) inch equals one thousand (1,000) feet. Plats shall

be presented on sheets of one of the following dimensions: 30" x 42", 24" x 36", 18" x 24", 15" x 21", 9" x 12", 12" x 18", or 8-1/2" x 13". If more than one (1) sheet is required to show the entire subdivision, a separate composite map shall be drawn showing the entire subdivision and the sheets on which the various sections are shown, and each detail sheet shall include a key map showing its relation to the whole tract. The plat shall consist of as many separate maps as are necessary to properly evaluate the site and the proposed work. The plat shall be designed in compliance with the provisions of Article 7 and shall show or be accompanied by the following information.

308.3-1 A title containing the name of the subdivision; the name of the township, county and state; Tax Map sheet, block and lot number, date of preparation and most recent revision, North arrow, written and graphic scales; the names, addresses, phone numbers and signatures of the Owner, subdivider and person(s) who prepared the plat(s) including the seal of the letter; the names of all property owners within two hundred (200) feet of the extreme limits of the subdivision; and space for the subdivision application number.

308.3-2 The boundary and acreage of the original tract measured to the nearest one-hundredth (0.01) of an acre; the number, acreage and configuration of all lots being created; the area of each lot correct to one-tenth (0.1) of an acre; all existing and proposed lot lines correct to 0.01 feet.

308.3-3 A map showing existing and proposed elevations and contour lines over the entire area of the proposed subdivision, together with watercourses and an indication of the final disposal of the surface waters. All elevations shall be related to two (2) permanent bench marks identified on the plan. Contours shall be shown at not more than two foot intervals for areas with less than a ten-percent slope, five-foot intervals for areas with ten or twenty-percent slopes, and ten or twenty-foot intervals for areas with slopes-in excess of twenty percent (20%). For tracts containing slopes in more than one (1) category, the subdivider shall show contour lines at the most restrictive interval throughout the tract unless specifically waived by the Approving Authority in lieu of some other satisfactory contour interval and topographic data to meet the objectives of this Ordinance, such topographic data shall be shown within 200' of the tract boundaries.

308.3-4 The locations and dimensions of railroad rights-of-way, bridges and natural features, such as soil types, wooded area, lakes, rock outcroppings and views within the subdivision, and the locations of individual trees outside wooded areas having a minimum caliper of six (6) inches. The proposed location of shade trees to be provided by the subdivider shall also be shown. Soil types

shown shall be based on United States Soil Conservation categories.

308.3-5 All existing and proposed watercourses, including lakes, ponds and marsh areas, accompanied by the following information or data:

- (a) When a running stream with a drainage area of one-half (1/2) square mile or greater is proposed for alteration, improvement, or relocation, or when a structure or fill is proposed over, under, in or along such a running stream, evidence of approval, required alterations, lack of jurisdiction or denial of the improvement by the *New Jersey Division of Water Policy and Supply* or such agency having jurisdiction shall accompany the application.
- (b) Profiles and cross sections at fifty-foot intervals of watercourses, at an appropriate scale, showing the extent of the flood fringe area, top of bank, normal water level and bottom elevations of all watercourses on or within five hundred (500) feet of the subdivision.
- (c) When ditches, streams, brooks or watercourses are to be altered, improved or relocated, the method of stabilizing slopes and the measures to control erosion and siltation during construction, as well as typical ditch sections and profiles, shall be shown on the plan or accompany it.
- (d) The total upstream acreage in the drainage basin of any watercourse running through or adjacent to a subdivision including the distance and average slope upstream to the basin ridge line.
- (e) The total acreage in the drainage basin to the nearest downstream drainage structure and the acreage of that portion of the subdivision which drains to the structure, including the distance and average slope downstream to the structure.
- (f) The location and extent of drainage and conservation easements and floodway and flood hazard area limits.
- (g) The location, extent and water level elevation of all existing or proposed lakes or ponds on or within five hundred (500) feet of the subdivision.
- (h) Plan, profile drawings and computations for any storm drainage systems, including:
 - (i) All existing and/or proposed storm water lines on site or within five hundred (500) feet of the subdivision, showing size, profile and slope of the lines, the location of each

inlet, manhole or other appurtenance and the pipe material type, strength class or thickness and bedding type.

(ii) The location and extent of any proposed dry wells, groundwater recharge basins, detention basins, flood control devices, sedimentation basins and other water conservation devices.

308.3-6 The names, locations and dimensions of all existing streets within a distance of two hundred (200) feet of the subdivision, including at least one (1) street intersection and showing existing driveways and any connections proposed by the subdivision to existing streets, sidewalks and bike routes outside the subdivision; plans, cross sections, center-line profiles, proposed grades and standard details of all proposed streets, including full details of other utility improvements within or adjacent to the street right-of-way, including sanitary sewers, curbing, sidewalks, storm drains and water, gas and electric facilities. Typical street cross sections shall indicate the type and width of pavement and the location of curbs, sidewalks, bike routes, sewers, drains, water and gas mains, electric and telephone facilities and appurtenances and shade tree planting. At intersections, the sight triangles, radii of curb lines and the location of street signs and traffic control devices shall be clearly indicated. Horizontal scale shall not be less than one (1) inch equals forty (40) feet.

308.3-7 The names, location, right-of-way widths and purpose(s) of existing and proposed easements and other rights-of-way in the subdivision, and the location and description of all existing or proposed boundary control monuments and pipes.

308.3-8 All proposed lot lines, including existing lot lines to remain and those to be eliminated, and all set back lines required by the Zoning Ordinance, with the dimensions thereof. Any lot(s) to be reserved or dedicated to public use shall be identified and shall show proposed improvements, such as but not limited to landscaping, grading, walkways and recreation facilities, if any. Each block shall be numbered and the lots within each block shall be numbered consecutively beginning with number one (1), as acceptable to the Township Engineer.

308.3-9 Locations of all existing structures and their use(s) in the tract and within two hundred (200) feet thereof, showing existing and proposed front, rear and side yard setback distances and an indication of all existing structures and uses to be retained and those to be removed.

308.3-10 Plans and profiles of proposed on-site, offsite and of off-tract improvements and utility

layouts (sanitary sewers, storm sewers, erosion control and landscaping, storm-water control, sedimentation basin, excavation, water mains, gas, telephone, electricity, etc.), showing location, size, slope, pumping stations and other details as well as feasible connections to any existing or proposed utility systems. If private utilities are proposed, they shall comply fully with all township, county and state regulations. If service is to be provided by an existing utility company, a letter from that company shall be submitted, stating that service will be available before occupancy of any proposed structures. When on lot water or sewage disposal is proposed, the plan for such system shall be approved by the appropriate township and state agencies and the results of percolation tests shall be submitted with the preliminary plat in accordance with the procedures outlined in this ordinance.

308.3-11 Zoning district(s); and if the property lies in more than one (1) zoning district, the plat shall indicate the zoning district lines.

308.3-12 Minimum front, rear and side yard setback lines for the zone.

308.3-13 Tree Removal

- A) The square footage of all land to be non-wooded following development (to be used in Section 702.12C(d)). The non-wooded area shall be computed by using the total lot area and reducing it by the following:
 - a) Pre-developed wooded area (to remain undeveloped).
 - b) 1600 square feet for each isolated tree to remain.
 - c) 2500 square feet for the building
- B) Locations of all trees or wooded areas.
- C) Approximate number of trees per acre.
- D) Species substantially involved.
- E) Location and listing of trees to be removed.
- F) Applicability. This Ordinance shall be applicable to all existing property in the Township of Green Brook, whether developed or undeveloped, where either the owner or someone at the owner's direction or with the owner's consent shall remove one or more specimen trees as hereinafter defined from the said premises. This Ordinance shall not apply to the removal of specimen trees pursuant to any application before the Green Brook Planning Board or the Green Brook Board of Adjustment pending on the effective date hereof provided the application has been deemed complete within the meaning of N.J.S.A. 40:55D-10.3 and all filing fees and escrows relative to the same have been paid. Also excluded from the provisions of this subsection is any unimproved property for which development has been approved by action of the Planning Board or Board of Adjustment which approval postdates the enactment of the Ordinance known and designated as "The Zoning Ordinance of Green Brook (1987)" and the removal of any specimen trees from the building envelope as designated in any pending or future development application.

308.4 Final Plat of Major Subdivision.

The final plat shall be prepared in compliance with the provisions of the *Map Filing Law* (N.J.S.A. 46:23-9.9 et seq.), as amended; and shall conform to the following standards and particulars and be accompanied by final plans in accordance with subsection E of this section.

308.4-1 The plat shall be prepared and submitted on a sheet of standard size (twenty-four by thirty-six (24x36) inches or thirty by forty-two (30x42) inches, including a margin of at least one-half (1/2) inch and be drawn at a scale of one (1) inch equals one hundred (100) feet, except that a scale of one (1) inch equals fifty (50) feet or larger shall be used where necessary and at special details to provide fully intelligible and legible information throughout. When the overall size of development or the owner's desire to submit final plans in sections will result in more than one (1) sheet, individual sheets or sections shall be numbered, match lines or boundaries with adjacent sheets or sections shall be provided and each sheet shall contain an acceptable key map of the entire tract showing the relation and orientation of the subject to adjacent sections and the total development.

308.4-2 The original plat shall be prepared in waterproof black ink on mylar under the immediate supervision of and in accordance with the computations of a land surveyor licensed to practice in the State of New Jersey. The original and all submitted black-line prints, translucent mylar, translucent linen and opaque linen copies shall be hand signed and sealed by the responsible surveyor.

308.4-3 The fieldwork for the basic boundary survey shall be precise, with a linear error of closure not to exceed one (1) part in ten thousand (10,000) before adjustment. Angular error of closure shall not exceed fifteen (15) seconds times the square root of n (where n equals the number of sides). Fieldwork meeting these standards shall be adjusted and balanced by the compass rule, transit rule or least square analysis, as considered appropriate by the responsible surveyor. All existing boundary evidence for the property in question and/or adjacent properties shall be clearly shown in relation to the boundaries of the property in question. All exterior boundaries shall be clearly identified by bearings precise to the nearest one (1) second of arc and distances precise to the nearest one hundredth (0.01) of a foot. Permanent concrete monuments conforming to state statutes and extending not less than thirty (30) inches below grade nor more than one (1) inch above shall be

indicated on the plat and precisely set in the field along the tract boundary at all corner, sidelines of proposed streets and beginning and ending points of all horizontal curves. Inaccessible corners shall be provided with two (2) offset reference monuments clearly defined on the plat. Additional point-on-line monuments as necessary shall be installed in the field and identified on the plat whenever topographic conditions do not permit corner-to-corner visibility. Unless specifically waived by the Township Engineer for due cause, the boundaries of all final plats shall be based on the United States Geological Survey bearing datum and all boundary monuments shall be coordinated on the New Jersey plane coordinate system, with North and East coordinates for each monument and corner shown on the plat. The gross tract area and the area of each interior parcel, including parcels dedicated to public use, shall be calculated and shown to the nearest thousandth of an acre or the nearest ten (10) square feet.

308.4-4 The metes and bounds for all interior parcels, streets and/or easements dedicated to public use shall be calculated to the same order of precision and shown on the plat as above described for the tract boundary. Interior monuments shall be indicated on the plat and installed in the field along one (1) side of all street rights-of-way, at all corners of parcels dedicated to public use and at such other additional locations incident to topographic conditions and other factors as the Township Engineer may find essential to the public interest. Due to the high potential for disturbance or destruction during construction, the installation of interior monuments may be deferred until the completion of final grading and seeding, subject to posting-of acceptable performance guarantee.

308.4-5 In addition to tract, lot and street boundary lines above described, the final plat shall identify and provide precise metes and bounds for all necessary easements, sight triangles and other reservations for public or quasi-public use. The grantee of any such public or quasi-public dedication shall be identified on the plat.

308.4-6 The following circular curve data shall be provided for all curvilinear boundaries and street center lines: radius, central angle, tangent distance, chord distance, chord bearing and arc length. Distances shall be shown to the nearest one-hundredth (1/100) foot. Angles and bearings shall be shown to the nearest one (1) second of arc.

308.4-7 Block and lot numbers shall be shown on the final plat in accordance with established standards in conformity with the Township Tax Assessment Map as approved by the Township Engineer.

308.4-8 Title block in the lower right-hand portion of the sheet shall include:

- (a) The name (and section, where applicable) of the plat.
- (b) The current tax assessment block(s) and lot(s) numbers.
- (c) The name of the municipality, county and state.
- (d) Names and addresses of the owner, applicant and responsible surveyor.
- (e) The date of preparation (and revisions, if any).
- (f) The plat scale.
- (g) Graphic scale.

308.4-9 Bearing datum North (map datum) and true North arrows shall be provided, including the angular difference between map North and true North.

308.4-10 All street names shall be shown, acceptable to the Approving Authority.

308.4-11 The plat shall contain the following endorsements:

- (a) Certification by the responsible surveyor that the map was prepared under his/her supervision and is in compliance with state statutes and local ordinances, such certification to be signed, sealed and dated by the responsible surveyor.
- (b) Certification by the owner(s) that the plat is in accordance with their free consent and express desires, including their consent to filing, such certification to be signed, dated and sealed by the owner(s) and witness(s). In the case of individual ownership, signature shall be certified by a notary; if a partnership, by all partners and certified by a notary; if a corporation, by an authorized principal of the corporation, certified by the corporate secretary and sealed with the corporate seal. The name and position of each signature party shall be legibly printed below each signature.
- (c) Signature block with places to be signed and dated by the Chairman and Secretary of the Approving Authority.
- (d) Certification that all new streets and easements have been approved by the Township Committee and that bonds have been given to the Township guaranteeing the completion of improvements to same, such certification to be signed, dated and sealed by the Township Clerk.

- (e) Certification of compliance with “*Map Filing Law*”, applicable local ordinances and regulations, signed and dated by the Township Engineer.
- (f) Certification of compliance with state statutes and approval to file in the County Clerk’s office within ninety-five (95) days of approval, such certification to be signed, dated and sealed by the Township Clerk.
- (g) Certification that bond has been given to the township guaranteeing the future setting of monuments (if any not previously set), such certification to be signed, dated and sealed by the Township Clerk.
- (h) Other appropriate notes regarding the dedication of public or private roads, easements, recreation areas, etc., and reference to related deeds of conveyance, such notes to be signed, dated and sealed by the owner.
- (i) Signature block for certification by the County Planning Board.
- (j) Recording block for use by the County Clerk, with space to insert map number, date and time of filing.

308.4-12 Minimum building setback lines shall be shown for each lot. The names and block, lot and property lines of adjoining owners shall be shown, as disclosed by the current tax assessment records.

308.5 Final Plans Accompanying Final Plat.

308.5-1 Submission of the final plat shall be accompanied by final plans and other relevant supporting materials, including the following:

- (a) Plans, profiles and cross sections, as appropriate, for all new streets, including all utilities and street improvements; public utility easements; site grading and drainage, including detail plans for stormwater detention facilities or stream encroachment as approved by the County Engineer and/or State *Department of Environmental Protection, Division of Water Resources*; and sanitary sewerage plans as approved by the Township Engineer.
- (b) Copies of all required permits or relevant agreements for proposed utility improvements related to drainage, sewerage, gas, water, electric, telephone or other facilities.
- (c) Copies of proposed deeds of conveyance for all new streets, sight triangles, easements,

recreation parcels, school sites and/or other land restrictions.

(d) Design calculations for sanitary sewerage and storm drainage facilities, signed, dated and sealed by the responsible project engineer.

308.5-2 Plats shall be standard size (twenty-four by thirty-six (24 x 36) inches or thirty by forty-two (30 x 42) inches) and shall be drawn to an appropriate scale necessary to clearly show the scope and detail of the proposed work sufficient for the Township Engineer to make a quantitative engineering analysis and to assure proper construction in accordance with township standards. A standard size cover sheet shall be provided which shall include, as a minimum:

(a) A key map, at a scale not greater than one (1) inch equals one thousand (1,000) feet, of the property in question and all adjacent lots, streets and watercourses within two thousand (2,000) feet of the property boundaries.

(b) A general location plan, at a scale not greater than one (1) inch equals two hundred (200) feet, of the property in question, showing proposed streets and utility systems.

(c) Index for the complete set of plans.

309. PLAT DESIGN STANDARDS FOR SITE PLANS.

309.1 Plat Conformity.

No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information, and shall conform to Section 107 of this Ordinance.

309.2 Sketch Plan for Classification and Approval shall include the same data as required in Section 308.2 except that the graphic scale shall be 1"=10', 20', 30', 40' or 50'. This submission shall also show the applicable data called for in the Building and Use Plan, Circulation Plan, Natural Resources Plan, Facilities Plan, and Flood Hazard Area Considerations in Section 309.5 except that an Environmental Impact Statement may be waived or modified by the Approving Authority as may be the requirements for the amount of detail in the plans listed above. If the submission is classified as a minor site plan, final action may be taken on the sketch plat.

309.3 A Sketch Plat of a Major Site Plan shall show to scale the lot lines, propose building(s), proposed use(s), parking, loading, on-site circulation, driveways, streams, approximate floor hazard area,

wooded areas, contours based on U.S.G.S. or similar available datum, approximate on-site or on-tract, storm water detention facilities, and water and sewer service. The scale shall be 1"=10', 20', 30', 40' or 50'.

309.4 Preliminary Site Plan Plat.

309.4-1 Each site plan shall be submitted at a scale of 1" = 10', 20', 30', 40' or 50'. All plats shall be submitted on one of the following standard sheet sizes 30"x 42", 24" x 36", 18" x 24", 15" x 21", 9" x 12", 12" x 18", or 8-1/2" x 13". If one sheet is not sufficient to contain the entire territory of the tract, the tract may be divided into sections to be shown on separate sheets of equal sizes, all sheets with the same scale, with references on each sheet to the adjoining sheets, provided that one sheet at a smaller scale is attached which shows the entire project on one sheet of the same size. See Section 107.

309.4-2 Each plan shall include the following data:

- (a) Name of the development.
- (b) Appropriate places for the signatures of the Approving Authority Chairman and Secretary, the dates of the official Approving Authority actions and dates of the signatures.
- (c) A small key map giving the general location of the tract in relation to the remainder of the community.
- (d) Zone district(s) in which the lot (s are) is located.
- (e) North Arrow,
- (f) Date of the original plan and each subsequent revision date.
- (g) Graphic scale.
- (h) Total tract acreage to one one-hundredth (1/100) of an acre.
- (i) An outbounds survey of the tract certified by a licensed land surveyor.
- (j) Existing and proposed streets and street names.
- (k) Existing and proposed streams and easements.
- (l) Flood hazard areas based on one-hundred-year-plus storms.
- (m) All dimensions and areas needed to confirm conformity, to this ordinance, such as but not

limited to building area, lot lines, parking and loading spaces, setbacks, buffers and yards.

(n) The site in relation to all remaining contiguous lands in the applicant's or owner's ownership.

(o) All roads, driveways, watercourses and existing buildings within two hundred (200) feet of the tract.

309.5 Site Plan Information for Preliminary and Final Approval.

Each site plan shall have the following information shown thereon or be annexed thereto and shall be designed to comply with the applicable Design and Performance Standards (Article 7) and the Zoning Ordinance.

309.5-1 Building and Use Plan. This plan shall show the size, height, location, arrangement and use of all existing and proposed structures and signs, including proposed total building coverage in acres or square footage and percent of the lot coverage, with an architect's sealed elevations of the front, side and rear of any structure and sign to be erected or modified to the extent necessary to apprise the Approving Authority of the slope of the proposed work. Any existing structures on the site shall be identified as either to remain or to be removed. There shall be included a written description of the proposed use(s) and operation(s) of the building(s), including the number of employees or members of nonresidential buildings; the proposed number of nonresidential buildings; the proposed number of shifts to be worked and maximum employees of each shift; expected truck and tractor-trailer traffic; emission of noise, glare, vibration, heat, odor, air and water pollution; safety hazard; and anticipated expansion plans incorporated in the building design. Floor plans shall be submitted where more than one (1) use is proposed with different parking standards.

309.5-2 Circulation Plan. This plan shall show access streets and street names, acceleration/deceleration lanes, access points to public streets, sight triangles, traffic channelization, easements, fire lane, driveways, aisles and lanes, curbs, curb cuts with ramps for handicapped persons, number and location of parking and loading spaces (including the designated wider spaces for the handicapped, loading berths or docks, pedestrian walks, provisions for handicapped as required by the "Barrier Free Regulations", and all related facilities for the movement and storage of goods, vehicles and persons on the site, and including lights, lighting standards, signs and drive ways within the tract. Sidewalks shall be shown from each entrance/exit along expected paths of pedestrian

driveways, other buildings on the site and across common yard areas between buildings. Plans shall be accompanied by cross sections of new streets, aisles, lanes, driveways and sidewalks. Any expansion plans for the proposed use shall show feasible parking and loading expansion plans to accompany building expansion.

309.5-3 Natural Resources Plan.

(a) This plan shall show existing and proposed wooded areas, buffer areas (including the intended screening devices and buffers), grading at two-foot contour intervals inside the tract and within fifty (50) feet of its boundaries, seeded and/or sodded areas, ground cover, retaining walls, fencing, signs, recreation areas, shrubbery, trees and other landscaping features. This plan shall also show the location and type of man-made improvements and the location, species and caliber, and height of plant material and trees to be located on the tract. The plan shall show how the interior of paved areas, such as parking lots, shall be landscaped, and all portions of the property not utilized by building or paved surfaces shall be landscaped, utilizing combinations such as landscaping fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage and the planting of coniferous and/or deciduous trees native to the area, in order to maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades and landscaping on any site shall be planned for aesthetic, drainage and erosion control purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and siltation as well as to assure that the capacity of any downstream natural or manmade drainage system is sufficient to handle the water from the site and contributing upstream areas.

(b) A separate written environmental impact statement shall be submitted, which shall comply with the requirements of the Environmental Impact Statement Article 5. Maps and data shall be submitted where required by Articles 5 and 6 of this Ordinance, or any provision of the zoning ordinance.

309.5-4 Facilities plan The plan shall show the existing and proposed locations of all drainage, open space, common property; fire, gas, electric, telephone, sewerage and water line locations; and solid waste collection and disposal methods, including proposed grades, sizes, capacities and materials to be used for facilities installed by the applicant. All easements acquired or required on the tract and across adjacent properties shall be shown, and copies of legal documentation that support

the granting of an easement by an adjoining property owner shall be included. The method of sanitary waste disposal shall be shown. All proposed lighting shall be shown, including the direction angle, height and reflection of each source of light. All utilities shall be installed underground.

309.5-5 Tree Removal

- A) The square footage of all land to be non-wooded following development (to be used in Section 702.12C(d)). The non-wooded area shall be computed by using the total lot area and reducing it by the following:
 - a) Pre-developed wooded area (to remain undeveloped).
 - b) 1600 square feet for each isolated tree to remain.
 - c) 2500 square feet for the building
- B) Locations of all trees or wooded areas.
- C) Approximate number of trees per acre.
- D) Species substantially involved.
- E) Location and listing of trees to be removed.
- F) Applicability. This Ordinance shall be applicable to all existing property in the Township of Green Brook, whether developed or undeveloped, where either the owner or someone at the owner's direction or with the owner's consent shall remove one or more specimen trees as hereinafter defined from the said premises. This Ordinance shall not apply to the removal of specimen trees pursuant to any application before the Green Brook Planning Board or the Green Brook Board of Adjustment pending on the effective date hereof provided the application has been deemed complete within the meaning of N.J.S.A. 40:55D-10.3 and all filing fees and escrows relative to the same have been paid. Also excluded from the provisions of this subsection is any unimproved property for which development has been approved by action of the Planning Board or Board of Adjustment which approval postdates the enactment of the Ordinance known and designated as "The Zoning Ordinance of Green Brook (1987)" and the removal of any specimen trees from the building envelope as designated in any pending or future development application.

309.6 Final Site Plan Flat. The final plan shall include all data required on the preliminary site plan plat drawn to incorporate all changes required as a condition of preliminary approval and drawn by persons and to specifications as required to the preliminary site plan, the Approving Authority may waive the filing of a final site plan and may treat the preliminary as the final. The final plat shall reflect all changes on the site from that shown on the preliminary plat, including ðas builtö as to any improvements to the site done before final approval.

310. PLANNING BOARD IN “USE VARIANCE” PROCEDURE.

Whenever an application or appeal is made for a variance to allow a structure or use in a district restricted against such structure or use, one copy of the application and supporting documents shall be forwarded by the Administrative Officer to the Planning Board, together with a notice of the hearing date. The Planning Board shall review the material and may make recommendations to the Board of Adjustment at the public hearing on the application. The Planning Boards recommendations may contain, among other things, the Planning Board’s opinion as to the compatibility of the proposal to the master plan; applications which may have been or are currently being processed by the Planning Board for similar uses elsewhere in the Township; land use, traffic and other data relevant to the application which the Planning Board has in its files; and what conditions, if any, the Planning Board would recommend be imposed on the applicant to improve compatibility with the master plan and zoning ordinance should the Board of Adjustment grant the variance, In view of the fact that such application for a use variance to the Board of Adjustment may vest jurisdiction in the Board of Adjustment to review site plan and/or subdivision in connection with the subject property, the Planning Board may also communicate to the Board of Adjustment the recommendations of the Planning Board relative to-site plan and/or subdivision.

311. APPLICATION TO PLANNING BOARD FOR CERTIFICATE OF OCCUPANCY.

Upon application to the administrative officer, Planning Board approval for a Certificate of Occupancy may be waived for any change in tenant or occupant where the change does not require relief from any provisions of this Ordinance, where the property had previously received Site Plan approval from the Planning Board or Zoning Board of Adjustment, and where the Technical Review Committee (TRC) has determined that no adverse impacts will occur from such proposed development and the amount and size of parking existing is sufficient for the proposed use.

311.1 Offices (including Professional Offices):

1. Plan of entire building with location of office or suite clearly delineated, if two-story building. the plan should be of the floor the applicant's office or suite will occupy and clearly marked "first floor, second floor, basement", etc., and the name of the office complex shown on the plan.
2. Floor plan of the space to be occupied with the following:
 - a. The overall dimensions of the perimeter of the area and the gross square footage of the area to be occupied.
 - b. All existing partitions to be removed should be shown dotted and all new partitions shown with heavy solid lines. All new partitions and rooms created should be dimensioned.
 - c. The use of existing rooms and new rooms should be indicated on the plan, including lavatories, closets, storage, etc.
 - d. All depths of built-in counters and cabinetry from wall anchorage should be shown on the plan, as well as all distances between counters and cabinets and chairs, tables, etc., located in these areas. All dimensions showing distances from desks, tables or other equipment or furnishings to walls and the size of the desk or table must be shown on the plan.
 - e. Exits should be shown with the symbol (E).
 - f. The floor plan should have a title (name of the business or professional) and the signature of the NJ. licensed professional who prepared the plan, license number and embossed seal, address and telephone number of said licensed professional, and the date the plan was prepared.
 - g. If plans or applications are incomplete or are not submitted ten business days before the Planning Board meeting date desired by the applicant, it may result in the application being postponed until all the aforementioned information is shown on the plans.
3. This Certificate of Occupancy when granted by the Planning Board is for use only. It is the applicant's responsibility to obtain all necessary construction and fire permits from the Township Construction Department after obtaining Planning Board approval and to obtain a Certificate of Occupancy from the Construction Department prior to occupying the area.

311.2 Retail Stores and Warehousing (Storage):

1. Plan of entire building with location of store clearly delineated. If two-story building, the plan should be of the floor the applicant's office or suite will occupy and clearly marked "first floor,

second floor, basement, etc., and the name of the store or shopping center shown on the plan.

2. Floor plan of the space to be occupied with the following:

- a. the overall dimensions of the perimeter of the area and the gross square footage of the area to be occupied.
- b. All existing partitions to be removed should be shown dotted and all new partitions shown with heavy solid lines. All new partitions and rooms created should be dimensioned. New rooms should be indicated on the plan, including lavatories, closets, storage, etc.
- c. The use of existing rooms and new rooms should be indicated on the plan, including lavatories, closets, storage, etc,
- d. All aisle widths should be dimensioned, as well as distances between displays and fixtures, whether displays are on floor, racks, gondolas etc. Dimensions around checkout counters and dimensions of check-out counters shall be shown. All dimensions of display areas or fixtures (length and width) if all same size only one need be dimensioned denoted as typical. In offices areas distance from desk to walls and size of desk to be dimensioned on plan.
- e. For warehousing or storage, the type of material to be stored should be noted on the plan and aisle widths and dimensions, whether materials are stored on floor or racks. The length and width of floor area being designated for storage and/or length and width of racks should be shown on the plan.
- f. Exits should be shown with the symbol (E).
- g. The floor plan should have a title (name of store and store number) and the signature of the N.J, licensed professional who prepared the plan, license number and embossed seal, address and telephone number of said licensed professional, and the date the plan was prepared.
- h. If plans or applications are incomplete or are not submitted ten business days before the Planning Board meeting date desired by the applicant, it may result in the application being postponed until all the aforementioned information is shown on the plans.

3. This Certificate of Occupancy when granted by the Planning Board is for use only. It is the applicant's responsibility to obtain all necessary construction and fire permits from the Township Construction Department after obtaining Planning Board approval and to obtain a Certificate of

Occupancy from the Construction Department prior to occupying the area.

ARTICLE 4

SOIL EROSION AND SEDIMENTATION CONTROL

401 PURPOSES.

The purpose of this ordinance is to control soil erosion and sediment damages and related environmental damage by requiring adequate provisions for surface water retention and drainage and for the protection of exposed soil surfaces in order to promote the safety, public health, convenience and general welfare of the community.

402. DEFINITIONS.

A. For the purpose of this Ordinance certain rules or word usage apply to the text as follows:

1. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
2. The term *shall* is always mandatory and not discretionary; the word *may* is permissive.
3. The word or term not interpreted or defined by this article shall be used with a meaning of common or standard utilization.

B. The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

1. *“Applicant”*. A person, partnership, corporation or public agency requesting permission to engage in land disturbance activity.
2. *“Application for development”* means a proposed subdivision of land, site plan, conditional use, zoning variance, planned unit development or building permit.
3. *“Approved Plan”* means a plan for soil erosion and sediment control that meets the standards promulgated by the State Soil Conservation Committee pursuant to Chapter 251, P.L. 1975 and has been found to be such by the local Approving Authority. When such plan is reviewed by the Somerset-Union Soil Conservation District, *approved plan* shall be a plan which receives the approval of the District or is deemed approved by the District by reason of the expiration of the time allotted by Section 7 of said Act without action by the District.

4. “*Committee*” means the State Soil Conservation Committee in the Department of Agriculture, established pursuant to R.S. 4:24-3.
5. “*Critical Area*”. A sediment producing highly erodible soil or severely eroded area.
6. “*District*” means the Somerset-Union Soil Conservation District organized pursuant to R.S. 4:24-7 et seq.
7. “*Disturbance*” means any activity involving the clearing, excavating, storing, grading filling or transportation of soil or any other activity which causes soil to be exposed to the danger of erosion.
8. “*Erosion*” means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.
9. “*Excavation or Cut*” means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.
10. “*Farm Conservation Plan*” means a plan which provides for use of land, within its capabilities and treatment, within practical limits, according to chosen use to prevent further deterioration of soil and water resources.
11. “*Land*” means any ground, soil or earth including marshes, swamps, drainage ways and areas not permanently covered by water within the municipality.
12. “*Plan*” means a scheme which indicates land treatment measures including a schedule of the timing for their installation, to minimize soil erosion and sedimentation.
13. “*Project*” means the disturbance of more than 5,000 square feet of the surface area of land for the accommodation of construction for which the Standard Building Code of the State of New Jersey would require a building permit, except that the construction of a single-family dwelling unit shall not be deemed “project” under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or building permit application involving two or more such single-family dwelling units.
14. “*Sediment*” means solid material, mineral or organic. that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.
15. “*Site*” means any plot, parcel, or parcels of land.
16. “*Soil*” means all unconsolidated mineral and organic material of any origin.

17. “Standards” means the Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee.

18. “Stripping” means any activity which significantly disturbs vegetated or otherwise stabilized soil surface including clearing and grubbing operations.

403. PROCEDURE.

A. REGULATION

No land area shall be disturbed by any person, partnership, corporation, municipal corporation or other public agency within this municipality unless; the applicant has submitted to the building inspector a plan to provide for soil erosion and sediment control for such land area in accordance with the Standards, and such plan has been approved; and a valid land disturbance permit has been issued, except as exempted by Section 406.

By way of amplification and not by way of limitation, certification and approval of a soil erosion and sediment control plan is required for the following application categories;

subdivision, site plan, conditional use, zoning variance, planned development, and construction permit.

B. DATA REQUIRED

The applicant must submit a separate soil erosion and sediment control plan for each noncontiguous site. The applicant may consult with the District in the selection of appropriate erosion and sediment control measures and the development of the plan. Such plans shall contain:

1. Location and description of existing natural and man-made features on and surrounding the site including general topography and soil characteristics and a copy of the District soil survey (where available).
2. Location and description of proposed changes to the site.
3. Measures for soil erosion and sediment control which must meet or exceed the Standards, as herein defined.
4. A schedule of the Sequence of installation of planned erosion and sediment control measures as related to the progress of the project including anticipated starting and completion dates.
5. All proposed revisions of data required shall be submitted for approval.

6. Where the scope of the proposal is such that the Township Engineer or Planning Board finds that formal submission to the Somerset-Union Soil Conservation District shall be required, the applicant shall supply the information as shall be required by said District, which may include the following:

(a) *Resource data:*

- a. Soil map with area outlined.
- b. Existing vegetation.
- c. Floodplain delineation maps, if available.
- d. On-site soil or geological investigation information available.
- e. Special natural features to be considered.
- f. Other resource or inventory data as required.

(b) *Plans and drawings:*

- a. Contour map of original ground, two feet interval preferred.
- b. Proposed layout with exact location referenced.
 - (1) Cultural features existing and proposed roads, buildings, drainage systems, sanitary systems, structural conservation practices, etc.
 - (2) Individual lot profiles if original ground exceeds 8% or an erosion grade, Profiles to show proposed cuts and/or fills.
 - (3) Profiles or surface and/or subsurface drainage systems.
 - (4) Cross-sections of the following items:
 - a. Structural conservation or erosion control practices such as but not limited to: diversions (including berm and channel), waterways (swales) ponds and/or debris basins, etc.
 - b. Stream channel or drainage way improvements.
 - c. Cuts and fill exceeding three feet in depth except for foundation excavations.
 - (5) Delineation of proposed disturbed and nondisturbed areas.

- (6) Offsite conditions adjacent to or below proposed site, where streams, lakes or ponds are located within 200 feet of proposed subdivision or site.

404. REVIEW AND APPROVAL

1. Erosion and sediment control plans submitted with sub division and site plan applications shall be reviewed by the Planning Board and approved as part of the application when in conformance with the Standards. The Board may seek the assistance of the District in the review of such plans and may deem as approved those plans which have been reviewed and determined adequate by the District. The Board may also refer to the Township Engineer for his review and approval. Such review and approval shall be made within a period of 30 days of submission of a complete application unless, by mutual agreement in writing between the municipality and the applicant, this period is extended for an additional 30 days. Failure of the municipality to make a decision within such period or such extension thereof shall constitute certification.

2. All other types of soil disturbance not exempted in Section 406 shall come under the review of the designated municipal officer in accordance with their memorandum of understanding with the District.

3. The Planning Board shall generally make decisions under this ordinance as a part of site plan review or subdivision approval. For other approvals, decisions will be made at a public meeting. Notification of the decision will be made to the applicant in writing and officially published within ten (10) days.

The applicant shall be provided with written note of such decision by the Township Engineer (or other authorized municipal agent). A copy of such decision including name of applicant, site location by street address and block and lot number and proposed land use shall be sent to the Somerset-Union Soil Conservation District. The municipality shall also make available such other information as may be required by the District.

405. PRINCIPLES AND REQUIREMENTS.

A. GENERAL DESIGN PRINCIPLES.

Control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the disturbance activity. The following principles shall apply to the soil erosion and sediment control plan.

1. Stripping of vegetation, grading or other soil disturbance shall be done in a manner which will minimize soil erosion.
2. Whenever feasible, natural vegetation shall be retained and protected.
3. The extent of the disturbed area and the duration of its exposure shall be kept within practical limits.
4. Either temporary seeding, mulching or other suitable stabilization measure shall be used to protect exposed critical areas during construction or other land disturbance.
5. Drainage provisions shall accommodate increased runoff, resulting from modified soil and surface conditions, during and after development or disturbance. Such provisions shall be in addition to all existing requirements.
6. Water runoff shall be minimized and retained on site whenever possible to facilitate ground water recharge.
7. Sediment shall be retained on site to the maximum extent feasible.
8. Diversions, sediment basins and similar required structures shall be installed prior to any on-site grading or disturbance.

B. MAINTENANCE.

All necessary erosion and sediment control measures installed under this Section shall be adequately maintained for one year after completion of the approved plan or until such measures are permanently stabilized as determined by the Township Engineer. The Township Engineer shall give the applicant upon request, a certificate indicating the date on which the measures called for in the approved plans were completed. *See maintenance guarantee provisions in Article 10 of this Ordinance.*

C. FEES.

The applicant shall pay the Township Clerk a fee of \$50.00 at the time the application is submitted to cover the cost of providing reviews and inspections required by this ordinance, except that where the application is part of the processing of a subdivision or site plan review, no fee shall be required.

D. PENALTIES.

If any person violates any of the provisions of this Article, or the Act under which it is adopted, or any

standard promulgated pursuant to the provisions of said Act, or fails to comply with the provisions of a certified plan, the municipality or District may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner.

Any person who violates any of the provisions of this ordinance, or the Act under which it is adopted, or any standard promulgated pursuant to said Act, or who fails to comply with the provisions of a certified plan, shall be liable to a penalty of not less than \$25.00 nor more than \$3,000.00 to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court, County Court, County District and Municipal Court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

E. COMPLIANCE CONDITION PRECEDENT TO CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for a project shall be issued unless there has been compliance with the provisions of a certified plan for permanent measures to control soil erosion and sedimentation. A formal report of such compliance must be filed with the municipal agent authorized to issue certificates of occupancy. A copy of this report shall be sent to the Somerset-Union Soil Conservation District.

F. STOP-CONSTRUCTION ORDER.

The District or the municipality may issue a stop construction order if a project is not being executed in accordance with a certified plan.

406. EXEMPTIONS

The following activities are specifically exempt from this Article:

1. Land disturbance associated with single family dwellings on an existing lot, where no construction requiring a building permit is required.
2. Use of land for gardening primarily for home consumption.
3. The disturbance of not more than 5,000 square feet of surface area of land for the accommodation of construction for which the Standard Building Code of the State of New Jersey would require a building permit, except that the construction of a single-family dwelling unit shall be exempt unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned

development, or building permit application involving two or more such single-family dwelling units.
(See definition of "project").

4. Agricultural use of lands when operated in accordance with a farm conservation plan approved by the Local soil conservation district or when it is determined by the local soil conservation district that such use will not cause excessive erosion and sedimentation.

407. INSPECTION AND ENFORCEMENT.

A. The requirements of this Ordinance shall be enforced by the municipal engineer who shall inspect or require adequate inspection of the work. If the municipal engineer finds existing conditions not as stated in the applicant's erosion and sediment control plan he may refuse to approve further work and may require necessary erosion and sediment control measures to be promptly installed and may seek other penalties as provided in Section 405 of this Article.

The applicant shall have the certified plan on site during all phases of construction.

ARTICLE 5

ENVIRONMENTAL IMPACT STATEMENT

501. INTENT AND PURPOSE.

It is the intent and purpose of this Ordinance to provide proper guidelines and requirements for the Environmental Impact Statement to be filed with certain applications for land disturbance and development in the Township of Green Brook, to preserve and enhance the quality of the natural environment, to promote the general health, safety and welfare, to recognize the existence in the Township of Green Brook of certain critical areas, and to provide a coordinated approach to development and changes and thereby improve the Township of Green Brook and prevent adverse environmental impact.

502. DEFINITIONS.

- (a) *Environment*: The conditions and influences, both natural and man-made that affect the general health, safety, and welfare of the Township of Green Brook.
- (b) *Environmental Impact Statement*: The Environmental Impact Statement, is a separate written description and analysis of all possible direct and indirect effects development will have on the site itself as well as adjacent and non-contiguous areas with particular reference to the effect of the project on the public safety, health and welfare, the protection of public and private property and the protection preservation and enhancement of the natural environment.
- (c) *Site*: Any plot, parcel or tract of land.
- (d) *Critical Area*:
 - (1) Any land within a flood hazard area (floodway or flood fringe area) as delineated by the Department of Environmental Protection, State of New Jersey, or
 - (2) Any land which contains slopes exceeding twelve (12) per cent grade, or
 - (3) Any land where the water table or surface waters cause particular problems of development, or where development is likely to cause damage to the ground water system.

503. APPLICABILITY.

No site shall be disturbed by any person, partnership, corporation, public agency, or entity within the municipality unless Environmental Impact Statement has been reviewed and the proposed development has

been approved by the Township Planning Board in accordance with the specifications and procedures required by this ordinance. Exemptions from this ordinance are only as listed below:

- (a) Applications for a building permit in a residential district for a single family residence, where the building inspector has determined that no part of the property in question falls in a critical area as defined herein, provided that this exemption shall not apply wherever three or more dwelling units are proposed to be constructed under common ownership or control on contiguous lots or on lots within a major subdivision.
- (b) Applications for a single use, business or industrial, where the property is one acre or less and where no part of the property is in a critical area as defined herein.
- (c) Sign permits as required under the Zoning Ordinance.

504. DATA REQUIRED.

The Environmental Impact Statement shall contain information and analysis with respect to the following:

- (a) The location of the project and a description of the project specifying what is to be carried out:
 - 1. Reason for the project,
 - 2. The detailed plans for proposals and any alternatives mapped and/or described,
 - 3. Parks, recreational sites, wildlife, refuges and historic sites mapped and described,
 - 4. Existing land use, zoning and master plan delineation of project mapped and described.
- (b) An inventory of existing environmental conditions at the project site and in the surrounding region (i.e. any area that might be affected by the proposal) which shall describe contours (at intervals not exceeding five feet) air quality, water quality, water supply, hydrology, geology, soils, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics and history.
- (c) A listing of all licenses, permits or other approvals as required by Municipal, County or State Law and the status of each.
- (d) An assessment of the probable impact of the project, both adverse and beneficial, on the topics described in (b).
- (e) Any probable adverse environmental effects which cannot be avoided, including:

1. Water quality,
2. Air quality,
3. Noise,
4. Undesirable land use patterns,
5. Damage and destruction of significant plant or wildlife systems or other resources,
6. Aesthetic values,
7. Displacement of people and business,
8. Displacement of viable farms,
9. Employment and property tax,
10. Destruction of man-made resources,
11. Disruption of desirable community and regional growth,
12. Health, safety and well-being of the public,
13. Traffic.

(f) A thorough discussion of the steps to be taken, during and after construction, both at the project site and in the surrounding area, to minimize the adverse environmental effects as described in (e).

(g) Alternatives to the proposed project, including:

1. That of no project,
2. Description of alternatives with an objective evaluation of the alternatives that might avoid some or all of the adverse environmental effects with the rationale for acceptability or non-acceptability of each alternative,
3. An analysis of the costs and social impact of the alternatives.

(h) Implications of the proposed action for population distribution or concentration should be estimated and an assessment made of the effect of any possible change in population patterns upon the resource base, including land use, water and public service of the area impacted.

(i) The relationship between local short term uses of the environmental and the maintenance and enhancement of long term productivity, assessing the project for each generation as a trustee of the

environment for future generations.

(j) A reference list of pertinent published information relating to the project, project site and surrounding area.

(k) Particular data is required as to:

(1) *Sewerage disposal facilities.* Applicant must show:

- a. Estimate sewage to be generated in gallons per day together with the provision for connection to the public sewer system.
- b. Compliance with State Department of Environmental Protection regulations, where applicable.
- c. Compliance with the rules and regulations of the treatment authority into which sewerage will flow (e.g. Middlesex County Sewerage Authority, Somerset-Raritan valley Sewerage Authority).

(2) *Water Supply.* Applicant must show:

- a. Compliance with State and local regulations.
- b. Location and depth of all private and public water supplies within five hundred (500) feet of the realty improvement.
- c. Location, depth, and adequacy of offsite and on-site private and public water supplies to serve the proposed realty improvement.
- d. For realty improvements with more than fifty (50) dwelling units it will be necessary to obtain a determination by the Division of Water Resources that the proposed water supply and sewerage facilities are adequate.

(3) *Drainage: storm water control.* Applicant must show:

- a. Estimated existing surface water runoff and volume.
- b. Compliance with State regulations,.
- c. Compliance with local ordinances relating to drainage and surface water control.
- d. Submission of an erosion and sediment control plan reviewed by the Somerset-union Soil Conservation District (see Article 4 of this ordinance)

(4) *Solid Waste Disposal.* Applicant must submit a statement of the character and estimated tons per week of solid waste to be generated together with a plan for the disposal of solid wastes in compliance with State Sanitary code.

(5) *Air Pollution.* Applicant must show that the proposal will have no deleterious effects to the ambient air quality or that no visible smoke or deleterious chemical changes will be produced in the atmosphere by any heating, air conditioning, or incinerating devices or by processing of material.

(6) *Critical Impact Area.* These areas include, but are not limited to: stream corridors, streams, wetlands, estuaries slopes greater than 12%, high acid and highly erodible soils, area of high water table and acquirer recharge and discharge areas. Applicant must show:

- a. A statement of impact on critical impact areas and of adverse affects which cannot be avoided.
- b. Environmental protective measures, procedures and schedules to minimize danger to critical impact areas.

505. REVIEWS AND INSPECTIONS:

Six copies of the Environmental Impact Statements shall be submitted at the time of submission of the Preliminary Plat, when a major subdivision shall be involved, or upon submission of the site plan for site plan review, where no subdivision shall be involved. Copies of the same shall be furnished by the Clerk of the Planning Board to the following:

- (a) To the Township Engineer.
- (b) To the Township Environmental Commission.
- (c) To the Planning Consultant, if deemed advisable by the Planning Board.

A copy of such Statement shall also be submitted to the Somerset County Planning Board in any case where the county Planning Board shall have subdivision or site plan review jurisdiction.

The Township Engineer and Township Environmental Commission, (and Township Planner, where applicable) shall inspect the property, and review the statement. Each shall have the authority to seek from the applicant additional data where required to make a proper review and recommendation. The respective reports shall be made to the Planning Board within a reasonable time, recognizing that each should have at least 30 days for such review. Such reports shall be made part of the record at any public hearing required in

connection with Planning Board action.

The cost of inspection by the Township Engineer and Township Planner (where applicable) shall be deemed part of the cost of, development and shall be borne by the applicant and paid to the Township of Green Brook in accordance with fees established therefore by the governing body on file in the offices of the Township Clerk. In any case where it appears that the services of another type of expert consultant shall be required, the applicant shall be required to bear the cost of such expert; in any such case the applicant shall be notified in advance and shall deposit with the Township Clerk the estimated costs for such consultant and such deposit shall be used for the payment by the Township of such consultant.

506. CONDITIONS OF APPROVAL.

In addition to the requirements of other applicable ordinances and conditions which may be imposed there under, the Planning Board, in making determinations relative to environmental impact, may condition approval upon compliance with recommendations contained in the reports of the Township Engineer, Environmental Commission, County Planning Board, and Somerset-Union Soil Conservation District, and may impose conditions and safeguards reasonably designed to promote the purpose of this ordinance. Time limits for completion of work shall be included in any resolution of approval. Approval by the Planning Board shall be endorsed upon the preliminary plat or site plan, and it shall be signed by the chairman and attested by the secretary and clerk of the Planning Board.

507. DENIAL OF ENVIRONMENTAL APPROVAL:

- (a) No subdivision or site plan review requiring an approved environmental impact statement and schedule shall be approved unless the environmental impact statement shall be first or simultaneously approved.
- (b) The Planning Board may approve or deny approval of the environmental impact statement after a public hearing afforded to the applicant. (Where the application also involves a major subdivision, the public hearing on the environmental impact may be held concurrent with the public hearing on the subdivision.) In such cases, the applicant shall give notice as required by law.

508. EXEMPTIONS.

The Planning Board shall have the power to exempt an application, otherwise subject to this ordinance, from the requirements of a full environmental impact statement, provided that following factors are taken into consideration and the Planning Board determines that a full impact statement is not required because of the

nature of the specific application:

- a. Stability of the soil during and after the proposed alteration
- b. Drainage patterns and effect on surface water runoff
- c. Effects on springs
- d. Potential effect on animals and significant plant species
- e. Potential air and water pollution, especially and increase in siltation.
- f. Effect of any construction plans or other - environmental changes on critical slope areas or sewage disposal systems
- g. Problems related to rock removal
- h. Amount of resulting non-agricultural displacement of soil
- i. Potential noise pollution increase in amount of industrial waste
- k. Increased problems of industrial or non-industrial waste disposal (subject to review of such problems by the Board of Health)
- l. Circumstances or conditions that are peculiar to site or to the application under consideration, that are not generally applicable to sites or applications in the same general locality, and that would result in imposition of an undue burden on the applicant if an environmental impact statement were required.

509. BOARD OF ADJUSTMENT AS APPROVING AUTHORITY.

Whenever the term "Planning Board" is used in this Article, the same shall be taken to include the term "Board of Adjustment" whenever the Board of Adjustment is acting as the Approving Authority under The Land Development Ordinance.

ARTICLE 6

STORM WATER CONTROL

601 Purpose

It is in the interest of public health, safety, and welfare that all drainage structures in the township be adequately-constructed to proper grade and then maintained in good working order, and that any and all operation in the township changing or affecting the topography, drainage, or levels of land be properly conducted so as to prevent drainage problems and damages to the drainage system of the Township, and to other lands. Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans.

Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

602 Applicability

602.1 This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

É Non-residential major developments; and

É Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

602.2 The quantity reduction provisions of this ordinance shall be applicable to any person, partnership, corporation, or public agency that is not defined as a "major development" and which shall by any means whatsoever increase the quantity or velocity of stormwater runoff emanating from the developed land area, hereinafter referred to as "minor development". Excluding the development of any area from the effective date hereof by the construction or installation of any impervious surface less than 2,000 s.f.

602.3 This ordinance shall also be applicable to all major developments undertaken by the Township of Green Brook.

603 Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

604 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

Compaction- means the increase in soil bulk density.

Core- means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

County review agency- means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

Department - means the New Jersey Department of Environmental Protection.

Designated Center - means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

Design engineer - means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

Development - means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A 4:1C-1 et seq.

Drainage area - means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

Environmentally critical areas - means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

Erosion - means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

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

Infiltration - is the process by which water seeps into the soil from precipitation.

Major development - means any "development" that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

Minor development - means any development, not meeting the requirements of a major development, that

involves the construction or installation of impervious surfaces equal to or greater than 2,000 s.f. hereinafter the effective date of this ordinance.

Municipality - means any city, borough, town, township, or village.

Nutrient - means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

Person - means any individual, corporation, company, partnership, firm, association, Township of Green Brook, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law N.J.S.A. 40:55D-1 et seq.

Pollutant - means any dredged soil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

Recharge - means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

Sediment - means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Site - means the lot or lots upon which a major development is to occur or has occurred.

Soil - means all unconsolidated mineral and organic material of any origin.

State Development and Redevelopment Plan Metropolitan Planning Area (PAI) - means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

State Plan Policy Map - is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

Stormwater - means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage

facilities, or conveyed by snow removal equipment.

Stormwater runoff - means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

Stormwater management basin - means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

Storm water management measure - means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

Urban Redevelopment Area - means previously developed portions of areas that are:

- (0) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores, or Nodes
- (0) Designated as an Urban Enterprise Zone; or
- (0) Designated as an Urban Coordinating Council Empowerment Neighborhood.

Waters of the State - means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

Wetlands or wetlands - means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

605 General Standards

605.A. Design and Performance Standards for Stormwater Management Measures

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Section 606. To the maximum extent practicable, these standards shall be met by

incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this ordinance applying to new major development are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.
3. The standards in this ordinance for projects that do not meet the requirements of a new major development but are considered minor developments are intended to minimize the impact of stormwater runoff and water quantity.

606: Stormwater Management Requirements for Major Development

606.A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 613.

606.B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).

606.C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 606.F and 606.G:

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion; or
2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; or
3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

606.D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 606.F and 606.G may be obtained for the

enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means; and
2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 606.F and 606.G to the maximum extent practicable; and
3. The applicant demonstrates that, in order to meet the requirements of Sections 606.F and 606.G, existing structures currently in use, such as homes and buildings, would need to be condemned; and
4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under 606.D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 606.F and 606.G that were not achievable on-site.

606.E. Nonstructural Stormwater Management Strategies

1. To the maximum extent practicable, the standards in Sections 606.F and 606.G shall be met by incorporating nonstructural stormwater management strategies set forth at Section 606.E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
2. Nonstructural stormwater management strategies incorporated into site design shall:
 - a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - c. Maximize the protection of natural drainage features and vegetation;

- d. Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
- e. Minimize land disturbance including clearing and grading;
- f. Minimize soil compaction;
- g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
- h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
- i. Provide other source controls to prevent, or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:

- (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 4.E.3. below;
- (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
- (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
- (3) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

3. Site design features identified under Section 606.E.2.i.(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 606.E.3.c below.

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

- (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
- (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

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

b. Whenever design engineers use a curb-opening, inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard does not apply:

- (1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- (2) Where flows from the water quality design storm as specified in Section 606.G.1 are conveyed through an device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - (a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
 - (b) A bar screen having a bar spacing of 0.5 inches.
- (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1ö) spacing between the bars, to the elevation of the water quality design storm as specified in Section 606.G.1; or

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

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 606.F and 606.G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 610, or found on the Department's website at www.njstormwater.org.

606.F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b. The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 608, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual preconstruction groundwater recharge volume for the site; or

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

- (2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.
- (3) The following types of stormwater shall not be recharged:
- (a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
 - (b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- (4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 608, complete one of the following:

- (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
- (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
- (3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or
- (4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

2. Any application for a new agricultural development that meets the definition of major development at Section 604 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

606.G. Stormwater Runoff Quality Standards

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution			
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1860	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 610, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 610. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P0 Box 418 Trenton, New Jersey, 08625-0418.

3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BW

Table 2: TSS Removal Rates for BMPs	
Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater	90
Wetland Extended Detention	40-60
Basin Infiltration Structure	80
Manufactured Treatment Device	See Section 6.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 606.F and 606.G.
6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 610.
7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - (1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
 - (2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The

encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area 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.

c. If stormwater discharged outside of and flowing through the special water resource protection area cannot 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., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

- (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
- (2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
- (3) Temperature shall be addressed to ensure no impact on the receiving waterway;
- (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
- (5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
- (6) All encroachments proposed under this section shall be subject to review and approval by the Department.

d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 606.G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in G.8.a.(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

e. Paragraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

607 Stormwater Management for Minor Developments:

607.A. Application for Approval

1. In cases where the development of land involves the construction of a building or other facility requiring a construction permit or application to the Planning or Zoning Board of Adjustment, the Zoning Officer shall determine whether the development involves the construction or installation of an impervious surface equal to or greater than 2,000 s.f.. If the extent of work to be undertaken is such that requires review and approval with regard to the provisions of this Article, the applicant shall proceed to submit an application and other data as outlined in 607.B to the Township Engineer. The Township Engineer shall approve, tentatively disapprove, or disapprove the application within 35 calendar days after submitted to him.

2. In cases where the development does not require the construction of a building or other facility requiring a construction permit, the applicant shall submit an application and other data as outlined in Section 607.B herein, directly to the Township Engineer for review. The Township Engineer shall approve, tentatively disapprove, or disapprove the application within 35 calendar days after submitted to him. If disapproved, the applicant may seek relief from the Planning Board under

Section 904 (b).

607.B. Data Required

Any application for minor developments must be accompanied by the following data with the payment of the appropriate fees:

- a. Plot plan showing dimensions of the property, proposed buildings dimensioned from each side to the shortest lot line, driveways, patios, sidewalks, etc. The plan must include existing and proposed elevations and contour lines over the entire area of the proposed property, together with watercourses and an indication of the final disposal of the surface waters. All elevation shall be related to two (2) permanent bench marks identified on the plan. Contours shall be shown at not more than two-foot intervals for areas with less than a ten-percent slope, five-foot intervals for areas with ten to twenty percent slopes. Any existing feature to be removed or relocated shall be indicated. Flood Hazard area limits and wetlands shall be shown.
- b. Calculations for estimating pre and post development runoff prepared by a Professional Engineer based on the methodologies outlined in Section 608, with a design that satisfies the requirements of Section 606.F(c).

607.C. Design Standards

The intent of this ordinance is to regulate and control stormwater runoff as it is increased as a result of development as outlined in Section 606.F(c). All facilities shall be designed based on the methods of calculating runoff as described in Section 608 of this ordinance and are subject to the approval by the Township Engineer. All facilities shall be designed based on the requirements for Structural Stormwater Management Measures. described in Section 609.

608 Calculation of Stormwater Runoff and Groundwater Recharge

608.A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:
 - a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the, NRCS National Engineering Handbook Section 4 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds; or

b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Section 5.A.1.a and the Rational and Modified Rational Methods at Section 5.A.1.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, which may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

608.B. Groundwater recharge may be calculated in accordance with the following:

0. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best

Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

609 Standards for Structural Stormwater Management Measures

609.A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 611 .D.
3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.
4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 611.

609.B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 606 of this ordinance.

609.C. Manufactured treatment devices may be used to meet the requirements of Section 606 of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

610 Sources for Technical Guidance

610.A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

610.B. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;
2. The Rutgers Cooperative Extension Service, 732-932-9306; and
3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

611 Safety Standards for Stormwater Management Basins

611.A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

611.B. Requirements for Trash Racks, Overflow Grates and Escape Provisions

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
 - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.
2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.
3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 611.C a free-standing outlet structure may be exempted from this requirement.

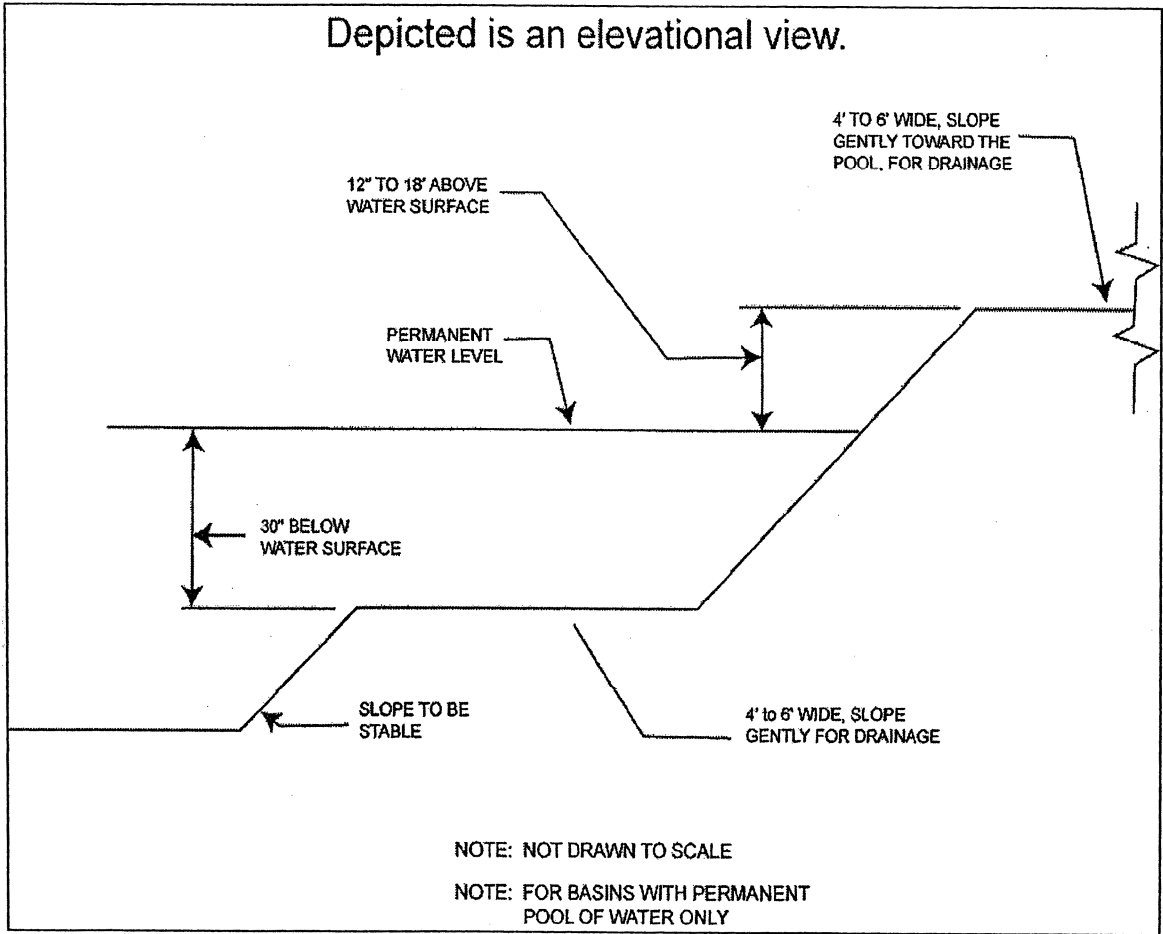
b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 611.D for an illustration of safety ledges in a stormwater management basin.

c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

611.C. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

611.D. Illustration of Safety Ledges in a New Stormwater Management Basin



612 Requirements for a Site Development Stormwater Plan

612.A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a major development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 612C below as part of the submission of the applicants application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit 14 copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 612.C of this ordinance.

612.B. Site Development Stormwater Plan Approval

The applicants Site Development project shall be reviewed as a part of the development application by the municipal board or official from whom municipal approval is sought. That municipal board or

official shall consult the engineer retained by the Approving Authority to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

612.C. Checklist Requirements

The following information shall be required:

1. Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s)

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Sections 605 through 609 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 606 of this ordinance.
- b. When the proposed stormwater management control measure (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 613.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 612.C.1

through 612.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

613 Maintenance and Repair

613.A. Applicability

1. Projects subject to review as in Section 602.1 of this ordinance shall comply with the requirements of Sections 613.13 and 613.C.

613.B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility.
3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
4. If the person responsible for maintenance identified under Section 613.B.2 above is not a public agency, the maintenance plan and any future revisions based on Section 613.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.

6. The person responsible for maintenance identified under Section 613.13.2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
7. The person responsible for maintenance identified under Section 613.B.2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
8. The person responsible for maintenance identified under Section 613.B.2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 613;B.6 and 613.13.7 above.
9. The requirements of Sections 613.13.3 and 613.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

613.C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

614 Penalties

Any person who is found to be in violation of this ordinance shall be subject to the penalty prescribed in Article 12 of the Land Development Ordinance.

615 Effective Date

This ordinance shall take effect immediately upon the approval by the county review agency, or sixty (60)

days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.

616 Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

ARTICLE 7

DESIGN AND PERFORMANCE STANDARDS

701. GENERAL

701.1 Any development shall demonstrate conformance to design standards that will encourage sound development patterns within the Township. Where either an Official Map or Master Plan has been adopted, the development shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, public parks and playgrounds, scenic sites, historic sites and flood control basins shown on the officially adopted Master Plan or Official Map shall be considered in approval of development plans. In accordance with good design practices, extreme deviations from rectangular lot shapes and straight lot lines shall not be allowed unless made necessary by special topographical conditions or other special conditions and acceptable to the Approving Authority. All improvements shall be installed and connected with existing facilities or installed in required locations to enable future connections with approved systems or contemplated systems and shall be adequate to handle all present and probable future development.

701.2 Character of the Land.

Land which the Approving Authority finds to be in areas identified in the Natural Resources Inventory as having severe or moderate soil characteristics particularly as the land relates to flooding, improper drainage, steep slopes, rock formations, soil conditions, adverse topography, utility easements, or other features which can reasonably be expected to be harmful to the health, safety and general welfare of the present or future inhabitants of the development, and/or its surrounding areas, shall not be subdivided and site plans shall not be approved unless adequate and acceptable methods are formulated by the developer to solve the problems by methods meeting this ordinance and all other regulations.

701.3 Plats Straddling Municipal Boundaries.

Whenever a development abuts or crosses a municipal boundary, access to those lots within this Township shall be from within this Township as a general rule. Whenever access to a development is required across land in an adjoining community as the exception, the Approving Authority may require documentation that such access is legally established, and that the access road is adequately improved.

701.4 Development Name.

The proposed name of the development shall not duplicate, or too closely approximate, the name of any

other development in this Township. The Approving Authority shall have final authority to designate the name of the development which shall be determined at the sketch plat stage.

701.5 Findings with Respect to Individual Lot.

In the official resolution approving the design layout of any development application, the Approving Authority shall make a specific finding that all of the proposed lots shown on the development plat are suitable and useable for the intended purpose, and that each proposed lot contains sufficient area to accommodate the proposed building or buildings, proposed accessory structures, proposed parking, the proposed potable water supply, the proposed sewage disposal system, as well as to provide adequate space for all front, side and rear yard setbacks required by the Zoning Ordinance. The Approving Authority shall also make a specific finding that the development application being approved does not require variance, conditional use approvals, plan-design waivers or relief from any other ordinance requirement, nor does it violate the terms or conditions imposed upon the subject property as a part of any earlier development application approval. If variance or other relief is required, the Approving Authority shall specify the type of relief required.

701.6 Lots Not Suitable

If the Approving Authority finds that one or more of the proposed lots do not comply with the foregoing standards, then the design layout of the development shall not be approved, and the applicant shall be directed to submit a revised design layout. The official findings of the Approving Authority shall state which of the proposed lots was found to be unsuitable, and shall state the reasons for the finding of unsuitability, making reference to specific provisions, terms or conditions imposed by earlier development approval resolutions, or the Land Development Ordinance, or the Zoning Ordinance, or any other local ordinances or of any law of the State of New Jersey which forms part of the basis for the denial of approval.

702. REQUIRED IMPROVEMENTS

Prior to final approval, the developer shall have installed or shall have installed or shall have furnished performance guarantees for the completion of all improvements in accordance with the Township Zoning Ordinance and NJAC 5:21 Residential Site Improvement Standards (RSIS)

702.1 Roads.

(A) Excavation and Embankment.

(1) Description.

Excavation and embankment shall consist of grading the full width of the right-of-way in conformity with the specifications, accurately to approved line and grade. Grading shall include clearing and grubbing, removal of obstructions, excavating, forming embankments, shaping and sloping, compacting, and all other. Work that may be necessary to bring the roadway and its side slopes to the required grade, alignment and cross sections. Grading of all intersections (roadways, driveways and approaches) and adjacent property to the limit of the slope lines is included in this section.

(2) Clearing and Grubbing.

The developer shall remove and dispose of all trees, stumps, roots, brush, weeds, etc., and till the holes with suitable material and thoroughly compact the same. Disposal by burning shall be permitted only with the express permission of the Fire Chief. Culverts shall be cleaned and cleared of obstructions. All branches of trees which hang within sixteen (16') feet of the surface of the roadway shall be removed.

(3) Roadway Excavation.

Roadway excavation shall include the removal and satisfactory disposal of all materials taken from within the limits of the work that are necessary for the construction and preparation of the roadbed, embankment, subgrade, shoulders, slopes, side ditches, drainage structures, trenches, waterways, intersections, approaches and private entrances, as indicated or directed. All suitable materials removed from the excavations shall be used as far as practicable in the formation of the embankment, subgrade and shoulders, and at such other places as directed. Ditches and waterways shall be excavated to the depth and width shown on plans, or as may be indicated or directed by the Township Engineer. During the construction of the roadway the roadbed shall be maintained in such condition that it will be well drained at all times.

(4) Embankments.

Embankments shall be formed of suitable material placed in successive layers of not more than twelve (12) inches in depth for the full width of the cross section commencing on a subgrade approved by the Township Engineer, and shall be compacted by approved mechanical equipment and by distributing the necessary hauling uniformly over each succeeding layer. Stumps, trees,

rubbish and/or unsuitable material or substance shall not be placed in the embankment, nor shall the embankment be commenced on soft or organic-laden soil.

(5) Borrow Excavation.

When embankment from offsite is required, sufficient suitable material shall be obtained by the developer from borrow pits located beyond the limits of the work. This material, known as Borrow, shall be of a quality satisfactory for the purpose for which it is required, and it shall be approved by the Township Engineer. Borrow will include the furnishing, removal, placing and satisfactory compaction of the additional material necessary to complete the embankments, subgrade and shoulders.

(6) Formation of Subgrade.

The bottom of the excavation of the box to receive the pavement surface shall be true to line, grade and cross-section established or indicated on approved drawings. After all drains and drainage structures have been installed and the subgrade has been shaped and compacted, it shall be brought to a firm unyielding surface by rolling the entire area with an approved three wheel power roller weighing not less than ten tons. Any areas which are soft and yielding or which will not compact readily when rolled or tamped shall be removed. All loose rock or boulders found in the earth excavation shall be removed or broken off to a depth of not less than six (6") inches below the surface of the subgrade. All holes or depressions made by the removal of material shall be filled with suitable material and the whole surface compacted uniformly.

If the surface of a present roadway conforms approximately to the surface of the finished subgrade, it shall be scarified or rooted to a uniform depth for the full width of the paved surface sufficient to eliminate all depressions and irregularities and to permit uniform reshaping. When necessary, additional approved material shall be added to bring the subgrade to the desired elevation and cross section and the whole shall be rolled as previously specified, until thoroughly compacted. Sod roots and other objectional material shall not be used in forming the subgrade.

(7) Protection of Subgrade.

All ditches and drains shall be completed before placing any pavement construction material. The developer shall protect the subgrade and keep it drained at all times. Neither foundation nor surfacing material shall be deposited on the subgrade until the subgrade has been checked and

approved by the Township Engineer.

(8) Slopes.

Slopes in embankment and excavation shall be formed with a slope not steeper than one (1) unit vertically to two (2) units horizontally, unless otherwise directed by the Township Engineer.

(9) Miscellaneous Structures.

The developer shall install underdrains, storm water drains, manholes, inlets, catch basins, gutters, curb and headers, rubble walls, headwalls and culverts, monuments, guard fence, pipe railing, street signs and sidewalks or any other miscellaneous structures required on the approved drawings. The work shall be done in accordance with the current specifications of the New Jersey State Department of Transportation (Highways)

Storm water drains shall be installed to conduct the drainage along or across the right-of-way. Inlets, basins, manholes, culverts, and headwalls shall be installed in accordance with the approved plans.

Curbing shall be installed on all streets and intersections.

Metal street signs on metal posts set in concrete foundations shall be installed at street intersections as directed by the Township Engineer. There shall be at least one (1) street sign furnished at T intersections and one (1) additional street sign for each additional intersecting street. See Section 9:4-5 of the Revised Ordinances of the Township of Green Brook (1973).

(B) Street Widths.

Pursuant to the Master Plan and Residential Site Improvement Standards, the required widths for design types shall be as follows:

<u>Street Type</u>	<u>Cartway (ft)</u>	<u>R.O.W. (ft)</u>	<u>Curb</u>	<u>Parking</u>
Neighborhood	30ø	50ø	Yes	Both Sides
Residential Access	28ø	50ø	No*	One Side
Minor Collector	36ø	60ø	Yes	Both Sides

Low and Medium Intensity

* curbs or curbs and gutters shall be used for drainage purposes, safety, and delineation and protection of pavement edge.

Where curbs and gutters are used and where the street is part of a designated bike route as indicated in the bicycle circulation part of the municipal master plan, the municipality may require that the cartway width be increased by one (1) foot on each side of the street that uses a curb or gutter.

(C) Pavement

Chapter 4 "Streets and Parking" of the Residential Site Improvement Standards shall govern. For improvements not regulated by RSIS, the following requirements shall be followed:

(1) Subbase Course

The subbase course shall be four (4") of Soil Aggregate Designation I-5, as approved by the Township Engineer installed in accordance with the requirements of the NJDOT Standard Specifications for Road and Bridge Construction, current edition.

(2) Base Course.

The base course shall be four (4") of Hot Mix Asphalt Mix I-2, installed in accordance with the requirements of the NJDOT Standard Specifications for Road and Bridge Construction, current edition.

(3) Surface Course

The surface course shall be two (2") of Hot Mix Asphalt Mix I-5, installed in accordance with requirements of the NJDOT Standard Specifications for Road and Bridge Construction, current edition

At any time during construction, and in any event prior to acceptance of the completed roadway, core samplings, in areas selected by the Township Engineer, shall be submitted by the developer to show compliance with this Article and with the plans as finally approved.

A minimum of five cores shall be taken for each 10,000 s.y. of bituminous concrete surface or stabilized base course. In all cases, a minimum of five pavement samples shall be taken for each bituminous concrete course. Pavement construction required by site plan approval will normally be exempted from required pavement sampling.

702.2 Curbing.

All parking areas, driveways, and streets shall have curbing installed, being concrete eight inches (8ö) thick and eighteen inches (18ö) deep and shall be installed according to the requirements of the NJDOT Standard Specifications for Road and Bridge Construction, current edition. Belgium block curbing may be substituted with the approval of the Township Engineer. The height of the depressed curb at driveways shall be one and one half inches (1 ½ö) above the gutter. Where required for stormwater management, curb cuts or flush curbs with curb stops may be permitted in conjunction with vegetated swales to allow the disconnection of impervious surfaces.

702.3 Sidewalks.

Sidewalks shall be installed on streets as required by the Residential Site Improvements Standards (RSIS). For developments not regulated by RSIS, sidewalks shall be installed along all street frontages. Sidewalks shall be concrete or, subject to the approval of the Approving Authority, concrete pavers or permeable paving materials. All sidewalks shall be a minimum of four feet (4ø) wide and four inches (4ö) thick, placed one foot (1ø) from the property line. At driveways, the sidewalks shall be six inches (6ö) thick and reinforced with steel wire mesh. Sidewalks shall be installed according to the requirements of the NJDOT Standard Specifications for Road and Bridge Construction, current edition. Sidewalks shall be designed to discharge stormwater to lawns, where feasible, to disconnect the impervious surfaces.

702.4 Storm sewers; drainage.

Storm drainage shall be installed in accordance with the requirements of the Residential Site Improvement Standards (RSIS). For developments not regulated by RSIS, storm drainage shall be installed as per Article 6 of the Land Development Ordinance and Chapter 12-4 of the General Ordinances of the Township of Green Brook.

702.5 Sanitary Sewers.

Provision shall be made for sanitary sewage in an approved sanitary sewer system and treatment facility, and shall be adequate for all present and probable future development. Sanitary sewers shall be installed and connected in accordance with all sanitary sewer ordinances of this Township and its Board of Health, now or hereafter adopted and with the rules and regulations where applicable, of (a) the Middlesex County Utilities Authority; (b) the Somerset-Raritan Valley Sewerage Authority; (c) the Joint Meeting of the City of Plainfield, Borough of North Plainfield and Borough of Dunellen *[Note: this is about to be*

superseded by the Plainfield Area Regional Sewerage Authority – 1995]; (d) contract with the Warren Township Sewerage Authority; (e) contract with the Borough of Watchung; or (f) contract with the Borough of North Plainfield. When sanitary sewers are not available, sewage disposal shall be in accordance with requirements of the Green Brook Board of Health and Middlebrook Regional Health Commission.

702.6 Utilities.

Utilities shall be installed in accordance with the rules and regulations of the Public Utility Commission and the utility corporations involved. All utilities within a subdivision containing three or more lots shall be installed underground in accordance with sound installation practices and the requirements of the Public Utility Commission regulating underground installations; provided, however, that this requirement may be waived by the Approving Authority in particular circumstances and for special reasons in subdivisions of less than 20 lots.

702.7 Street Lighting.

Appropriate street lighting shall be installed where designated by the Township Committee.

702.8 Monuments.

Monuments of the size and shape required by Chapter 141 of the Laws of New Jersey of 1960, as amended and supplemented, shall be placed in accordance with said statute.

702.9 Topsoil Protection.

No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least 4 inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting. See also Article 4 of this Ordinance.

702.10 Shade Trees.

Shade trees shall be planted on each side of every street at intervals of approximately 50 feet and shall be size 1 3/4" to 2" and of the following types: European or silver Linden; London or Oriental Plane; Norway or sugar maple; Red, Pin, Black, Chestnut or Scarlet Oak.

702.11 Water.

The proposed system of water supply shall be shown and shall be one of two types: either by a water company operating under the Public Utility Commission, or, only in the event such water company is not

reasonably available, by individual yells installed in accordance with Chapter 199 of the Laws of New Jersey, 1954, as amended and supplemented, and applicable code of the Green Brook Board of Health.

702.12 Tree Removal and Replacement.

In conjunction with the Tree Removal Plan as defined in Subsection 308.3-13 and 309.5-5 of this Ordinance, tree removal and replacement shall conform to the following criteria:

A) Tree Removal (Residential Uses)

- 1) Tree removal for residential uses shall be planned to save as many trees as reasonably possible. Tree removal is limited to 50% of the lot area, or ½ acre whichever is less. The following are permitted to be removed:
 - a) All trees within the proposed building footprint and within 30ø around the building footprint.
 - b) All trees within the rear yard areas, provided 50% of the rear yard depth remains undisturbed.
 - c) All trees within 10ø of each side of proposed driveway.
 - d) All trees within the limits of the sanitary sewerage disposal field.
 - e) All trees which pose a threat or danger to life or property.
- 2) The following removal of trees are prohibited in residential areas:
 - a) All trees on slopes greater than 20%
 - b) All trees in areas in which the removal will remove a barrier and make visible to adjoining properties or the public street: utility substations, transmission towers, warehouses, junkyards, landfill operations, and similar structures.
 - c) Specimen trees.
- 3) Tree removal in non-residential districts shall consider the use of open areas, if possible for building sites. The following are permitted to be removed:
 - a) All trees within the proposed building footprint and within 30ø around the building footprint.
 - b) All trees within the proposed parking and driveway areas.

- c) All trees within 10ø of all proposed parking and driveway areas.
 - d) Trees which pose a threat to danger to life or property.
- 4) The following removal of trees are prohibited in non-residential areas:
- a) All trees on slopes greater than 20%
 - b) All trees in areas in which the removal will remove a barrier and make visible to adjoining properties or the public street: utility substations, transmission towers, warehouses, junkyards, landfill operations, and similar structures.
 - c) Specimen trees

B) Tree Preservation

- 1) Any tree to be preserved which is located in an area of land disturbance shall be protected from damage. If fill is to be placed around the tree, the tree must be protected by an air well six (6) feet in diameter as needed around the trunk to prevent the intrusion of soil. Perforated pipes must radiate like spokes from the well to provide air to the roots. The top of the well must extend six (6) inches above the grade level. If the tree is of a species that is known to be sensitive to root disturbance or changes in drainage, it may be removed and must be replaced with another tree acceptable to the Township.
- 2) Any tree to be preserved shall be protected from construction equipment by installing temporary orange safety fence around the drip line of the tree.

C) Tree Replacement (Residential and Non-Residential Uses)

- 1) For each 1600 square feet of non-wooded area calculated in subsection 308.3-13(a) and 309.5-5(a), one tree shall be planted on the subject property according to the following requirements:
 - a) Tree replacement shall utilize 80% of the species identified on the Environmental Commission Tree List for Commercial/Residential/South/North of Route 22 and Wildlife Areas attached as an Appendix to this Ordinance.
 - b) No fewer than tree (3) species of tree shall be included in any one acre of land. Identical species should not be contiguous.

- c) No more than 50% of each hardwood species shall be less than 3 ½ inches caliper and no hardwood tree shall be less than 2 ½ inches in caliper. No evergreen tree shall be less than 6ø in height in pruned nursery stock, or eight feet unpruned stock.
- d) No tree shall be planted closer than 10ø to a lot line, structure, or contiguous tree. Equal distances and straight lines shall be avoided.
- e) Tree specimens shall be of nursery quality stock with straight trunks, balled, burlapped, well branched and with healthy roots. Backfill upon plantings will consist of 50% humus for each tree.
- f) All trees are to be thoroughly watered at the time of planting and at adequate frequent intervals thereafter.
- g) Each hardwood tree will be staked approximately five (5) feet from the ground with two stakes. Trees will be wired to both stakes with the wire passing through a rubber hose section where attached to the tree.
- h) On off-street parking areas, other than single family residences, trees must be planted in the parking area within curbed islands situated at the ends of parking rows, or in a planned manner acceptable to the Board.

(2) In lieu of planting replacement trees, the applicant may be permitted to make a monetary contribution to a tree bank fund established by the Township Committee. The amount of the contribution shall be \$300.00 in 2005 for each replacement tree required in Section 702.12.C(1). The amount of the contribution shall be adjusted annually by resolution of the Township Committee. Fifteen (15%) percent of the funds collected pursuant to the terms of the Ordinance shall be maintained by the Municipality in a separate sub-account for the maintenance and care of all existing trees on municipally owned lands, Eighty-five (85%) percent of the funds so collected will be placed in a separate Municipal sub-account and used for the replacement of trees that may be removed as the result of land development. All of the funds shall be administered by the Director of Public Works for use as the Director shall see fit. An annual report shall be submitted to the Township Committee and shall be used in part to make a determination regarding the amount of contribution for each succeeding calendar year.

D) Applicability. This Ordinance shall be applicable to all existing property in the Township of Green Brook, whether developed or undeveloped, where either the owner or someone at the owner's direction or with the owner's consent shall remove one or more specimen trees as hereinafter defined from the said premises. This Ordinance shall not apply to removal of specimen trees pursuant to any application before either the Green Brook Planning Board or the Green Brook Board of Adjustment pending on the effective date hereof provided the application has been deemed complete within the meaning of N.J.S.A. 40:55D-10.3 and all filing fees and escrows relative to the same have been paid. Also excluded from the provisions of the Tree Removal Sections is any unimproved property for which development has been approved by action of either the Planning Board or Board of Adjustment which approval postdates the enactment of the Ordinance known and designated as "The Zoning Ordinance of Green Brook (1987)"

704. OFFSITE AND OFF-TRACT IMPROVEMENTS.

Before final approval of a subdivision or site plan, the Approving Authority may require, in accordance with the standards of this ordinance and an adopted Circulation Plan and Facilities and Open Space Plan, the installation or the furnishing of a performance guarantee in lieu thereof, of any or all of the following offsite and off-tract improvements which are necessary or appropriate for the protection of the public interest by reason of the development's effect on land other than the developer's property: street improvements, water system, sewerage, drainage facilities and easements therefore.

704.1 Essential offsite improvements.

(A) In cases in which a development has no direct access to a public street, improved and meeting the standards of 40:55D-34 and 40:55D-35, or in which it has no direct access to a public sanitary sewer and does not qualify for sewage disposal by individual sewage disposal systems, the Approving Authority may nevertheless grant final plat approval, if otherwise meeting the requirements of this Ordinance, if the developer shall acquire, improve and dedicate to the Township such street or sanitary sewer connection between the development and an existing improved public street or sanitary sewer, as the case may be. as shall be approved by the Approving Authority and the Township Committee. Such offsite and off-tract connections shall be subject to the provisions of this Article as if they were required improvements for the development. The dedication thereof shall be subject to approval of the Township Attorney as to form. The provisions of this section shall be applicable only upon the request and with the consent of the developer.

(B) In cases in which surface or other drainage waters are to be diverted from the proposed development into other drainage facilities, ditches or stormwater systems or onto other lands or onto any streets or roadways, and it appears that such offsite and off-tract facilities are not adequate to accommodate the additional waters from the site of the developer or the volume in which the waters from the site of the developer will be discharged, or that the changes in grade or its diversion of surface waters there from will be likely to cause damages to other properties or facilities, so that provision is required to extend or enlarge or create publicly controlled drainage facilities offsite or off-tract, and the need for such additional, enlarged and/or new offsite and off-tract facilities is occasioned by the needs of the development and the proposed development, and that the costs of such additional, enlarged or new facilities will not be an unreasonable burden upon the developer if borne solely by the developer in the light of the relationship of such costs to the entire project of the developer, the Approving Authority may nevertheless grant final approval if the developer shall acquire, improve and dedicate to the Township such enlarged, additional or new drainage facilities, as the case may be, as shall be approved by the Approving Authority and Township Committee. Such offsite and off tract drainage improvements shall be subject to the provisions of this Article, as if they were required improvements within the development. The dedication thereof shall be subject to the approval of the Township Attorney as to form. In lieu of the developers performing such offsite and off-tract drainage work, the developer and the Township Committee may enter into an agreement for such work to be performed by the Township or its contractors at the costs of the developer. The provisions of this section shall be applicable only upon the request and with the consent of the developer.

(C) Where the Approving Authority shall determine that offsite and off-tract improvements would be essential to the development, as set forth in Subsections (A) and/or (B) above, so that the development cannot proceed without such offsite and off-tract improvements being made as part of the development, and the developer does not request and consent as above set forth, the application shall be denied without prejudice to a future application at such time as the conditions which would make offsite and off-tract improvements essential no longer apply.

704.2 Advisable Offsite and off-tract improvements.

Where the Approving Authority finds that off site and off-tract improvements would be advisable and would promote the objectives of this Ordinance and that the same can be most appropriately

accomplished in connection with the development, but that said offsite and off-tract improvements are not essential to the development as set forth in either 704.1 (A) or (B), above, and particularly where the offsite and off-tract improvements would be required to be made as a local improvement by the Township, with the costs thereof to be assessed against all properties (including the property of the developer) benefited thereby, then the provisions of this Section 704.2 shall apply, as follows:

(A) At such time during the processing of the development application as the desirability of such offsite and off-tract improvements shall become apparent to the Approving Authority, but in no event beyond the time for action on the preliminary plat, the Approving Authority shall refer the matter of offsite and off-tract improvements to the Township Committee, with recommendations to the Township Committee with regard thereto.

(B) If the Township, Committee agrees that the matter should be considered, then the Township Engineer or other authority retained by the Township Committee for such purpose shall determine the nature of the offsite and off-tract improvements required or likely to be required in the area, including:

- (1) The needs created by the developer's proposed on-site construction or work.
- (2) The then existing needs in the area, notwithstanding any work of developer.
- (3) The reasonably anticipated improvements or foreseeable work on other lands in the area.

(C) Said Engineer or other authority shall determine the total estimated costs of such estimated work, including all costs which would be included in any local improvement ordinance which said Township would be authorized to adopt for said project, and including construction costs, engineering costs, costs of any easement or right-of-way acquisition, legal and advertising costs, contingencies and bonding and assessment costs, and costs of temporary financing.

(D) Said Engineer or other authority shall further determine, from the nature of the area and the nature of the work and estimated costs, the anticipated amount that the lands of the developer would be expected to be assessed under local improvement procedures pursuant to N.J.S.A. 40:56-21 et seq., as the same may be amended and supplemented, agreement between the developer and the Township concerning the uses of same, which shall include the following stipulations: that said funds shall be used by the Township solely for the construction of such offsite and off-tract improvements as specified in said agreement and for the other expenses incidental thereto, as more particularly set

forth in Subsection (C) above, and the acquisition of any easements or rights-of-way in connection therewith; that such deposit may be appropriated by the Township, with other funds of the Township, toward the accomplishment of such purposes, and is that connection maybe commingled with such other funds so appropriated and may be expended by the Township in connection with such purposes; that if such deposit is not used by the Township within a specified time agreed upon by the developer, said funds shall be returned to the developer; that upon completion of the work by the Township or its contractors, the properties specially benefited by such improvement shall be assessed as provided by law, including the property of developer; that such deposit of developer shall be credited against the assessment made upon developers property (whether or not developer is then the owner thereof), and that if such deposit shall have been less than the amount ultimately assessed and confirmed against such property, then the then owner or owners of said property shall pay the difference between the deposit and such assessment, or if the deposit shall exceed the amount so assessed and confirmed, the excess shall be refunded to the developer, without interest.

(E) In any case where although the offsite and off-tract improvements may not be found to be the type of essential offsite and off-tract improvements as defined in Subsection 704.1 (A) or (B) hereof, said offsite and off-tract improvements are found by the Approving Authority to be advisable and important to the sound development of the site, and the Township Committee has concurred in said findings and has determined to proceed in accordance with Subsection 704.2 (11) hereof, particularly 704.2 (11) (2) (a) and (b) above, but the developer is unwilling to make such deposit as specified there under, then and in that event there shall be no final approval of said development until funds become available for the initial appropriation required to adopt the local improvement ordinance. The determination of priority of Township funds and availability thereof for such appropriation is a legislative function of the Township Committee.

(F) The determination of the availability of Township funds for appropriation to a local improvement ordinance shall be in the sole discretion of the Township Committee. mented from time to time.

(G) The Engineer or other authority shall report to the Township Committee the scope of the recommended project, the estimated total costs, as computed under (C) above, and the estimated share of the developer, as computed under (D) above.

(H) Based upon the report of the Engineer or other authority as aforesaid, and the

recommendation of the Approving Authority, the Township Committee shall determine whether to undertake such offsite and off-tract improvements or portions thereof as a local improvement, the cost of which will be specially assessed against properties specially benefited thereby in proportion to and not in excess of the benefits received pursuant to Chapter 56, Title 40 of the Revised Statutes of New Jersey.

(I) If the determination of the Township Committee shall be that it will not adopt such ordinance for the making of such improvements as a local improvement, the final development layout shall be designed accordingly, and the Approving Authority shall base its further proceedings upon such determination.

(J) If the determination, of the Township Committee shall be to proceed to adopt such local improvement ordinance, it shall proceed in the following manner

(1) If sufficient township funds are available to the initial appropriation required for said ordinance, the Township Committee may proceed to appropriate such funds and adopt such ordinance, and all subsequent proceedings for the making and for the assessment of the costs of the offsite and off-tract improvements shall be in accordance with such ordinance and the aforesaid statutes of New Jersey, and the final development layout shall be compatible with the offsite and off-tract improvements and the Approving Authority shall proceed accordingly.

(2) If sufficient township funds are not available for the initial appropriation required for said ordinance, the Township Committee may determine the anticipated amount that the lands of the developer would be expected to be assessed, accepting the recommendation of the Township Engineer, or other authority under (D), above, or making its own determination as to such estimated amount.

(a) The amount so determined by the Township Committee shall then be deposited by the developer with the Township Treasurer prior to final approval of the development and prior to introduction of such local improvement ordinance.

(b) Such deposit shall be made concurrent with an

(K) The determination of the Township Committee as to whether to proceed toward the adoption of a local improvement ordinance under Subsection 704.2 (I) or 704.2 (J) above shall be made as soon as practicable after referral by the Approving Authority, but in any case the Township

Committee shall make such determination within forty (40) days after the referral and recommendation of the Approving Authority, unless such time shall be extended by the consent of the developer. If no such determination shall be made within such forty (40) day period or within such time as extended, the Approving Authority may proceed as if the Township Committee had determined that it would not adopt such local improvement ordinance.

705. EASEMENTS

705.1 Flood plain and conservation easements shall be indicated on the preliminary and final plats and shown in such a manner that their boundaries can be accurately determined.

705.2 The removal of trees and ground cover shall be prohibited in a conservation easement or flood plain except for the following purposes: the removal of dead or diseased trees; limited thinning of trees and growth to encourage the most desirable growth; and the removal of trees to allow for structures designed to impound water or in areas to be flooded in the creation of ponds or lakes.

705.3 The boundary line of any easement shall be monumented at its intersection with all existing or proposed street lines. Such easement dedication shall be expressed on the plat as follows: “ _____
easement granted to the Township of Green Brook as provided for in the Land Development Ordinance of the Township of Green Brook.”

705.4 Whenever the internal grading of a lot is part of the design of the drainage or storm water system, as by swale, berm, or other topographical feature designed to intercept or direct waters, the same shall be designated as an easement on the map to be filed, or shall be dedicated by recorded instrument, in such a way as to give notice to future owners of said property and to insure continued maintenance of such drainage feature.

705.5 Easement width shall be as recommended by the Township Engineer, and may involve both permanent and temporary areas. As a general rule, no permanent drainage easement shall be less than twenty (20') feet in width.

705.6 Where storm drains, sewers, utilities or any other rights-of-way or easements are to be located on lands within the subdivision other than within the roads to be dedicated to the public, said easements and rights-of-way shall be shown upon the plats, and, in addition thereto, shall be described in a separate instrument, approved by the Township Attorney, to be recorded setting forth the terms thereof.

705.7 Developments that propose the use of non-structural stormwater management techniques, (i.e. swales, disconnection of impervious coverage, vegetative buffers, wooded areas, etc.) shall dedicate conservation easements and access easements to the Township and/or Homeowners Association, subject to the approval of the Approving Authority, for their continued maintenance.

705.8 No structures may be erected within a dedicated easement with the exception of fences, which are permitted in all easements except conservation, right of way, and sight easements, provided that they do not utilize concrete footings. Additional restrictions may be placed upon a dedicated easement by the Approving Authority in the best interest of the Township and to protect public health and safety.

705.9 Developments with areas designated as Steep Slopes shall dedicate conservation easements to the Township, subject to the approval of the Township Committee.

705.10 All areas designated as Riparian Zones shall have a dedicated conservation easement prohibiting the removal of vegetation and disturbance of soil. The easement restrictions shall not prohibit the removal of hazardous trees or routine maintenance by the property owner to insure the protection of the Riparian Zones.

706. BIKEWAYS

Bikeways shall be required in the Approving Authority's discretion, depending on the probable volume of bicycle traffic, the development's location in relation to other populated areas or its location with respect to any over all bike route planning adopted by the Planning Board. Bicycle traffic should be separated from motor vehicle and pedestrian traffic as much as possible. Bikeways should generally not exceed a grade of three percent (3%), except for short distances, and they should be a minimum of five (5') feet wide for one-way travel, and eight (8) feet wide for two-way travel. Bikeways shall have a minimum four inch base of gravel, crushed stone or slag on the subgrade and a two-inch FABC-s surface course. Bikeways designated for one-way travel shall only be located along streets. Minimum width for bikeways built in locations other than along streets is eight (8') feet.

707. LOTS IN ALL SUBDIVISIONS.

707.1 Lots shall conform to the requirements of the Zoning Ordinance, and insofar as is practical side lot lines shall be either at light angles or radial to street lines.

707.2 Each lot must front upon an approved public street, which street right-of-way is at least fifty (50') feet in width. Through lots with frontage on two (2) streets, will be permitted only under the following conditions:

- (a) Where the lot abuts an arterial or collector street;
- (b) Where the length of the lot between both streets is of such length that future division of the lot into two (2) lots is improbable; and
- (c) Where access shall be to one (1) street only, which street shall be the one with the lower traffic function, and the portion of the lot abutting the other street shall be clearly labeled on the plat and in any deed that street access is prohibited.

707.3 Where extra width has either been dedicated or provided for widening of existing streets, lot shall begin at such new street line and all setbacks shall be measured from such line.

708. LIGHTING

- a. Street Lighting shall be of a style and number specified by the Approving Authority and may be required at all roadway intersections, cul-de-sacs, and elsewhere as deemed necessary for safety reasons. The cost of all equipment and installation of said street lights shall be borne by the developer.
- b. All parking areas, driveways, walkways, building entrances, loading areas, storage areas, and similar locations serving multi-family residential and nonresidential uses shall be adequately illuminated for safety and security purposes. In these areas, a minimum average lighting intensity of 0.3 footcandle and a maximum average lighting intensity of 1.0 footcandle shall be provided.
- c. All outdoor lighting shall be arranged and shielded so as to minimize undesirable lighting impacts such as glare, driver distraction, unnecessary illumination and night glow. This shall be achieved through the use of downward illuminating, translucent fixtures and shielding. Flat lenses shall be used on all lighting fixtures; convex and prismatic lenses are prohibited.
- d. All outdoor lighting shall be shown on a site plan in sufficient detail to allow determination of the effects at the property line and on nearby streets, driveways, residences and overhead sky glow. A point-by-point analysis of the lighting intensity at 10' intervals shall be submitted with the application utilizing a lighting loss factor of 0.75 measured at the ground. 1.0

footcandle and 0.5 footcandle isolux trace patterns shall be identified on the plan. Details and specifications for the fixtures intended for use shall be shown on the plan.

- e. Interior building lighting that illuminates any exterior area through building openings and windows shall conform to the requirements of this section and shall be included in the calculation for overall minimum and maximum lighting intensity on the site.
- f. The maximum intensity of lighting at the property line shall be 0.5 footcandle.
- g. No light fixture shall provide a mounting height in excess of twenty five (25 \emptyset) feet.
- h. Automatic shut-off or dimming devices shall be required for all light fixtures after 10:00pm, or one-half hour after the closing of any non-residential use, whichever is later, with the exception of security lighting.
- i. Lights utilizing red, amber, or green lighting shall not be permitted and any colored lighting to be used shall be reviewed by the Chief of Police with regard to possible interference by drivers with recognition of traffic signals.
- j. All lighting plans shall be subject to a post-development lighting inspection by the Township Engineer.
- k. The approving Authority shall reserve the right to modify lighting requirements or impose additional lighting requirements after due consideration of the size and type of the proposed development; the location and intensity of nearby street lighting, and the nature of surrounding land uses.

709. LOCATION SURVEY.

No construction work whatsoever, beyond that of the foundation of a building or structure may be proceeded with until the Construction Official shall have approved the location and construction of such foundation, and no back-filling of, or around, any foundation to be hereafter constructed shall be made until the approval hereby required shall have been obtained.

No approval of the building or structure shall be given by the Construction Official, or any person authorized to act in his behalf, unless and until an accurate survey, showing the actual physical location of such foundation shall have been presented to and filed in the office of the Enforcing Agency, and found by the Construction Official to conform in all respects with the requirements and provisions of this Ordinance, with

the State Uniform Construction Code, and with the requirements and provisions of the Zoning Ordinance, or of any resolution of the Approving Authority applicable thereto.

No location survey required as aforesaid shall be accepted for filing in the office of the Enforcing Agency unless it shall have been made by an authorized licensed professional of the State of New Jersey, and shall bear the official seal. See Section 107.

710. COMPLIANCE WITH OTHER ORDINANCES.

The enumeration of ordinances and statutes herein shall not relieve any developer from complying with all applicable ordinances or statutes which may be in effect at the time of his application for final approval or the granting thereof.

711. DRIVEWAYS AND ASSESSWAYS

- a. The maximum number of driveway openings permitted from a residential lot shall be two (2).
- b. Each driveway shall be constructed with suitable and adequately designed drainage facilities. Wherever possible, driveway drainage shall be directed into natural drainage channels away from the public road. Driveway drainage may be connected with existing drainage facilities within the municipal roadway, if approved by the Township Engineer, provided that said connection does not interfere with existing drainage or cause erosion or deposits of sediment in the municipal drainage system. Driveway drainage systems shall not discharge onto adjoining properties if erosion or sediment damage or flooding would be caused and shall not discharge onto the paved or traveled portion of any public right-of-way. Drainage shall be provided along the entire length of the driveway so that flows do not build up. The use of pervious paving materials to minimize stormwater runoff and to promote groundwater recharge is encouraged.
- c. All driveways shall be constructed in profile, grading, and location to provide for adequate, sight distance measured from a point within the driveway located ten feet (10') behind the road edge at a height of three and a half (3 ½') to a point distant measured four and a quarter feet (4 ¼') above the road center line in accordance with the following chart:

51
52

Road Design Speed (mph)	Required Y (feet)
50	475
40	325
35	250
30	200
25	165

- d. Emergency Services Approval. Emergency services may required, in certain circumstances, additional work related to driveway construction such as, but not limited to, graded areas for turnarounds or parking, guide rails, additional driveway width, etc. The Township Engineer may refer any application to emergency services for recommendations. The requirements imposed thereby will be binding upon the applicant.
- e. The portion of any driveway within the road right-of-way shall be constructed so that the grade at a point 25 feet from road centerline is not less than six (6) inches nor more than six (6) inches above the edge of the existing pavement or traveled way. No part of the grade of any driveway shall exceed at any point, the slope of 10% for gravel driveways, nor exceed the slope of 14% for paved driveways.
- f. Where driveways are curbed and drain over 2,000 square feet of impervious surface, provisions must be made for driveway drainage to be disposed of and not discharged onto the adjoining road.
- g. Curbing may not extend closer than 15 feet from adjoining road centerline without approval from the approving authority.
- h. Single-family residential driveways shall have a minimum width of twelve (12) feet and a maximum driveway width of twenty four (24) feet at the curblines of a public street.
- i. All driveways shall be constructed and maintained at all times in such a manner as to prevent erosion of soil and materials from them and the land behind them. Water and silt shall be prevented from running onto and accumulating upon the traveled way of municipal roads or filling up road gutters, catch basins, inlets or pipe drains with sediment

or debris.

- j. When a site or lot occupies a corner formed by two (2) intersecting roads, no driveway entrance or exit shall be located within fifty (50ø) feet of the point of intersection of the intersecting streets right of ways.
- k. All driveways within the Township right-of-way or within twenty-five (25ø) feet of the center line of the road, whichever is greater, shall be constructed of Hot Mix Asphalt. Concrete pavers within the right-of-way or within twenty-five (25ø) feet of the center line of the road are prohibited. Concrete driveway aprons may be permitted subject to the approval of the Approving Authority.
- l. For new driveways and modifications to existing driveways not associated with a building permit, a driveway permit must be obtained from the Zoning Officer.

712 Refuse and Recycling Storage

- a. Refuse and recycling storage areas shall be provided in all multifamily residential and non-residential uses. Said area shall be suitably dimensioned to accommodate all on-site storage receptacles, and shall be designed to provide separate areas for refuse and recyclable materials.
- b. All refuse and recycling storage areas shall be located atop a reinforced concrete pad at least six inches (6ø) thick, and shall be surrounded by a six foot (6ø) high solid fence of appropriate material.
- c. All refuse storage areas that enclose multiple dumpsters shall be provided with a separate man-door or 3ø wide opening for access.
- d. No refuse and recycling storage areas shall be permitted in a front yard, nor shall any such storage area be permitted to obstruct access to parking stalls, driveways, or building entrances. All refuse and recycling storage areas shall be set back at least fifty (50ø) from all property lines abutting a residential zone.
- e. All refuse and recycling shall be stored within an enclosed container in a manner where it will not be transferred out, directly or indirectly, by natural forces such as precipitation, evaporation, or wind.

- f. All refuse and recycling storage areas shall be landscaped in a manner that sufficiently screens the view of the area from any public right of way and residential property. Landscaping may include berms, fencing, walls, or vegetative buffers as required by the Approving Authority.

713 Natural Features

- a. Natural features such as trees, views, natural terrain, and water bodies shall be preserved whenever possible in any development. During the design, planning, and construction of any development, a conscious effort shall be made to preserve existing vegetation on the site. The Approving Authority may, at its discretion, require special vegetation protection techniques, including snow fencing, to minimize site disturbance during construction.
- b. Where a conscious effort is made to preserve existing natural features, the Approving Authority may reduce the landscaping requirements of this Ordinance to reflect the existing trees and woodland retained as part of the site development.

714 Lot Grading

- a. For the purpose of this Section, the term "development" shall mean the construction, reconstruction, or relocation of any residential structure; the importing, removal, or re-distribution of soil on a property of more than 20 cubic yards, the enlargement of a residential structure resulting in a land disturbance of 500 s.f. or more; the construction or placement of an accessory structure on a residential lot resulting in a land disturbance of 500 s.f. or more; and/or the construction of an in-ground swimming pool on a residential lot.
- b. Individual lot grading plans prepared by a licensed Professional Engineer in the State of New Jersey shall be submitted prior to the issuance of a building permit is required along with the payment of an appropriate fee as required by Article 11 of this Ordinance. This requirement may be waived by the Township Engineer if it can be adequately shown that the lot grading will not alter the natural flow of stormwater.
- c. In the case of an individual lot that was previously approved as part of an overall development plan, nothing contained herein shall prohibit the Township Engineer from requiring a new overall grading plan to be submitted for review and approval. If the

revised grading plan substantially deviates from the prior approval, the applicant will be required to seek the approval of the applicable board.

- d. All grading shall be performed in a manner that will result in no adverse impact to adjacent properties. Whenever possible, the rear yard shall drain overland to the street through side yard swales on either side of the house, located on the common property lines with adjoining lots, and the front yard shall drain directly to the street. Rear yard areas may be collected in a system of interior yard inlets and piping designed in accordance with accepted standards connected to the municipal storm water drainage system. Yard areas may drain overland onto adjoining properties only as permitted by right (i.e. no net increase in rate or volume of runoff; manner of flow; or via an acceptable easement).
- e. No more than three (3) lots in a row shall be allowed to drain through a swale unless protected by a drainage easement.
- f. The minimum slope for swales, lawns and disturbed areas shall be two percent (2%).
- g. Slopes shall not be steeper than three (3) horizontal to one (1) vertical.
- h. No grading shall occur within five (5) feet of a property line unless necessary to direct drainage off or onto the property, and then into acceptable drainage features.
- i. Retaining walls over four (4) feet in height must be designed and reviewed by the Township Engineer. Retaining walls are considered fences and must comply with the setback and height limitation imposed in Article 10 of the Zoning Ordinance.
- j. Final Survey (As-built Plans). A final Certificate of Occupancy shall not be issued until the applicant submits an accurate final survey to the Township Engineer for approval. The final as-built must be prepared by a licensed Land Surveyor in the State of New Jersey. The purpose of the final as-built survey is to ensure that the lot grading is in substantial conformance to the approved plan and that the lot grading complies with this section of the Ordinance.

§ 715 STEEP SLOPE

§ 715.1 PURPOSE

The purpose of this ordinance is to regulate the intensity of use in areas of steeply sloping terrain in order to limit soil loss, erosion, excessive stormwater runoff, the degradation of surface water and to maintain the natural topography and drainage patterns of land.

§ 715.2 INTENT

It is the intent of this ordinance to provide compliance with N.J.A.C.7:15-5.25(g)6, as it exists at the time of the adoption of this ordinance, which requires municipalities to adopt an ordinance protecting steep slopes from new disturbances.

§ 715.3 BACKGROUND

Disturbance of steep slopes results in accelerated erosion processes from stormwater runoff and the subsequent sedimentation of waterbodies with the associated degradation of water quality and loss of aquatic life support. Related effects include soil loss, changes in natural topography and drainage patterns, increased flooding potential, further fragmentation of forest and habitat areas, and compromised aesthetic values. It has become widely recognized that disturbance of steep slopes should be restricted or prevented based on the impact disturbance of steep slopes can have on water quality and quantity, and the environmental integrity of landscapes.

§ 715.4 APPLICABILITY

This ordinance shall be applicable to new development or land disturbance on a steep slope within the Township of Green Brook.

§ 715.5 DEFINITIONS

The following definitions shall apply solely to this section of the ordinance:

“Disturbance” means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of native vegetation.

“Impervious surface” means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

“Native Vegetation” means any vegetation that exists naturally, without intervention by humans, in a specific geographic area. Also, vegetation that would exist naturally in an area if not for human intervention. Plants that are not geographically native to the area, that may have been introduced into the area, either intentionally or accidentally, are not considered to be native.

“Redevelopment” means the construction of structures or improvements on areas which previously contained structures or other improvements.

“Steep Slopes” means any slope equal to or greater than 20 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.

§ 715.6 DESIGNATION OF AREAS

The percent of slope (rise in feet per horizontal distance) shall be established by measurement of distance perpendicular to the contour of the slope. The percent of slope shall be calculated for each two-foot contour interval. For example, any location on the site where there is a one-foot rise over a 10-foot horizontal run constitutes a 10 percent slope; a 1.5 foot rise over a 10-foot horizontal run constitutes a 15 percent slope; a two-foot rise over a 10-foot horizontal run constitutes a 20 percent slope.

§ 715.7 STEEP SLOPE LIMITS

For steep slopes any disturbance shall be prohibited except as provided below:

1. Redevelopment within the limits of existing impervious surfaces; and
2. New disturbance necessary to protect public health, safety or welfare, such as necessary linear development with no feasible alternative; to provide an environmental benefit, such as remediation of a contaminated site; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment. For example, redevelopment, within the footprint of existing impervious cover should be allowed to support efforts to revitalize development that has fallen into disrepair.

The applicant shall demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a 20 percent or greater slope.

§ 715.8 DISTURBANCE LIMITS IN OTHER THAN STEEP SLOPE AREAS

1. The disturbance limits in other than steep slope areas shall be as follows:
 - a. The maximum land disturbance, in terms of area, allowed in slope areas between 15.0% and 19.9% shall be 20%. For example, if the area of a lot with slope areas between 15.0% and 19.9% is 5,000 square feet, 1,000 square feet of the slope areas between 15.0% and 19.9% may be disturbed.
 - b. The maximum disturbance, in terms of area, allowed in slope areas between 0% and 14.9% shall be as limited by the site development standards pertinent to the zone in which the property lies.
 - c. Site design and grading on slopes greater than 15% shall provide the minimum disruption of view corridors and scenic vistas and shall preserve significant natural topographic features, to the greatest extent practicable, including ridgelines, to the extent that any portion of the ridgeline is within the regulated steep slope area. Roads and driveways shall follow the natural topography to the greatest extent practicable to minimize the cutting and grading of critical slope areas.

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2. The following shall be exempt from the provisions of this section:

- a. Projects on existing lots with one (1) single-family dwelling unit, existing or permitted to be built at the time of the effective date of this ordinance, involving a gross area of disturbance of less than 3,000 square feet, provided that the existing dwelling unit is maintained or replaced;
- b. Land development plans which were approved prior to the effective date of this ordinance;
- c. Redevelopment within the limits of existing impervious surfaces; and
- d. New disturbance necessary to protect public health, safety or welfare, such as necessary linear development with no feasible alternative; to provide an environmental benefit, such as remediation of a contaminated site; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment. For example, redevelopment, within the footprint of existing impervious cover should be allowed to support efforts to revitalize development that has fallen into disrepair.

§ 715.9 SPECIAL EXEMPTIONS

Should it be necessary to grant relief from the prohibitions or limitations of this Ordinance to permit a driveway/roadway crossing or utility construction where no other means of access or provision for utilities to a property exists or can be provided, such variance relief may be granted upon satisfaction of the burden of proof required by the Land Use Board, but only to the minimum extent needed to afford access and only if such relief does not involve the disturbance of any slopes over thirty-five (35) percent, and further provided the location and design of the driveway or utility crossing and of any mitigation measures necessitated by the clearance of native vegetation and/or re-grading of are in strict conformance with the standards established by the Township Engineer.

ARTICLE 8

GUARANTEES AND INSPECTIONS

801. PERFORMANCE GUARANTEES

(A) General. The developer shall furnish a performance guarantee in favor of the municipality in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to the public entity, and that have not yet been installed, which cost shall be determined by the municipal engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by "the map filing law," N.J.S.A. 46:23-9.9 et seq.; repealed by section 2 of P.L.2011, c.217) or N.J.S.A. 46:26B-1 through N.J.S.A. 46:26B-8, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements. The municipal engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

(B) Privately-owned perimeter buffer landscaping. The performance guarantee shall include, within an approved phase or section of a development, privately-owned perimeter buffer landscaping, as required by ordinance or imposed as a condition of approval. At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.

(C) Temporary Certificate of Occupancy Bond. In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, building, or phase of development, as a condition of the issuance thereof, the developer shall, furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy bond," in favor of the municipality in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, building or phase of development. Upon posting of a "temporary certificate of occupancy bond," all sums remaining under a performance guarantee, required pursuant to 801 (A) which relate to the development,

unit, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. At no time shall the municipality hold more than one guarantee or bond of any type with respect to the same line item. The temporary certificate of occupancy bond shall be released upon the issuance of a permanent certificate of occupancy with regard to the development, unit, building, or phase as to which the temporary certificate of occupancy relates.

(D) Safety and Stabilization Bond. In addition to a performance guarantee required pursuant to 801 (A), a developer shall furnish to the municipality a separate guarantee, referred to herein as a "safety and stabilization bond," in favor of the municipality, to be available to the municipality solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

- (1) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and
- (2) work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the bond.
- (3) The municipality shall not provide notice of its intent to claim payment under a "safety and stabilization bond" until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The municipality shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.
- (4) The amount of a "safety and stabilization bond" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.
- (5) The amount of a "safety and stabilization bond" for a development with bonded improvements

exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs more than \$100,000 up to \$1,000,000, plus one percent of bonded improvement costs more than \$1,000,000.

(E) Extension of Time. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the municipal engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.

(F) Liability. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the municipality for the reasonable cost of the improvements not completed or corrected and the municipality may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law," N.J.S.A. 40A:11-1 et seq.

(G) Request for List of Uncompleted or Unsatisfactory Completed Improvements. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the municipal clerk, that the municipal engineer prepare, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to 801 (A), a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the municipal engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the municipal engineer shall inspect all bonded improvements covered by obligor's request and shall file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than 45 days after

receipt of the obligor's request. The list prepared by the municipal engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the municipal engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to 801 (A).

(H) Action by Governing Body. The governing body, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the municipal engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee and the safety and stabilization bond relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to 801 (A). This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the municipal engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee and safety and stabilization bond, with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee and safety and stabilization bond posted may be retained to ensure completion and acceptability of all improvements. For the purpose of releasing the obligor from liability pursuant to its performance guarantee and safety and stabilization bond, the amount of the performance guarantee and safety and stabilization bond attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to subsection a. of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70 percent of the total amount of the performance guarantee, then the municipality may retain 30 percent of the amount of the total performance guarantee and safety and stabilization bond to ensure completion and acceptability of all improvements, as provided above, except

that any amount of the performance guarantee attributable to bonded improvements for which a temporary certificate of occupancy bond has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the municipality below 30 percent. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.

802. MAINTENANCE GUARANTEES

The developer shall post with the municipality, prior to the release of a performance guarantee required pursuant to 801 (A) or 801 (B) or both 801 (A) and (B) a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.

(A) Amount of Maintenance Guarantee. The developer shall post with the municipality, upon the inspection and issuance of final approval of the following private site improvements by the municipal engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined according to the method of calculation set forth in N.J.S.A. 40:55D-53.4.

(B) Term. The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

803. ENGINEERING INSPECTION FEES

The obligor shall reimburse the municipality for reasonable inspection fees paid to the municipal engineer for the foregoing inspection of improvements: which fees shall not exceed the sum of the amounts set forth in subparagraphs (A) and (B) of this paragraph. The developer shall post the inspection fees in escrow in an amount:

(A) not to exceed 5% of the cost of bonded improvements that are subject to a performance guarantee under 801 (A) or 801 (B) or both 801 (A) and (B); and

developer, contractor, and Township Engineer. All improvements and utility installations shall be inspected during the time of their installation under the supervision of the Township Engineer to insure satisfactory completion. The Township Engineer shall be notified by the developer three (3) working days in advance of the start of construction.

Section 2. This Ordinance shall be construed so as not to conflict with any provision of New Jersey or Federal law. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning, and land use regulations. All other ordinances or other local requirements that are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of any inconsistency or conflict, and the provisions of this Ordinance shall apply.

Section 3. If any provisions of this Ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions, which shall be deemed severable therefrom.

Section 4. After introduction, the Township Clerk is hereby directed to provide a copy of the within Ordinance to the Land Use Board of the Township of Green Brook for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A.40:55D-64. The Land Use Board is directed to make and transmit to the Township Committee within 35 days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 5. This Ordinance shall take effect immediately upon its adoption, passage and publication according to law.

807. Performance of Work.

807.1 In no case shall any work be done without permission from the Township Engineer prior to any such construction so that a representative of the Township Engineer's office may be present at the time the work is to be done. Prior to the installation of improvements, cut sheets identifying field control points shall be submitted to the Township Engineer. At least one (1) up-to-date, complete, approved for construction set of plans is to be maintained at the site of the work, available for inspection by contractors, subcontractors, materials men and the township inspector during normal working hours.

807.2 Construction procedures, safety equipment and site conditions shall provide for the safety of all personnel, are the continuing responsibility of the owner and shall fully comply with the provisions of the Federal Occupational Safety and Health Act (OSHA) and the State Safety Code, particularly as they relate to excavations, sheeting, shoring, pumping and baling.

807.3 All materials shall be new, free of defects, protected and stored in a safe manner prior to incorporation in the work. The exterior of all structural elements, including pipe materials, shall be clearly marked with the name of the manufacturer or trademark, strength class and standard, date and location of manufacture.

807.4 No underground facilities or materials shall be installed until the trench or general excavation subgrade and materials have been inspected and approved by the Township Engineer or his duly authorized representative. Defective or damaged materials shall be removed from the site and replaced at the owner's expense. Unacceptable subgrade conditions shall be corrected at the owner's direction, to the approval of the Township Engineer. Installation procedures shall conform to manufacturer's recommendations and/or trade standards for first-class construction. No underground installation shall be backfilled prior to inspection of the completed work and remedy of any apparent defects in materials or workmanship, except as provided in Subsection 808, below.

807.5 Backfill procedures shall be acceptable to the Township Engineer incident to protection of the installed work, in addition to the owner's responsibility for safe and proper procedures. Backfill for all excavations within public road rights-of-way shall comply with standards promulgated by the Township Engineer and adopted by the Township Committee. Backfill material shall be select excavated material of low plasticity or suitable offsite or off-tract select material, properly placed and tamped to eliminate unacceptable settlement of following or future surface improvements or adjacent underground improvements.

807.6 The Township Engineer shall be notified in writing with a copy to the Approving Authority and Building Inspector, not less than one (1) month in advance of the start-up of a new project and not less than two (2) weeks in advance of a general shutdown (winter or end of work) or general restart (spring) of construction on an active project.

808. Construction Permits.

Construction permits in a development or in an approved subdivision, except for model buildings in the first

section of the development or subdivision, will be issued only when the installation of curbs, utilities in or under the street cartway, functioning water supply and waste water disposal facilities, necessary underground and/or surface storm facilities to insure proper drainage of the lots and surrounding land, rough grading of lots according to the standard of the approved soil erosion and sediment control plan for the buffer plantings and berms, street subbase and base courses and such other improvements as are specifically required by the Planning Board are installed to serve all lots and structures within the development or within the section thereof to which final subdivision approval has been granted, prior to the issuance of building permits. The owner shall request and the building inspector shall receive favorable reports from all involved utilities and inspection officials certifying the conditional acceptance for use subject to minor punch list repairs, and final acceptance by the governing body of necessary installed improvements, where appropriate. Permits for model buildings in the first section granted final approval may be issued on commencement of construction of improvements. The number of permits for such model buildings in the tract shall not exceed six (6) or ten (10) percent of the total number of buildings to be erected upon residential building lots which have been granted preliminary subdivision approval in this subdivision or development, whichever number is less.

As a minimum, these certifications must be received from all involved utility companies, the plumbing inspector, the involved sewerage agency, and the Township Engineer. Completion of all improvements within the development or approved subsection, including installation of any remaining utilities in or under the sidewalk or bikeway right-of-way, installation of sidewalks and bikeways, surface course paving, final site grading and seeding and plantings, subject only to minor punch list repairs or replacements and final acceptance by the governing body, will be required prior to the issuance of the last 30% of occupancy permits in the development or approved subsection thereof and prior to issuance of building permits in any subsequent subsection of the development, or in lieu thereof, the owner shall post a cash bond in an amount equal to the cost of said remaining improvements, as determined by the Township Engineer, said costs to include allowances for contingency and engineering fees and the cost of a maintenance bond, all in accordance with the terms and conditions of the "Green Brook Standard Form of Escrow Agreement on Certificates of Occupancy", a copy of which is filed with the Township Clerk and incorporated herein by reference.

809. Public street lighting as necessary shall be installed and operational prior to the issuance of any occupancy certificates. Additional public street lighting as necessary shall be installed and operational prior to the issuance of additional occupancy certificates. The developer shall, in coordination with the electric utility company, Police Department and Township Committee, arrange for timely installation and activation

of necessary facilities and shall pay all installation, operation maintenance costs up to the date of final acceptance of the improvements.

810. Fire hydrants as necessary within public road rights-of-way shall be installed and operational prior to the issuance of any certificate of occupancy. The developer, in coordination with the water utility company, Fire Company, Township Engineer and Township Committee, shall arrange for the timely installation and activation of necessary facilities and shall pay all installation, operation and maintenance costs up to the date of final acceptance of the improvements.

811. Inspection by the Township of the installation of improvements and utilities by the developer shall not subject the Township to liability for claims, suits or liability of any kind that may arise, because of defects or negligence, it being recognized that the responsibility to provide proper utilities and improvements and to maintain safe conditions at all times on all parts of the tract, whether construction is waiting to start, is in progress or is completed, or any combination of conditions on all or a part of the tract, is upon the developer and his contractors or subcontractors, if any.

812. After completing the construction of the public improvements covered by the performance guarantee, the developer shall prepare one (1) set of public improvements and utility plans and the profiles, updated to show as-built conditions drawn with waterproof black ink on translucent linen, and apply to the Township Engineer for final inspection of the work. (See Section 814).

813. The amount of the performance guarantee may be reduced by the Township Committee by resolution when portions of the required improvements have been installed and have been inspected and approved by the Township Engineer, provided, however, that no such reduction shall be approved under the Township Engineer shall have certified the estimated cost of completing any remaining required improvements, and provided further that no reduction shall be approved that will result in the performance guaranty or any portion of the performance guaranty being reduced to less than fifteen percent (15%) of the original cost of any improvement(s) until all improvements have been completely installed, approved and accepted by the Township Committee and a maintenance guarantee secured as outlined below. Reductions shall be made in the amount of outstanding bonds prior to any reduction of the cash deposit. If any improvements have not been installed in accordance with the performance guarantee, the obligor and surety shall be liable thereon to the Township for the reasonable cost of completing the improvement(s).

814. Upon substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the obligor may notify the Township Committee in writing, by certified mail

addressed in care of the Township Clerk of the completion or substantial completion of improvements and shall send a copy thereof to the Township Engineer. Thereupon the Township Engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the Township Committee, indicating either approval, partial approval or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.

The Township Committee shall either approve, partially approve, or reject the improvements, on the basis of the report of the Township Engineer and shall notify the obligor in writing, by certified mail, of the contents of said report and the action of the Township Committee with relation thereto, not later than, 5 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved; provided that 30% of the amount of the performance guarantee posted may be retained to insure completion of all improvements. Failure of the Township Committee to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements.

The obligor shall reimburse the Township for all reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements. (See Section 806)

In the event that final approval is by stages or sections of development pursuant to subsection a, of Section 29 of the *Municipal Land Use Law* (40:55D-38), the provisions of this section shall be applied by stage or section.

815. If any portion of the required improvements are rejected, the Approving Authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in this section shall be followed.

816. Suspension of Work. Failure of the developer, his contractor, subcontractors or agents to conform to the specifications for installing and/or maintaining improvements as approved by the Approving Authority, or to proceed in a safe manner, rendering conditions hazardous to the workmen, materials, equipment, installation or the public, will be just cause for the suspension of work being performed, and no person, firm or corporation shall have the right to demand or claim damages from the Township of Green Brook, its officers, agents or servants by reason of such suspension by the Township Engineer. Directives for

suspension of all or part of the work, as appropriate, shall be delivered verbally by the Township Engineer, with a copy to the Township Clerk, Building Inspector, Chairman of the Approving Authority and Mayor within twenty-four (24) hours. If required, the police powers of the Township may be used to enforce such suspension of work. Work shall not resume until the cause or causes of such suspension are eliminated to the satisfaction of the Township Engineer.

817. Conditions and Acceptance of Improvements. The approval of any plat under this chapter by the Approving Authority shall in no way be construed as acceptance of any street, drainage system or other improvement required by this chapter, nor shall such plat approval obligate the Township in any way to maintain or exercise jurisdiction over such street, drainage system or other improvement. Acceptance of any street, drainage system or other improvement shall be implemented only by favorable action by the Township Committee. No improvement shall be accepted by the Township Committee unless and until all of the following conditions have been met:

817.1 The Township Engineer shall have certified in writing to the Approving Authority and Township Committee that all the improvements are complete and that they comply fully with the requirements of this chapter and of other applicable ordinances.

817.2 Maintenance guarantee.

- a. The developer shall have filed with the Township Committee and the Township Committee shall have accepted and approved a maintenance guarantee of not more than fifteen percent (15%) of the original estimates of the cost of installing the improvements, which guarantee shall run for a period of two (2) years. The final amount of the maintenance guarantee shall be based on the recommendation(s) of the Township Engineer, who shall consider, among other things, the length of time the improvement has been installed prior to the filing of the maintenance guarantee.
- b. The procedures and requirements governing such maintenance guarantee shall be identical to the procedures and requirements for a performance guarantee set forth above.

818. Renewal of Performance or Maintenance Guarantees.

In any case where it becomes necessary to renew or extend a performance guarantee or maintenance guarantee, the amount thereof shall be re-computed by the Township Engineer and may be increased to meet then current conditions and cost estimates.

ARTICLE 9

APPEALS

This section was repealed in its entirety by Ordinance 2015-819

ARTICLE 10

PUBLIC HEARINGS AND NOTICES

1001. PUBLIC HEARINGS AND NOTICES.

1001.1 Where Public Hearing Required.

Public hearing, on notice as hereinafter set forth, shall be required in the following development applications:

- A. All applications to be heard by the Board of Adjustment, of whatever nature.
- B. The following matters to be heard by the Planning Board:
 - (1) All applications for preliminary approval of major subdivisions.
 - (2) All matters before the Planning Board which, if heard by the Board of Adjustment, would require a public hearing.
 - (3) All site plan review involving property located in whole or in part in any critical area.

1001.2 Notice of Public Hearing.

Whenever a public hearing is required on an application for development pursuant to the Municipal Land Use Law, or pursuant to this ordinance, or pursuant to the Zoning Ordinance of the Township, the applicant shall give notice thereof as required by the *Municipal Land Use Law*, as follows:ö

- a. Public notice shall be given by publication in the official newspaper of the Township at least ten days prior to the date of the hearing.
- b. Notice shall be given to the owners of all real property as shown on the current tax duplicate, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be

made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Notice of hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

d. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.

e. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

f. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs, of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to Section 613 of the Municipal Land Use Law (40:55D-10 b).

g. Notice pursuant to subsections a, d, e, and f, of this section, above, shall not be deemed to be required unless public notice pursuant to Section 1001.1 and subsection 1001.2 b are required.

h. All notices hereinabove specified in this Section shall be given by the applicant at least ten days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.

i. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of 40:55D-14.

j. Form of Notice. All notices required to be given pursuant to the terms of this ordinance shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of

the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate In the municipal tax office, and the location and times at which any maps and documents for which approval is sought are available as required by law.

1002. LIST OF PROPERTY OWNERS FURNISHED.

Pursuant to the provisions of 40:55D-12c, as amended, the Administrative Officer of the municipality, upon the written request of an applicant, shall, within 7 days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to Section 1001.2 b. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.

NOTE: the list supplied by the administrative officer of the Township of Green Brook will contain only those properties located within the Township of Green Brook and within 200 feet in all directions of the property which is the subject of such hearing. If the 200 feet distance in all directions of the property which is the subject of such hearing shall extend into another municipality or municipalities, the applicant shall have the responsibility of obtaining the names and addresses from the current tax duplicates of such other municipality or municipalities from such other municipality or municipalities.

1003. MATTERS NOT REQUIRING PUBLIC HEARING ON NOTICE.

All matters not requiring public hearing on notice, as above set forth, shall be considered at open public meetings, all actions taken shall be taken at regular, adjourned or special meetings of the approving authority.

Article 11 Fees and Charges; Transcripts

1101 Fees

The Applicant or Developer shall, at the time of filing a submission to the Approving Authority shall pay the following non-refundable fees to the Township. Applications involving more than one use shall pay a fee equating the sum of the fees for the component elements of the submission. Applications requiring a combination of approvals, such as subdivision, site plan, variance, conditional use, environmental impact statement, storm water control, or the like, shall pay a fee equal to the sum of the fees for each element.

PLANNED UNIT DEVELOPMENT AND AFFORDABLE HOUSING PROJECTS. A Planned Unit Development shall be treated in the same manner as a subdivision including Site Plan for the purpose of computation of fees under this Ordinance, with each separate unit being counted as a lot pursuant to Section 1101.1, whether or not there will be separately held title to each unit, and whether or not such units will be sale or rental units, provided, however, that in any application involving Affordable Housing, the fee for any unit or lot utilized solely for a lower income housing unit shall be waived and not computed in the total fees set forth in the Ordinance.

1101.1 Subdivision

a. Concept (sketch) Plat	\$250 + \$10 per lot
b. Minor Subdivision	\$250
c. Preliminary Major Subdivision	\$500 + \$50 per lot
d. Final Major Subdivision	\$250 + \$25 per lot
e. Minor Revision to Preliminary or Final Subdivision	\$100 + 10 per lot
f. Time Extension to Preliminary or Final Subdivision	\$250
g. Amended Preliminary Subdivision	½ of Preliminary Fee
h. Amended Final Subdivision	½ of Final Fee

1101.2 Site Plans

a. Concept (sketch) Plat	\$250
b. Minor Site Plan	\$300
c. Preliminary Major Site Plan (Residential)	\$500 + \$50 per unit
d. Final Major Site Plan (residential)	\$250 + \$25 per unit
e. Preliminary Major Site Plan (Commercial)	
Building Area of 10,000 s.f. or less	\$750
Building Area of 10,001sf ó 50,000 s.f.	\$1,500
Building Area of 50,001 ó 100,000 s.f.	\$3,000
Building Area over 100,000 s.f.	\$4,500
f. Final Major Site Plan (Commercial)	
Building Area of 10,000 s.f. or less	\$375
Building Area of 10,001sf ó 50,000 s.f.	\$750
Building Area of 50,001 ó 100,000 s.f.	\$1,500
Building Area over 100,000 s.f.	\$2,250
g. Minor Revision to Site Plan (Residential)	\$100 + 10 per unit
h. Minor Revision to Site Plan (Commercial)	\$100 + \$5 per s.f.
i. Preliminary or Final Site Plan Time Extension	\$250

- j. Amended Preliminary Site Plan ½ of Preliminary Fee
- k. Amended Final Site Plan ½ of Final Fee

1101.3 Fees under the Zoning Ordinance

- a. Board of Adjustment application for an appeal pursuant to N.J.S.A 40:55D-70a \$100
- b. Board of Adjustment application for interpretation pursuant to N.J.S.A 40:55D-70b \$50
- c. Application for a variance pursuant to 40:55D-70c \$100 per variance
- d. Use Variance pursuant to N.J.S.A 40:55D-70d
 - Residential \$200 per dwelling unit
 - Other Uses \$250 per 10,000 square feet of lot area, or part thereof; with a minimum fee of \$250 and maximum fee of \$4,000.
- e. Zoning Permit for a Certificate of Occupancy pursuant to Section 1204.1, 1204.2, and 1204.3 of the Zoning Ordinance \$100

1101.4 Other Fees

- a. Zoning Permit for Construction \$35
- b. Plot Plan Review associated with new house \$150
- c. Revision to Plot Plan associated with new house \$35
- d. Zoning Permit for Continuing Certificate of Occupancy where there is no change in use pursuant to Section 1204 of the Township Zoning Ordinance \$100
- e. Temporary Use Permit pursuant to Section 1204.4-1 \$250
- f. Temporary Use Permit pursuant to Section 1204.4-2 \$250 for the first month, \$100 per month or part thereof after the 1st month
- g. Temporary Sale Sign \$50
- h. Temporary Outdoor Sale Permit \$100
- i. Copies of Minutes, resolutions, ordinances, or other papers of an approving authority, where the Municipal Land Use Law permits a fee to be charged shall be charged at the same Rate per page established pursuant to Green Brook General Code Section 2-45
- j. Certified List of Property Owners from the current tax map Pursuant to N.J.S.A 40:55D-12 \$10
- k. Fee for filing an appeal to the Township Committee \$100
- l. Fee for certificate of subdivision, pursuant to 40:55D-56, shall be computed and charged at the same rate as for tax searches pursuant to R.S. 54:5-14
- m. Fees for Special Meeting of Land Use Board:

The decision on whether or not to hold a special meeting on an application shall rest solely with the Approving Authority. However, it must be recognized that when a special meeting of a Land Use Board is held, in addition to putting additional meetings upon the volunteer members of the Board, there are additional costs involved for professional and non-professional employees and staff. Accordingly, where an applicant requests a special meeting of the Approving Authority to consider the application,

the applicant shall deposit with the Township the sum of \$1,500 in an escrow account. Said escrow funds shall be utilized to cover the additional costs incurred by reason of holding the special meeting including professional and non-professional and clerical fees and salaries incurred in connection with the review of plans, consultation, site inspections, written reports and resolutions, general preparation, meeting attendance, research, testimony, and other work as may be required due to the nature of the application and arising of and in connection with the special meeting.

In a case where the applicant has made an escrow deposit pursuant to Section 1101, no additional escrow deposit shall be required provided that the escrow account shall contain not less than \$1,500 or is replenished to at least that amount concurrent with the granting of the request for the special meeting and prior to holding thereof.

- n. Fee for copy of the Township Land Development Ordinance \$25
- o. Fee for copy of the Township Zoning Ordinance \$25
- p. Fee for duplicate copy of compact disc of hearing \$2 per CD
- q. Letter for Zoning Clearance \$35
- r. **Affordable Housing Development Fees.**

1. Purpose.

This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

2. Basic Requirements.

- a. This Ordinance shall not be effective until approved by the Court.
- b. The Township of Green Brook shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

3. Definitions.

The following terms, as used in this Ordinance, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT

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 housing development.

COAH OR THE COUNCIL

The New Jersey Council on Affordable Housing established under the Fair Housing Act.

DEVELOPMENT FEE

Money paid by a developer for the improvement of property as authorized by Holmdel Builders' Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

DEVELOPER

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.

EQUALIZED ASSESSED VALUE

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).

GREEN BUILDING STRATEGIES

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. Imposition of Fees.

1. Within the Township of Green Brook, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
2. When an increase in residential density is permitted pursuant to a variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a bonus development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. 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.

b. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments

1. Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Township of Green Brook, shall be exempt from the payment of development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.
3. 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 **or is altered**, if the expansion is not otherwise exempt

from the development fee requirements. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

4. Developers of residential structures demolished and replaced in-kind as a result of a natural disaster shall be exempt from paying a development fee. Developers that demolish and replace residential structures with a structure of a more intense use, or is expanded, shall pay a fee calculated on the increase in the equalized assessed value of the improved structure.

5. Non-Residential Development Fees.

a. Imposition of Fees.

1. Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots. Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
2. 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 improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a 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.

1. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.
2. The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as 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 for the non-residential development, whichever is later.
5. 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 Green Brook 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 approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- 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 Construction Permit shall notify the Township Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- e. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the Township of Green Brook 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. Except as provided in Section 9-4.5.a.3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the 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 the Township of Green Brook. 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 Green Brook. 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 Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Green Brook 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 a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Green Brook;
 2. Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit 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 Green Brook's affordable housing program.
- c. In the event of a failure by the Township of Green Brook to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Green Brook, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

- d. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

8. Use of Funds.

- a. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Green Brook'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; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; 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; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- b. Funds shall not be expended to reimburse the Township of Green Brook for past housing activities.
- c. At least 30 percent of all development fees collected and interest earned on such fees 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 the median income for Housing Region 3, in which Green Brook is located.
 - 1. 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. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - 2. 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 specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.
 - 3. Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Green Brook, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The Township of Green Brook may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- 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 consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
 - 1. In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.

2. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or actions are not eligible uses of the Affordable Housing Trust Fund.

9. Monitoring.

The Township of Green Brook shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended.

10. Ongoing Collection of Fees.

- a. The ability for the Township of Green Brook to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its Judgment of Compliance and shall continue thereafter so long as the Township of Green Brook has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- b. If the Township of Green Brook is not pursuing authorization to impose and collect development fees after the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing 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).
- c. After the expiration of the Judgment of Compliance, if the Township does not pursue or obtain continued authorization, the Township of Green Brook shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

1101.5 Escrow Deposits

In addition to the submission of application filing fees, as set forth hereinbefore, applications for development that meet the criteria established herein, shall be accompanied by a deposit of escrow funds pursuant to 40:55D-53.2. Each applicant shall agree in writing to post additional escrow funds where the required initial escrow has been depleted to twenty percent of the original amount. Escrow deposits shall be in the form of cash, certified check, or money order and shall be administered in accordance with the requirements of N.J.S.A 40:55D-53.2

- | | |
|-----------------------------------|-----------------------|
| a. Subdivision Concept Plan | \$500 + 100 per lot |
| b. Site Plan Concept Plan | \$500 + \$100 per lot |
| c. Minor Subdivision or Site Plan | \$1,000 |
| d. Preliminary Major Subdivisions | |
| 1-3 lots | \$2,500 |
| 4-10 lots | \$5,000 |

11-25 lots	\$7,500
26-50 lots	\$10,000
51 lots or more	\$15,000
e. Final Major Subdivision	½ of Preliminary Escrow
f. Preliminary Major Site Plan (Residential)	
1-3 lots	\$2,500
4-10 lots	\$5,000
11-25 lots	\$7,500
26-50 lots	\$10,000
51 lots or more	\$15,000
g. Final Major Site Plan (Residential)	½ of Preliminary Escrow
h. Preliminary Major Site Plan (Non-Residential)	
Building Area 10,000 s.f. or less	\$3,000
Building Area 10,001sf- 50,000 s.f.	\$7,500
Building Area 50,001 s.f. ó 100,000 s.f.	\$15,000
Building Area over 100,000 s.f.	\$20,000
i. Final Major Site Plan (Non-Residential)	½ of Preliminary Escrow
j. Variances pursuant to 40:55D-70c	\$750
k. Variances pursuant to 40:55D-70d	\$2,500
l. Time Extensions	\$500
m. Amended Preliminary Subdivision	½ of Preliminary Escrow
n. Amended Final Subdivision	½ of Final Escrow
o. Amended Preliminary Site Plan	½ of Preliminary Escrow
p. Amended Final Site Plan	½ of Final Escrow

1101.6 Appearance Cancellation Fee

In the event an applicant cancels or postpones a hearing before the Planning or Zoning Boards within 14 days of their scheduled hearing date, said applicant will be charged a cancellation fee of \$200 which shall be paid to the Township before any subsequent appearances for that application will be scheduled.

ARTICLE 12

VIOLATIONS AND PENALTIES

1201. VIOLATIONS AND PENALTIES.

1201.1 Subdivision Violations and Penalties.

If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or tenant, any land which forms a part of a subdivision for which approval is required by ordinance pursuant to this act, such persons shall be subject to a penalty not to exceed \$1,000.00 and each lot disposition so made may be deemed a separate violation.

In addition to the foregoing, the township may institute and maintain a civil action.

1. For injunctive relief; and
2. To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with R.S. 40:550-56, but only if the township (1) has a Planning Board and (2) has adopted by ordinance standards and procedures in accordance with R.S. 40:55D-38.

In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within 2 years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within 6 years, if unrecorded.

1201.2 Other Violations.

A. Injunctive relief.

In case any building or structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the township or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion,

maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, to prevent any illegal act, conduct, business or use in or about such premises.

B. Penalties.

Any person, firm or corporation that shall violate any provisions of this Ordinance, not included in Section 1201.1, shall, upon conviction thereof by any Court authorized by law to hear and determine the matter, be fined such sum not exceeding Five Hundred Dollars (\$500.00), as such Court in its discretion may impose, or if the party so convicted be a natural person, such person may be imprisoned for such term not exceeding ninety (90) days as such Court in its discretion may impose, or be fined such sum not exceeding Five Hundred Dollars (\$500.00) as such Court in its discretion may impose or such natural person may be both imprisoned and fined not exceeding the maximum limits set forth herein, as such Court in its discretion may impose. Each day that such violation exists shall constitute a separate offense punishable by a like fine or penalty.

1202. PARTIES LIABLE.

The owner of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, or be suffered, allowed or permitted to exist, and any architect, builder, developer, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of any such violation shall each be guilty of a separate violation, and upon conviction thereof shall each be guilty of a separate violation, and upon conviction thereof shall be each liable to the fine or imprisonment, or both, specified in Sections 1201.1 and 1201.2, above.

1203. OTHER REMEDIES.

The penalties provided in this Article are additional to any other remedies available to the Township of Green Brook, or to residents or property owners of the Township of Green Brook who may be affected by any violation of this Ordinance by law.

1204. REVOCATION AND RESCISSION OF APPROVAL AND/OR PERMITS.

Whenever it shall come to the attention of either the Planning Board or the Board of Adjustment, that action was taken by such Board based upon fraud or misrepresentation by or on behalf of the applicant as to a material fact, such Board shall have the right to rescind its previous action and to order revocation of any

approval, permit, or certificate theretofore granted upon such fraud or misrepresentation. Such rescission and revocation shall remain in effect unless and until such Board shall reinstate such approval following a hearing thereon granted to the applicant within 10 days of any requests therefore by the applicant. The rights of rescission and revocation set forth in this paragraph shall be in addition to the right to proceed under the other paragraphs of this Section.

ARTICLE 13

VALIDITY

1301. SEVERABILITY.

If any section, subsection, article, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid by a Court of competent jurisdiction, such adjudication shall apply only to the section, subsection, article, paragraph, subdivision, clause or provision so adjudged. and the remainder of this Ordinance shall be deemed valid and effective.

ARTICLE 14

REPEALER

1401. REPEALER.

Except as may be specifically set forth in this Ordinance, any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent; provided, however, that the adoption of this Ordinance shall not prevent or bar the continuation or institution of any proceedings for offenses heretofore committed in violation of any existing ordinances of the Township of Green Brook.

ARTICLE 15

EFFECTIVE DATE

1501. Effective Date.

This Ordinance shall take effect immediately upon publication of notice after final adoption, as provided by law.

This Ordinance, however, is a substantial re-enactment of the Land Development Ordinance of the Township of Green Brook, as amended, and the Planning Board and Board of Adjustment heretofore appointed and serving shall remain as constituted at the time of adoption of this Ordinance, until the terms of the respective members shall expire.

Where construction has begun pursuant to the provisions of the Ordinance repealed hereby, such construction may continue pursuant to such prior, approval and pursuant to the terms of the Ordinance in effect at the time of adoption of this Ordinance.