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1. Meeting Called to Order
Mayor Walsh called this meeting to order at 6:30 PM.

Opening Statement and Roll Call
Township Clerk Wollman read the opening statement. Adequate notice of the holding of this meeting of the Howell Township Council was provided for in the following manner: (1) By the posting of a copy of said notice upon the bulletin board in the Township Municipal Building on January 1, 2012. (2) By the faxing of a copy of said notice to the Asbury Park Press, Tri Town News and Star Ledger for information and publication on January 1, 2012. (3) By the filing of a copy of said form of notice in the Township Clerk’s office on January 1, 2012. The public will be allowed to attend and will be allowed to participate pursuant to the Open Public Meetings Law. The public is reminded that civility and decorum will be maintained during the meeting. Any contracts awarded at this meeting, or between now and the next meeting will be required to comply with the requirements of Public Law 1975 Chapter 127 (NJAC 17:27).

Roll Call: Present: Mayor Robert F. Walsh, Deputy Mayor William J. Gotto, Councilman Juan A. Malave (6:55 PM), Councilman Robert Nicastro. Also present: Township Manager Helene Schlegel, Director of Community Relations Steven Fecher, Township Attorney McKenna Kingdon, Township Clerk Penny Wollman, Chief Financial Officer Jeffrey Filiatreault, Township Engineer Bill Nunziato. Absent: Councilwoman Pauline M. Smith.

2. Executive Session
There is a need to go into executive session for subjects to be discussed per N.J.S.A. 10:4-12, specifically under Personnel. The Township Council will reconvene in public session thereafter. Deputy Mayor Gotto made a motion, seconded by Councilman Nicastro. Roll Call: Ayes: Mr. Nicastro, Deputy Mayor Gotto, Mayor Walsh. Meeting reconvened 7:30


Mayor Walsh announced that the Executive Session Minutes from tonight's meeting can be disclosed to the public at next month's Regular Meeting, providing the need for confidentiality no longer exists.

5. Proclamations

- **Proclamation** – Fire Prevention Week, October 7-13, 2012
- **Proclamation** – Breast Cancer Awareness Month, October 2012
- **Proclamation** – Domestic Violence Awareness Month, October 2012
Reports of Township Officials

Township Engineer Bill Nunziato provided the governing body with a road update. Information with the latest road construction, engineering projects and status reports can be obtained from the Township website.

CFO Jeff Filiatreault stated that he has consulted with bond counsel regarding refinancing the 2005 bonds and savings is estimated to be $1.2 million over the remaining term of the bond, about $55,000 per year, with no years added to financing. Council will need to take formal action.

Township Manager Helene Schlegel announced that Howell Township received a Sustainable NJ Grant, for $2,000, to be used for Safe Routes to School. Howell Township was 1 of 20 municipalities to receive such a grant. Mrs. Schlegel thanked Intern Matt Lawlor with his assistance on this project. Also the Township has received a Green Acres Grant for $399,000, for Open Space Reserve.

Director of Community Relations Steven Fecher thanked the Baxter Family and Lake Restoration and Wildlife Committee for the success of the Baster Fishing Derby event held on Saturday, September 29th, attended by 100 children. Mr. Fecher stated that on Saturday, October 20th is the 7th Annual Operation Clean Sweep. This program helps keep neighborhoods clean and green. The Clean Communities Program is looking for scouts, families, sports teams, church groups, and businesses to volunteer. For further information, contact Laurie Dunwoody at 732-938-4500, extension 2452 or ldunwoody@twp.howell.nj.us. Mr. Fecher advised that the Howell Community Connection, the Township’s e-newsletter, went out last week.

Township Clerk Penny Wollman advised that there have been Additional Items that have been placed on the agenda from Preliminary to Final Agenda:

Discussion 7C.1 Proposed Ordinance, Projects Bordering Municipalities

Township Council to discuss a proposed ordinance that would require a developer to appear to the boards of both bordering municipalities for approvals for all projects that straddle borders.

Councilman Malave stated that this will be the last official Township Council meeting at this Town Hall and will miss coming to the building, stating that this building has served the community well. Councilman Malave stated that he looked forward to the new town hall on Route 9.

Deputy Mayor Gotto stated that he would miss this building as well. Deputy Mayor Gotto stated that he attended a field meeting at the Hidden View development in Wall, Howell Township annexation project, and reviewed complaints about flooding from residents on Pine Needle and Cherry Lane. These residents are flooded every time it rains because of the Hidden View Development in Wall. Meeting with engineers to be scheduled. Township Attorney to review agreement and parameters.
Mayor Walsh questioned the status of the departmental move to the new Town Hall on Route 9. Township Manager Schlegel responded that the Tax Building will be the next move along with Community Alliance. The final departments will be the Engineering Planning Code Building and Public Works administrative office.

**Regular Session**
Councilman Malave made a motion to go into Regular Session, seconded by Councilman Nicastro. Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto, Mayor Walsh.

**6A. Public Comment on Consent Agenda Items**
Mayor Walsh stated that he would acknowledge speakers on any topic.

Daniel McGee, 68 E Francesca Court, Equestra. Mr. McGee stated that he was a member of the Equestra Traffic Safety Group and thanked the Township Council for putting together a resolution based on Assemblyman Sean T. Kean’s recommendation from several days ago. *This resolution supported the implementation of appropriate traffic control solutions including, but not limited to, a Traffic Light and Turning Lanes at the intersection of Route 33 and entrance to Equestra (San Marco Boulevard).* Mr. McGee asked that the Township work with the stores on Route 33 with pending applications before NJDOT regarding their changes. Township Attorney Kingdon will draft a letter for Council review.

Tony Mauro, 18 E Francesca Court, Equestra. Mr. Mauro stated that he wanted to reiterate what Mr. McGee has said and thanked the governing body on behalf of the community.

Donato Lupinacci, 652 Hulses Corner Road. Mr. Lupinacci questioned the progress of the speed limit reduction on Hulses Corner Road. Mayor Walsh stated that this matter was sent to the Police Traffic Department. Township Manager Schlegel stated that the last communication was on September 24th with Sgt Markulic. The Police Department has put out 2 counters for 2 weeks at this location and will be picked up this Friday. Township Manager Schlegel will follow up with Traffic Safety.

Suzanne Wolff, 38 Arbor Drive. Ms. Wolff commented on the Energy Aggregation Agreement Ordinance and was concerned how much it will cost for a consulting firm to come in for an RFP. Township Manager Schlegel stated that there will be no cost up front until we do an RFP, with no cost for the consulting firm. Ms. Wolff stated that several meetings ago, she forwarded the Council grant paperwork. Township Manager Schlegel responded that this grant was applied for, $96,000, and the Township would have to match it if we were to receive it, to be used for Acquisition of a piece of property contiguous to Bear Swamp.

John Costigan, 214 Birdsall Road. Mr. Costigan agreed with the traffic light at Route 33, Equestra. There are a lot of accidents at this location.
Mr. Costigan stated that there is a large application before the Planning Board, manufacturing building at the end of Wall Township. Deputy Mayor Gotto stated that is the Discussion under 7C.1. Township Attorney Kingdon stated that this application has been carried.

Art Giambrone, 398 Brickyard Road. Mr. Giambrone thanked this governing body for their service to the community. Mr. Giambrone commented on maintenance bonds for developers.

Don Smith, 54 Vanderveer Road. Mr. Smith thanked the governing body for having a discussion on the Wall Township matter. Mr. Smith stated that Councilwoman Smith and he attended those meetings years ago when this matter was brought up in Wall.

Nino Barelli, 287 Alexander Avenue. Mr. Barelli thanked the Township Council for leadership and vision regarding the purchase of the Global building to house Township employees. The Global Building will be something the residents can be proud of, revenue raiser and needed to be done. Mr. Barelli stated that maybe the old Township buildings can be preserved but not at a burden to the Township.

Mr. Barelli questioned what can be done to bring in businesses and corporate buildings on Route 33 to compete with towns like Wall. Mayor Walsh responded that they will not come in with only well and septic on Route 33 and would need water and sewer service. The Township Council is working on that.

Consent Agenda items listed for action this evening:

**Resolutions:**

R-12-262 7A.1 Authorize Acceptance of Fees, Allied Environmental Signage, Block 228, Lot 39.02, 69 Megill Road, Case No. 11-21

R-12-263 7A.2 Authorize the Return of 2/3 Cash Repair Deposit, Road Opening Permit Number 2010-043, Branins Contracting, $320.00

**R-12-264 7A.3 Action to be taken on October 16, 2012 Township Council Meeting**

R-12-265 7A.4 Authorize Award of Contract, Three (3) Roll Off Trucks, Contract #12-15, Bergey’s Truck Center, $834,380

R-12-266 7A.5 Authorize Award of Contract, Crack Sealing Machine, Contract #12-16, Crafco Inc., $54,180.38

R-12-267 7A.6 Authorize Execution of a Maintenance and Escrow Agreement for Certain Stormwater Management Facilities for Monmouth Chase with Toll NJ, LP, Case No. SD-2901

R-12-268 7A.7 Authorize Appointment of Registrar of Vital Statistics for the Township of Howell, Allison Ciranni

R-12-269 7A.8 Authorize Execution Settlement Agreement with Travelers Indemnity Co, as successor in interest for Gulf Insurance Co with respect to Ardena Acres IV, Site Improvements, Case No. SD-2791
R-12-270  7A.9 Designate and Name the Properties known as Block 42 Lot 41.01 and Block 42 Lot 41 and Block 42 Lot 58.58 and Block 42 Lot 79.69 as the Big Woods Natural Area

R-12-271  7A.10 Authorize 2012 Grant Application and Execution of Grant Contract with the New Jersey Department of Transportation, Highway Safety Fund Project, Safe Corridors Act, $84,697.91

R-12-272  7A.11 Support of Implementation of appropriate Traffic Control Solutions including, but not limited to, a Traffic Light and Turning Lanes at the intersection of NJ Route 33 and entrance to Equestra (San Marco Boulevard)

Motions

7B.1 Approve Second Hand Dealer License, Danett Velasco, Hor Hachaim Gold, 3420 Route 9 South

7B.2 Appoint Township Council Liaison, Howell Township Municipal Alliance (Mayor Robert Walsh)

7B.3 Accept Resignation of Rent Stabilization and Control Board Member Walter Antrim, Term Expires 12/31/14

Councilman Nicastro made a motion to adopt the Consent Agenda Resolutions and Motions, seconded by Councilman Malave. Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto, Mayor Walsh.

Discussion

7C.1 Proposed Ordinance, Projects Bordering Municipalities

Township Council discuss a proposed ordinance that would require a developer to appear to the boards of both bordering municipalities for approvals for all projects that straddle borders. Deputy Mayor Gotto stated that he asked this matter to be listed for discussion this evening. The Wall Township Planning Board has a continuation application of ASP Wall LLC seeking to build a 80,000 sq ft warehouse and (6) 15,000 sq ft offices located on the corner of Birdsall Road and Belmar Boulevard bordering Howell Township. All of the outflow drainage sewer and water access would be in Howell Township with the affected property owners being Howell homeowners. The application states that the main entrance of the project is located on Birdsall Road in Howell Township.

Deputy Mayor Gotto asked that whenever these projects affect more than one municipality, a full Planning Board hearing in both municipalities should be required. The biggest impact, besides drainage, is traffic. Deputy Mayor Gotto asked that an ordinance be prepared to eliminate the inconsistencies and would ask that the surrounding municipalities pass the same.

The Township is noticed by letter from surrounding municipalities when there is a land use matter affecting our border. Councilman Nicastro suggested that Engineering review these notices on these hearings from surrounding municipalities when they come in. Also, Deputy
Mayor Gotto should not have to attend these type of hearings in other municipalities, but have Engineering staff attend. Township Attorney Kingdon stated that according to the MLUL, the Township would have no jurisdiction of what gets built in another town. Deputy Mayor Gotto stated that the developer’s attorney agreed at the Wall Township Meeting to appear before the Howell Township Planning Board. Township Attorney Kingdon will send correspondence to Wall Township. Councilman Nicastro stated that he will discuss this matter at the next Planning Board meeting.

8A. Public Hearing on Ordinances
8A.1 O-12-17 Amend Chapter 197 entitled Massage Parlors, Masseurs and Masseuses
Mayor Walsh read Ordinance Adoption Statement. Ordinance No. O-12-17 introduced and passed on first reading on 9/4/12 and published, according to law, is now being taken up for further consideration and public hearing. Affidavit of publication of this ordinance in the Asbury Park Press on 9/7/12 is submitted and it is noted that a copy of the ordinance has been posted on the bulletin board in the municipal building and that copies were available to the general public upon request.

Township Clerk Wollman read title of Ordinance. An Ordinance of the Township of Howell Amending Chapter 197 entitled Massage Parlors, Masseurs and Masseuses of the Revised General Ordinances of the Township of Howell

Public Hearing on Ordinance O-12-17
Township Attorney Kingdon stated that this Ordinance was recommended by Police Detective Dodd. The Township’s regulations are not as strict as State requirements regarding licenses, inspections and limit the number of licenses a town can have.

No public comment.

Deputy Mayor Gotto made a motion to adopt Ordinance O-12-17 and that notice of its passage and adoption be published in the 10/5/12 issue of the Asbury Park Press, seconded by Councilman Malave. Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto, Mayor Walsh.

9A. Introduction of Ordinances
9A.1 O-12-18 Amend Chapter 188-69 entitled Agricultural Rural Estate Zones (ARE-1, ARE-3, ARE-4 and ARE-6) to permit Cluster subdivisions
Deputy Mayor Gotto read Ordinance Introduction Statement. Motion to introduce Ordinance No. O-12-18 on first reading by title and to order the same to be published in the 10/5/12 issue of the Asbury Park Press together with notice of its introduction and passage on first reading by title, and that it will be further considered for final passage after public hearing at a meeting of the Township Council to be held on 10/16/12 at 7:30 PM, prevailing time, in the Municipal Building. Councilman Nicastro seconded the motion.
Township Clerk Wollman read title of Ordinance. An Ordinance of the Township of Howell Amending Chapter 188-69 Entitled Agricultural Rural Estate Zones (ARE-1, ARE-3, ARE-4, and ARE-6) of the Revised General Ordinances of the Township of Howell

Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto, Mayor Walsh.

9A.2 O-12-19 Authorize the Township to seek a Bid Opportunity or Request for Proposals in order to enter into an Energy Aggregation Agreement for the Purchase of Electricity within the Township

Councilman Nicastro read Ordinance Introduction Statement. Motion to introduce Ordinance No. O-12-19 on first reading by title and to order the same to be published in the 10/5/12 issue of the Asbury Park Press together with notice of its introduction and passage on first reading by title, and that it will be further considered for final passage after public hearing at a meeting of the Township Council to be held on 10/16/12 at 7:30 PM, prevailing time, in the Municipal Building. Deputy Mayor Gotto seconded the motion.

Township Clerk Wollman read title of Ordinance. An Ordinance of the Township Council of the Township of Howell, County of Monmouth, State of New Jersey Authorizing the Township to Seek a Bid Opportunity or Request For Proposals in order to enter into an Energy Aggregation Agreement for the Purchase of Electricity within the Township

Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto, Mayor Walsh.

9A.3 O-12-20 Amend and Supplement Chapter 295 entitled Taxicabs

Deputy Mayor Gotto read Ordinance Introduction Statement. Motion to introduce Ordinance No. O-12-20 on first reading by title and to order the same to be published in the 10/5/12 issue of the Asbury Park Press together with notice of its introduction and passage on first reading by title, and that it will be further considered for final passage after public hearing at a meeting of the Township Council to be held on 10/16/12 at 7:30 PM, prevailing time, in the Municipal Building. Councilman Nicastro seconded the motion.

Township Clerk Wollman read title of Ordinance. An Ordinance of the Township of Howell Amending and Supplementing Chapter 295 entitled Taxicabs of the Revised General Ordinances of the Township of Howell

Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto, Mayor Walsh.
9A.4  O-12-21 Amend Fee Ordinance
Deputy Mayor Gotto read Ordinance Introduction Statement. Motion to introduce Ordinance No. O-12-21 on first reading by title and to order the same to be published in the 10/5/12 issue of the Asbury Park Press together with notice of its introduction and passage on first reading by title, and that it will be further considered for final passage after public hearing at a meeting of the Township Council to be held on 10/16/12 at 7:30 PM, prevailing time, in the Municipal Building. Councilman Nicastro seconded the motion.

Township Clerk Wollman read title of Ordinance. An Ordinance of the Township of Howell Amending Article XXIV entitled Recreation and Article XVII entitled Land Use of Chapter 139 entitled Fees, Charges and Costs of the Revised General Ordinances of the Township of Howell

Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto, Mayor Walsh.

10. Information
   • Municipal Offices Closed Monday, October 8, 2012 in observance of Columbus Day

11. Hearing of Citizens
   No comments from the public.

12. Meeting Dates
   Regular Meeting - Tuesday, October 16, 2012
   To be held at the Municipal Offices, 4567 Route 9
   Executive Session 6:30 P.M.
   Regular Session 7:30 P.M.

13. Adjournment
   Councilman Malave made a motion to adjourn the meeting, seconded by Deputy Mayor Gotto. Roll Call: Ayes: Mr. Malave, Mr. Nicastro, Mr. Gotto Mayor Walsh. Meeting adjourned at 9:40 P.M.

Penny A. Wollman
Township Clerk
Township of Howell
Office of the Mayor

Proclamation

Pancreatic Cancer Awareness Month
November 2012

WHEREAS, in 2012, an estimated 43,920 people will be diagnosed with pancreatic cancer in the United States and 37,390 will die from the disease; and

WHEREAS, pancreatic cancer is one of the deadliest cancers and is the fourth leading cause of cancer death in the United States; and

WHEREAS, when symptoms of pancreatic cancer present themselves, it is usually too late for an optimistic prognosis, and 74 percent of pancreatic cancer patients die within the first year of their diagnosis while 94 percent of pancreatic cancer patients die within the first five years; and

WHEREAS, of all the racial/ethnic groups in the United States, African Americans have the highest incidence rate of pancreatic cancer, between 34 percent and 67 percent higher than the other groups; and

WHEREAS, approximately 1,140 deaths will occur in New Jersey in 2012; and

WHEREAS, there is no cure for pancreatic cancer and there have been no significant improvements in survival rates in the last 40 years; and

WHEREAS, the Federal Government invests significantly less money in pancreatic cancer research than it does in any of the other leading cancer killers. Pancreatic cancer research constitutes only approximately 2 percent of the National Cancer Institute’s federal research funding, a figure far too low given the severity of the disease, its mortality rate, and how little is known about how to arrest it; and

WHEREAS, the Pancreatic Cancer Action Network is the first and only national patient advocacy organization that serves the pancreatic cancer community in Howell Township and nationwide by focusing its efforts on public policy, research funding, patient services, and public awareness and education related to developing effective treatments and a cure for pancreatic cancer; and

WHEREAS, the Pancreatic Cancer Action Network and its affiliates in Howell Township support those patients currently battling pancreatic cancer, as well as those who have lost their lives to the disease, and are committed to nothing less than a cure; and

WHEREAS, the good health and well-being of the residents of Howell Township are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments;

Now, therefore, I, Robert F. Walsh, Mayor of the Township of Howell, do hereby proclaim November 2012 as Pancreatic Cancer Awareness Month in Howell Township.

November 20, 2012

_____________________________________________________
Robert F. Walsh, Mayor
Township of Howell
offered the following resolution, seconded by

WHEREAS, N.J.S.A. 40A:4-58 provides that transfers may be made between appropriations during the last two months of the fiscal year, and

WHEREAS, N.J.S.A. 40A:4-59 provides that transfers may be made between appropriations during the first three months of the subsequent fiscal year, and

WHEREAS, the Council of the Township of Howell has determined that such transfer is prudent and necessary;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Howell (not less than two-thirds of the full Council voting in the affirmative) that the transfers in the amounts and totals listed on the attached sheet be made in the 2012 Appropriations.

ROLL CALL:

VOTE: AYES NAYS ABSTAIN ABSENT

Mr. Nicastro
Mr. Malave
Mrs. Smith
Mr. Gotto
Mayor Walsh

I, Penny Wollman, Clerk of the Township of Howell, County of Monmouth, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Township Council at a meeting of said Township Council held on November 20, 2012.

PENNY WOLLMAN
TOWNSHIP CLERK
# TOWNSHIP OF HOWELL
## APPROPRIATION TRANSFERS
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TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE November 20, 2012

AGENDA ITEM NUMBER 7A.2
Mr.(s) ____________________ offered the following Resolution for adoption seconded by Mr. (s) ____________________

Resolution No. R 12 278

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL FOR ACCEPTANCE OF PERFORMANCE GUARANTEES

MATTER: PERFORMANCE GUARANTEE ACCEPTANCE
APPLICANT: SIERRA BUILDERS 1, LLC
DEVELOPMENT: SIERRA BLOCK 65 LOT 56
CASE NO.: SD-2899 SITE IMPROVEMENTS

WHEREAS, the above named developer of the above named land use project located on property known as Block 65 Lot 56 is posting as a condition of the Planning Board Approval, and in accordance with the requirements of the Township, for the development of said property, a performance guarantee to ensure proper construction of real property improvements therein; and

WHEREAS, as a condition of the Howell Township Planning Board Approval, the above named applicant is required to post with the Township of Howell certain performance guarantees and fees; and

WHEREAS, the Township Engineer computed the amount of the performance guarantee and fees required to be posted by the Developer with the Township of Howell in accordance with the aforementioned Board approval.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Howell, County of Monmouth as follows:

1. The Township Council hereby accepts the following performance guarantee and fees posted by the applicant with the Township of Howell in accordance with the approval previously granted by the Howell Township Planning Board and the Township Engineer’s report dated 9/14/2012 for site improvements:

   a) PERFORMANCE GUARANTEES
      (i) Performance Bond No. S0013420 issued by First Indemnity of America Insurance Company in the amount of $1,007,024.34, representing 90% of the Performance Guarantee for site improvements and Check No. 42861 in the amount of $111,891.59 representing 10% of the Performance Guarantee for site improvements.
b) ENGINEERING INSPECTION FEE
   (i) Check No. 42862 in the amount of $12,000.00 representing 25% of the Engineering Inspection Fee for site improvements.

c) DEVELOPERS AGREEMENT FEE:
   (i) Check No. 555 in the amount of $650.00 representing one-hundred (100%) percent of the Developers Agreement Fee.

d) RESOLUTION FEE
   (i) Check No. 556 in the amount of $175.00 representing the resolution fee as required by Ordinance.

e) SHADE TREE MAINTENANCE FUND
   (i) Check No. 42864 in the amount of $3,300.00 representing the fee for the shade tree fund as listed on the estimate.

2. The Township Clerk is hereby directed to forward a duly certified copy of this Resolution to the following:

   a. Township Engineer
   b. Guarantee Coordinator
   c. Chief Financial Officer
   d. Applicant/Developer

VOTE

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This is to certify that the foregoing Resolution was adopted by the Township council of the Township of Howell at a public business meeting held on November 20, 2012.

PENNY A. WOLLMAN
TOWNSHIP CLERK
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE  November 20, 2012

AGENDA ITEM NUMBER  7A.3
Mr. (s) ______________________ offered the following Resolution for adoption seconded by
Mr. (s) ______________________

Resolution No. R-12-279

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL
AUTHORIZING RELEASE OF THE MAINTENANCE GUARANTEE

MATTER: RELEASE MAINTENANCE GUARANTEE
APPLICANT: SPRAY CITY INC.
PROJECT: RENOVATE EXISTING STEEL BLDG & CONSTRUCT
1520 SF ADDITION FOR SALE OF MOTORCYCLES
BLOCK 141 LOT 12 ROUTE 9
CASE NO.: 06-22

WHEREAS, the above-named Developer of the above-named land use development, Block 141 Lot 12 posted a maintenance guarantee in the form of CASH in the amount of $7,895.90; and

WHEREAS, said Developer requested the return of said Maintenance Guarantee; and

WHEREAS, the Township Engineer, William H. Nunziato, Jr., reviewed the site and determined by memorandum dated October 18, 2012 that said maintenance guarantee should be returned.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Howell as follows:

1. The Township Council of the Township of Howell hereby formally authorizes the return of the maintenance guarantee in the form of CASH in the amount of $7,895.90 to the developer of the site.

2. Said release of the maintenance guarantee is specifically contingent upon the applicant/developer reimbursing the Township for the cost of any and all outstanding construction inspection fees and the cost of any and all charges as per Township Ordinance for the release of said maintenance guarantee.

3. Upon the adoption of the within resolution, the Clerk is authorized and directed to forward a certified copy of it to the following:
   a. Township Engineer
   b. Guarantee Coordinator
   c. Chief Financial Officer
   d. Applicant/Developer
This is to certify that the foregoing Resolution was adopted by the Township council of the Township of Howell at a public business meeting held on November 20, 2012.

PENNY A. WOLLMAN
TOWNSHIP CLERK
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE November 20, 2012

AGENDA ITEM NUMBER 7A.4
Mr. (s) __________________________ offered the following Resolution for adoption seconded by Mr. (s) __________________________

Resolution No. R-12-280

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL
AUTHORIZING RELEASE OF THE MAINTENANCE GUARANTEE

MATTER: RELEASE MAINTENANCE GUARANTEE
APPLICANT: FORT PARTNERS, LLC
PROJECT: WALGREENS
BLOCK 137 LOT 52.03 ROUTE 9 SOUTH
CASE NO.: SP-916 OFF-SITE IMPROVEMENTS

WHEREAS, the above-named Developer of the above-named land use development, Block 137 Lot 52.03 posted a maintenance guarantee in the form of CASH in the amount of $10,225.37 and

WHEREAS, said Developer requested the return of said Maintenance Guarantee; and

WHEREAS, the Township Engineer, William H. Nunziato, Jr., reviewed the site and determined by memorandum dated 10/19/2012 that said maintenance guarantee should be returned.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Howell as follows:

1. The Township Council of the Township of Howell hereby formally authorizes the return of the maintenance guarantee in the form of CASH in the amount of $10,225.37 to the developer of the site.

2. Said release of the maintenance guarantee is specifically contingent upon the applicant/developer reimbursing the Township for the cost of any and all outstanding construction inspection fees and the cost of any and all charges as per Township Ordinance for the release of said maintenance guarantee.

3. Upon the adoption of the within resolution, the Clerk is authorized and directed to forward a certified copy of it to the following:
   a. Township Engineer
   b. Guarantee Coordinator
   c. Chief Financial Officer
   d. Applicant/Developer
VOTE AYES NAYS ABSTAIN ABSENT DISQUALIFY

Mr. Gotto
Mr. Malave
Mr. Nicastro
Mrs. Smith
Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township council of the Township of Howell at a public business meeting held on November 20, 2012.

PENNY A. WOLLMAN
TOWNSHIP CLERK
TOWNSHIP OF HOWELL

TOWNSHIP CLERK’S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE

November 20, 2012

AGENDA ITEM NUMBER

7A.5
Mr(s). offered the following Resolution for adoption, seconded by Mr(s).

Resolution No. R-12-281

RESOLUTION

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL AUTHORIZING THE RETURN OF 1/3 CASH REPAIR DEPOSIT GUARANTEE

MATTER: ROAD OPENING PERMIT #2011-098
APPLICANT: THOMAS DONZELLI
ADDRESS 105 NEWBURY ROAD

WHEREAS, the above named applicant requested release of the cash repair deposit guarantee; and

WHEREAS, the applicant completed all necessary repairs covered by Road Opening Permit #2011-098 and said repairs were inspected by the Engineering Department; and

WHEREAS, by memorandum dated October 5, 2012, the Township Engineering Department recommends the return of the remaining 1/3 cash repair deposit guarantee ($1,272.00).

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Howell that a refund in the amount of $1,272.00, plus interest if any, is authorized to be paid to the applicant from escrow account 37-.2080-00-11098-023.

VOTE

AYES NAYS ABSTAIN ABSENT

Mayor Walsh
Mr. Nicastro
Mr. Malave
Mrs. Smith
Mr. Gotto

This is to certify that the foregoing Resolution was adopted by the Township Council of the Township of Howell during a regular meeting held by that body on November 20, 2012.

PENNY A. WOLLMAN
TOWNSHIP CLERK
Mr.(s) ____________________ offered the following Resolution for adoption seconded by Mr. (s) ____________________

Resolution No. R-12-282

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL
AUTHORIZING CLAIM AGAINST PERFORMANCE BOND #BE0940816 FOR
HUNTERS RUN

MATTER: CLAIM AGAINST PERFORMANCE BOND #BE0940816
APPLICANT: SHOWCASE HOMES AT HOWELL
DEVELOPMENT: HUNTERS RUN
BLOCK 183 NEW LOTS 67.05-67.12
CASE NO.: SD-2702 SITE IMPROVEMENTS

WHEREAS, Showcase Homes at Howell was granted preliminary and final major subdivision approval by the Howell Township Planning Board on May 4, 1995; and

WHEREAS, this approval was for 7 residential lots and 1 lot for storm water purposes to be dedicated to the Township of Howell; and

WHEREAS, Showcase Homes at Howell is responsible for all site work improvements including streets, curbs, gutters, sidewalks, street signs, street lights, storm sewer, etc.; and

WHEREAS, the Township requested Showcase Homes at Howell to complete/repair the public improvements, they have not complied; and

WHEREAS, based upon the foregoing it is the opinion of the Township Engineer that Showcase Homes at Howell has failed to complete the site.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Howell, County of Monmouth as follows:

1. The Township Engineer is authorized to proceed to process a claim against the Performance Guarantees of Showcase Homes at Howell as it relates to Hunters Run, Planning Board Case Number SD-2702.
2. The Township Clerk is hereby directed to forward a duly certified copy of this Resolution to the following:

   a) Township Engineer
   b) Township Attorney
   c) Chief Financial Officer
   d) Guarantee Coordinator
   e) Showcase Homes at Howell
   f) Gulf Insurance Company

**VOTE**

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This is to certify that the foregoing Resolution was adopted by the Township council of the Township of Howell at a public business meeting held on **November 20, 2012**

__________________________________________
PENNY A. WOLLMAN
TOWNSHIP CLERK
Mr.(s) ____________________ offered the following Resolution for adoption seconded by Mr. (s) ____________________

Resolution No. R-12-283

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL
AUTHORIZING CLAIM AGAINST PERFORMANCE BOND #BE1839369 FOR THE
PRESERVE

MATTER: CLAIM AGAINST PERFORMANCE BOND #BE1839369
APPLICANT: SHOWCASE HOMES AT HOWELL
DEVELOPMENT: THE PRESERVE
CASE NO.: SD-2771 SITE IMPROVEMENTS

WHEREAS, Showcase Homes at Howell was granted preliminary and final major
subdivision approval by the Howell Township Planning Board on July 6, 2000; and

WHEREAS, this approval were for 29 residential lots, 2 lots for open space and 1 lot for
storm water purposes to be dedicated to the Township of Howell; and

WHEREAS, Showcase Homes at Howell was responsible for all site work
improvements including streets, curbs, gutters, sidewalks, street signs, street lights, storm sewer,
etc.; and

WHEREAS, the Township requested Showcase Homes at Howell to complete the
remaining public improvements, they have not complied; and

WHEREAS, based upon the foregoing it is the opinion of the Township Engineer that
Showcase Homes at Howell has failed to complete the site.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the
Township of Howell, County of Monmouth as follows:

1. The Township Engineer is authorized to proceed to process a claim against the
Performance Guarantees of Showcase Homes at Howell as it relates to The
Preserve, Planning Board Case Number SD-2771.
2. The Township Clerk is hereby directed to forward a duly certified copy of this Resolution to the following:

a) Township Engineer 
b) Township Attorney 
c) Chief Financial Officer 
d) Guarantee Coordinator 
e) Showcase Homes at Howell 
f) Gulf Insurance Company

VOTE

AyEs NAYS ABSTAIN ABSENT DISQUALIFY

Mr. Gotto
Mr. Malave
Mr. Nicastro
Mrs. Smith
Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township council of the Township of Howell at a public business meeting held on November 20, 2012.

PENNY A. WOLLMAN
TOWNSHIP CLERK
Mr.(s) __________________________ offered the following Resolution for adoption seconded by Mr. (s) __________________________

Resolution No.  R-12-284

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL AUTHORIZING CLAIM AGAINST PERFORMANCE BOND #BE1839370 FOR THE PRESERVE

MATTER: CLAIM AGAINST PERFORMANCE BOND #BE1839370
APPLICANT: SHOWCASE HOMES AT HOWELL
DEVELOPMENT: THE PRESERVE
BLOCK 49   LOTS 19.01 THROUGH 19.31
CASE NO.: SD-2771   SANITARY SEWER IMPROVEMENTS

WHEREAS, Showcase Homes at Howell was granted Final Sanitary Sewer Approval by the Howell Township Council on October 16, 2000; and

WHEREAS, Showcase Homes at Howell is responsible for all sanitary sewer improvements as outlined in the Consulting Engineer’s letter dated 8/21/2000; and

WHEREAS, the Township requested Showcase Homes at Howell to complete/repair the sanitary sewer improvements, they have not complied; and

WHEREAS, based upon the foregoing it is the opinion of the Township Engineer that Showcase Homes at Howell has failed to complete the site.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Howell, County of Monmouth as follows:

1. The Township Engineer is authorized to proceed to process a claim against the Performance Guarantees of Showcase Homes at Howell as it relates to The Preserve, Planning Board Case Number SD-2771.
2. The Township Clerk is hereby directed to forward a duly certified copy of this Resolution to the following:

a) Township Engineer
b) Township Attorney
c) Chief Financial Officer
d) Guarantee Coordinator
e) Showcase Homes at Howell
f) Gulf Insurance Company

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Mr. Gotto
Mr. Malave
Mr. Nicastro
Ms. Smith
Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township council of the Township of Howell at a public business meeting held on November 20, 2012

___________________________
PENNY A. WOLLMAN
TOWNSHIP CLERK
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE November 20, 2012

AGENDA ITEM NUMBER 7A.9
RESOLUTION

RETURN OF UNUSED ESCROW FUNDS

offered the following Resolution for adoption:
Seconded by ________________________________.

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL, AUTHORIZING THE RETURN OF UNUSED ESCROW FUNDS.

MATTER: RETURN OF UNUSED SEWER/WATER REVIEW ESCROW

APPLICANT: NJ AMERICAN WATER CO.
213 Carriage Lane
Delran, NJ 08075

DEVELOPMENT: Block 142.01, Lot 209
Wyckoff Road, Howell

CASE NO. #01-249

WHEREAS, the above named applicant of the above named land use development previously posted pursuant to the provisions of the Municipal Land Use Law (40:55D-53.2) and Township Ordinances,

Escrow Funds for professional services to assure proper Sewer/Water Reviews

WHEREAS, the sewer reviews are complete and the applicant has requested their escrow account be closed.

WHEREAS, CME Engineering and the Township Engineer have recommended the return of unused sewer review escrow fees; and
NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Howell as follows:

1. That the Township Finance Officer is hereby authorized to Return the unused escrow funds in the amount of $1519.50 plus interest if applicable, from the Applicant’s account #38-2080-00-01249-005 & 006

2. A certified copy of this Resolution shall be provided by the Township Clerk to each of the following:
   a. Township Sewer Dept
   b. Township Engineer
   c. Township Treasurer
   d. Property Developer
   e. Asset Management Consultants, 12841 Fitzwater Dr, Nokesville, VA 20181-2734

VOTE: AYS NAYS ABSTAIN ABSENT

Mr. Malave  
Mr. Gotto  
Mr. Nicastro  
Mrs. Smith  
Mayor Walsh

This is to certify that the following Resolution was adopted by the Township Council of the Township of Howell at a public business meeting held on November 20, 2012.

PENNY WOLLMAN, TOWNSHIP CLERK
TOWNSHIP OF HOWELL

TOWNSHIP CLERK’S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE November 20, 2012

AGENDA ITEM NUMBER 7A.10
RESOLUTION

RETURN OF OVERPAYMENT OF APPLICATION FEE

 offered the following Resolution for adoption

seconded by 

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL

AUTHORIZING THE RETURN OF OVERPAYMENT ON APPLICATION FEE FOR

THE FOLLOWING:

MATTER REFUND: Jixiang Lin – Treasurer
15 Dogwood Lane
Alpine, NJ 07620
Howell Solar, LLC / Case No. SP-973
Block 166, Lot 110
Fort Plains & Sunnyside Roads
Account No. 36-2080-00-00973
Refund: $1,725.00

WHEREAS, the Planning Board office has recommended the return of the overpayment plus interest, if applicable; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Howell as follows:

1. That the Township Finance Officer is hereby authorized to return to the developer the overpayment application fee in the amount mentioned plus interest, if applicable, and

2. A certified copy of this Resolution shall be provided by the Township Clerk to each of the following:

   A. Township Engineer

   B. Township Guarantee Coordinator
C. Township Treasurer

D. Property Developer

VOTE:

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This is to certify that the following Resolution was adopted by the Township Council of the Township of Howell at a public business meeting held on November 20, 2012.

Penny Wollman, Township Clerk
Mr(s).____________________offered the following Resolution and moved its adoption seconded by Mr(s).____________________.

**RESOLUTION R-12-287**

RESOLUTION FOR THE ACCEPTANCE OF THE PROJECT, AUTHORIZE FINAL PAYMENT OF $780.00 AND ACCEPTANCE OF THE MAINTENANCE BOND FOR THE NEW INTERIOR STAIR TOWER RAILINGS - CONTRACT #12-04.

WHEREAS, The Township Council of the Township of Howell contracted with Ohana Metal & Iron Works, Inc., 60 Miller Road, Montgomery, NY 12549 for the New Interior Stair Tower Railings – Contract #12-04; and

WHEREAS, Ohana Metal & Iron Works, Inc., has submitted Western Surety Company Maintenance Bond #71262220 dated August 20, 2012, in the amount of $39,000.00 for the period 8/20/12 to 8/20/14; and

WHEREAS, said bond is in the correct legal form, content and in the correct amount; and

WHEREAS, the Township has received a request for final payment on the contract of $780.00; and

WHEREAS, the Township Manager and the Consulting Architect have recommended acceptance of the project, authorize final payment of $780.00 and acceptance of the Maintenance Bond.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Howell that they hereby accept the aforedescribed project, authorize final payment and acceptance of the Maintenance Bond.

BE IT FURTHER RESOLVED that the Manager, Chief Financial Officer, QPA and such other officials of the Township as shall be required are hereby authorized and empowered to perform all acts and execute all documents necessary to accept the project, process the final payment and accept the Maintenance Bond.

BE IT FURTHER RESOLVED that the appropriation to be charged is #04-2150-55-01117-032 in the amount of $780.00.
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This is to certify that the foregoing Resolution was adopted by the Township Council of the Township of Howell during a regular meeting held by that body on November 20, 2012.

______________________________
Penny A. Wollman - Township Clerk

EB/12-04
Mr(s). offered the following Resolution and moved its adoption seconded by Mr(s).

RESOLUTION R-12-288

RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 & 2, ACCEPTANCE OF THE PROJECT, AUTHORIZE FINAL PAYMENT OF $1,672.28 AND ACCEPTANCE OF THE MAINTENANCE BOND FOR THE CUSTOM MILLWORK IN THE NEW COUNCIL MEETING ROOM AT THE NEW MUNICIPAL BUILDING - CONTRACT #12-06.

WHEREAS, The Township Council of the Township of Howell contracted with Hall Construction Co., Inc., 149 Yellowbrook Road, Farmingdale, NJ 07727 for the Custom Millwork in the New Council Meeting Room at the New Municipal Building - Contract #12-06; and

WHEREAS, Hall Construction Co., Inc., has submitted Federal Insurance Company Maintenance Bond No. 8215-35-84, dated September 14, 2012, in the amount of $8,361.00 for the period 8/31/12 to 8/31/14; and

WHEREAS, said bond is in the correct legal form, content and in the correct amount; and

WHEREAS, the Township has received a request for final payment on the contract of $1,672.28; and

WHEREAS, the Township Manager and the Consulting Architect have recommended authorization of Change Order No. 1 (an increase of $12,435.00) and Change Order No. 2 (an increase of $1,279.14) for a new contract amount of $83,614.14, acceptance of the project, authorize final payment of $1,672.28 and acceptance of the Maintenance Bond.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Howell that they hereby accept Change Orders No. 1 & 2 for the aforesaid project, authorize final payment and acceptance of the Maintenance Bond.

BE IT FURTHER RESOLVED that the Manager, Chief Financial Officer, QPA and such other officials of the Township as shall be required are hereby authorized and
empowered to perform all acts and execute all documents necessary to accept the project, process the final payment and accept the Maintenance Bond.

BE IT FURTHER RESOLVED that the appropriation to be charged is #04-2150-55-01117-032 in the amount of $1,672.28.

VOTE  AYES  NAYS  ABSTAIN  ABSENT

Mr. Gotto  Mr. Malave  Mr. Nicastro  Mrs. Smith  Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township Council of the Township of Howell during a regular meeting held by that body on November 20, 2012.

Penny A. Wollman - Township Clerk

EB/12-06
RESOLUTION

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL, AUTHORIZING THE EXECUTION OF A MAINTENANCE AND ESCROW AGREEMENT FOR CERTAIN STORMWATER MANAGEMENT FACILITIES FOR SUBDIVISION KNOWN AS SEVEN OAKS AT HOWELL, LLC

WHEREAS, Seven Oaks at Howell, LLC, by and through its Developer Toll NJ, L.P. has submitted an executed a Maintenance and Escrow Agreement for Certain Stormwater Management Facilities covering property known and designated on the official Tax Map of the Township of Howell as Block 218 Lot 20 (the "Subject Property") which the Planning Board accepted and designated as Application No. SD-2857; and

WHEREAS, said agreement has been reviewed and modified by the Township Attorney and the Township Engineer and is recommended for approval; and

WHEREAS, it is now the desire of the governing body to authorize the execution of said agreements by the Mayor and Township Clerk.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Howell as follows:

1. That the Mayor and Clerk are hereby authorized to execute a Maintenance and Escrow Agreement for Certain Stormwater Management Facilities for Seven Oaks at Howell, LLC known and designated on the official Tax Map of the Township of Howell as Block 218 Lot 20 (the "Subject Property") which the Planning Board accepted and designated as Application No. SD-2857.

2. That upon the adoption of the within Resolution and execution of the above referenced agreements, the Clerk is authorized and directed to forward certified copies to the Township Engineer, Township CFO, and all other interested parties and two original agreements to Todd A. Cohen, Esq.
VOTE: AYES NAYS ABSTAIN ABSENT DISQUALIFY

Mrs. Smith
Mr. Gotto
Mr. Nicastro
Mr. Malave
Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township Council of the Township of Howell during a regular meeting held on November 20, 2012.

PENNY WOLLMAN, TOWNSHIP CLERK
Mr(s). offered the following Resolution for adoption seconded by Mr(s).

Resolution No: R-12-290

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL WAIVING CONSTRUCTION PERMIT FEES FOR CONSTRUCTION WORK MADE NECESSARY BY HURRICANE DAMAGE

WHEREAS, the Township of Howell, along with many other communities along the New Jersey coast, experienced a storm of unprecedented fury when Hurricane Sandy struck New Jersey on October 29, 2012; and,

WHEREAS, many property owners in the Township of Howell suffered damage to their homes and businesses as a result of Hurricane Sandy; and,

WHEREAS, the Township Council is cognizant and supportive of the will and desire of our residents and businesses to rebuild a stronger Howell Township and is at the ready to assist in this process; and,

WHEREAS, the State of New Jersey has indicated that pursuant to N.J.A.C. 5:23-4.19(b)5 the State will waive the State permit surcharge fee for construction permits if the municipality waives the local fee; and,

WHEREAS, the Township Council desires to waive the municipal fee for construction permits as a result of Hurricane Sandy,

THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Howell that municipal construction permit fees for construction work made necessary by Hurricane Sandy be and are hereby waived for construction permit applications received by the Howell Township Construction Department on or before December 13, 2012; and,

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Township Manager, Chief Financial Officer, Construction Official and Edward M. Smith, Director of New Jersey Department of Community Affairs Division of Codes and Standards.
VOTE: AYES NAYS ABSTAIN ABSENT DISQUALIFY

Mrs. Smith
Mr. Gotto
Mr. Nicastro
Mr. Malave
Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township Council of the Township of Howell during a regular meeting held on November 20, 2012.

PENNY WOLLMAN, TOWNSHIP CLERK
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE

November 20, 2012

AGENDA ITEM NUMBER

7A.15
RESOLUTION AUTHORIZING EXECUTION OF A CERTAIN GRANT AGREEMENT FOR FUNDING RECEIVED FROM THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION FISH AND WILDLIFE AND DEP OFFICE OF NATURAL RESOURCE RESTORATION FOR SQUANKUM BROOK RESTORATION PROJECT

WHEREAS, the Township of Howell has completed the feasibility phase of the Squankum Brook Restoration Project and is now ready to proceed with the implementation phase of the project which requires execution of a Grant Agreement between the Township of the New Jersey State DEP Office of Natural Resource Restoration in order to obtain the funding from the State and Federal government to complete the project; and

WHEREAS, the implementation phase is expected to cost $75,000, with $10,000 obligated by the USFWS (through Trout Unlimited) and up to $65,000 from the State; and

WHEREAS, the Township of Howell is desirous of completing the Squankum Brook Restoration Project with funding from the State and Federal government; and

WHEREAS, the Governing Body of the Township of Howell recognizes the need for the Squankum Brook Restoration project and the need to execute the Grant Agreement with the New Jersey DEP office of Natural Resource Restoration in order to facilitate the funding of the implementation phase and that the restoration project will enhance the health and welfare of its citizens and to advance the preservation of natural resources within the Township of Howell; and

NOW, THEREFORE, be it resolved by the Governing Body of the Township of Howell that the Mayor is hereby authorized to execute the Grant Agreement for the Implementation Phase of the Squankum Brook Restoration Project and all other documents or agreements deemed reasonably necessary to accomplish same.

Certified as a true copy of the Resolution adopted by the Governing Body of the Township of Howell at their Regular Meeting held on November 20, 2012.

Penny Wollman, RMC, Municipal Clerk
VOTE: AYS NAYS ABSTAIN ABSENT

Mr. Malave
Mr. Gotto
Mr. Nicastro
Mrs. Smith
Mayor Walsh

This is to certify that the following Resolution was adopted by the Township Council of the Township of Howell at a public business meeting held on November 20, 2012.

PENNY WOLLMAN, TOWNSHIP CLERK
Mr(s). offered the following Resolution for adoption seconded by Mr(s).

Resolution No: R-12 292

RESOLUTION

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL AUTHORIZING THE EXECUTION OF A LAND USE DEVELOPER'S AGREEMENT FOR SEVEN OAKS HOWELL, A NEW JERSEY LIMITED LIABILITY COMPANY

WHEREAS, Seven Oaks at Howell, LLC a New Jersey limited liability company, with offices at 14 Crescent Road Holmdel, NJ 07733 has submitted an executed Land Use Developer’s Agreement covering property known Block 218, Lots 20.10 and 20.11 being a development known as Boulder at Eagle Oaks; and

WHEREAS, this Developer's Agreement replaces the previously recorded Developer's Agreement in its entirety in Monmouth County Clerk's Office in Book 8638, Page 386 on March 20, 2007; and

WHEREAS, the Developer has agreed to construct certain improvements shown on the application for Preliminary Major Subdivision approvals, with variance and waiver relief, if applicable, Final Major Subdivision approval with woodlands management plan approval granted on March 26, 2012 and memorialized on March 12, 2012 under Zoning Board, Application No.: 10-17SP; and; and

WHEREAS, said agreement has been prepared and modified by the Township Attorney and the Township Engineer and is recommended for approval; and

WHEREAS, it is now the desire of the governing body to authorize the execution of said agreements by the Mayor and Township Clerk.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township
of Howell as follows:

1. That the Mayor and Clerk are hereby authorized to execute the Land Use Developer’s Agreement submitted by Seven Oaks at Howell, LLC for Block 218, Lots 20.10 and 20.11.

2. That upon the adoption of the within Resolution and execution of the above referenced agreements, the Clerk is authorized and directed to forward certified copies to the Township Engineer, Township CFO, Seven Oaks at Howell, LLC and Todd Cohen, Esq. and all other interested parties.

VOTE: AYES NAYS ABSTAIN ABSENT DISQUALIFY

Mrs. Smith
Mr. Gotto
Mr. Nicastro
Mr. Malave
Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township Council of the Township of Howell during a regular meeting held on November 20, 2012.

PENNY WOLLMAN, TOWNSHIP CLERK
TOWNSHIP OF HOWELL

TOWNSHIP CLERK’S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE

November 20, 2012

AGENDA ITEM NUMBER

7A.17
Mr. offered the following resolution for adoption:
seconded by Mr.

R-12-293

RESOLUTION

WHEREAS, there are small tax and sewer balances and
credits outstanding for 2012, which are economically unfeasible to collect
or refund:

NOW THEREFORE, BE IT RESOLVED by the Township
Council of the Township of Howell that the Tax Collector and Utility
Department are hereby authorized to cancel 2012 balances and credits of
less than $5.00 (FIVE DOLLARS) except where total levied taxes or
sewer fees per quarter are less than said amount. (N.J.S.A.40A5-17.1)

VOTE AYES NAYS ABSTAIN ABSENT

Mr. Gotto
Mr. Malave
Mr. Nicastro
Mrs. Smith
Mayor Walsh

ADOPTED November 20, 2012

This is to certify that the foregoing RESOLUTION was adopted by the
Howell Township Council during a regular meeting held by that body on
November 20, 2012.

PENNY A. WOLLMAN, TOWNSHIP CLERK
40A:5-17.1. Refund, delinquency of less than $10.00
1.
   a. Notwithstanding the provision of any law to the contrary, the governing body of a municipality may adopt a resolution authorizing a municipal employee chosen by the governing body to process, without further action on the part of the governing body, any property tax refund of less than $10.00.
   b. Notwithstanding subsection a. of this section or any provision of law to the contrary, the governing body of a municipality may adopt a resolution authorizing a municipal employee chosen by the governing body to process, without further action on the part of the governing body, the cancellation of any property tax refund or delinquency of less than $10.00.
L.1983,c.568,s.1; amended 1987, c.82; 1996, c.113, s.14.
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE
November 20, 2012

AGENDA ITEM NUMBER
7A.18
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

RESOLUTION COVER PAGE

WORKSHOP MEETING DATE

REGULAR MEETING DATE November 20, 2012

AGENDA ITEM NUMBER 7A.19
Mr(s). offered the following Resolution for adoption seconded by Mr(s).

Resolution No: R-12-295

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL
IN SUPPORT OF ASSEMBLYWOMAN BETTY LOU DE CROCE PROPOSED
LEGISLATION ENTITLED NEW JERSEY RESIDENTS POWER PROTECTION ACT

WHEREAS, the Township of Howell, along with many other communities along the New
Jersey coast, experienced a storm of unprecedented fury when Hurricane Sandy struck New
Jersey on October 29, 2012; and,

WHEREAS, many property owners in the Township of Howell suffered damage to their homes
and businesses as a result of Hurricane Sandy; and,

WHEREAS, the Township Council is cognizant and supportive of the will and desire of our
residents and businesses to rebuild a stronger Howell Township and is at the ready to assist in
this process; and,

WHEREAS, in the wake of Hurricane Sandy’s devastating impact on New Jersey’s power grid,
Assemblywoman Betty Lou De Croce (R-26th) is sponsoring legislation requiring gas stations,
nursing homes and certain other critical facilities to have generator backup power.

WHEREAS, the Township supports Assemblywoman DeCroce’s position that certain facilities
which provide critical and unique services that protect public safety and help economic recovery
must have secondary sources of power.

WHEREAS, the Township further supports De Croce’s New Jersey Residents Power Protection
Act in that in addition to requiring gas stations and nursing homes to have backup generators,
the Act would require public and private assisted living facilities, Class C (dementia patients)
boarding homes and all firehouses and emergency medical facilities to have a full source of
backup power.

WHEREAS, the Township further supports with DeCroce’s legislation requiring the backup
energy come from natural gas generators--where natural gas is available--or propane stored in
above-ground tanks. The generators would be hard wired into the facilities’ electrical systems.

WHEREAS, the residents of Howell Township and neighboring municipalities were forced to
wait on long gas lines as a result the inability of many stations to pump fuel without power; and

WHEREAS, Howell Township is not in favor of unfunded mandates, especially for businesses
whom are already up against tough economic challenges, and it is suggested that a tax abatement
of other form of tax relief be offered to assist the affected businesses and ensure that our local
gas stations remain an essential part of our local disaster preparedness and emergency response
efforts.
NOW, THEREFORE, the governing body of the Township of Howell offers its support of Assemblywoman Betty Lou De Croce (R-26th) New Jersey Residents Power Protection Act and urges the Legislature to adopt same.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Senator Robert W. Singer, Assemblyman David P. Rible and Assemblyman Sean T. Kean, the New Jersey State League of Municipalities and the Office of the Governor.

VOTE: AYES NAYS ABSTAIN ABSENT DISQUALIFY

Mrs. Smith
Mr. Gotto
Mr. Nicastro
Mr. Malave
Mayor Walsh

This is to certify that the foregoing Resolution was adopted by the Township Council of the Township of Howell at their Meeting held on November 20, 2012.

PENNY WOLLMAN, TOWNSHIP CLERK
WHEREAS, the Township of Howell has established a snow removal fund in accordance with the provisions of N.J.S.A. 40A:4-62.1, and

WHEREAS, Executive Order No. 111 provides that any local government that has established a snow removal fund may, by resolution, utilize existing reserves as necessary to protect the safety, security, health and welfare of its citizens from the damage caused by Hurricane Sandy, and

WHEREAS, any reimbursement of these expenditures shall be deposited back into the trust fund;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Howell that the use of the existing snow removal fund for expenditures necessary to protect the safety, security, health and welfare of its citizens is hereby authorized.

BE IT FURTHER RESOLVED that any reimbursement of these expenditures shall be deposited back into the snow removal fund.

ROLL CALL:

VOTE: AYES NAYS ABSTAIN ABSENT

Mr. Nicastro
Mr. Malave
Mrs. Smith
Mr. Gotto
Mayor Walsh

I, Penny Wollman, Clerk of the Township of Howell, County of Monmouth, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Township Council at a meeting of said Township Council held on November 20, 2012.

PENNY WOLLMAN
TOWNSHIP CLERK
ORDINANCE NO. 0-12-22

AN ORDINANCE OF THE TOWNSHIP OF HOWELL AMENDING CHAPTER 188-78.2 ENTITLED HIGHWAY DEVELOPMENT 3 (HD-3) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL.

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 188-78.2 entitled Highway Development HD-3 of the Revised General Ordinances of the Township of Howell shall be amended to read as follows:

NOTE: Sections of Chapter 188-78.2 that are to be amended by the within Ordinance is set forth below. All additions are shown in **bold italics with underlines**. All deletions are shown in **bold italics with strikeouts**. All other sections of Chapter 188-78.2 will remain unchanged and are set forth below in normal typeface.

§ 188-78.2. Highway Development 3 (HD-3).

A. Purpose. The purpose of the HD-3 Zone is to provide for highway development and appropriate mixed-use development along highway corridors that will provide a balance of social, economic and cultural opportunities for residents while maximizing existing transportation and other infrastructure along highway corridors.

B. Permitted uses.

(1) Principal uses:

   (a) Offices.

   (b) Financial institutions.

   (c) Medical centers.

   (d) Hospitals.

   (e) Restaurants with drive-through.

   *(f) Planned Mixed-use Age Restricted Developments (development consisting of both residential and commercial uses on a large tract), as provided in sub-sections F through L of 188-78-2.*

(2) Accessory uses. Accessory uses customarily incidental and ancillary to a permitted use.

(3) Conditional uses:

   (a) Houses of worship.
(b) Schools and day-care facilities.

(c) Telecommunication facilities.

(d) Commercial breeders, dog kennels, shelters, pounds, dog training facilities and pet shops.

(e) Gasoline station convenience center. Editor's Note: Former Subsection B(3)(e), Billboards, added 9-21-2010 by Ord. No. 0-10-20, was removed pursuant to Ord. No. 0-11-40, adopted 11-1-2011.

C. Nonresidential development. Unless otherwise provided in this section, the bulk standards for commercial development shall be the same as § 188-76, Highway Commercial Zone, and Schedule II, Bulk and Dimensional Requirements for Nonresidential Zones.

D. Preexisting single-family residences. Unless otherwise provided in this section, all preexisting single-family dwelling units shall be grandfathered as a permitted use and shall be subject to the R4 bulk requirements identified in Schedule II, Bulk and Dimensional Requirements for Residential Zones, effective as of May 19, 2009.

E. Any age-restricted unit legally existing or having received preliminary or final approval as of May 19, 2009, shall be subject to the standards as identified within § 188-78.2, provided no further subdivision of land occurs.

F. Planned Mixed-use age restricted developments general requirements:

(1) Planned Mixed-use age restricted developments must be in a mixed-use form and consistent with the Township’s design standards. The general requirements are as follows:

(a) The tract shall be under one ownership or control by the applicant for the purposes of obtaining all required approvals, and committing the tract to the regulations of an Occupant’s Association.

(b) Minimum tract area: 40 acres.

(c) Total residential gross density shall not exceed three units to the acre and no more than 200 units shall be provided as part of a Planned Mixed-use age restricted developments.

(d) Minimum tract frontage: 200 linear feet on a collector or arterial roadway.

G. Planned Mixed-use age restricted developments commercial component requirements:
(1) A minimum of 400 square feet of commercial space is required for each proposed dwelling unit.

(2) No more than fifty percent (50%) of the commercial component may be in the form of retail space. Retail space is limited to the ground floor of any commercial building.

(3) Unless otherwise provided in this section, the bulk standards for commercial development shall be the same as 188-76 Highway Commercial and the Schedule II Bulk and Dimensional Requirement for Non-Residential Zones.

(4) Unless otherwise provided in this section, signage standards for commercial development shall be the same as Chapter 256, “Signs” of the Howell Township General Ordinances.

(5) Open Space: A minimum of fifty square feet (50 sf) of outdoor public space per thousand square feet (1,000 sf) of all commercial space shall be provided in the form of greens or plazas as described in section 188A.6 on the commercial lots. The Board may consider reducing this requirement by twenty-five percent (25%) for an acceptable element of civic art such as sculptures, statues and fountains not associated with drainage basins.

(6) Prohibited commercial uses: Sexually oriented businesses such as Adult Book Stores; Tattoo and Body Piercing Parlors; and Pool/Billiard Halls.

H. Planned Mixed-use age restricted developments residential component standards:

(1) Purpose. The purpose and intent of this use is to enable the development of planned age-restricted projects that address the needs of active seniors by providing immediate access to cultural, commercial, recreational and professional services, as well as access to transportation services.

(2) This ordinance shall acknowledge that all prior approvals in this zone shall remain valid and in full force and effect and all valid pre-existing non-conforming prior approvals in this zone.

(3) Definitions. The following terms shall apply to age-restricted housing:

ACTIVE SENIOR - An adult of 55 years of age or older who may still be employed full-time and is capable of independent living (not requiring assistance) who may utilize the recreational amenities available in the development.

(3) Permitted Principal Uses.
(a) **Detached or Semi-detached single family dwellings on fee-simple lots for owner occupancy.**

(b) **Attached townhouse and duplex structures.**

(c) **Total residential component of a Planned Mixed-use age restricted developments shall not exceed 200 units.**

(4) **Required Open Space and Recreational Facility Requirements.**

(d) **Eight-hundred (800) square feet of usable land shall be provided per dwelling unit in the form of usable open space for neighborhood commons, greens or gardens. Open space shall not be inclusive of wetland areas.**

(e) **Recreational facilities. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey and all other applicable codes and standards.**

(5) **Accessory uses.**

a. **Administration and security buildings related to the project.**

b. **Individual storage sheds and patios located in a manner that is consistent with a plan approved by the planning board.**

c. **Off-street parking facilities.**

d. **Recreational Facilities.**

(6) **Ownership, management and maintenance.**

a. **The applicant shall establish a homeowners or occupants association, which shall be responsible for the following:**

i. **Management of roadway, recreation facilities, security, internal transportation and open space, which shall be owned and maintained by the association and include all residents. Notification of this provision is to be included in the contract of sale and/or rent for each dwelling unit.**

ii. **The association shall own and be responsible for the maintenance, repair and reconstruction of all buildings and lands owned by the residents of the community in common with one another. Such lands shall include, at a minimum,**
all recreational areas, open space, and drainage facilities required by the Township Planning Board.

iii. All open space areas shall be protected by legal arrangements, satisfactory to the Planning or Zoning Board Attorney, sufficient to assure their maintenance and preservation for their intended purpose.

iv. Covenants or other legal arrangements, including associations, shall specify ownership of the area; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain the area will not be dissolved without the consent of the Township Planning Board; and any other specifications deemed necessary by the Planning Board.

(7) Affordable Housing
a. Each proposal shall provide for affordable housing equal to a minimum of 20% of the total number of units proposed to be developed in the Planned Mixed-use age restricted developments. Affordable units may be situated in higher density forms of permitted residential units, such as attached townhouse units, semi-detached (“twin”) homes, and/or duplexes. All affordable units must qualify as “family” units under applicable affordable housing regulations of the State of New Jersey, except that the Planning Board may approve other types of affordable units should the Township’s Housing Plan change as a result of new state affordable housing requirements.

b. 80% of the affordable family units must contain no more than two bedrooms and 20% of the affordable family units must contain no more than three bedrooms.

I. Planned Mixed-use age restricted developments residential component design requirements.

(1) Residential building types shall be limited to detached single-family dwellings on fee simple lots, except that higher density building types such as semi-detached single family “twins” (single family on fee simple lot attached on one side to another single family unit on a separate fee simple lot), attached townhouse units, or duplexes (two units on one lot) may be used to provide affordable units required in this ordinance.

(2) The following accessory uses are permitted:
(a) Common recreational facilities, recreation centers and/or clubhouses as specifically approved by the Board within specified open space areas in order to satisfy the needs of the residential population within the subject portion of the development.

(b) Landscaping features including benches, trellises, gazebos and other such features customarily associated with residential uses, as the case may be.

(c) Fences, walls and retaining walls if specifically approved by the Board as part of the site plan approval.

(d) Off-street parking and private garages in accordance with Article XIV entitled Residential Design Standards, of the revised general ordinances of the Township of Howell.

(e) Not more than one vestibule attachment between a principal building and a detached garage. For purposes of this ordinance, such vestibule attachment may be enclosed, but shall not cause the detached garage to be deemed part of the principal building for purposes of setback requirements.

(f) Signs in accordance with those design provisions specified in sub-section L and 188A.9.

(g) Sanitary sewer pumping stations, if required.

(3) Building Height and Design Requirements for single-family detached units.

(a) No single-family detached or semi-detached units shall exceed thirty-five feet (35 ft) in height and two and one-half (2 ½) stories. For the purposes of this sub-section, the determination of height and number of stories shall be made from the average elevation from the finished grade to the mean roof line along the front façade of the dwelling facing a public street. A “basement” or “cellar” that has less than half of its floor to ceiling height above the finished grade along the front façade of the dwelling facing a public street shall not be counted as a story or half story for purposes of this sub-section, notwithstanding other provisions of this Chapter.

(b) No new accessory building shall exceed fifteen (15) feet in height, except that a detached garage may be twenty-five (25) feet in height for purposes of an accessory use such as attic storage or finished work space above the garage.
(c) All new single-family units within a Planned Mixed-use age restricted developments shall be totally covered by a true and complete gable, hip or gambrel roof.

(d) All buildings shall be set back at least seventy-five (75) feet from all non-internal roadways.

(e) Bulk and dimensional requirements for single-family and duplex residential units are as follows:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Required for Duplex</th>
<th>Required for Single family semi-detached (Twin)</th>
<th>Required for Single family detached</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. lot size</td>
<td>5,500 sq. ft.</td>
<td>4,000 sq. ft. per unit</td>
<td>6,500 sq. ft.</td>
</tr>
<tr>
<td>Min. lot width</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>60 ft.</td>
</tr>
<tr>
<td>Min. lot depth</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Principal Building</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front yard setback</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Side yard min.</td>
<td>6 ft.</td>
<td>0 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Side yard aggregate</td>
<td>14 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Rear yard min.</td>
<td>25 ft.</td>
<td>25 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Accessory Building</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Side yard min.</td>
<td>5 ft.</td>
<td>0 ft.</td>
<td>3 ft.</td>
</tr>
<tr>
<td>Rear yard min.</td>
<td>3 ft.</td>
<td>5 ft.</td>
<td>5 ft.</td>
</tr>
<tr>
<td>Max. building coverage</td>
<td>50%</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Max. lot coverage</td>
<td>65%</td>
<td>65%</td>
<td>65%</td>
</tr>
<tr>
<td>Min. parking requirements</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2-Bedroom</td>
<td>1.5 spaces</td>
<td>1.5 spaces</td>
<td>1.5 spaces</td>
</tr>
<tr>
<td>3 or more -Bedroom</td>
<td>2.0 spaces</td>
<td>2.0 spaces</td>
<td>2.0 spaces</td>
</tr>
</tbody>
</table>

(4) **Building Height and Design Requirements for Townhouses**

(a) No townhouses shall exceed thirty-five (35) feet in height and two and one-half (2 ½) stories.

(b) No new accessory building, as may be approved by the Planning or Zoning Board, shall exceed fifteen (15) feet in height and one (1) story.
(c) All new townhouses within a Planned Mixed-use age restricted developments shall be totally covered by a true and complete gable, hip or gambrel roof.

(d) All buildings shall be set back at least one hundred (100) feet from all non internal roadways.

(e) Additional requirements for townhouses are as follows:

<table>
<thead>
<tr>
<th>Requirements</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum number of units/building</td>
<td>6</td>
</tr>
<tr>
<td>Maximum building length</td>
<td>200 ft.</td>
</tr>
<tr>
<td>Maximum distance between buildings</td>
<td>20 ft.</td>
</tr>
</tbody>
</table>

J. General Requirements for residential component of Planned Mixed-use Development

(1) No development or improvements, except as approved access drives, fences, walls, plantings or signs, shall be permitted within one hundred (100) feet of Route 33.

(2) A buffer area of fifty (50) feet in width, exclusive of any portion of fee simple single-family residential lots or commercial building setbacks, shall be provided along any tract boundary line abutting a residential use. The buffer area requirement may be reduced to twenty-five (25) feet if the Board determines sufficient buffer exists on the adjoining tracts(s).

(3) Any existing mature trees within the buffer areas shall be preserved and shall be supplemented with the planting of a buffer screening, which shall be at least twenty-five (25) feet in width, consisting of densely planted evergreen trees at least six (6) feet high at the time of planting, deciduous trees, and a mixture of evergreen and deciduous shrubbery.

(4) Where environmental conditions permit, earthen berms at least four (4) feet high shall be provided, if deemed appropriate by the Board with the advice of the Township Certified/Licensed Tree Expert.

(5) Any residential component of a Planned Mixed-use age restricted developments shall strive to maintain the existing topographic contour and vegetation onsite where possible. All disturbed portions of the tract not utilized by buildings or paved surfaces shall be landscaped utilizing
combinations such as landscaped fencing, shrubbery, lawn areas, ground cover, rock formations, contours, existing foliage, and the planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas.

(6) Any residential component of a Planned Mixed-use age restricted developments shall be conceived, designed and approved as a single entity which shall be planned and developed with a common architectural theme subject to review and approval by the Board; the architectural theme shall be consistent, as appropriate, with the Township’s Design Standards as amended, with regard to the appearance of buildings, signage, fencing, lighting, paving, curbing, walkways and landscaping.

(7) All residential units shall be connected to an approved public water and sanitary sewer system.

(8) The design of residential development within a Planned Mixed-use age restricted developments shall be pedestrian friendly, with a continuous pedestrian walkway system, including jogging and bicycle paths through open space lands and sidewalks provided on both sides of all internal streets and crosswalks at all intersections. Where sidewalks are not required, the Board may require the installation of trails and paths to provide pedestrian linkage to commercial areas and site amenities.

(9) Traffic controls governing access to the Planned Mixed-use age restricted developments deemed necessary by NJDOT shall commence construction prior to the issuance of 50% of the building permits for the total number of approved residential units. Upon commencement of construction of the required traffic controls, the issuance of building permits may continue.

K. Parking Requirements

(1) Any recreation center or clubhouse shall be provided a minimum of 0.10 off street parking spaces per dwelling unit, which parking shall serve the recreation center or clubhouse and accommodate visitors to the residents within the residential component of the Planned Mixed-use age restricted developments.

(2) No off-street parking area shall be located within fifty (50) feet of any tract boundary.
L. Signage

(1) **Gateway identification signage is permitted at the main entrance road to the residential component of the Planned Mixed-use age restricted developments equal to one (1) freestanding sign, not exceeding thirty-six (36) feet in area, on each side of the main entrance road. The sign shall be designed within a decorative fence and/or wall feature not exceeding seven (7) feet in height, setback so as not to impair sightlines from any street or driveway. The sign shall be used solely to identify the name of the development.**

(2) **Gateway identification signage is permitted at secondary entrance roads to the residential component of the Planned Mixed-use age restricted developments equal to one (1) freestanding sign, not exceeding 30 square feet in area, on each side of the secondary entrance road. The sign shall be designed within a decorative fence and/or wall feature not exceeding six (6) feet in height, setback so as not to impair sightlines from any street or driveway. The sign shall be used solely to identify the name of the development.**

(3) **Additionally, information and directional signs, each not more than three (3) feet in height and ten (10) square feet in area, shall be permitted, where appropriate and as approved by the Board, in order to guide traffic to its intended destination in a safe and convenient manner.**
SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

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

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on October 16, 2012 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, 2nd Floor, Howell, New Jersey on November 20, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

PENNY WOLLMAN, Municipal Clerk
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

ORDINANCE COVER PAGE

Ordinance No. O-12-23

INTRODUCTION

PUBLIC HEARING & ADOPTION

October 16, 2012

November 20, 2012

AGENDA ITEM NUMBER

8A.2
STATEMENT TO BE READ BY MAYOR FOR PUBLIC HEARING and ADOPTION OF ORDINANCE

PROCEDURE ON ORDINANCES:
ORDINANCE FOR FURTHER CONSIDERATION: PUBLIC HEARING

MAYOR:

ORDINANCE NO. O-12-23 INTRODUCED AND PASSED ON FIRST READING ON 10/16/12 AND PUBLISHED, ACCORDING TO LAW, IS NOW BEING TAKEN UP FOR FURTHER CONSIDERATION AND PUBLIC HEARING. AFFIDAVIT OF PUBLICATION OF THIS ORDINANCE IN THE ASBURY PARK PRESS ISSUE OF 10/19/12 IS SUBMITTED AND IT IS NOTED THAT A COPY OF THE ORDINANCE HAS BEEN POSTED ON THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND THAT COPIES WERE AVAILABLE TO THE GENERAL PUBLIC UPON REQUEST.

(CLERK TO READ TITLE OF ORDINANCE)

NEXT - MAYOR OPENS THE MEETING TO THE PUBLIC FOR HEARING, REMARKS OR COMMENTS FOR OR AGAINST THE FINAL ADOPTION OF THIS ORDINANCE. (Comments/remarks, if any). THERE BEING NO OTHER PERSON PRESENT DESIRING TO BE HEARD CONCERNING THE AFORESAID ORDINANCE, THE MAYOR DECLARES THE PUBLIC HEARING ON THE ORDINANCE CLOSED.

COUNCILMEMBER MAKES MOTION:

MOTION THAT ORDINANCE NO. O-12-23 BE FINALLY PASSED AND ADOPTED AND THAT NOTICE OF ITS PASSAGE AND ADOPTION BE PUBLISHED IN THE 11/23/12 ISSUE OF THE ASBURY PARK PRESS BY REFERENCE TO ITS TITLE ONLY.

SECONDED BY COUNCILMEMBER.

ROLL CALL VOTE.
ORDINANCE NO. 0-12-23

AN ORDINANCE OF THE TOWNSHIP OF HOWELL BY AMENDING CHAPTER 245 ENTITLED SECOND-HAND DEALERS OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 245-8 Entitled Bond Required and §245-9 Entitled License Fee; Renewal of License shall be amended in the Revised General ordinances of the Township of Howell as follows:

NOTE: Sections of Chapter 245-8 Entitled Bond Required and §245-9 Entitled License Fee; Renewal of License that are to be supplemented by the within Ordinance are set forth below. All additions are shown in bold italics with underlines.

Chapter 245 Secondhand Dealers

§245-1 through §245-7 shall remain unchanged.

§245-8 Bond required

A. Within 10 days of the issuance of a license, each purchaser/licensee shall deliver a bond to the township clerk executed by the applicant as principal, with a surety company authorized to do business under the laws of the State of New Jersey as surety. The bond, to be approved by the township attorney, shall be in the penal sum of $10,000 continued for the due and proper observance of and compliance with the provisions and requirements of all ordinances of the Township of Howell in force or which may be adopted respecting the conduct of this business and conditioned also that the bond shall be and remain for the benefit of any person or persons who shall have received judgment against the purchaser/licensee licensed under this chapter by reason of any damage sustained by any such person as a result of the operations of the purchaser/licensee under this chapter, which damage shall be established by a judgment of a court of proper jurisdiction. Said bond shall contain the following language:

“The obligation of this bond shall, in addition to the Township of Howell, be and remain for the benefit of any person who shall obtain a judgment against the obligor as a result of damage sustained in operation pursuant to any license granted under Township Ordinance.”

Said bond shall be kept in force for a minimum period of one year from the date of issuance of the license and must be renewed annually along with the license.

§245-9 License fee: Renewal of license

A. The fee for the initial application and license shall be $250.00. Each license shall be valid for a period of one year, January 1st through December 31st. Each annual renewal fee shall be $125.00.
B. Said license and renewal shall be valid for a period of one year. *In the event a license is issued after the effective date of January 1st, the expiration date shall remain December 31st, from the date of issuance.* At the time of renewal, no new application must be filed with the township clerk unless any matters set forth in the original application are changed.

Chapter §245-10 through §245-11 shall remain unchanged.

**SECTION 2. REPEALER**

The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.

**SECTION 3. INCONSISTENT ORDINANCES**

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

**SECTION 4. SEVERABILITY**

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

**SECTION 5. EFFECTIVE DATE**

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

**NOTICE**

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on October 16, 2012 and will be further considered for final passage and adoption at the Township Municipal Building at 4567 Route 9 North, 2nd Floor, Howell, New Jersey on November 20, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s
Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

[Signature]

PENNY WOLLMAN, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on November 20, 2012.

[Signature]

PENNY WOLLMAN, Municipal Clerk
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

ORDINANCE COVER PAGE

Ordinance No. O-12-24

INTRODUCTION

PUBLIC HEARING & ADOPTION

November 20, 2012

December 11, 2012

AGENDA ITEM NUMBER

9A.1
STATEMENT TO BE READ BY COUNCILMEMBER WHO INTRODUCES ORDINANCE

PROCEDURE ON ORDINANCES:

INTRODUCTION and PASSAGE ON FIRST READING OF ORDINANCE

COUNCILMEMBER:

MOTION TO INTRODUCE ORDINANCE NO. 0-12-24 ON FIRST READING BY TITLE AND TO ORDER THE SAME TO BE PUBLISHED IN THE 11/23/12 ISSUE OF THE ASBURY PARK PRESS TOGETHER WITH NOTICE OF ITS INTRODUCTION AND PASSAGE ON FIRST READING BY TITLE, AND THAT IT WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER PUBLIC HEARING AT A MEETING OF THE TOWNSHIP COUNCIL TO BE HELD ON 12/11/12 AT 7:30 PM, PREVAILING TIME, IN THE MUNICIPAL BUILDING.

SECONDED BY: COUNCILMEMBER

CLERK: Clerk reads ordinance by title only.

ROLL CALL VOTE.
ORDINANCE NO. O-12-24

AN ORDINANCE AMENDING CHAPTER 139 ENTITLED FEES, CHARGES AND COSTS OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce ordinances to manage, regulate, and control the finances and property of the municipality; and

WHEREAS, the Township of Howell wishes to amend Chapter 139 Entitled Fees, Charges and Costs of General Revised Ordinances of the Township of Howell;

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 139 of the General Revised Ordinances of the Township of Howell is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 139 that are to be amended are set forth below. All additions are shown in **bold with underlines**. All deletions are shown in **bold with strikeouts**. All other sections will remain unchanged.

CHAPTER 139 FEES CHARGES AND COSTS

§ 139-14. Excavation permits and deposits; construction markers.

*Editor's Note: See Ch. 134, Excavations.*

A. Excavation permit **application & inspection** fees.

(1) **A non-refundable permit application fee** will be charged in order to process the application and insure compliance with the regulations. The application fee collected by the Township Engineer is **$75.00**. A permit fee shall be charged by the Township Clerk for the issuance of an excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The excavation permit fee shall be as follows:

(a) Twenty percent of cash repair deposit less than **$1,000**.

(b) Fifteen percent of cash repair deposit from **$1,000 to $10,000**.

(c) Ten percent of cash repair deposit over **$10,000**.

(d) Minimum permit fee: **$100**.

(e) Minimum utility permit fee: **$250**.
(2) A non-refundable inspection fee will be charged so that the work is performed under the supervision of the Township Engineer or his designee. The fee will be as follows:

<table>
<thead>
<tr>
<th>Opening Size</th>
<th>Fee Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 SF or less</td>
<td>$100.00</td>
</tr>
<tr>
<td>Greater than 100 SF</td>
<td>$1.50 / SF x SF</td>
</tr>
</tbody>
</table>

Minimum Inspection Fee for a Public or Private Utility Company: $250.00

B. Restoration Guarantee fee.

(1) A restoration guarantee will serve as security for the repair and performance of work necessary to put the street in as good a condition as it was prior to the excavation. This shall be used if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. The fee will be returned to the permittee if the work is acceptable to the Township Engineer. The fee will be $25.00 / SF multiplied by the total square footage of the opening as calculated on the application form. The minimum fee will be $500.00.

C. Surety Bond

(12) In those cases where the requirement for all or a portion of the deposit is met by the issuance of a surety bond, the Township Engineer will not require a separate restoration guarantee. shall estimate, for each permit, what the appropriate cash repair deposit cost would have been should such deposit have been fully required and a permit fee shall be established as heretofore provided.

(32) Waiver of permit fees. Permit fees may be waived in the case of installation or repair of sidewalk by, or one acting for, the owner of real property at the discretion of the Township Engineer. Permit fees will be waived in the case of installation of new public improvements by a subdivider or site developer in accordance with approved plans without cost to the Township.

B. Cash-repair deposit.
Opening Size | Cash Repair Deposit
---|---
(square-feet) | (per-square-foot)
From 0 to 150 | $20
From 150 to 1,000 | $12
From 1,001 to 5,000 | $8
From 5,000 to 15,000 | $5
15,000 or more | $3

C. Minimum cash repair deposit: $500.

D. Conservation marker: $100.

E. Duty to remove snow and ice, violation/fines. Any development where the roadways have not been formally accepted by the Township that the Township is required to clear of snow or ice as a result of the developer/owner's failure to undertake the responsibility for the removal of same shall be charged as follows:

(1) A minimum fine of $2,500 with an additional charge of $1,000 after every 1,000 feet;

(2) All rights and remedies in accordance with any developer's agreement in place at the time shall remain in full force and effect and shall be in addition to any violations or fines issued under this chapter.

Article XVII. Land Use

§ 139-30. Individual plot plan without major or minor subdivision approval or lacking escrow fees.

The fees for individual plot plans for engineering review and inspection is: without major or minor subdivision approval or lacking escrow fees shall be as follows:

B. Inspection fee: $500.
C. Review fee for accessory structure or addition to existing structure: $250.
D. Land use certificate, outdoor display of goods: $30

E. There will be a fee of $20 for all returned checks.

Article XXVIII. Soil and Soil Removal/Filling Permits

§ 139-80. Permit fees.

The fees for soil removal/filling permits from the Township Engineers office shall be as follows:

A. Application and Review Fee: $350 (non-refundable)

B. Inspection Fee: (non-refundable)

a. From 0-2,000 cubic yards: $500 minimum

b. Over 2,000 cubic yards: $0.25 / cubic yard x CY

C. Performance Bond: (filed with a surety acceptable to the Township)

a. $15,000 for up to the first mile of haul route
b. $25,000 per mile for every mile of haul route over the first mile within the Township. The length of the haul route will be rounded up to the next whole mile for calculation purposes.

A. One acre or less: filing fee of $75.

B. For an application involving soil-moving activities of greater than one acre of land: $0.09 per cubic yard, not to exceed $10,000.

C. Nonrefundable review and inspection fee: $500.

SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon its passage and publication according to law.
NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on November 20, 2012 and will be further considered for final passage and adoption at the Township Municipal Building at 4567 Route 9 North, 2nd Floor, Howell, New Jersey on December 11, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

PENNY WOLLMAN, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on December 11, 2012.

PENNY WOLLMAN, Municipal Clerk
EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending and Supplementing 139-14 entitled Road Excavation Permits to simplify fee by setting fee as a constant and review and inspection fee set based upon opening size and allowing one check to pay for both fees. Additionally, the restoration guarantee calculation was simplified and is now calculated based on opening size and the fee will be held in an escrow account and based upon proper restoration will be returned post-construction. Section 139-30 entitled Individual Plot Plan Fees was amended to simplify and reduce the fee for plot plans to $350; Chapter 139-31 entitled Land Use Certificates was simplified an increased in certain circumstances; Chapter 139-80 now entitled Soil Removal Permit Fees was amended to have the application and review fee to reflect the same fee as plot plans which creates uniformity for level of review. The amendment also simplified and created a fee for inspection of soil removal/filling based upon volume of material moved and added a performance bond requirement depending on length of the roads the haul route which will assist the Township in recovering funds for damage to roadways done by the haul process.
TOWNSHIP OF HOWELL

TOWNSHIP CLERK’S OFFICE

ORDINANCE COVER PAGE

Ordinance No. O-12-25

INTRODUCTION

PUBLIC HEARING & ADOPTION

November 20, 2012

December 11, 2012

AGENDA ITEM NUMBER

9A.2
PROCEDURE ON ORDINANCES:

INTRODUCTION and PASSAGE ON FIRST READING OF ORDINANCE

COUNCILMEMBER:

MOTION TO INTRODUCE ORDINANCE NO. 0-12-25 ON FIRST READING BY TITLE AND TO ORDER THE SAME TO BE PUBLISHED IN THE 11/23/12 ISSUE OF THE ASBURY PARK PRESS TOGETHER WITH NOTICE OF ITS INTRODUCTION AND PASSAGE ON FIRST READING BY TITLE, AND THAT IT WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER PUBLIC HEARING AT A MEETING OF THE TOWNSHIP COUNCIL TO BE HELD ON 12/11/12 AT 7:30 PM, PREVAILING TIME, IN THE MUNICIPAL BUILDING.

SECONDED BY: COUNCILMEMBER

CLERK: Clerk reads ordinance by title only.

ROLL CALL VOTE.
ORDINANCE NO. 0-12-25

AN ORDINANCE OF THE TOWNSHIP OF HOWELL AMENDING AND SUPPLEMENTING CHAPTER 277 ENTITLED STREETS AND SIDEWALKS OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 277 of the General Revised Ordinances of the Township of Howell shall be amended as follows:

NOTE: Sections of Chapter 277 that are to be amended by Ordinance are set forth below. All additions are shown in bold with underlines. All deletions are shown in bold with strikeouts. All sections that are unchanged shall remain in regular typeface.

Chapter 277 STREETS AND SIDEWALKS AND RIGHT OF WAY EXCAVATIONS

ARTICLE I. Sidewalk Maintenance

§ 277-1. Maintenance of Sidewalk by premises owner required; exceptions. [Amended 10-4-2011 by Ord. No. 0-11-31]

A. The owner of any premises in the Township of Howell abutting a sidewalk shall, at his own cost and expense, keep and maintain such sidewalk in good condition and state of repair and shall not permit the same to fall into a state of disrepair or to become unfit or unsafe to walk upon. In the event such sidewalk or any part thereof becomes unsafe or hazardous to the public or unfit to walk upon, the abutting owner, at their own cost and expense, shall, with all expeditious speed, reconstruct or repair, as the facts may require, such sidewalk, or part thereof, which requires reconstruction or repair.

A-B. The provisions of this section shall not apply to the maintenance, reconstruction or repair of curbs, drainage basins or similar facilities abutting the sidewalk. The provisions of this section shall not apply to situations where, in an approved subdivision, a developer is required to install sidewalks and where the sidewalks have not been accepted and the guarantees for the installation of such sidewalks, either by way of performance or maintenance guarantees, have not been released by the Township, with the exception that if the owner damaged the sidewalk, then the owner shall be responsible for any and all repairs to the sidewalk.

§ 277-2. Notice of condition to Owner. [Amended 10-4-2011 by Ord. No. 0-11-31]

Where in the opinion of the Township Engineer, Code Enforcement Officer, Public Works Director, or their respective representatives, a sidewalk is in an unsafe or hazardous condition, they shall serve a written notice by certified mail, return receipt requested, upon the abutting premises owner, requiring the necessary specified work to said sidewalk to be done by said owner within a period no less than 30 days from the date of service of said notice.
§ 277-3. Failure to comply; work to be done by Township. [Amended 10-4-2011 by Ord. No. 0-11-31]

In the case where the owner of such abutting premises or contiguous lands shall not comply with the notice requirements, or whenever there exists contiguous or abutting land to a sidewalk that is unoccupied and the owner cannot be found, it shall be lawful for the Director of Public Works, or his representative, upon filing due proof of service or publication of the aforesaid notice with the Township Clerk, to cause the required work to be done and paid for out of Township funds available for that purpose. The cost of such work shall be certified by the Director of Public Works to the Township Engineer who shall verify the same and in turn certify the work to the Township Tax Assessor. Upon filing of the Township Engineer's certification with the Tax Assessor, the amount of the cost of such work shall become a lien upon said abutting premises or lands in front of which such work was done.

§ 277-4. Appropriation of funds; disposition of monies.

The Township Council may each year include in its annual budget an appropriation for sidewalk repairs, in addition to any existing maintenance fund, out of which it may appropriate the cost of reconstruction or repair of sidewalks required during the year pursuant to this article, which may be charged when it becomes necessary for the Director of Public Works, or his representative, to authorize the making of such repairs or reconstruction.

§ 277-5. Violations and penalties.

Any person violating the terms of this article or refusing or neglecting to comply with any of the provisions hereof, upon conviction thereof, shall be subject to a fine of not more than $500 or imprisonment for a period not to exceed 90 days, or both, in the discretion of the court. Each day that such person continues to fail to comply with any notice provided under this article beyond the maximum date for such compliance shall constitute a separate and distinct offense subject to any and all the penalties described in this section.

Article II. Street Vacations [Adopted by Ord. No. 0-89-47(§ 21-3 of the 1974 Code)]

§ 277-6. Definitions.

The following words and phrases shall have the following meanings:

**APPLICANT(S) or APPLICANTS**

Any individual, corporation, partnership, proprietorship or other entity that requests of the Township a property exchange or the vacation of any street or easement, or portion thereof, within the Township.

**COST(S) or COSTS**

All expenses incurred by the Township for professionals, such as, but not limited to, the Township Attorney, the Township Engineer or the Township Planner.

**EASEMENT**
Any way or right-in, on or across any property. A grant to the Township across any property sufficient to permit the Township to fulfill the intent and purpose of the easement.
STREET

Any street, avenue, boulevard, road, parkway, drive or other way which is an existing state, county or municipal roadway; which is shown upon a plan heretofore approved pursuant to law, highway, lane, alley, square, place or park, or any part thereof.

STREET RIGHT-OF-WAY

The line determining the limit between the access rights of the public and adjoining private property.

VACATE or VACATION

The release of all public rights in any easement or street, whether or not such street has been actually opened, improved or accepted.

§ 277-7. Responsibility for costs; deposit.

A. Each applicant shall be responsible for all costs associated with a request for a property exchange or the vacation of any easement or street.

B. Any applicant that requests of the Township a property exchange or the vacation of any easement or street within the Township shall simultaneously, with the making of such request, deposit with the Township Clerk the sum of $500 as a retainer against which all costs incurred by the Township shall be billed until such request is either granted or rejected.

C. All sums deposited with the Township Clerk by an applicant shall be held in trust by the Township and shall continue to be the property of the applicant until repaid or applied to the purposes for which it was deposited.

D. All sums not utilized for the purpose for which it was deposited shall be returned to the applicant, less a fee of $25, which shall be in lieu of all administrative and custodial expenses.

Article III. Right of Way Excavations (Street Excavations)

§ 277-8 Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory.

APPLICANT

A person making written application to the Township Engineer for an excavation permit hereunder.

EXCAVATION WORK

The excavation, removal, replacement, repair, construction or other disturbance of any portion of the public improvements within a public street or drainage right-of-way. These public improvements include, but are not limited to, curb, sidewalk,
driveway and driveway aprons, drainage structure and conduits, pavements, base courses, gutters, retaining walls, channels, headwalls, railings, guardrails or any other public improvement existing within the public right-of-way. For the purposes of this chapter, that work which is being performed outside of the public right-of-way, but which requires the storage of materials or the operation of equipment within the public right-of-way, in such a manner as may cause damage, will also be deemed excavation work. "Excavation work" shall also include the construction, addition, installation or other improvement of the whole or portions of the improvements within a public street, drainage right-of-way or other public way or public grounds by persons other than those exempted from the provisions of this chapter, including privately sponsored construction of curbing, sidewalks, pavement extensions, aprons, drainage or any other portions of the public improvements.

PERMITTEE

Any person who has been granted and has in full force and effect an excavation permit issued hereunder.

STREET

Any road, highway, alley, avenue, easement or other public way or public right-of-way accepted or maintained by the Township, as a public street, as well as any state or county road or highway over which the Township has acquired jurisdiction by agreement excepting county or state roads or highways.

§ 277-9 Permit required.

It shall be unlawful for any person to perform any of the excavation work as defined in § 277-84-344 heretofore or dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street, any earth or other excavated material, obstructing or tending to interfere with the free use of the street, or dig up, break, excavate or undermine or in any way effect any other public improvement within the public right-of-way unless such persons shall first have obtained an street excavation permit therefore from the Township Engineer as herein provided.

§ 277-10 Application for permit; contents and accompanying data.

A. Application for permit. No street excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the Township Engineer. The written application shall state the name and address of the applicant, the nature, location and the purpose of the excavation, the proposed dates of commencement and completion of the excavation and other data which may reasonably be required by the Township Engineer.

B. Plans to accompany application. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to the excavation and of the proposed excavated surfaces, the location of the excavation work, pre-construction color photograph’s of the excavation area and surrounding area submitted electronically or by hard copy and such other information as may be prescribed by the Township Engineer, including the complete
§ 277-11. Excavation permit, application & inspection fees; waiver.

A. Excavation permit application fees. A permit application fee shall be charged by the Township Clerk/Engineer for the issuance of a street excavation permit, which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The excavation fee shall be as set forth in Chapter 139, Fees. Editor's Note: Specific fee amounts were removed from this subsection in conjunction with Ord. No. 0-09-13, adopted 4-28-2009. For current excavation permit fees, see Ch. 139, Fees, Art. VII.

B. Excavation permit inspection fees. An excavation permit inspection fee shall be charged by the Township Engineer for the issuance of a street excavation permit, which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The inspection fee shall be charged to insure that the Township Engineer or his designee can review the excavation application for compliance with the Township standards, and to perform field inspections during actual construction process. The excavation inspection fee shall be as set forth in Chapter 139, Fees.

C. Waiver of permit fees. Permit inspection fees may be waived in the case of installation or repair of sidewalk by, or one acting for, the owner of real property at the discretion of the Township Engineer for minor repair instances only. Permit application and inspection fees will be waived or in the case of installation of new public improvements by a subdivider or site developer in accordance with approved plans without cost to the Township in compliance with the Municipal Land Use Law.

§ 277-12 Restoration Guarantee; waiver.

A. Restoration Guarantee required. The application for an excavation permit to perform excavation work under this chapter shall be accompanied by a restoration guarantee. Such guarantee will take the form of cash or check payable to the Township of Howell; and shall be received by the Township Engineer prior to the issuance of a permit.

B. The amount of the required guarantee shall be as set forth in Chapter 139, Fees. Editor's Note: Specific deposit amounts were removed from this subsection in conjunction with Ord. No. 0-09-13, adopted 4-28-2009. For current deposit amounts, see Ch. 139, Fees, Art. VII.

C. Township Engineer may determines that an additional restoration guarantee is required in certain extraordinary cases. In the case of excavation or removal or alteration of other public improvements such as drainage, sidewalks, driveways, driveway aprons, etc., the Township Engineer shall determine in each case the amount of the cash repair deposit, in an amount sufficient to allow the Township to perform all required repairs and restorations. The amount shall be estimated to include Township gross costs, including fees, temporary maintenance costs, permanent restoration costs, engineering costs, etc.

D. Minimum restoration guarantee. In no case shall a restoration guarantee be less than the amount set forth in Chapter 139, Fees. Editor's Note: Specific deposit amounts were
E. Refund of restoration guarantee upon satisfactory completion of work. Any restoration guarantee made hereunder shall serve as security for the repair and performance of work necessary to put the street or right of way in as good condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. Upon completion of the initial restoration efforts, a 120-day clock will begin before the final restoration must be completed. The permittee shall wait a minimum of 90-days but no later than 120-days to return to the excavation, remove the temporary surface course and place the final surface course in accordance with this section. This allows for settlement of the trench prior to final restoration. Permittee shall notify Township Engineer prior to final restoration work to insure Township oversight during construction. Upon satisfactory completion in accordance with the Township specifications, the repair deposit will be returned after written approval by the Township Engineer.

F. Township use of restoration guarantee upon permittee's failure to perform work. The Township may use any or all of such restoration guarantee to pay the cost of any work the Township performs to restore or maintain the street or right of way as herein provided in the event the permittee fails to perform such work, in which case the amount refunded to the permittee shall be reduced by the amount thus expended by the Township.

G. Waiver of restoration guarantees. Restoration guarantee may be waived in the case of installation or repair of sidewalk by the owner, or by a person acting for the owner, of real property at the discretion of the Township Engineer for minor repair instances only. Restoration guarantee will be waived in the case of installation of new public improvements by a subdivider or site developer in accordance with approved plans and without cost to the Township provided that the improvements are covered by a performance bond posted with the Township for the entire subdivision project.


A. Surety bond required in certain cases. If an individual restoration guarantee required by § 277-12 exceeds $25,000 or if the aggregate of the cash repair deposit which any applicant expects to be required to provide within a period of one year exceeds $50,000 or if the applicant is a public utility regulated by the federal government and/or the State of New Jersey, then the Township Council may allow the provision for all or, at the Township Council's discretion, a portion of the cash repair deposit in the form of a surety bond. If a surety bond is to be provided in accordance with the requirements of this section, the applicant shall deposit with the Township Engineer a surety bond in the amount to be determined by the Township Engineer made payable to the Township.

B. Surety bond requirements.

(1) The required surety bond must be:
(a) With good and sufficient surety;

(b) By a surety company authorized to transact business in New Jersey;

(c) Satisfactory to the Township Attorney in form and substance;

(d) Conditioned upon the permittee's compliance with this chapter and to secure the Township and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the Township, the Township Council or any Township officer or designee may be made liable by reason of any accident or injury to person or property through the fault of the permittee, either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee.

(2) It shall be further conditioned upon the obligation of the permittee to fill up, restore and place in good and safe condition and as near as may be to its original condition and to the satisfaction of the Township Engineer all openings and excavations made in streets and to maintain any street where excavation is made in as good condition for the period of 12 months after the work shall have been done, usual wear and tear excepted, as it was in before the work shall have been done. Any settlement of the surface within the one-year period shall be deemed conclusive evidence of defective backfilling of the permittee.

C. Bond coverage; annual bond. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the Township, if such repairs should prove defective. Recovery on such bond for any injury or accident shall not exhaust the bond, but the bond shall, in its entirety, cover any and all future accidents or injuries during the excavation work for which it is given. If the event of a suit or claim against the Township by reason of the negligence or the fault of the permittee, upon the Township giving written notice to the permittee of such suit or claim, any final judgment against the Township requiring it to pay for such damage shall be conclusive upon the permittee and its surety binding them to reimburse the Township for any amounts it must pay as a result of such judgment. An annual bond may be given under this provision which shall remain in force for one year conditioned as above in the amount specified above and in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date.


A permittee, prior to the commencement of excavation work hereunder, shall furnish the Township Engineer satisfactory evidence in writing that the permittee has enforced and will maintain enforced during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than $1,000,000 for any person and $1,000,000 for any accident and property damage insurance of not less than $1,000,000 duly issued by an insurance company authorized to do business in this state, naming the Township as an additional insured. In cases where the character or nature of the proposed excavation work are such as to present an unusual hazard or a higher than normal risk of damage or injury, the Township Council may require the provision of increased amounts of liability and property
§ 277-15 Routing of traffic; street closures.

A. Maintain traffic conditions. The permittee shall take appropriate measures to insure that, during the performance of the excavation work, traffic conditions, as nearly normal as practicable, shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the Township Engineer may permit the closing of the streets to all traffic for the period of time prescribed by him if, in his opinion, it is necessary. The permittee shall route and control traffic, including its own vehicles, as directed by the Township Police Department. See Article IV of this Chapter regarding traffic control.

§ 277-16 Protection of traffic.

The permittee shall erect and maintain suitable temporary barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of plank, timbers and blocking of adequate size to accommodate vehicular traffic safely. Decking shall be not less than four inches thick and shall be securely fastened together with heavy wire and staples. Pedestrian crossings shall consist of planking three inches thick, 12 inches wide and of adequate length, together with necessary blocking. The walk shall not be less than three feet in width and shall be provided with a railing as required by the Township Engineer.

§ 277-17. Clearance for fire equipment.

The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 10 feet of fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of materials or other obstructions.


A. Requirements concerning utilities. The permittee shall not interfere with any existing utility without the written consent of the Township Engineer and/or the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the Township shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee, unless he makes other arrangements with the person owning the utility. The permittee shall support and protect, by timbers or otherwise, all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work and do everything necessary to support, maintain and protect them under, over, along or across said work.
B. Liability for damage. In case any of such pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them, and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipes, electric conduits or other utility, and its bond shall be liable therefor. The permittee shall inform himself as to the existence and location of all underground utilities and protect the same against damage.


A. Protection; permission to enter private property. The permittee shall at all times, and at his or its own expense, preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where, in the protection of such property, it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose. The permittee shall at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during that progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from his failure to protect and carry out such work.

B. Maintain landscaping. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner or, in the case of public property, the appropriate Township department or Township official having control of such property.


Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over the excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that passengers can pass over safely at all times.


A. Barricades and protective devices. The permittee shall erect and maintain, approaching and throughout the site of the excavation work, such signs, lights, barricades and other protective devices as are required. In the absence of specific written directions by the Township Engineer, all signs shall be provided as required by the "Manual on Uniform Traffic Control Devices" section concerning "Construction Signing," as published by the United States Department of Transportation.
B. Failure to comply with protective measures. Should the Township Engineer at any time determine that the permittee has failed to provide all required signs and protective devices in accordance with the directions of the Township Engineer and/or the requirements of the previously mentioned "Manual on Uniform Traffic Control Devices," the Township may provide and erect or cause the provision and erection of such required signs, barricades and traffic control devices, and the cost thereof may be deducted from the cash repair deposit provided by the applicant or may be billed directly to the permittee by the Township. If such billing is made and not paid by the permittee within 15 working days after such billing, the amount may be deemed due and recoverable from the permittee's cash deposit or surety.

C. Notification of Township intent to require protective measures. The Township shall normally provide the permittee with 24 hours' notice of its intention to require the provision of any such signs, barricades and traffic control devices and its intention to bill the permittee the cost thereof, to deduct the cost thereof from the permittee's cash repair deposit, or to recover the cost thereof from the permittee's surety, except that in the case of an immediate emergency or hazard to the public health or safety, the Township may cause the provision and erection of such devices without notice.

D. Protective barriers and lights. The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight, there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets, suitable and sufficient lights which shall be kept burning through the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided therefor the protection of the public.

§ 277-22. Attractive nuisances.

It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance, likely to attract children or hazardous to their safety or health.

§ 277-23. Disposition of excavated material.

A. Maintenance of excavated material. All materials excavated from trenches and piled adjacent to the trench, or in any street, shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the street and in such a manner so that as little inconvenience as possible is caused to those using streets and adjoining property.

B. Undersized confines for excavated material. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Township Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's
responsibility to secure the necessary permission and to make all necessary arrangements for all required storage and disposal sites.

§ 277-24 Damage to existing improvements.

All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repairs shall conform to the requirements of any applicable code or ordinance. If, upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the Township Engineer shall have the authority to cause the necessary labor and materials to be furnished the Township, and the cost shall be charged against the permittee and the permittee shall also be liable on his or its bond therefor.

§ 277-25. Property lines and easements.

Property lines and limits or easements may be required on the plan of excavation submitted with the application for the excavation permit. At the discretion of the Township Engineer, the aforementioned shall be surveyed by a licensed surveyor in the State of New Jersey and plotted on a map along with the excavation limits. These lines shall be field marked and it shall be the permittee’s responsibility to confine excavation work within these limits if the Township Engineer deems it necessary.


A. Remove debris during work progression. As the excavation work progresses, all streets and private property shall be thoroughly cleansed of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of the excavation shall be completed to the satisfaction of the Township Engineer.

B. Failure to remove debris; liability for expense. From time to time, as may be ordered by the Township Engineer and in any event immediately after completion of the work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from such work; and upon failure to do so within 24 hours after having been notified to do so by the Township Engineer, such work may be done by the Township and the cost thereof charged to the permittee and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.


The permittee shall provide for the flow of all watercourses, sewers and drains intercepted during the excavation work and shall replace the same in as good condition as it found them, or shall make such provisions for them as the Township Engineer may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provisions to take care of all surplus water, muck, silt, slicking or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four feet or over in depth, the pavement in the base shall be removed to at least six inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a six-inch shoulder of undisturbed material shall be provided on each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt pavement shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.

§ 277-29. Tunnels.

Tunnels under pavement shall not be permitted except by permission of the Township Engineer and, if permitted, shall be adequately supported by timbering and backfilling under the direction of the Township Engineer.

§ 277-30. Backfilling requirements.

Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compacting shall be done by mechanical means such as tamping, vibrating or rolling as required by the soil in question and sound engineering practice generally recognized in the construction industry.


The methods of construction for excavation and backfill shall be in accordance with Division 200 of the New Jersey Department of Transportation (NJDOT) Standard Specifications for Road and Bridge Construction, latest edition, and such other provisions as are included herein and as may be added in the special conditions. No road opening or excavation of a cross trench shall extend beyond the centerline of the road before being backfilled, compacted and the surface of the roadway temporarily restored.

§ 277-32 Backfill material.

Whenever any excavation for the laying of pipe is made through rock, pipe shall be laid six inches above the rock bottom of the trench and the space under, around and six inches above the pipe shall be backfilled with clean sand, noncorrosive soil or one-quarter-inch minus gravel. Broken pavement, large stones and debris shall not be used in the backfill. Where, in the opinion of the Township Engineer, excavated material is unsuitable for use as backfill, the contractor shall supply other pervious material to be used for backfill.

§ 277-33. Backfilling at the surface.

Backfilling shall be completed by placing the backfill material well up over the top of the trench. For dry backfilling, the material shall be compacted with a roller of an approved type until the surface is unyielding. The surface shall then be graded as required.

§ 277-34. Restoration of surface.
A. Requirement to restore surface. The permittee shall restore the surface of all streets, driveways, sidewalks, aprons, grassed or other right-of-way areas broken into or damaged as a result of the excavation work to its original condition in accordance with the specifications of the Township Engineer.

B. Criteria for Repairs:

a. Within grassed areas, the top four inches (4") of the trench and any other areas damaged during construction shall be backfilled with topsoil as defined in Division 800 of the NJDOT Standard Specifications for Road and Bridge Construction, latest edition. Then all of newly placed topsoil shall be fertilized and seeded per these specifications.

b. Within the limits of gravel areas or any other non-decorative gravel surface, the top of the trench shall be backfilled with eight inches (8") of Dense Graded Aggregate (DGA) Base Course as defined in Division 300 of the NJDOT Standard Specifications.

c. Within asphalt roadways, all trenches shall be brought up to twelve inches (12") below the surface as required in the backfilling sections listed previously. The remaining void shall be backfilled with a temporary repair of six inches (6") of DGA Base Course as defined in Division 300 of the NJDOT Standard Specifications and six inches (6") of Hot Mix Asphalt (HMA) 19M64 Base Course as defined in Division 400 of the NJDOT Standard Specifications.

i. The temporary pavement shall remain in place for a period of at least three (3) months and no longer than four (4) months to allow for residual settlement to take place. During this time, the permittee shall assure maintenance of the pavement surface. Manholes, valve boxes or other physical utility obstructions shall have feathered approaches not to exceed a five percent (5%) slope where necessary and temporary pavement striping shall be restored by the permittee for adequate traffic control.

ii. The final asphalt paving will depend on the size of the trench:

1. Where twenty percent (20%) or more of the existing surface width and/or a distance parallel or longitudinal to the roadway centerline of twenty-five feet (25') or more has been disturbed, the permittee shall mill the entire pavement surface from edge to edge or curb to curb and the full length of the trench plus five feet (5') each side at a minimum depth of two inches (2"). All milling and disposal of millings shall be done in accordance with Division 400 of the NJDOT Standard Specifications. The permittee shall clean and sweep the milled surface and apply tack coat in preparation for immediate paving. The area will then be paved with two inches (2") of HMA 9.5M64 Surface Course in accordance with Division 400 of the NJDOT Standard Specifications. The Township will require that the terminal ends of the paving be keyed and cut vertical to provide a smooth transition to the existing asphalt surface. Feathering will not be allowed.

2. Where less than twenty percent (20%) of the existing surface and a distance parallel or longitudinal to the roadway centerline of less than twenty-five feet (25') has been disturbed, the permittee shall
sawcut the existing surface course two inches (2") deep at a location twelve inches (12") beyond the trench surface, and remove the existing pavement to the same depth. Pavement removal shall be done by milling or another method as approved by the Township Engineer. The permittee shall clean and sweep the milled surface and apply tack coat in preparation for immediate paving. The area will then be paved with two inches (2") of HMA 9.5M64 Surface Course in accordance with Division 400 of the NJDOT Standard Specifications. The Township will require that the terminal ends of the paving be keyed and cut vertical to provide a smooth transition to the existing asphalt surface. Feathering will not be allowed.

d. Within the limits of Portland cement concrete roadways, all trench openings shall be backfilled and compacted as previously required, a satisfactory foundation prepared, the reinforcement restored and the concrete pavement equal in thickness to that in place in the roadway replaced with concrete as defined in Division 400 of the NJDOT Standard Specifications.

e. Within sidewalk areas, all trench openings shall be backfilled and compacted as previously required, and finished with a concrete sidewalk, four inches (4") thick and at least four feet (4') wide with a compressive strength of not less than 4,000 psi after 28-days. The sidewalk shall be broom finished with striations perpendicular to walking traffic. Troweled joints shall be installed not less than every four feet (4') (or distance equal to the sidewalk width) and bituminous joints installed every twenty feet (20'). At points of vehicular crossings, the sidewalk shall be increased to six inches (6") thick and one (1) row of welded wire fabric (6"x6" pattern, W2.1x2.1 gauge) shall be added at the mid-depth of the concrete.

f. Road openings and/or trenches involving unusual or special conditions including attachment to bridges shall be restored in accordance with and pursuant to the direction of the Township Engineer.

C. Temporary surface restoration in traffic lanes. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Except when the permanent replacement pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be tamped into place, and this fill shall be topped with a minimum of at least two inches of bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe travelling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the Township Engineer. If, in the judgment of the Township Engineer, it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions, he may direct the permittee to lay a temporary pavement of steel plate or other suitable material designated by him over the cut or excavation to remain until such time as the repair of the original pavement may be properly made.
D. Permanent street restoration. Permanent restoration of the street may be made by the permittee in strict accordance with the specifications prescribed by the Township Engineer to restore the street to its original and proper condition, or as near as may be. When, in the opinion of the Township Engineer, the full width overlay will present a hazardous condition and jeopardize the health, safety and welfare of the general public, the Township Engineer shall direct the permittee the method of restoration of the roadway surface.

E. Approval contingent upon time period. Acceptance or approval of any excavation work by the Township Engineer shall not prevent the Township from asserting a claim against a permittee and his or its surety under the surety bond required hereunder for incomplete or defective work if discovered within twelve (12) months from the completion of the excavation work. The Township Engineer's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.

§ 277-35. Township's right to restore surfaces or eliminate violations; maintenance of condition.

A. Failure to restore surfaces; Township action. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, or shall fail to adhere to other requirements of this chapter, the Township shall have the right to do all work necessary to restore the street, eliminate violations and to complete the excavation work. The permittee shall be liable for the actual costs thereof and 25% of such cost in addition thereto for general overhead and administrative expenses. The Township shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall apply in payment of the amount due it any funds of the permittee deposited as herein provided, and the Township shall also enforce its rights under any surety bond provided pursuant to this chapter. The Township will normally give the permittee 24 hours' notice of its intent to act, under the terms of this section, to eliminate violations of this chapter or to restore the surface, except that, in the case of immediate danger to the public health or safety certified to by the appropriate officials, no such notice will be provided.

B. Maintain work site to prior condition. It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for one year after restoring it to its original condition.

§ 277-36. Trenches in pipe laying.

Except by special permission from the Township Engineer, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 250 feet beyond where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site, ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work as prescribed by the Township Engineer. Except with the written permission of the Township Engineer, no timber bracing, lagging, sheathing or other lumber shall be left in any trench.
§ 277-37. Prompt completion of work.

The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition or as near as may be as soon as practicable and, in any event, not later than the date specified in the excavation permit therefor.

§ 277-38. Urgent work.

If, in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest requires that the excavation work be performed as emergency work, the Township Engineer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible.


In the event of any emergency in which a sewer main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of the property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the Township Engineer's office is open for business and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

§ 277-40. Noise, dust and debris.

Editor's Note: See also Ch. 208, Noise. Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable, in the performance of the excavation work, noise, dust and unsightly debris; and during the hours of 9:00 p.m. to 7:00 a.m. the following day on weekdays and between 8:00 p.m. Friday night and 8:00 a.m. Saturday and between the hours of 8:00 p.m. Saturday and 8:00 a.m. Sunday morning and on legal holidays, shall not use, except with the express written permission of the Township Engineer, or in case of any emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

§ 277-41. Notice of paving and repaving; excavations barred in new street improvements.

A. Whenever the Township Council enacts an ordinance or resolution providing for the paving or repaving of any street, the Township Engineer shall promptly mail a written notice thereof to each person owning any sewer main, conduit or other utility in or under said street or any real property whether improved or unimproved abutting said street. Notice shall be sent out after the resolution by the Council but at least 45 days prior to the start of construction. Such notice shall notify such persons that no excavation permit shall be issued for openings, cuts, or excavations in said street for a period of five years...
from the date of substantial completion of the paving construction contract as determined by the Township Engineer. Such notice shall notify such persons that applications for excavation permits for work to be done prior to such paving or repaving shall be submitted promptly in order that the work covered by the excavation permit may be completed prior to the start of the paving construction contract the Township Engineer shall also promptly mail out copies of such notice to the occupants of all houses, buildings and other structures abutting said street for their information and to state agencies and departments or other persons that may desire to perform excavation work in said street.

B. In said 45 days, every public utility company receiving notice as prescribed herein shall perform such excavation work, subject to the provisions of this chapter as may be necessary, to install or repair sewers, mains, conduits or other utility installation. In the event any owner of real property abutting said street shall fail within said 45 days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such owner or his successors in interest to make openings, cuts or excavations in said streets shall be forfeited for a period of five years from the date of substantial completion of the paving construction contract as determined by the Township Engineer. During said five-year period, no excavation permit shall be issued to open, cut or excavate in said street unless in the judgment of the Township Engineer an emergency as described in this chapter exists which makes it absolutely necessary that the excavation permits be used.

C. Every Township department or official charged with the responsibility for any work that may necessitate any opening, cut or excavation in said street is directed to take appropriate measures to perform such excavation within said forty-five-day period as to avoid the necessity of making any openings, cuts or excavations in the new pavement in said Township street during said five-year period.

§ 277-42. Preservation of monuments.

The permittee shall not disturb any surface monuments or hubs found in the line of excavation work until ordered to do so by the Township Engineer.

§ 277-43 Inspections.

The Township Engineer or his designated representatives shall make such inspections as are reasonably necessary in the enforcement of this chapter. The cost of such inspections will be borne by the Permittee, and the monies obtained from the inspection fee shall be used to defray these and other administrative costs associated with the enforcement of this chapter. The Township Engineer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter.

§ 277-44. Drawings, plans and profiles to be maintained.

Users of subsurface street space shall maintain accurate drawings, plans and profiles showing the location and character of all underground structures, including abandoned installations. Corrected maps, two copies, shall be filed with the Township Engineer within 60 days after new installations, changes or replacements are made.
§ 277-45. Exemptions.

A. Township work. The provisions of this chapter shall not be applicable to any excavation work under the direction of competent Township officials by employees of the Township or by any contractor of the Township or agency or department of the Township performing work for and in behalf of the Township necessitating openings of excavations in streets, nor shall the provisions of §§ 134-5 and 134-7 apply to any excavation work performed adjacent to or within the public rights-of-way by subdividers or site developers in accordance with approved subdivision or site plans, provided such subdividers or site developers have posted cash guarantees and surety in accordance with the applicable ordinance requirements.

B. Sewer installations. Contractors performing sewer installations pursuant to contracts awarded by the Township on behalf of its municipal utilities shall not be required to pay street opening permit fees, cash repair deposits or to post surety bonds as required above when they obtain street opening permits; provided, however, that this subsection shall apply only in instances where the Township has conditioned release of the contractor's performance bond upon the certification by the Township Engineer that all road repairs have been performed in conformance with Township standards. Such contractors shall obtain all other permits required by law. All work done by such contractors shall be inspected by the Township Engineer to insure conformity with the Township standards. All inspection fees covering the Township Engineer's performance of said inspections shall be paid by the individual contractor.

§ 277-46 Liability of Township.

This chapter shall not be construed as imposing upon the Township or any official or employee any liability or responsibility for any damages for any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the Township or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.

§ 277-47. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine of not exceeding $500 or by imprisonment for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or exists.


§ 277-8§ 277-48. Preconstruction meeting.

A. This article shall not serve to replace any separate requirements made by the Township Engineer.
B. It shall be the responsibility of the person, contractor, or in the case of a public utility, as required under § 16:25-9.2 of the New Jersey Administrative Code, wishing to conduct work on, under or above the street, to contact the Traffic Safety Unit of the Police Department and the Township Engineer of the Township of Howell in order to arrange a preconstruction meeting and submit plans for the safe movement of traffic during such period of construction or work.

C. Traffic control plans submitted to the Traffic Safety Unit and Township Engineer shall be completely legible. They will clearly reflect the area where the work will be performed and indicate precisely what signage and warning devices will be used. It shall not be the responsibility of the Howell Township to design a traffic control plan, only to review, modify as needed, and approve such plans.

D. Any person, contractor or utility who fails to comply with this section prior to the start of such work, or whose plans are not approved by the Traffic Safety Unit and the Township Engineer, is in violation of this article.

E. The person, contractor or utility shall be provided a copy of this entire article and sign the appropriate form acknowledging receipt of the article and understanding of its contents.

F. Requirements prior to street closing or restrictions. The following steps shall be taken before any street may be closed or restricted to traffic:

   (1) The permittee must receive the approval of the Township Engineer and the Police Department.

   (2) The permittee at least 24 hours prior to commencement of construction, must notify the chief of the fire districts and the first aid squads, together with the Howell Township Board of Education and Freehold Regional Board of Education Transportation Coordinators.

   (3) Where flagmen are deemed necessary by the Township Engineer, they shall be furnished by the permittee at its own expense.

   (4) Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the Chief of Police will designate detours. The Township shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee, but in case there are no existing highways, the permittee shall construct all detours at its own expense and in conformity with the specifications of the Township Engineer. The permittee will be responsible for any unnecessary damage caused to any highway by the operation of its equipment.

   (5) Upon completion of the construction work, the permittee shall notify the Township Engineer and Police Department before traffic is moved back to its normal flow so that any necessary adjustments may be made.
§ 277-9 § 277-49. Emergency contact telephone numbers.

The person, contractor or utility shall provide at least two emergency contact telephone numbers to be called in case of emergency problems at the construction or maintenance site prior to the start of any work. If, for any reason, emergency contact cannot be made, or if the emergency contact person/persons do not respond to a call from the Police Department to correct such hazardous condition, the Township of Howell may respond to correct the hazardous condition(s). The reasonable fees for such emergency services by the Township of Howell shall be charged to the person, contractor, or utility responsible for the condition(s).

§ 277-10 § 277-50. Hours.

There shall be no construction, maintenance, operations, or utility work on any roadway in the Township before the hour of 9:00 a.m. or after 4:00 p.m. The Chief of the Howell Township Police Department, or the Traffic Safety Unit at his direction, may adjust this time limit to permit work prior to 9:00 a.m. or after 4:00 p.m. If the officer in charge determines that the construction or maintenance operations prior to 9:00 a.m. or after 4:00 p.m. would substantially delay traffic or cause a safety or health hazard, the work shall then be permitted only between 9:00 a.m. or after 4:00 p.m.

§ 277-11 § 277-51. Road closing.

Road closing and/or traffic detours shall not be permitted unless approved by the Howell Township Police Department and Township Engineer.

§ 277-12 § 277-52. Traffic Directors.

A. Trained and qualified traffic directors or flagging personnel shall be posted at all construction or maintenance sites when determined by the Traffic Safety Unit of the Howell Township Police Department that same is necessary to provide for the safe and expeditious movement of traffic. Those controlling traffic must use M.U.T.C.D.-compliant STOP/SLOW paddles to signal traffic. Flags are not permitted unless it is an emergency. A planned project does not constitute an emergency. Traffic directors, both police and civilian, shall wear safety vests that meet M.U.T.C.D. Editor's Note: State's Manual on Uniform Traffic Control Devices. specifications. Both police officers and civilian flagging personnel shall use STOP/SLOW paddles when required to stop and release traffic through a work zone.

B. Per N.J.S.A. 39:4-81, only police officers may control traffic at intersections controlled by a traffic signal or regulatory signage. Police officers shall be used for traffic control at road work sites that include intersections with traffic control devices such as stop signs and traffic lights.

§ 277-13 § 277-53. Stop work.

Any officer of the Howell Township Police Department shall have the authority to stop work, including the removal of equipment and vehicles, stored material within the street right-of-way, backfilling of open excavations and/or related work, in order to abate any nuisance and/or safety hazard or for any violation of this article.
§ 277-14§ 277-54. Site preparation.

A. All construction sites shall have proper and ample guards, barricades, signs and, if required, lights maintained on site to sufficiently warn motorists and pedestrians of the dangers attendant to the project from the time the project is started until the same is completed and the area restored per Township requirements and completely opened to public travel.

B. It is to be expressly understood that no materials, vehicles or equipment are to be placed in the roadway or sidewalk or until all construction, signs, light devices and pavement markings are installed in accordance to the M.U.T.C.D. and the approved traffic control plan submitted by the contractor to the Police Department. All signage and traffic control devices shall be in excellent condition and kept clean and properly posted by the contractor.

C. Work area and/or detour signage, when applicable, shall be removed or covered by the contractor when the work is completed for the day or the detour is not in effect. All signage related to the project shall be removed promptly upon completion of the project.

D. While on site, the signs shall state in clear letters the number of houses being built, or square footage of and type of commercial development being constructed, the hours of operation for construction, as provided for by Howell ordinances, including its ordinance on prohibited noises, § 208-7, and as amended, or other applicable ordinance, including but not limited to prohibitions against any and all construction noise in contravention of the standards of said ordinance, between the hours of 9:00 p.m. and 7:00 a.m. the following day on weekdays, between 8:00 p.m. Friday night and 8:00 a.m. Saturday morning and between the hours of 6:00 p.m. on Saturdays through 7:00 a.m. on Mondays, and on all legal holidays, or as hereinafter amended, or if more restrictive standards are contained in any approval the Township of Howell or the Planning or Zoning Boards, said information and requirements shall also be provided for in said signs. [Added 8-12-2008 by Ord. No. 0-08-34]

§ 277-15§ 277-55. Violations and penalties. [Amended 8-12-2008 by Ord. No. 0-08-34]

Any contractor or utility who commits a violation of this article shall upon conviction thereof for a first offense pay a minimum fine of $2,000 and for any subsequent offense shall be subject to any additional penalty provided by the Code of Howell Township, Chapter 1, General Provisions, Article II, General Penalty, § 1-4. Additionally, for a second offense, such contractor or utility shall be subject to a stop-work order.

SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.
SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

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

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on November 20, 2012 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, 2nd Floor, Howell, New Jersey on December 11, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

PENNY WOLLMAN, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on December 11, 2012.

PENNY WOLLMAN, Municipal Clerk
EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 277 Entitled Streets and Sidewalks to combine Chapter 134 with Chapter 277 and modify and simplify the permit fee application calculations and increase the insurance requirements to reasonable limits and modify the restoration specifications to meet current NJDOT standards and more adequately protect the Township roads.
Ordinance No. O-12-26

INTRODUCTION

PUBLIC HEARING & ADOPTION

AGENDA ITEM NUMBER 9A.3

November 20, 2012

December 11, 2012
STATEMENT TO BE READ BY COUNCILMEMBER WHO INTRODUCES ORDINANCE

PROCEDURE ON ORDINANCES:
INTRODUCTION and PASSAGE ON FIRST READING OF ORDINANCE

COUNCILMEMBER:
MOTION TO INTRODUCE ORDINANCE NO. 0-12-26 ON FIRST READING BY TITLE AND TO ORDER THE SAME TO BE PUBLISHED IN THE 11/23/12 ISSUE OF THE ASBURY PARK PRESS TOGETHER WITH NOTICE OF ITS INTRODUCTION AND PASSAGE ON FIRST READING BY TITLE, AND THAT IT WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER PUBLIC HEARING AT A MEETING OF THE TOWNSHIP COUNCIL TO BE HELD ON 12/11/12 AT 7:30 PM, PREVAILING TIME, IN THE MUNICIPAL BUILDING.

SECONDED BY: COUNCILMEMBER

CLERK: Clerk reads ordinance by title only.

ROLL CALL VOTE.
ORDINANCE NO. O-12-26

AN ORDINANCE OF THE TOWNSHIP OF HOWELL AMENDING AND SUPPLEMENTING CHAPTER 269 ENTITLED SOIL AND SOIL REMOVAL OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 269 of the General Revised Ordinances of the Township of Howell shall be amended as follows:

NOTE: Sections of Chapter 269 that are to be amended by Ordinance are set forth below. All additions are shown in bold with underlines. All deletions are shown in bold with strikeouts. All sections that are unchanged shall remain in regular typeface.

Chapter 269. SOIL AND SOIL REMOVAL/FILLING

§ 269-1. Findings.

The Township Council finds that the unregulated and uncontrolled removal of soil from lands within the Township has resulted in conditions detrimental to the health, safety and general welfare, substantially hampering and deterring the efforts of the Township to effectuate the general purposes of municipal planning; and that such regulated and uncontrolled soil removal from lands located within the Township has created in the past and will create in the future one or more of the following conditions: soil erosion by water and wind; inadequate and improper surface water drainage; decrease in soil fertility; siltation of streams; removal of lateral support abutting streets, lands and premises; creation of excessive amounts of dust and mosquito breeding places; deposit on Township streets of large quantities of dust, mud or dirt; creation of dangerous depressions or pits; deterioration of property values; the rendering of lands unfit or unsuitable for their most appropriate uses; and the creation of other conditions hampering and deterring the coordinated and adjusted and harmonious development of the Township.

§ 269-2. Title.

This chapter shall be known and cited as the "Howell Township Soil Removal/Filling Ordinance."

§ 269-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT
The owner or contract purchaser or an authorized agent of land upon which soil removal/filling activities are to take place.
**FILL**

Fill shall be constructed of soil or rock materials or a combination of these materials meeting the following gradation. These materials shall be free from stumps, roots, weeds, sod, rubbish, garbage, and any other material that may decay. Fill shall also be free of any chemical or physical contamination in accordance with NJDEP guidelines.

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**EXCAVATOR**

Any person engaged in the moving, removal or excavation of soil or topsoil from, in or upon any land in the Township.

**MOVE**

To dig, excavate, remove, deposit, fill, grade, replace, level or otherwise alter or change the location or contour of land or to transport or supply soil. This term shall not be construed to include plowing, spading, cultivating, harrowing or discing of soil, or any other operation usually and ordinarily associated with the tilling of soil for agricultural purposes.

**PERMIT**

A soil removal or fill permit issued under the terms of this section.

**PREMISES**

One or more contiguous parcels of land in single ownership. Parcels shall not be deemed to be contiguous if separated by a road, railroad, right-of-way, brook, stream or other natural division.

**REDISTRIBUTION**

Any change or alteration in the grade of any property.

**RETAINING WALL**

A structure constructed and erected between lands of different elevations to protect structures and/or prevent erosion.

**SOIL**

Includes earth, sand, clay, loam, gravel, humus, rock, topsoil, mulch and mixtures of any of these. "Topsoil" shall mean the arable soil within six inches of the surface.
TOPSOIL

Soil that, in its natural state, constitutes the top layer of earth and is composed of 2.75% or more, by weight, of organic matter, and has the ability to readily support vegetation. Topsoil shall not contain stones, lumps, roots, or similar objects larger than ½ inch in any dimension and shall have not less than a 5.8 pH value. The gradation of the topsoil shall be within the following, using the Bouvoucos Hydrometer Analysis conforming to AASHTO T 88:

1. Not more than 20 percent of the material submitted from an off-site sample shall be retained on a No. 10 sieve.
2. Percent
   - Sand (80 mils to 2 mils) 40 – 80
   - Silt (2 mils to 0.2 mils) 0 – 30
   - Clay (0.2 mils or smaller) 15 – 30

Materials outside these ranges are not suitable for use as topsoil.

§ 269-4. Permit required.

No soil moving activities shall be engaged in on any property unless prior thereto the applicant shall have received a soil moving permit as herein provided. Permits for soil moving activities under the provisions of this chapter involving one acre of land or less shall be issued by the Township Engineer, but all other permits shall be issued by the Township Council as provided in this chapter. This section obligating the obtainment of a soil moving permit shall not apply to the following:

Prior to the digging, excavation, disturbance, or transportation of any soil on any premises in the Township for use other than on the premises from which it is being taken, or prior to the filling of any property or properties within the Township, an application shall be made by the owner, contract purchaser or authorized agent to the office of the Township Engineer for a soil removal or fill permit on the officially designated form. This requirement to obtain a permit applies to all construction including all buildings, roadways, driveways, retaining walls, all other construction which requires soil removal or filling with soil, and for restoration and re-stabilization of all areas of any site in which grading, soil removal or adjacent construction activity has taken place. All properties filled shall be filled with fill or topsoil as defined in this Chapter.

The application shall be submitted to the Township as follows:

1. If the soil removal or filling is necessary for the development of a project which has been granted approval by the Planning Board or Board of Adjustment, an application shall be made to the Township Engineer.
2. If the soil removal or filling is necessary for the development of a project which has not been granted approval by the Planning Board or Board of Adjustment, an application shall be made to the Planning Board.

The requirements of this Chapter shall not apply when one of the following circumstances are present:

A. 1. To the excavation of soil for use on the premises from which it is taken, provided that it does not involve any substantial change in the topography of the premises.

B. 2. The excavation of soil in connection with the construction of a building upon the premises. When soil removal results from excavation involving the construction of one single-family house, basement or accessory structure (i.e. pool, patio or retaining wall associated with this work).

C. 3. To Activities performed by the Township of Howell.

D. 4. To the activities of any other governmental agency in connection with their public works projects carried out by their employees or contractors after review by the Township Engineer and finding by the Township Council to be in the best interest of the citizens of the Township to exempt the activity from the obtainment of a permit herein.

E. To soil removal activities in connection with an approved site plan or approved subdivision authorized by resolution of the Township Planning Board or Board of Adjustment.

F. To site plan and major subdivision applications approved by the Township Planning Board or Board of Adjustment requiring the submission of a grading plan.

§ 269-5. Information Required For Application.

A. Application shall be made through the Township Engineer and shall be accompanied by the following:

(1) Name and address of the owner of the tract involved.

(2) A map of the premises showing the existing topographical contour lines of the land involved and abutting lands and roads, the proposed topographical contour grades which will result from the intended soil removal and the location of any streams or other bodies of water near the premises. The minimum contour interval of five feet is hereby required, and two-foot contour intervals can be required at the discretion of the Township Engineer.
(3) Lot and block numbers of the lands as shown on the current Tax Map of the Township.

(4) The name and address of the person who will do the work of removing the soil.

(5) The number of cubic yards to be removed pursuant to the permit.

(6) Routes to and from the proposed site to be used in transporting the soil removed.

(7) The proposed dates for the commencement and completion of the work.

(8) Reason for removing the soil.

(9) Such other pertinent data as the Township Engineer may deem necessary.

B. The applicant shall notify all property owners within 500 feet of the boundaries of the affected lot and/or contiguous piece of the property by certified mail, return receipt, to be submitted with the filing of the application. The provisions of this subsection shall be applicable only to major soil removal applications under this chapter.

1. The application shall be filed on a form supplied by the Township Engineer and shall provide the following information:

a. Owner, applicant and contractor name, address and telephone numbers.

b. The name, address and telephone number of the person(s) responsible for the work of removing the soil or filling.

c. Address and block/lot designations of all property(ies) from which soil removal is to take place and/or at which filling is to take place.

d. Narrative statement concerning the purpose of application.

e. Name of project(s), if any.

f. The destination of the soil to be removed from the site. If the destination is not listed in subsection 1.c above, and the destination is within the Township, the street address, tax map block/lot designation, and other information which identifies the location is required.

g. A detailed description of the entire route within the Township to and from the proposed site(s) to be used in transporting soil removed or soil used for fill. Where the approval from the reviewing office expressly designates a route, no
deviations from this route will be permitted unless authorized by the Township Engineer or Planning Board or Board of Adjustment.

h. An estimate in cubic yards of the quantity of soil to be removed, broken down into two figures-topsoil and total; or an estimate in cubic yards of the quantity of soil to be installed as fill broken down into two figures – topsoil and total.

i. All information on the fill material as required by the definition of Fill in this Chapter. The data shall be submitted and approved by the Township Engineer prior to the start of work. Only material data from a legally certified testing laboratory shall be considered and should include soil borings, gradation, composition, proctor values and any other information required by the Township.

j. Start of work date, approximate project duration, and completion date.

k. All necessary outside agency permits or authorization required for the project.

l. Application fees as specified elsewhere in this Chapter and Chapter 139.

2. For each application for soil removal or filling, a survey or plan signed and sealed by a Professional Engineer licensed to practice in the State of New Jersey is required. Said plan shall contain the following:

   a. The plan shall be drawn to a minimum scale of 1 inch to 100 feet for soil removal, and a scale of 1 inch to 50 feet for filling.

   b. The dimensions of the property(ies) where the activity is to take place, and the lot and block number of the property and of each lot surrounding the land within 200 feet as shown on the current Tax Map of the Township.

   c. All existing and proposed structures, easements, floodplains, wetlands, stream encroachment areas and other designations on the property which may restrict activities on part of the property, and all elevations of same.

   d. All existing treelines, limit of disturbance lines, and all tree removal and tree replacement information as specified elsewhere in this Chapter.

   e. Areas of disturbance and limits of soil erosion control measures shall to be clearly delineated.

   f. Existing and proposed contours and grades as required by the Township Engineer, and for soil removal, the present grade on a fifty-foot grid layout with contour lines at one-foot levels up to and including twenty acres; or for more than twenty acres, one-hundred-foot grids with contour lines at two-foot
levels. Additionally, the grades of all abutting streets and lands around the outer boundaries of the site shall be provided.

g. The quantity, in cubic yards, of soil to be removed, or fill material to be installed.

h. The average depth of topsoil in existing condition as determined by taking borings in the approximate center of each 100-foot grid.

i. The demonstration of positive drainage flow with grades a minimum of 1.5% and swales to convey runoff, and the areas where runoff is to be discharged (streams, water bodies, watercourses, natural or artificial).

j. Proposed slopes and lateral supports at the limits of the area upon completion of the proposed work.

k. Information on retaining walls as further required by other applicable sections of the Ordinance.

l. Measures for the prevention of soil erosion and sediment control during construction until soil is stabilized. Applicant shall comply with all local Soil Conservation District requirements.

m. Methods of final soil stabilization and description of ground cover, plantings, vegetation, and landscaping. Residential properties shall receive a minimum of four inches (4") of topsoil on all disturbed areas. Non-residential properties shall receive a minimum of six inches (6") on all disturbed areas.

n. The applicant shall furnish any other pertinent data the Township Engineer may require after examination of the proposed project, including site inspection. If the soil removal or fill is for the development of an approved subdivision or site plan by the Planning Board or Board of Adjustment, the above-referenced requirements may be met by the submission of the approved development plans, subject to final determination by the Township Engineer.


A. In considering the application, the Township Engineer shall take into consideration and be guided by the following factors:

(1) Soil erosion by water and wind.

(2) Surface and/or subsurface water drainage.

(3) Soil fertility.
(4) Lateral support of abutting streets and lands.

(5) Land values and uses.

(6) Effects on water resources such as streams and wetlands.

(7) Contours both existing and proposed.

(8) Any other factor relevant to the coordinated, adjusted and harmonious development of the Township.

B. The Township Engineer shall refer the application to the Environmental Commission and Planning Board for their reports and nonbinding recommendations, said reports and recommendations to be rendered to the Township Engineer within 40 days of the filing of the application.

C. If, after considering the above factors, the Township Engineer determines that the proposed removal or redistribution of soil will be detrimental to the health, safety or general welfare of the Township or its inhabitants, he shall recommend to the Township Council the issuing of the necessary permit. Said recommendations of the Township Engineer shall be rendered to the Township Council within 60 days of the filing of the application. However, if after considering the above factors, the Township Engineer determines that the proposed removal or redistribution of soil will be detrimental to the health, safety or general welfare of the Township or its inhabitants, he shall recommend to the Township Council the denial of the permit.


After receiving the report, the Township Council shall fix a time and place for a public hearing thereon not less than two weeks, nor more than 30 days from the date of the report. The applicant shall publish a notice of the time and place of such meeting in an official newspaper of the municipality at least one week prior thereto, specifying that he is applying for a permit, the general location and size or acreage of the property involved, and the names and addresses of the owner and applicant. After the hearing, the Township Council shall grant or deny the permit, after giving consideration to the engineering report (which shall be incorporated into the record thereof by reference), the evidence adduced at the hearing and the effect of such permit on the public health, safety and general welfare.

§ 269-8. Fee.

Editor's Note: Specific fee amounts were removed from this section in conjunction with Ord. No. 0-09-13, adopted 4-28-2009. For current permit fees, see Ch. 139, Fees, Art. XXVII. No soil removal permit shall be issued until a fee has been paid by the applicant to the Township Clerk as set forth in Chapter 139, Fees.
1. Application Fees

   a. In the event the application is reviewed in the Township Engineer’s office, the application shall be accompanied by the fee indicated on the application form and as set forth in Chapter 139, Fees.

   b. In the event the application must be brought to the Planning Board, the application shall be accompanied by a fee which shall be paid to the Township as set forth in Chapter 139, Fees.

   c. In the event the application must be brought to the Board of Adjustment, the application shall be accompanied by a fee which shall be paid to the Township as set forth in Chapter 139, Fees.

   d. Renewal application shall be as indicated on the application form.

   e. If a soil removal or fill permit is denied, no refund of fees shall be permitted.

2. Inspection Fund

   There shall be an inspection fund established to cover the cost of inspection and enforcement of the provisions of this Chapter, based upon the total number of cubic yards to be removed or installed, as determined by the Township Engineer.

3. Performance Bond

   a. Posting amount. No soil removal or fill permit will be issued until the applicant has posted with the Township a performance bond to cover damage to Township roadways in a form and with a surety that is acceptable to the Township and in an amount as follows:

      The bond amount shall be $15,000.00 for up to the first mile of the haul route along all roads with the Township from the properties from which soil removal and/or filling is to take place; $25,000.00 per mile or part thereof after the first mile of haul route from properties from which soil removal and/or filling is to take place.

   b. The performance bond will be conditioned upon the full and faithful performance by the applicant and principal, within the time specified in the application, of all the proposed work in accordance with the provisions of this Chapter and of the soil removal or fill permit issued pursuant thereto.

   c. The condition of the performance guaranty shall be that the permittee has properly completed its soil removal and/or fill work and that pavement stability, maintenance, cleaning, traffic direction, when required, and utility
protection in conjunction with the removal or fill activity at the site and haul route has been maintained. The guaranty shall be posted in the amounts specified above for the duration of the haul cycle for removal of the soil or filling, whichever is longer. Upon completion or abandonment of the work, the Township Engineer shall inspect the site and haul route and render a written report to the Township regarding the performance guaranty status. Any reduction or release of the performance guaranty shall be authorized by resolution of the Township Council.

4. Renewal

If the applicant shall fail to fill or remove the amount of soil estimated in the original application within the period of one (1) year, he shall be required to submit an application for renewal and pay the fees applicable to the renewal application prior to the approval of same application for renewal. Renewal is also contingent upon renewal of the bond as required in this Section.

§ 269-9. Bond and insurance requirements.

Before the permit is issued, the applicant shall comply with the following additional requirements:

A. In order to ensure (1) that the permittee will complete the work authorized by the permit in conformity with the terms of the permit and the provisions of this chapter on or before the date of completion set forth in the application; and (2) that the permittee will repair any public street, structure or land which may be damaged as a result of the work authorized by the permit, the permittee shall submit a surety bond in an amount approved by the Township Engineer and the Township Council, wherein the owner, if not the permittee, and the permittee is principal and a bonding company authorized to do business in New Jersey is surety. The bond is to run to the Township of Howell, which bond shall be conditioned for the faithful performance of the conditions of (1) and (2) hereof. The actual amount of the surety bond shall be in an amount approved by the Township Engineer, but in no case less than $5,000 per acre and fraction thereof for the total number of acres of land involving soil movement under any original or renewal application. The bond shall be renewed or a new bond given at the time of application for a renewal permit in an amount of not less than $5,000 per acre or fraction thereof, multiplied by the total number of acres of land for soil movement covered by the original permit, plus the number of acres or fractions thereof to be covered by the renewal permit, less the number of acres that the Township Engineer had certified to be in compliance with (1) and (2) hereof. All surety bonds must be approved by the Township Attorney. This requirement shall not apply to an application for soil movement involving one acre of land or less. In no event shall any permittee for a permit or a renewal thereof be required to furnish a surety bond to the Township of Howell pursuant to this section in an amount in excess of $25,000.
B. In any application for a permit for soil movement involving greater than one acre of land, the permittee shall indemnify the Township of Howell, its officers, employees and agents, against any expense, loss or liability paid, suffered or incurred, as a result of the permittee's soil movement operations or the carelessness, negligence or improper conduct of the permittee or permittee's agents, employees or licensees. Permittee shall, during the term of said soil removal permit, procure and maintain appropriate liability insurance with limits of $500,000 per person, $500,000 per accident and $500,000 for property damage, designating the Township of Howell, its officers, agents, and employees, as additional insured and shall file a certification of such insurance with the Township Clerk. The permittee shall also furnish the Township with a hold harmless agreement whereby the applicant agrees to hold harmless and indemnify the Township of Howell, its officers, employees and agents, with regard to any claim which may arise as a result of issuance of the soil removal permit. The agreement shall be in a form acceptable to the Township Attorney and shall be executed prior to issuance of the soil removal permit.

C. When a minor application, meaning one involving soil-removing activities of less than one acre, is submitted under this chapter, there shall be no bond nor insurance requirements required of the applicant. Moreover, when a minor application is submitted, there shall be no requirement for the provision of a hold harmless agreement to the Township.

[Amended 6-10-2008 by Ord. No. 0-08-15]

§ 269-10-7. Regulations.

Soil removal or redistribution conducted under this chapter shall be in accordance with the following regulations:

A. Operations shall be conducted so that there shall be no sharp declivities, pits or depressions.

B. Lands shall be graded so as to conform to the contour lines and grades approved, covered with six inches of topsoil and shall be cleaned of debris and seeded with perennial grass.

C. The said removal shall be completed within a period of one year.

D. The removal of any topsoil is expressly prohibited. The top layer of soil to a depth of six inches shall not be removed from the premises, but shall be set aside and respread over the premises when the remainder of this soil has been removed.

E. All of the work described shall be performed between the hours of 7:00 a.m. and 5:00 p.m., Mondays through Fridays, and 8:00 a.m. and 1:00 p.m., Saturdays. No work shall be permitted on public holidays and Sundays.
F. Adequate measures shall be taken to prevent erosion or the depositing of soil under surrounding property or public roads.

1. To ensure conformity with the requirements of this section, inspections shall be made by the Township Engineer or his authorized or qualified agent upon the lands on which the soil-moving or filling operations are being conducted for the entire duration of the soil-moving or filling operations.

2. Copies of the soil-removal or fill permit shall be posted on all premises affected thereby, and any person or entity engaged in the transportation of soil to or from any site in Howell Township shall produce a copy of said permit upon request from any officer, agent or employee of the Township authorized to enforce this Chapter. Failure to produce this documentation on request shall constitute adequate cause for issuance of a stop-work order.

3. Sectioning of land under permit. The applicant shall be required to section the property which is the subject of the permit into areas of not more than five acres for soil removal or filling so that the operation conducted in one section is completed and at final grade before work is commenced in any other section of the premises.


   Complete removal of a bank. If the application for a soil-removal permit involves the complete removal of a bank, which extends above the elevation of the surrounding lands or above the elevation of a public road or street adjacent to the land where the removal project is to take place, the moving or removal shall be so conducted as to leave the final grade of the land or lot from which the bank is to be removed at a grade that will not create a hazardous condition for the surrounding lands or a public road or street. Wherever practical, the final grade shall not be lower than the grade of the surrounding lands or of a public road or street, and the final grade shall be established and maintained at a minimum of 1-1/2% to ensure proper drainage. In addition, no slope shall exceed the grade of 33%.

5. In the course of filling with soil, placement and compaction with fill materials shall be in accordance with current NJDOT Standard Specifications. Fill shall not be placed over topsoil, but areas of embankment shall be stripped prior to fill placement. Fill materials shall be placed in layers not more than 12 inches thick, loose measurement, and compacted as specified below. Completed in-place embankment shall be compacted to a density of not less than 95 percent of the established reference maximum density. A minimum of two field density tests shall be taken according to AASHTO T-191, AASHTO T-205, or AASHTO T-238, Method B and ASHTO 239 on each compacted layer or as directed by the Township Engineer. Only one of the referenced methods shall be used on the project.
6. — Topsoil.

a. — Replacement of topsoil. Whenever any owner, developer or excavator removes or fills property in the Township, provision shall be made for the replacement of topsoil within the boundary lines of the property. Except as hereinafter provided, all topsoil shall be uniformly replaced over the entire surface of the land, less newly developed areas on or before the completion date set forth in the soil removal or fill permit. The final grade of the replaced topsoil shall conform to the proposed final grades shown on the topographical map. Topsoil shall be compacted and stabilized in accordance with appropriate local Soil Conservation District provisions.

b. — In the event that the topsoil so stored does not meet the definition of “topsoil” as defined herein, then the owner or developer shall bring to site topsoil that does conform to the definition. The replaced soil shall meet all other requirements of this Section.

e. — Applicant shall submit additional testing and sampling as directed by the Township Engineer to ensure compliance to these provisions.

7. — In the course of filling or soil removal operations, the owner or person in charge shall conduct the operations so that there will be no interruption of natural drainage, and that the area will be properly leveled off, cleared of debris and graded to conform to the contour lines and grades as approved by the Township Engineer. The conduct of the operation shall be under the observation and control of the Township Engineer, who will make periodic inspections to determine that there is no deviation from the information and requirements of the application as approved.

8. — Every fill and soil removal project shall be conducted and completed in a manner which will eliminate any conditions hazardous to the public who may have access to the property or the health, safety or welfare of the Township. No boulders, tree stumps and other debris shall be buried with fill, but shall be legally removed from the site.

9. — No fill or excavation operation is to be conducted except between the hours of 8:00 a.m. and 5:00 p.m. on weekdays (Monday to Friday) only.

10. — No person shall permit the accumulation of dirt, rubble or debris on any roadway within the Township as a result of soil removal, fill or trucking of soil to/from any site in the Township.

11. — The excavation or filling operation shall be conducted so that the noise from trucks or equipment will not be a source of annoyance or discomfort to any residents of the Township. Applicant shall comply with all other provisions of this Ordinance.
12. Every truckload of material shall be properly trimmed and shall have no material protrude more than 12 inches above the sides or rear of the truck at the peak or highest point of each load. Every hauler shall be responsible to ensure that (sand, dirt or dust does not blow from their truck within the Township). All loads shall be covered.

13. A minimum of 48 hours notice is required to the Township Engineer’s office shall be required for all work under this Chapter. Failure of proper notice may result in rework, non-acceptance of the work and/or penalties imposed as outlined in this Section.

14. Transportation of soil. A person who transports over the streets, roads or highways in the Township soil removed from or transported to land or premises pursuant to a soil-removal or fill permit shall daily sweep, pick up and remove or cause to be swept, picked up and removed all dust, dirt and mud from roads, streets or highways and shall apply or cause to be applied to the roads, streets or highways a dust preventative whenever deemed necessary by the Township Engineer. If a permit holder neglects or refuses to sweep, pick up and remove dust, dirt and mud or to apply a dust preventative when required, the Township Engineer is authorized to suspend the permit for a period of not less than three (3) days or may revoke the permit after notification, in writing, by an authorized officer, agent or employee of the Township to the holder of the permit. If revoked, no soil removal permit or fill permit shall again be issued unless application is made as required.

1. To ensure conformity with the requirements of this section, inspections shall be made by the Township Engineer or his authorized or qualified agent upon the lands on which the soil-moving or filling operations are being conducted for the entire duration of the soil moving or filling operations.

2. Copies of the soil removal or fill permit shall be posted on all premises affected thereby, and any person or entity engaged in the transportation of soil to or from any site in Howell Township shall produce a copy of said permit upon request from any officer, agent or employee of the Township authorized to enforce this Chapter. Failure to produce this documentation on request shall constitute adequate cause for issuance of a stop-work order.

3. Sectioning of land under permit. The applicant shall be required to section the property which is the subject of the permit into areas of not more than five acres for soil removal or filling so that the operation conducted in one section is completed and at final grade before work is commenced in any other section of the premises.


   Complete removal of a bank. If the application for a soil removal permit involves the complete removal of a bank which extends above the elevation of the
surrounding lands or above the elevation of a public road or street adjacent to the land where the removal project is to take place, the moving or removal shall be so conducted as to leave the final grade of the land or lot from which the bank is to be removed at a grade that will not create a hazardous condition for the surrounding lands or a public road or street. Wherever practical, the final grade shall not be lower than the grade of the surrounding lands or of a public road or street, and the final grade shall be established and maintained at a minimum of 1-1/2% to ensure proper drainage. In addition, no slope shall exceed the grade of 33%.

5. In the course of filling with soil, placement and compaction with fill materials shall be in accordance with current NJDOT Standard Specifications. Fill shall not be placed over topsoil, but areas of embankment shall be stripped prior to fill placement. Fill materials shall be placed in layers not more than 12 inches thick, loose measurement; and compacted as specified below. Completed in place embankment shall be compacted to a density of not less than 95 percent of the established reference maximum density. A minimum of two field density tests shall be taken according to AASHTO T 191, AASHTO T 205, or AASHTO T 238, Method B and ASHTO 239 on each compacted layer or as directed by the Township Engineer. Only one of the referenced methods shall be used on the project.

6. Topsoil.

a. Replacement of topsoil. Whenever any owner, developer or excavator removes or fills property in the Township, provision shall be made for the replacement of topsoil within the boundary lines of the property. Except as hereinafter provided, all topsoil shall be uniformly replaced over the entire surface of the land, less newly developed areas on or before the completion date set forth in the soil removal or fill permit. The final grade of the replaced topsoil shall conform to the proposed final grades shown on the topographical map. Topsoil shall be compacted and stabilized in accordance with appropriate local Soil Conservation District provisions.

b. In the event that the topsoil so stored does not meet the definition of “topsoil” as defined herein, then the owner or developer shall bring to the site topsoil that does conform to the definition. The replaced soil shall meet all other requirements of this Section.

c. Applicant shall submit additional testing and sampling as directed by the Township Engineer to ensure compliance to these provisions.

7. In the course of filling or soil removal operations, the owner or person in charge shall conduct the operations so that there will be no interruption of natural drainage; and that the area will be properly leveled off, cleared of debris and graded to conform to the contour lines and grades as approved by the Township
Engineer. The conduct of the operation shall be under the observation and control of the Township Engineer, who will make periodic inspections to determine that there is no deviation from the information and requirements of the application as approved.

8. Every fill and soil removal project shall be conducted and completed in a manner which will eliminate any conditions hazardous to the public who may have access to the property or the health, safety or welfare of the Township. No boulders, tree stumps and other debris shall be buried with fill, but shall be legally removed from the site.

9. No fill or excavation operation is to be conducted except between the hours of 8:00 a.m. and 5:00 p.m. on weekdays (Monday to Friday) only.

10. No person shall permit the accumulation of dirt, rubble or debris on any roadway within the Township as a result of soil removal, fill or trucking of soil to/from any site in the Township.

11. The excavation or filling operation shall be conducted so that the noise from trucks or equipment will not be a source of annoyance or discomfort to any residents of the Township. Applicant shall comply with all other provisions of this Ordinance.

12. Every truckload of material shall be properly trimmed and shall have no material protrude more than 12 inches above the sides or rear of the truck at the peak or highest point of each load. Every hauler shall be responsible to ensure that (sand, dirt or dust does not blow from their truck within the Township). All loads shall be covered.

13. A minimum of 48 hours notice to the Township Engineer’s office shall be required for all work under this Chapter. Failure of proper notice may result in rework, non-acceptance of the work and/or penalties imposed as outlined in this Section.

14. Transportation of soil. A person who transports over the streets, roads or highways in the Township, soil removed from or transported to land or premises pursuant to a soil removal or fill permit shall daily sweep, pick up and remove or cause to be swept, picked up and removed all dust, dirt and mud from roads, streets or highways and shall apply or cause to be applied to the roads, streets or highways a dust preventative whenever deemed necessary by the Township Engineer. If a permit holder neglects or refuses to sweep, pick up and remove dust, dirt and mud or to apply a dust preventative when required, the Township Engineer is authorized to suspend the permit for a period of not less than three (3) days or may revoke the permit after notification, in writing, by an authorized officer, agent or employee of the Township to the holder of the permit. If revoked, no soil removal permit or fill permit shall again be issued unless application is made as required.

§ 269-8-11 Enforcement; inspection.
The Township Engineer and/or Code Enforcement Officer shall be charged with the enforcement of this chapter. Operations conducted under this chapter shall be inspected at least weekly.

§ 269-12-9. Noncompliance with permit requirements; repair of damages. Revocations of Permit, Violations and Penalties

A. The permittee who refuses or fails to comply with the grading, soil stabilization and drainage requirements called for in the permit, within 21 days after written notice of these deficiencies have been served upon him either by personal service or certified mail, shall be subject to a fine of no less than $25 and no more than $50 for each day of failure to correct the stated deficiencies. The accumulated cost of these fines, if not collected by the court, shall be charged to the property on the next regular tax bill, and such charge shall be due and payable at the time the tax bill is due and payable, and if not paid shall be collectible in the same manner as unpaid tax bills and shall be a lien on the property.

B. The permittee will repair any and all public improvements including streets, sidewalks, curbs, etc., which may be damaged as a result of the work authorized by the permit. In the event that the permittee refuses or fails to make the necessary repairs within 21 days after written notice of such damage has been served upon the permittee either by personal service or certified mail, the Township may authorize the Director of Public Works or his representative to perform the required repairs paid for by Township funds available for that purpose in order to protect the health and safety of the public. The cost of such work shall be certified by the Director of Public Works to the Township Engineer, who shall verify same, and certify the cost to the Township Assessor. Upon filing of the Township Engineer’s certification with the Tax Assessor, the amount of the cost of such work shall be a lien on the property to which the permit was granted and shall be collected as set forth in Subsection A above.

After notice and an opportunity to be heard before the Township Engineer, the permit of any person may be revoked or suspended for such period as the Township Engineer may determine for any violation of the terms hereof or the terms and conditions of any permit granted hereunder. In addition to action on the bond required or the revocation provided for herein, any person who violates this Chapter or any director or officer of a corporation who participates in a violation of this Chapter shall, upon conviction thereof, be subject to a maximum fine of $2,000.00, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.


After reasonable notice of not less than two days and an opportunity to be heard before the Township Council, the permit of any person may be revoked or
suspended for such period as the Township Council may determine, for any violation of the terms hereof or the terms of any permit.

§ 269-14 Site investigation and soil sampling.

[Amended 3-4-2002 by Ord. No. 0-02-5]

A. The Township Council finds that historic pesticide contamination has become a concern within the Township due to the number of homes being built on former farm fields and orchards. Site investigation and soil sampling of former agricultural areas shall be conducted prior to any board approval, the purpose of which shall be to determine if contamination is present at levels exceeding the New Jersey Department of Environmental Protection soil clean-up criteria. Any necessary remediation shall be conducted and completed prior to any site development.

B. Site sampling of former agricultural areas and any necessary remediation shall be conducted for any new projects or developments or upon the sale of existing properties (both residential and commercial) which have areas with exposed soil that are intensively used by children, including, but not limited to homes, townhouses, condominiums, apartments, schools, day-care centers, and playgrounds. Soil shall also be subject to site investigation and soil sampling prior to the removal or redistribution of any soil from the Township of Howell as set forth in § 188-26 of Chapter 188, Land Use.

C. All sellers shall provide prospective buyers with any test results that have been performed to quantify concentrations of residual pesticides and provide information regarding any deed notice and/or maintenance requirements applicable to the property where pesticide contamination is located on the property.

D. All sellers shall provide a written disclosure to prospective purchasers of the location and conditions of common areas where contaminated soil has been consolidated in accordance with the New Jersey Department of Environmental Protection's applicable soil remediation criteria.

E. Site investigation sampling shall be conducted pursuant to the New Jersey Department of Environmental Protection Field Sampling Procedures Manual and analysis conducted by certified laboratories pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E-2 and as may be amended in the future by NJDEP. These test results shall be analyzed to determine whether contamination is present at levels exceeding the New Jersey Department of Environmental Protection soil clean-up criteria guidelines.

F. Prior to any application being deemed complete by either the Township Planning Board or Zoning Board of Adjustment for any major or minor subdivision or site plan approval, all of the soil testing requirements outlined in this chapter must be submitted to the Board Engineer for his review and comment. This evidence shall
be used as evidence in the case before the Board. Remediation of any contamination found on the proposed site shall be completed prior to site development. Failure of an applicant to fully comply with any part of the provisions as outlined in this chapter, may result in the denial of the application. Per N.J.S.A. 40:48-2.57, this chapter shall not apply to any property for which any person is conducting actions related to historic pesticide contamination under the oversight of the Department of Environmental Protection, provided that such person, as condition of any development approval by the municipality, obtains a full site no further action letter from the Department.

G. Sample location and depth. Discrete samples should be taken at a depth of zero inches to six inches within farm fields. If the extent of former fields cannot be determined, the entire property should be sampled. A map shall be provided to the Board Engineer showing the exact location of each soil sample taken along with a detailed report summarizing the result of each sample.

[Amended 7-20-2004 by Ord. No. 0-04-31]

H. Sample frequency. Sampling frequency shall be dependent on the size of the site. (Sites less than one to 10 acres, one sample for every two acres with a minimum of two samples; then sites greater than 10 acres, add one sample for every five acres.) A reduced sampling frequency may be appropriate for very large sites and shall be determined by the Board Engineer on a case-by-case basis.

I. Analytical parameters. All samples shall be analyzed for arsenic, lead and a pesticide scan (USEPA method SW-846-8081A). The pesticide scan includes a total of 20 compounds, including DDT, DDD, DDE, dieldrin and chlordane. All analytical results obtained from the pesticide analysis shall be provided to the Board Engineer for comparison with established NJDEP contamination levels.

SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.
SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

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

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on November 20, 2012 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, 2nd Floor, Howell, New Jersey on December 11, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

______________________________
PENNY WOLLMAN, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on December 11, 2012.

______________________________
PENNY WOLLMAN, Municipal Clerk
EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 269 Entitled Soil and Soil Removal to requires that all soil removal/filling that is not related to a single-family house or accessory structure will require a soil permit and where the work is related to a development which has received approvals from the Planning Board or Board of Adjustment, then application for permit can be made to the Township Engineer directly and if the work is not related to an approved development, application for permit must be made to the Planning Board. Additionally, the amendment modifies the details of the permit application and added the requirement for a performance bond related to the haul route to protect the Township roads.
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

ORDINANCE COVER PAGE

Ordinance No. O-12-27

INTRODUCTION

PUBLIC HEARING & ADOPTION

November 20, 2012

December 11, 2012

AGENDA ITEM NUMBER

9A.4
STATEMENT TO BE READ BY COUNCILMEMBER WHO INTRODUCES ORDINANCE

PROCEDURE ON ORDINANCES:

INTRODUCTION and PASSAGE ON FIRST READING OF ORDINANCE

COUNCILMEMBER:

MOTION TO INTRODUCE ORDINANCE NO. 0-12-27 ON FIRST READING BY TITLE AND TO ORDER THE SAME TO BE PUBLISHED IN THE 11/23/12 ISSUE OF THE ASBURY PARK PRESS TOGETHER WITH NOTICE OF ITS INTRODUCTION AND PASSAGE ON FIRST READING BY TITLE, AND THAT IT WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER PUBLIC HEARING AT A MEETING OF THE TOWNSHIP COUNCIL TO BE HELD ON 12/11/12 AT 7:30 PM, PREVAILING TIME, IN THE MUNICIPAL BUILDING.

SECONDED BY: COUNCILMEMBER

CLERK: Clerk reads ordinance by title only.

ROLL CALL VOTE.
ORDINANCE NO. O-12-27

AN ORDINANCE AMENDING CHAPTER 188-31 ENTITLED INDIVIDUAL PLOT PLAN REQUIREMENTS AND CHAPTER 188-68 ENTITLED OUTDOOR DISPLAY OF GOOD OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL

WHEREAS, the Township of Howell wishes to amend Chapter 188-31 Entitled Individual Plot Plan Requirements and Chapter 188-68 Entitled Outdoor display of Goods of General Revised Ordinances of the Township of Howell;

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 188-31 Entitled Individual Plot Plan Requirements and Chapter 188-68 Entitled Outdoor Display of Goods of the General Revised Ordinances of the Township of Howell is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 188-31 and Chapter 188-68 that are to be amended are set forth below. All additions are shown with underlines. All deletions are shown with strikeouts. All other sections will remaining unchanged shall be in normal type.


A. Three (3) copies of the individual plot plan, three (3) copies of the architectural drawings (if applicable) and the plot plan checklist shall be submitted to the Department of Community Development/Township Land Use Officer with any permit applications for new residential/commercial construction and/or major renovations/regrading of existing property. Application jackets shall also be filled out for Land Use, Engineering and Construction. The owner/applicant/developer shall, at the time of filing an application, pay a nonrefundable application fee, and review fee & inspection fees to the Township of Howell as set forth in Chapter 139 of this Code.

B. The Township Land Use Officer shall review the submitted plot plan, architectural drawings and land use application jacket for conformance to the Township’s bulk requirements and either request revisions or issue a Land Use Certificate in writing. The Land Use Certificate is required prior to the Engineering Division reviewing the plans.

C. The Township Engineer shall review the submitted plot plan, architectural drawings, plot plan checklist and engineering jacket for conformance to the Township’s plot plan requirements and either request revisions or issue an Engineering Approval, in writing, of the submitted plan. Engineering Approval is required prior to the Construction Code Official reviewing the plans, be provided with a copy of the permit application and two copies of each individual plot plan. The Township Engineer will review the
Once the Land Use Certificate and Engineering Approval is granted, the Construction Code Official shall review the architectural plans, building department jackets and technical sheets and either request revisions or issue a building permit. He/she shall not issue a construction permit until the Township Engineer issues a letter of approval for the proposed individual plot plan and has received a land use certificate of approval from the Land Use Officer.

Each individual plot plan shall be drawn to scale, signed and sealed by a professional engineer and land surveyor licensed to practice in the State of New Jersey, and shall be no larger than 24" by 36" or smaller than 8½" by 11".

Individual plot plans shall include the following information:

1. Bearing-distance and area;
2. North arrow, written in graphic scale;
3. Existing/proposed easements and dedications;
4. Existing/proposed building dimensions, a copy of the foundation plan and house elevations prepared by a New Jersey licensed architect;
5. Existing/proposed sidewalks, driveways and retaining walls with details;
6. Building envelope—graphically depicting and dimensioning—zoning setback requirements and/or setbacks approved by the Planning Board or the Zoning Board of Adjustment;
7. Name, right-of-way width, pavement width and composition of the street(s) fronting the lot;
8. Key map showing the location of the individual lot relative to the entire project approved by the Planning Board or Zoning Board of Adjustment, if applicable (the key maps may be attached separately to the plot plan);
9. Applicant's name and address;
10. Project name/title, if applicable;
11. Tax Map block and lot number;
(12) Title block on the plot plan must include the property address, the block and lot number of the property in question, and the name of the applicant;

(13) Limits of clearing and soil disturbance; all areas of steep slopes (10% or greater) must be clearly delineated on the plan;

(14) Existing trees to be protected and remain;

(15) Location of wetlands, wetlands buffer, floodplain and/or any other environmental constraints to the property, with backup documentation from the approving agency;

(16) Sufficient street elevations including center line, gutter and top of curb (if applicable);

(17) Existing and proposed lot elevations to include, at a minimum, property corners, midpoints of property lines, building corners and center of lots; and the finished first floor, basement, and garage floor elevations of the proposed structure. If the basement is proposed, the floor elevations shall be a minimum of two feet above the seasonal high water table. A boring must be performed at the proposed basement. Lot grading shall be designed to provide positive runoff with grades at a minimum slope of 1/10%. All elevations shall be according to the NGVD (National Geodetic Vertical Datum), and the source of datum so noted. Any specific circumstances for which elevation requirements cannot be met will be subject to review by the Land Use Officer, Township Engineer and Construction Code Official on a case-by-case basis. Under no circumstances shall individual lots be graded in such a manner as to redirect stormwater runoff onto adjacent and/or downstream properties or disturb or change the existing drainage patterns on adjacent lot. Drainage flow arrows shall be provided to clearly depict the directions of stormwater runoff. No grading or the creation of sump conditions shall be permitted on adjacent lot(s) unless permission has been specifically granted, in writing, by the owner of said adjacent lot(s);

(18) Location of any storm drainage pipes within 25 feet of the property including pipe size, grade and invert;

(19) Driveway location and detail as per Township ordinance;

(20) Proposed septic system location and design approved by the Monmouth County Board of Health, if applicable;

(21) Proposed location of well, if applicable;

(22) Proposed utilities service lines (water, sewer, gas, etc.) and its connection point in the street if applicable;

(23) Show all existing and proposed septic systems and wells within the surrounding areas.
(1) Plans provided on sheets no smaller than 8-1/2" x 11" or greater than 24" x 36".

(2) Plan drawn to scale, no larger than 1"=40'.

(3) Property lines shown, length in feet and hundredths, bearing in degrees, minutes and seconds.

(4) Area of parcel in square feet and acres, both to the nearest hundredth.

(5) Key map showing location of parcel to be considered in relation to surrounding area, within two hundred feet (200') (if applicable).

(6) Title block containing name of applicant, preparer, lot and block number, date prepared, date of last amendment and zoning district.

(7) Scale of map, both written and graphic.

(8) North arrow giving reference meridian.

(9) Names of property owners within two hundred feet (200') of subject property (if applicable).

(10) Topography of the site and at least fifty feet (50') around the improvements or property lines based on project. All elevations based on NAVD 1988 with source noted.

(11) Existing contours showing the natural drainage of the land. Proposed contours demonstrating there are no impacts to adjacent parcels when complete. Flow arrows shall be provided to help depict the direction of storm water runoff.

(12) Spot grades to supplement contours. Any high or low points must be shown for drainage review purposes. Include spot elevations at property corners, building corners, septic systems, etc. Provide basement, garage and finished floor elevations.

(13) Soil boring demonstrating the basement is at least two feet (2') above the seasonal high water table.

(14) Existing and proposed drainage swales, structures, basins and pipes must be shown including pipe size, type and slope. Show downspout locations. All drainage systems within fifty feet (50') of the property must be shown.

(15) Location of wetlands, wetland buffers, riparian areas, floodplains and any other environmental constraints on the property, with backup documentation from the approving agency.
(16) Location of existing and approved structures and their setbacks from existing and proposed property lines. Overall limit of disturbance.

(17) Existing and proposed zoning setbacks and depicted graphically on plan.

(18) Location of easements or right of way including power lines.

(19) Location of railroads, bridges, culverts, drain-pipes, water and sewer mains and other man-made installations affecting the parcel.

(20) Location of existing and proposed utility lines. Plan must show connection points. (any work within right-of-way will require a road opening permit).

(21) Location of existing and proposed wells and septic systems.

(22) Proposed septic approval from the Monmouth County Board of Health (if applicable).

(23) Location and description of monuments whether set or to be set (if applicable).

(24) Location, names and width of all existing streets within two hundred feet (200’) of the parcel.

(25) Street composition & width adjacent to the parcel.

(26) Existing and proposed centerline, gutter and top of curb elevations along the roadway. Include construction access point from Township right-of-way.

(27) Proposed roadway and curb details (if applicable)

(28) Existing and proposed sidewalk and driveway grades (if applicable)

(29) Proposed sidewalk and driveway details.

(30) Soil Erosion & Sediment Permit Approval (if required).

FG. The applicant shall submit an individual as-built plot plan, signed and sealed by a land surveyor prior to requesting a final eCertificate of Approval (CA) occupancy inspection from the Township Engineer (for in-ground pools, as-built plans are not required unless requested by the Engineer based on a field inspection).

GH. A new eCertificate of eOccupancy (CO) shall not be issued by the Construction Code Official until the Township Engineer provides written verification that the individual plot was built in conformance with the approved plans.
§ 188-68. Outdoor display of goods. [Amended 6-10-2008 by Ord. No. 0-08-12]

A. Issuance of permit. The outdoor display of goods and merchandise for what is commonly referred to as a "sidewalk sale" or "flea market sale" in conjunction with or consistent with business activity in areas zoned NC, HC, HD-1 and HD-2 shall be permitted upon the issuance of a permit by the Land Use office.

B. Conditions for issuance of permit. On application to the Land Use Officer, or his designee, for the appropriate permit, merchants owning or leasing permanent business establishments may conduct temporary sidewalk sales or similar other outdoor sales. No fee shall be charged for the issuance of said permit. The fee for issuance of this permit shall be as shown in Chapter 139-31 of this Code.

C. Duration and conditions of permit. A permit for a sidewalk sale, flea market or similar outdoor sale shall only be given if the applicant satisfies the following conditions:

1. Sidewalk sale or similar outdoor sales.
   
   a. The outdoor display and sale shall be restricted to the NC, HC, HD-1 and HD-2 Zones only and shall be in accord with all zoning regulations pertaining thereto.
   
   b. The applicant shall either own or lease permanent premises within 25 feet of the space where the outdoor display or sale will be conducted.
   
   c. Any displays used in conjunction with a sidewalk sale shall not impede pedestrian traffic nor require pedestrians to move off the curb or sidewalk to navigate around or through such displays.
   
   d. The permit shall not adversely affect the public welfare.
   
   e. Each sidewalk sale shall not be longer than seven days in duration and may not occur within seven days of a previous sidewalk sale.

2. Flea market sales.
   
   a. The outdoor display and sale shall be restricted to the NC, HC, HD-1 and HD-2 Zones only and shall be in accord with all zoning regulations pertaining thereto.
   
   b. The applicant shall be the merchant either leasing or owning the premises upon which the flea market sales shall take place, notwithstanding that the sales are being conducted by third parties, and the sales shall not be held any further than 125 feet from the building premises being leased.
   
   c. Any displays used in conjunction with the flea market sales shall not impede the flow of pedestrian or vehicular traffic.
   
   d. The permit shall not adversely affect the public welfare.
(e) The flea market sales shall be no longer than one business day and shall take place at the
times otherwise prescribed for such sales by Township ordinance.

D. No flea market sales permit shall be issued for an eligible applicant at the same time as any
other flea market permit applicable to any other place within 3,000 feet of the premises of the
flea market sales.

E. Frequency of issuance of permit. No permit shall be issued to an applicant or applicants
affecting the same permanent business establishment more than five times per calendar year. No
flea market sale shall be held at the same permanent business establishment more than five times
per calendar year.

F. This section does not establish new principal or ancillary uses in any zone nor does it affect or
alter any bulk requirement of any zone.

G. This section merely permits temporary, occasional sales via permit process at permanent
business establishments in certain zones when certain conditions are met.

H. Violations and penalties. The failure to obtain a permit from the Land Use Officer prior to
holding a sidewalk sale, or similar sale or flea market sale, will subject violators to a fine of up to
$500 per day.

SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned ordinances not
specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance
are hereby repealed as to such inconsistency.

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon its passage and publication according to law.
NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on November 20, 2012 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, 2nd Floor, Howell, New Jersey on December 11, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

__________________________

PENNY WOLLMAN, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on December 11, 2012.

__________________________

PENNY WOLLMAN, Municipal Clerk
EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 188-31 entitled Individual Plot Plan Requirements to create a new process for submission of plot plans for any type of improvement that meets the qualifications of the definition in the title and the changes will also include a plot plan checklist that will be used as part of the review process to simplify the applications and the amendments eliminate multiple application forms and creates one form. The amendment to Chapter 188-68 entitled Outdoor Display of Goods adds a $30 fee for the review and approval process because the review is the same level of effort by Land Use Officer as required for banners, wind flags, clothing bins, sidewalk sales and flea markets thereby creating a uniform fee for the revised general ordinances of the Township of Howell.
TOWNSHIP OF HOWELL

TOWNSHIP CLERK'S OFFICE

ORDINANCE COVER PAGE

Ordinance No. O-12-28

INTRODUCTION

November 20, 2012

PUBLIC HEARING & ADOPTION

December 11, 2012

AGENDA ITEM NUMBER

9A.5
STATEMENT TO BE READ BY COUNCILMEMBER WHO INTRODUCES ORDINANCE

PROCEDURE ON ORDINANCES:

INTRODUCTION and PASSAGE ON FIRST READING OF ORDINANCE

COUNCILMEMBER:

MOTION TO INTRODUCE ORDINANCE NO. 0-12-28 ON FIRST READING BY TITLE AND TO ORDER THE SAME TO BE PUBLISHED IN THE 11/23/12 ISSUE OF THE ASBURY PARK PRESS TOGETHER WITH NOTICE OF ITS INTRODUCTION AND PASSAGE ON FIRST READING BY TITLE, AND THAT IT WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER PUBLIC HEARING AT A MEETING OF THE TOWNSHIP COUNCIL TO BE HELD ON 12/11/12 AT 7:30 PM, PREVAILING TIME, IN THE MUNICIPAL BUILDING.

SECONDED BY: COUNCILMEMBER

CLERK: Clerk reads ordinance by title only.

ROLL CALL VOTE.
ORDINANCE NO. 0-12-28

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 134 ENTITLED EXCAVATIONS OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL

WHEREAS, the Township of Howell wishes to amend Chapter 134 Entitled Excavations of General Revised Ordinances of the Township of Howell;

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 134 Entitled Excavations of the General Revised Ordinances of the Township of Howell is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 134 that are to be amended are set forth below. All additions are shown in *bold italics with underlines*. All deletions are shown in *bold italics with strikeouts*. All other sections will remaining unchanged shall be in normal type.

Chapter 134. EXCAVATIONS

Chapter 134 ENGINEERING APPROVALS AND PERMITS

§ 134-1. Engineering Approvals and Permits required for Installation of Certain Improvements.

A. Applicability

Except as otherwise provided in Chapter 188, Land Use, of the Code of the Township of Howell, none of the following categories of improvements shall be constructed or installed in the Township of Howell without first obtaining approval and/or a permit from the Division of Engineering:

1. Residential or Commercial Construction/Reconstruction – Chapter 188-31

2. Soil Removal/Filling – Chapter 269

3. Streets, Sidewalks and R.O.W. Excavations Chapter 277

B. Enforcement

The Township Engineer shall enforce the provisions of this chapter and all applicable referenced chapters by issuing required approvals and permits. The Township Engineer or Code Enforcement Officer shall address any violations arising out of the failure of any person or entity to apply for and obtain required permits.
The Township Engineer or representative shall, from time to time, upon their own initiative or whenever directed by the Township, inspect the premises for which approvals have been granted to ensure compliance with the terms of the approval and of the chapter. They shall document all violations and take any action deemed necessary for proper enforcement.

C. Revocation of Permit, Violations and Penalties

After written notice and an opportunity to be heard before the Township Engineer, the permit of any person or entity may be revoked or suspended for such period as the Township Engineer may determine for any violation of the terms hereof or the terms and conditions of any permit granted hereunder.

In addition to the revocation provided for herein, any person who violates this section or any director or officer of a corporation who participates in a violation of this section shall, upon conviction thereof, be subject to the penalties listed in Chapter 1 Section 4 of this Code.


A. Application Fees:

1. All applications to the Engineering Division shall be accompanied by a fee as indicated on the applicable application form or set forth in Chapter 139 of this code. The fees will be utilized for plan review, inspection and any other activity necessary to process the application.

2. If an application is denied or withdrawn, no refund of fees will be permitted.

B. Inspection Fees

1. An Inspection Escrow account may be established to cover the costs of the inspections for certain improvements as indicated on the applicable application forms or set forth in Chapter 139 of this code.

C. Performance Guarantees

1. Performance Guarantees may be required for certain improvements as indicated on the applicable application forms or as described in the applicable sections of the ordinance. The Township Engineer shall make a determination as to when performance guarantees are required in light of the scope and nature of the work to be completed and to calculate the appropriate amount to cover any damages to the Township.
§ 134-3. Residential or Commercial Construction/Reconstruction

Any application for new residential or commercial construction and/or major renovation to any existing property, including grading of said lot, shall conform to the requirements of Section 188-31, Entitled "Individual Plot Plan Requirements for Residential or Commercial Construction/Reconstruction."

§ 134-4. Road Opening Permit-Street, Sidewalk and Right-of-Way Excavation

It shall be unlawful for any person to perform any of the excavation work as defined in Chapter 277 heretofore or dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for the purpose or to place, deposit or leave upon any street, any earth or other excavated material, obstruction or tending to interfere with the free use of the street, or dig up, break, excavate or undermine or in any way effect any other public improvement within the public right-of-way as defined in Chapter 277 unless such persons shall first have obtained a street excavation permit therefore from the Township Engineer as herein provided.

Said Street Excavation Permit shall conform to the requirements of Chapter 277, entitled "Streets, Sidewalks and R.O.W. Excavations."

§ 134-5. Soil Removal/Filling

Prior to the digging, excavation, disturbance, or transportation of any soil on any premises in the Township for use other than on the premises from which it is being taken, or prior to the filling of any property or properties within the Township, an application shall be made by the owner, contract purchaser or authorized agent to the office of the Township Engineer for a soil removal or fill permit on the officially designated form. This requirement to obtain a permit applies to all construction including all buildings, roadways, driveways, retaining walls, all other construction which requires soil removal or filling with soil, and for restoration and restabilization of all areas of any site in which grading, soil removal or adjacent construction activity has taken place. All properties filled shall be filled with fill or topsoil as defined in this Chapter.

The application shall be submitted to the Township as follows:

1. If the soil removal or filling is necessary for the development of a project which has been granted approval by the Planning Board or Board of Adjustment, an application shall be made to the Township Engineer.

2. If the soil removal or filling is necessary for the development of a project which has not been granted approval by the Planning Board or Board of Adjustment, an application shall be made to the Planning Board.
The requirements of this Chapter shall not apply when one of the following circumstances are present.

A. To the excavation of soil for use on the premises from which it is taken, provided that it does not involve any substantial change in the topography of the premises.

B. When soil removal results from excavation involving one single-family house, basement or accessory structure (i.e. pool or patio)

C. Activities performed by the Township of Howell.

D. To the activities of any other governmental agency in connection with their public works projects carried out by their employees or contractors after review by the Township Engineer and finding by the Township Council to be in the best interest of the citizens of the Township to exempt the activity from the obtainment a permit herein.

E. All Soil Removal/Filling shall conform to the requirements of Chapter 269, entitled “Soil Removal/Filling.”

§ 134-6. In-ground Swimming Pools

A. Applicability

1. All in-ground swimming pools are to comply with the requirements of Section 134-6B and Section 188-31, Entitled “Individual Plot Plan Requirements for Residential or Commercial Construction/Reconstruction.”

B. Lot Grading Plan

1. In order to prevent the adverse consequence of uncontrolled surface water flow, prior to the issuance of a construction/land use permit for the erection or installation of a pool, a lot grading plan shall be submitted to the Township Engineer in accordance with Section 188-31, Individual Plot Plan Requirements.

2. The Township Engineer’s approval of a grading plan or revised plan shall be based on the determination that the plan is designed to control surface waters in a manner that will not adversely affect the subject property and abutting lands. No construction may start and no land disturbances may occur until such determination is made. Whenever the Township Engineer considers it necessary or appropriate, it may be required that a lot grading plan include temporary measures to be taken during the performance of any construction work to prevent adverse water from running off onto abutting lands. The failure of the property owner to comply with an approved lot grading plan for said property, including temporary measure to be taken during the performance of construction work, shall be constituted a use of the subject property in violation of this chapter.
3. If required by the Township Engineer, a pool as-built plan shall be submitted to the Engineering Division to verify the location of the pool. No further inspections will be performed by any other Township Division until this plan is received.

4. No Certificate of Approval shall be issued for the Swimming Pool, which is subject of a lot grading plan until the Township Engineer has inspected the property and determined that the construction conforms the lot grading plan.

5. If a Certificate of Approval is issued for a property, where a house is also being constructed, prior to full compliance with a lot grading plan and full compliance is not met by the date set forth in the report of the Township Engineer, the Certificate of Approval of such property after such date shall constitute a use of such property in violation of this chapter.

6. There shall be no change in existing grade which raises the elevation of the lot within five feet (5') of a property line. Furthermore, there shall be no change in existing grade which raises any portion of the lot more than three feet (3') above the existing ground level at a point fifteen feet (15') from the property line. When necessary, a swale shall be created in order to control surface waters in a manner that will protect abutting lands.

7. An engineering review/inspection fee shall be paid with the Engineering Application, as set for in Chapter 139.

8. In addition, any sidewalk, curbing or pavement on Township right-of-way damaged during the construction of the pool and/or accessory construction must be replaced to the reasonable satisfaction of the Township Engineer prior to the issuance of a Certificate of Approval. Sidewalk, curb and pavement construction shall conform to all applicable sections of the Township Ordinances.

9. In addition, ground cover (grass, sod, etc.) disturbed by the construction of the pool and/or accessory construction must be restored to the satisfaction of the Township Engineer prior to the issuance of the Certificate of Approval.

10. Any revisions or modifications from the approved plan is a violation of this permit unless the revision or modifications are approved by the Township Engineer prior to construction of the aforementioned.

C. Setbacks

1. No in-ground pool shall be permitted in a front yard setback area or in the front of the residence.

2. No private residential pool shall be installed on any lot unless said lot shall contain a residence and the pool shall be an accessory to the residence and shall be set back a minimum of ten feet (10') from any property line. This ten foot (10') setback should be measured from the waterline unless a walkway, patio or deck
is installed adjacent to the pool, then the ten foot (10') setback should be measured from the furthest outside edge of the walkway, patio or deck (concrete; paver blocks; wood; stone or any impervious material) away from the waterline.

3. All pool equipment shall be set back at least ten feet (10') from any property line.

4. No pool shall be installed closer than six feet (6') from a residential dwelling, unless approved by the Township Engineer.

D. Certificate of Approval (CA)

1. When construction of the pool and all accessories is complete and the area has been restored, the Owner shall make a request to the Township Engineer for a final inspection. Such request shall be made by phone, fax or letter. The Township Engineer, or his designee, will perform a final inspection of the property to insure that the pool has been installed in accordance with the approved plot plan.

2. If during the inspection it is determined that the pool, accessories, grading or any other item does not conform to the approved plot plan, the Township Engineer will fail the inspection.

3. The Township Engineer has the right to request a pool as-built plan, certified by a licensed professional engineer or land surveyor, to verify the location of the pool, any accessories and the overall grading and improvements to the lot. Based on this as-built, the Township Engineer may request revisions to the work completed to conform to the Township requirements.

4. If the failure of the inspection is due to damage to Township property or failure of the contractor to complete the work (i.e. grass restoration not completed), the Township Engineer will notify the owner or pool company of the failure and require that all damage be repaired.

5. The Township Engineer has the right to request additional inspection fees from the Owner/Applicant if multiple inspections are required. The Township Engineer shall determine in each case the amount of the inspection fee required in an amount sufficient to allow the Township to perform all required re-inspections.

6. Once the Owner/Applicant has satisfied the Township Engineer that the pool construction conforms to the approved plot plan and no damage to Township property exists, the Township Engineer will issue a Certificate of Approval.

7. A Certificate of Approval is required prior to the Owner/Applicant requesting a Certificate of Occupancy (CO) from the Township Construction Code
Official. At no point shall the pool be used until a Certificate of Occupancy (CO) is issued.

§ 134-7. Retaining Walls

A. Applicability

1. All retaining walls are to comply with the requirements of this Chapter along with Chapter 188-31-Individual Plot Plan Requirements and Chapter 269 – Soil Removal/Filling.

2. Whereas prior to the digging, excavation, disturbance or transportation of any soil on any premises in the Township in relation to the construction of a retaining wall, the Owner shall submit an application for plot plan approval to the Township Engineer.

3. Any retaining wall that shall alter the natural flow of stormwater runoff on the subject property or adjacent property shall require a permit from the Township Engineer.

B. Additional Plot Plan & Retaining Wall Requirements

1. Proposed grades shall be shown on both the top and bottom of wall. The height of the wall shall be measured from the top of wall down to the proposed surface at the base of the wall.

2. No stormwater shall spill over the wall. A lower swale area must be constructed behind the wall to collect water and redirect it to the elevation that existing prior to the wall’s construction.

3. Drainage weep holes must be installed in all walls over thirty inches (30”) high. Weep holes shall include rodent screens along the exterior of the wall.

4. All wall penetrations shall be pre-drilled or cut to insure proper fit.

5. If a segmental block-type retaining wall is proposed, the applicant shall submit the name of the manufacturer, specifications and details of the blocks and geotextile fabric.

6. If a masonry, concrete, timber or any other type of retaining wall is proposed, the applicant shall retain a professional engineer, licensed in the State of New Jersey, to provide an actual wall design including details and calculations for submission to the Township Engineer.

7. Any type of wall over thirty inches (30”) high or series of walls which the sum of the heights of all walls on the same slope is over thirty inches (30”) high will require a professional engineer, licensed in the State of New Jersey, to
provide an actual wall design including details and calculations for submission to the Township Engineer.

8. Any wall over thirty inches (30") high will require a guard in accordance with the International Building Code, New Jersey Edition, Section 1013 – Guards.

9. The applicant shall supply a cross-section detail of the wall for all heights, even those under thirty inches (30") high.

10. The Township Engineer has the right to request structural calculations on walls of any height including those less than thirty inches (30") if deemed necessary.

11. Any retaining wall or series of retaining walls having a total height of forty-eight inches (48") or higher, or a retaining wall less than forty-eight inches (48") having a negative impact on a foundation will require a permit from the Construction Code Official.

C. Setbacks

1. Retaining walls shall not be constructed within five feet (5') of the property line.

2. The base of the retaining wall shall not exceed a four-to-one (4:1) slope from the property line. (i.e., four feet horizontal to each foot of vertical rise)

3. Walls shall be at least ten feet (10') from any swale area.

D. Certificate of Approval (CA)

1. When construction of the retaining wall is complete and the area has been restored, the Owner shall make a request to the Township Engineer for a final inspection. Such request shall be made by phone, fax or letter. The Township Engineer, or his designee, will perform a final inspection of the property to insure that the retaining wall has been installed in accordance with the approved plot plan.

2. If during the inspection it is determined that the retaining wall, accessories, grading or any other item does not conform to the approved plot plan, the Township Engineer will fail the inspection.

3. The Township Engineer has the right to request a retaining wall as-built plan, certified by a licensed professional engineer or land surveyor, to verify the location of the wall, any accessories and the overall grading and improvements to the lot. Based on this as-built, the Township Engineer may request revisions to the work completed to conform to the Township requirements.
4. If the failure of the inspection is due to damage to Township property or failure of the contractor to complete the work (i.e. grass restoration not completed), the Township Engineer will notify the owner or contractor of the failure and require that all damage be repaired.

5. The Township Engineer has the right to request additional inspection fees from the Owner/Applicant if multiple inspections are required. The Township Engineer shall determine in each case the amount of the inspection fee required in an amount sufficient to allow the Township to perform all required re-inspections.

6. Once the Owner/Applicant has satisfied the Township Engineer that the retaining wall construction conforms to the approved plot plan and no damage to Township property exists, the Township Engineer will issue a Certificate of Approval.

7. A Certificate of Approval is required prior to the Owner/Applicant requesting a Certificate of Occupancy (CO) from the Township Construction Code Official. A CO is required if the total height of the wall is forty-eight inches (48") or higher.

§ 134-1. Title.

This chapter shall be known and may be cited as the "Street Excavation Ordinance of the Township of Howell."

§ 134-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory.

APPLICANT

A person making written application to the Township Clerk for an excavation permit hereunder.

EXCAVATION WORK

The excavation, removal, replacement, repair, construction or other disturbance of any portion of the public improvements within a public street or drainage right-of-way. These public improvements include, but are not limited to, curb, sidewalk, driveway and driveway aprons, drainage structure and conduits, pavements, base courses, gutters, retaining walls, channels, headwalls, railings, guardrails or any other public improvement existing within the public right-of-way. For the purposes of this chapter, that work which is being performed outside of the public right-of-way, but which requires the storage of materials or the operation of equipment within the public right-of-
way, in such a manner as may cause damage, will also be deemed excavation work. "Excavation work" shall also include the construction, addition, installation or other improvement of the whole or portions of the improvements within a public street, drainage right-of-way or other public way or public grounds by persons other than those exempted from the provisions of this chapter, including privately sponsored construction of curbing, sidewalks, pavement extensions, aprons, drainage or any other portions of the public improvements.

**PERMITTEE**

Any person who has been granted and has in full force and effect an excavation permit issued hereunder.

**STREET**

Any street, highway, sidewalk, alley, avenue, public drainage easement or other public way or public right-of-way or public grounds in the Township, excepting county or state roads or highways.

§ 134-3. Excavation permit required.

It shall be unlawful for any person to perform any of the excavation work as defined in § 134-2 heretofore or dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street, any earth or other excavated material, obstructing or tending to interfere with the free use of the street, or dig up, break, excavate or undermine or in any way effect any other public improvement within the public right-of-way as defined in § 134-2 unless such persons shall first have obtained an excavation permit herefor from the Township Clerk as herein provided. An excavation permit shall not be issued unless the applicant presents a written statement of compliance with N.J.S.A. 2A:170-69.4 et seq. Editor's Note: N.J.S.A. 2A:170-69.4 et seq. was repealed by P.L. 1978, Ch. 95, concerning underground gas pipes.

§ 134-4. Application for permit; contents and accompanying data.

**A. Application for permit.** No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the Township Clerk. The written application shall state the name and address of the applicant, the nature, location and the purpose of the excavation, the proposed dates of commencement and completion of the excavation (which dates shall be the expiration date of any permit issued pursuant to the application) and other data which may reasonably be required by the Township Engineer.

**B. Plans to accompany application.** The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to the
excavation and of the proposed excavated surfaces, the location of the excavation work, and such other information as may be prescribed by the Township Engineer, including the complete plan, profile and details of any proposed curb, sidewalk, pavements or other proposed improvements.

§ 134-5. Excavation permit fees; waiver.

A. Excavation permit fees. A permit fee shall be charged by the Township Clerk for the issuance of an excavation permit, which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The excavation fee shall be as set forth in Chapter 139, Fees. Editor's Note: Specific fee amounts were removed from this subsection in conjunction with Ord. No. 0-09-13, adopted 4-28-2009. For current excavation permit fees, see Ch. 139, Fees, Art. VII.

B. In those cases where the requirement for all or a portion of the deposit is met by the issuance of a surety bond, the Township Engineer shall estimate, for each permit, what the appropriate cash repair deposit cost would have been should such deposit have been fully required and a permit fee shall be established as heretofore provided.

C. Waiver of permit fees. Permit fees will be waived in the case of installation or repair of sidewalk by, or one acting for, the owner of real property or in the case of installation of new public improvements by a subdivider or site developer in accordance with approved plans without cost to the Township.

§ 134-6. Cash repair deposits; waiver.

A. Cash repair deposit required. The application for an excavation permit to perform excavation work under this chapter shall be accompanied by a cash repair deposit. Such cash repair deposit will take the form of cash or certified check payable to the Township of Howell, and shall be received by the Township Clerk prior to the issuance of a permit.

B. The amount of the required cash repair deposit shall be as set forth in Chapter 139, Fees. Editor's Note: Specific deposit amounts were removed from this subsection in conjunction with Ord. No. 0-09-13, adopted 4-28-2009. For current deposit amounts, see Ch. 139, Fees, Art. VII.

C. Township Engineer determines cash repair deposit in certain cases. In the case of excavation or removal or alteration of other public improvements such as drainage, sidewalks, driveways, driveway aprons, etc., the Township Engineer shall determine in each case the amount of
the cash repair deposit, in an amount sufficient to allow the Township to perform all required repairs and restorations. The amount shall be estimated to include Township gross costs, including fees, temporary maintenance costs, permanent restoration costs, engineering costs, etc.

D. Minimum cash repair deposit. In no case shall a cash repair deposit be less than the amount set forth in Chapter 139, Fees. Editor’s Note: Specific deposit amounts were removed from this subsection in conjunction with Ord. No. 0-09-13, adopted 4-28-2009. For current deposit amounts, see Ch. 139, Fees, Art. VII.

E. Refund of deposit upon satisfactory completion of work. Any cash repair deposit made hereunder shall serve as security for the inspection, repair and performance of work necessary to put the street in as good condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. Upon the permittee’s completion of the work covered by such permit, in conformity with this chapter as determined by the Township Engineer, two-thirds of the remaining cash deposit shall be promptly refunded by the Township to the permittee, and the balance shall be refunded by the Township to the permittee upon the expiration of a twelve-month period thereafter; provided that, if the amount of the cash deposit does not exceed $100, the entire cash repair deposit will be returned upon the Township Engineer’s determination that the permittee has performed the work in conformity with this chapter.

F. Township use of deposit upon permittee’s failure to perform work. The Township may use any or all of such deposit to pay the cost of inspection and/or any work the Township performs to restore or maintain the street as herein provided in the event the permittee fails to perform such work, in which case the amount refunded to the permittee shall be reduced by the amount thus expended by the Township.

G. Waiver of cash repair deposits. Cash repair deposits will be waived in the case of installation or repair of sidewalk by the owner, or by a person acting for the owner, of real property and may be waived in the case of installation of new public improvements by a subdivider or site developer in accordance with approved plans and without cost to the Township; provided, however, that such waiver will not be granted if, in the opinion of the Township Engineer, a cash repair deposit is required to insure protection of existing improvements or to guarantee against damages during construction.

§134-7. Surety bond.
A. Surety bond required in certain cases. If an individual cash repair deposit required by § 134-6 exceeds $25,000 or if the aggregate of the cash repair deposit which any applicant expects to be required to provide within a period of one year exceeds $50,000 or if the applicant is a public utility regulated by the federal government and/or the State of New Jersey, then the Township Council may allow the provision of all or, at the Township Council's discretion, a portion of the cash repair deposit in the form of a surety bond. If a surety bond is to provide in accordance with the requirements of this section, the applicant shall deposit with the Township Clerk a surety bond in the amount to be determined by the Township Engineer made payable to the Township.

B. Surety bond requirements:

(4) The required surety bond must be:

(a) With good and sufficient surety;

(b) By a surety company authorized to transact business in New Jersey;

(c) Satisfactory to the Township Attorney in form and substance;

(d) Conditioned upon the permittee's compliance with this chapter and to secure the Township and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the Township, the Township Council or any Township officer may be made liable by reason of any accident or injury to person or property through the fault of the permittee, either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee.

(2) It shall be further conditioned upon the obligation of the permittee to fill up, restore and place in good and safe condition and as near as may be to its original condition and to the satisfaction of the Township Engineer all openings and excavations made in streets and to maintain any street where excavation is made in as good condition for the period of 12 months after the work shall have been done, usual wear and tear excepted, as it was in before the work shall have been done. Any settlement of the surface within the one-year period shall be deemed conclusive evidence of defective backfilling of the permittee.

C. Bond coverage; annual bond. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the Township, if such repairs should prove defective. Recovery on such bond for any injury or accident shall not exhaust the bond, but
the bond shall, in its entirety, cover any and all future accidents or injuries during the excavation work for which it is given. If the event of a suit or claim against the Township by reason of the negligence or the fault of the permittee, upon the Township giving written notice to the permittee of such suit or claim, any final judgment against the Township requiring it to pay such damage shall be conclusive upon the permittee and its surety binding them to reimburse the Township for any amounts it must pay as a result of such judgment. An annual bond may be given under this provision which shall remain in force for one year conditioned as above in the amount specified above and in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date.


A. The Township Clerk shall provide each permittee, at the time a permit is issued hereunder, a suitable placard, plainly written or printed in English letters at least one inch high, with the following notice:

Township of Howell, Permit No. _______ expires _______

B. In the first blank space, there shall be inserted the number of the permit, and after the word "expires" shall be stated the date when the permit expires.

C. It shall be the duty of any permittee hereunder to keep the placard posted in a conspicuous place at the site of the excavation work.

D. It shall be unlawful for any person to exhibit such placard at or about an excavation site not covered by such permit or to misrepresent the number of the permit or the date of expiration of the permit.

§ 134-9. Routing of traffic; street closures.

A. Maintain traffic conditions. The permittee shall take appropriate measures to insure that, during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the Township Engineer may permit the closing of the streets to all traffic for the period of time prescribed by him if, in his opinion, it is necessary. The permittee shall route and control traffic, including its own vehicles, as directed by the Township Police Department.
B. Requirements prior to street closing or restrictions. The following steps shall be taken before any street may be closed or restricted to traffic:

(1) The permittee must receive the approval of the Township Engineer and the Police Department therefor.

(2) The permittee, at least 24 hours prior to commencement of construction, must notify the chief of the fire districts and the first aid squads, together with the Howell Township Board of Education and Freehold Regional Board of Education Transportation Coordinators.

(3) Where flagmen are deemed necessary by the Township Engineer, they shall be furnished by the permittee at its own expense.

(4) Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the Chief of Police will designate detours. The Township shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee, but in case there are no existing highways, the permittee shall construct all detours at its own expense and in conformity with the specifications of the Township Engineer. The permittee will be responsible for any unnecessary damage caused to any highway by the operation of its equipment.

(5) Upon completion of the construction work, the permittee shall notify the Township Engineer and Police Department before traffic is moved back to its normal flow so that any necessary adjustments may be made.

§ 134-10. Protection of traffic.

The permittee shall erect and maintain suitable temporary barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of plank, timbers and blocking of adequate size to accommodate vehicular traffic safely. Decking shall be not less than four inches thick and shall be securely fastened together with heavy wire and staples. Pedestrian crossings shall consist of planking three inches thick, 12 inches wide and of adequate length, together with necessary blocking. The walk shall not be less than three feet in width and shall be provided with a railing as required by the Township Engineer.

§ 134-11. Clearance for fire equipment.
The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 10 feet of fire-plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of materials or other obstructions.

§ 134-12. Removal and obstruction of utilities.

A. Requirements concerning utilities. The permittee shall not interfere with any existing utility without the written consent of the Township Engineer and/or the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the Township shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee, unless he makes other arrangements with the person owning the utility. The permittee shall support and protect, by timbers or otherwise, all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work and do everything necessary to support, maintain and protect them under, over, along or across said work.

B. Liability for damage. In case any of such pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them, and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipes, electric conduits or other utility, and its bond shall be liable therefor. The permittee shall inform himself as to the existence and location of all underground utilities and protect the same against damage.


A. Protection; permission to enter private property. The permittee shall at all times, and at his or its own expense, preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where, in the protection of such property, it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose. The permittee shall at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during that progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from his failure to protect and carry out such work.
B. Maintain landscaping. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner or, in the case of public property, the appropriate Township department or Township official having control of such property.


Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over the excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that passengers can pass over safely at all times.

§ 134-15. Protective measures.

A. Barricades and protective devices. The permittee shall erect and maintain, approaching and throughout the site of the excavation work, such signs, lights, barricades and other protective devices as are required. In the absence of specific written directions by the Township Engineer, all signs shall be provided as required by the "Manual on Uniform Traffic Control Devices" section concerning "Construction Signing," as published by the United States Department of Transportation.

B. Failure to comply with protective measures. Should the Township Engineer at any time determine that the permittee has failed to provide all required signs and protective devices in accordance with the directions of the Township Engineer and/or the requirements of the previously mentioned "Manual on Uniform Traffic Control Devices," the Township may provide and erect or cause the provision and erection of such required signs, barricades and traffic control devices, and the cost thereof may be deducted from the cash repair deposit provided by the applicant or may be billed directly to the permittee by the Township. If such billing is made and not paid by the permittee within 15 working days after such billing, the amount may be deemed due and recoverable from the permittee's cash deposit or surety.

C. Notification of Township intent to require protective measures. The Township shall normally provide the permittee with 24 hours' notice of its intention to require the provision of any such signs, barricades and
traffic-control devices and its intention to bill the permittee the cost thereof, to deduct the cost thereof from the permittee's cash-repair deposit, or to recover the cost thereof from the permittee's surety, except that in the case of an immediate emergency or hazard to the public-health or safety, the Township may cause the provision and erection of such devices without notice.

D. Protective barriers and lights. The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight, there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets, suitable and sufficient lights which shall be kept burning through the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided therefor for the protection of the public.

§ 134-16. Attractive nuisances.

It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance, likely to attract children or hazardous to their safety or health.

§ 134-17. Disposition of excavated material.

A. Maintenance of excavated material. All materials excavated from trenches and piled adjacent to the trench, or in any street, shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrains or users of the street and in such a manner so that as little inconvenience as possible is caused to those using streets and adjoining property.

B. Undersized confines for excavated material. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Township Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and to make all necessary arrangements for all required storage and disposal sites.

§ 134-18. Damage to existing improvements.
All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repairs shall conform to the requirements of any applicable code or ordinance. If, upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the Township Engineer shall have the authority to cause the necessary labor and materials to be furnished the Township, and the cost shall be charged against the permittee and the permittee shall also be liable on his or its bond therefor.

§ 134-19. Property lines and easements.

Property lines and limits or easements shall be indicated on the plan of excavation submitted with the application for the excavation permit, and it shall be the permittee's responsibility to confine excavation work within these limits.

§ 134-20. Cleanup.

A. Remove debris during work progression. As the excavation work progresses, all streets and private property shall be thoroughly cleansed of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of the excavation shall be completed to the satisfaction of the Township Engineer.

B. Failure to remove debris; liability for expense. From time to time, as may be ordered by the Township Engineer and in any event immediately after completion of the work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from such work, and upon failure to do so within 24 hours after having been notified to do so by the Township Engineer, such work may be done by the Township and the cost thereof charged to the permittee and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.


The permittee shall provide for the flow of all watercourses, sewers and drains intercepted during the excavation work and shall replace the same in as good condition as it found them, or shall make such provisions for them as the Township Engineer may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provisions to take care of all surplus water, muck, silt, swiping or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four feet or over in depth, the pavement in the base shall be removed to at least six inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a six-inch shoulder of undisturbed material shall be provided on each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt pavement shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.

§ 134-23. Tunnels.

Tunnels under pavement shall not be permitted except by permission of the Township Engineer and, if permitted, shall be adequately supported by timbering and backfilling under the direction of the Township Engineer.

§ 134-24. Backfilling requirements.

Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compacting shall be done by mechanical means such as tamping, vibrating or rolling as required by the soil in question and sound engineering practice generally recognized in the construction industry.


All backfilling of excavations in or within 10 feet of any pavement or shoulder area shall be done in thin layers. Each layer is to be tamped by a manual or mechanical means. Layers that are hand-tamped shall not exceed three inches in thickness; layers that are power-tamped shall not exceed six inches in thickness. This same requirement shall apply to all areas not within or within five feet of any pavement or shoulder areas except that the backfilling in thin layers shall only be required up to the first 18 inches above the top of any installed pipes or conduits, and the remaining portion of the backfill may be placed in a manner acceptable to the Township Engineer so as to provide a density comparable to that existing in the undisturbed ground adjacent to the excavation.

§ 134-26. Backfill material.

Whenever any excavation for the laying of pipe is made through rock, pipe shall be laid six inches above the rock bottom of the trench and the space under, around and six inches above the pipe shall be backfilled with clean sand, noncorrosive soil or one-quarter-inch minus gravel. Broken pavement, large stones and debris shall not be used in the backfill. Where, in the opinion of the
Township Engineer, excavated material is unsuitable for use as backfill, the contractor shall supply other pervious material to be used for backfill.

§ 134-27. Backfilling at the surface.

Backfilling shall be completed by placing the backfill material well up over the top of the trench. For dry backfilling, the material shall be compacted with a roller of an approved type until the surface is unyielding. The surface shall then be graded as required.


A. Requirement to restore surface. The permittee shall restore the surface of all streets broken into or damaged as a result of the excavation work to its original condition in accordance with the specifications of the Township Engineer.

B. Criteria for permanent repairs.

(1) The minimum permitted permanent repairs shall be, or in the opinion of the Township Engineer be, equivalent to:

(a) In streets surfaces with cement concrete: replacement of an equivalent concrete pavement.

(b) In streets surfaced with bituminous concrete: construction of a hot, mixed bituminous, stabilized base, six inches thick and a hot, mixed bituminous concrete surface course, 1-1/2 inches thick. All pavement edges to be cut and neatly matched, no overlaying existing pavements will be permitted.

(c) In streets surfaced with a bituminous surface treatment: construction of a hot, mixed bituminous stabilized base, four inches thick and a hot, mixed bituminous concrete surface course, 1-1/2 inches thick. All pavement edges to be cut and neatly matched; no overlaying existing pavements will be permitted.

(d) In streets of lesser construction, as approved by the Township Engineer at the time of issuance of permit.

(e) Where 20% or more of the existing pavement surface width and/or a distance along center line of greater than 25 feet has been destroyed or disturbed, final paving shall consist of a one and one half inch overlay of the entire pavement surface with bituminous concrete type FABC mix No. 5 as defined in the NJDOT specifications. The Township will require that the terminal ends of the paving be keyed
and cut to provide a smooth transition of existing paving. Feathering will not be allowed.

(2) If the particular existing pavements exceed these criteria, higher-type repairs may be required. All materials and workmanship to be in accordance with the New Jersey Department of Transportation's standards and specifications.

C. Temporary surface restoration in traffic lanes. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Except when the permanent replacement pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be tamped into place, and this fill shall be topped with a minimum of at least two inches of bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe travelling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the Township Engineer. If, in the judgment of the Township Engineer, it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions, he may direct the permittee to lay a temporary pavement of steel plate or other suitable material designated by him over the cut or excavation to remain until such time as the repair of the original pavement may be properly made.

D. Permanent street restoration. Permanent restoration of the street may be made by the permittee in strict accordance with the specifications prescribed by the Township Engineer to restore the street to its original and proper condition, or as near as may be. When, in the opinion of the Township Engineer, the full-width overlay will present a hazardous condition and jeopardize the health, safety and welfare of the general public, the Township Engineer shall direct the permittee the method of restoration of the roadway surface.

E. Approval contingent upon time period. Acceptance or approval of any excavation work by the Township Engineer shall not prevent the Township from asserting a claim against a permittee and his or its surety under the surety bond required hereunder for incomplete or defective work if discovered within 24 months from the completion of the excavation work. The Township Engineer's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.
§ 134-20. Township's right to restore surfaces or eliminate violations; maintenance of condition.

A. Failure to restore surfaces; Township action. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, or shall fail to adhere to other requirements of this chapter, the Township shall have the right to do all work necessary to restore the street, eliminate violations and to complete the excavation work. The permittee shall be liable for the actual costs thereof and 25% of such cost in addition thereto for general overhead and administrative expenses. The Township shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall apply in payment of the amount due it any funds of the permittee deposited as herein provided, and the Township shall also enforce its rights under any surety bond provided pursuant to this chapter. The Township will normally give the permittee 24 hours' notice of its intent to act, under the terms of this section, to eliminate violations of this chapter or to restore the surface, except that, in the case of immediate danger to the public health or safety certified to by the appropriate officials, no such notice will be provided.

B. Maintain work site to prior condition. It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for one year after restoring it to its original condition.


Except by special permission from the Township Engineer, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 250 feet beyond where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site, ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work as prescribed by the Township Engineer. Except with the written permission of the Township Engineer, no timber bracing, lagging, sheathing or other lumber shall be left in any trench.

§ 134-31. Prompt completion of work.

The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition or as near as may be as soon as practicable and, in any event, not later than the date specified in the excavation permit therefor.
§ 134-32. Urgent work.

If, in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest requires that the excavation work be performed as emergency work, the Township Engineer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible.

§ 134-33. Emergency action.

In the event of any emergency in which a sewer main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of the property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the Township Engineer’s office is open for business and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

§ 134-34. Noise, dust and debris.

Editor’s Note: See also Ch. 208, Noise. Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable, in the performance of the excavation work, noise, dust and unsightly debris; and during the hours of 9:00 p.m. to 7:00 a.m. the following day on weekdays and between 8:00 p.m. Friday night and 8:00 a.m. Saturday and between the hours of 8:00 p.m. Saturday and 8:00 a.m. Sunday morning and on legal holidays, shall not use, except with the express written permission of the Township Engineer, or in case of any emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

§ 134-35. Notice of paving and repaving; excavations barred in new street improvements.

A. Whenever the Township Council enacts an ordinance or resolution providing for the paving or repaving of any street, the Township Manager shall promptly mail a written notice thereof to each person owning any sewer main, conduit or other utility in or under said street or any real property whether improved or unimproved abutting said street. Such notice shall notify such persons that no excavation permit shall be
issued for openings, cuts, or excavations in said street for a period of five years from the date of enactment of such ordinance or resolution. Such notice shall notify such persons that applications for excavation permits for work to be done prior to such paving or repaving shall be submitted promptly in order that the work covered by the excavation permit may be completed not later than 45 days from the date of enactment of such ordinance or resolution. The Township Manager shall also promptly mail out copies of such notice to the occupants of all houses, buildings and other structures abutting said street for their information and to state agencies and departments or other persons that may desire to perform excavation work in said street.

B. In said 45 days, every public utility company receiving notice as prescribed herein shall perform such excavation work, subject to the provisions of this chapter as may be necessary, to install or repair sewers, mains, conduits or other utility installation. In the event any owner of real property abutting said street shall fail within said 45 days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such owner or his successors in interest to make openings, cuts or excavations in said streets shall be forfeited for a period of five years from the date of enactment of said ordinance or resolution. During said five-year period, no excavation permit shall be issued to open, cut or excavate in said street unless in the judgment of the Township Engineer an emergency as described in this chapter exists which makes it absolutely necessary that the excavation permits be used.

C. Every Township department or official charged with the responsibility for any work that may necessitate any opening, cut or excavation in said street is directed to take appropriate measures to perform such excavation within said forty-five day period as to avoid the necessity of making any openings, cuts or excavations in the new pavement in said Township street during said five-year period.


The permittee shall not disturb any surface monuments or hubs found in the line of excavation work until ordered to do so by the Township Engineer.

§ 134-37. Inspections.

The Township Engineer or his designated representatives shall make such inspections as are reasonably necessary in the enforcement of this chapter. The cost of such inspections will be borne by the Township, and the monies obtained from the street excavation fee shall be used to wholly or partially defray these and other administrative costs associated with the enforcement of this chapter. The Township Engineer shall have the authority to promulgate and cause to be
enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter.

§ 134-38. Drawings, plans and profiles to be maintained.

Users of subsurface street space shall maintain accurate drawings, plans and profiles showing the location and character of all underground structures, including abandoned installations. Corrected maps, two copies, shall be filed with the Township Engineer within 60 days after new installations, changes or replacements are made.


A. Township work. The provisions of this chapter shall not be applicable to any excavation work under the direction of competent Township officials by employees of the Township or by any contractor of the Township or agency or department of the Township performing work for and in behalf of the Township necessitating openings of excavations in streets, nor shall the provisions of §§ 134-5 and 134-7 apply to any excavation work performed adjacent to or within the public rights-of-way by subdividers or site developers in accordance with approved subdivision or site plans, provided such subdividers or site developers have posted cash guarantees and surety in accordance with the applicable ordinance requirements.

B. Sewer installations. Contractors performing sewer installations pursuant to contracts awarded by the Township on behalf of its municipal utilities shall not be required to pay street opening permit fees, cash repair deposits or to post surety bonds as required above when they obtain street opening permits; provided, however, that this subsection shall apply only in instances where the Township has conditioned release of the contractor's performance bond upon the certification by the Township Engineer that all road repairs have been performed in conformance with Township standards. Such contractors shall obtain all other permits required by law. All work done by such contractors shall be inspected by the Township Engineer to insure conformity with the Township standards. All inspection fees covering the Township Engineer's performance of said inspections shall be paid by the individual contractor.

§ 134-40. Insurance.

A permittee, prior to the commencement of excavation work hereunder, shall furnish the Township Engineer satisfactory evidence in writing that the permittee has enforced and will maintain enforced during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than $500,000 for any person and $500,000 for any accident and
property damage insurance of not less than $50,000 duly issued by an insurance 
company authorized to do business in this state, naming the Township as an 
additional insured. In cases where the character or nature of the proposed 
evacuation work are such as to present an unusual hazard or a higher than 
normal risk of damage or injury, the Township Council may require the provision 
of increased amounts of liability and property damage insurance. Any permits 
which occasion such increased hazard or liability shall be referred by the 
Township Engineer, for the consideration of the Township Council, prior to the 
issuance of the permit.

§ 134-41. Liability of Township.

This chapter shall not be construed as imposing upon the Township or any 
official or employee any liability or responsibility for any damages for any person 
injured by the performance of any excavation work for which an excavation 
permit is issued hereunder, nor shall the Township or any official or employee 
thereof be deemed to have assumed any such liability or responsibility by reason 
of inspections authorized hereunder, the issuance of any permit or the approval 
of any excavation work.

§ 134-42. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction 
thereof, be punished by a fine of not exceeding $500 or by imprisonment for a 
term not exceeding 90 days, or both. A separate offense shall be deemed 
committed on each day during or on which a violation occurs or exists.

SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned 
ordinances not specifically amended by this Ordinance shall remain in full force and 
effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this 
Ordinance are hereby repealed as to such inconsistency.

SECTION 4. SEVERABILITY

If any section, paragraph, subdivision, clause or provision of this Ordinance shall 
be adjudged invalid, such adjudication shall apply only to the section, paragraph, 
subdivision, clause or provision so adjudged and the remainder of this Ordinance shall 
be deemed valid and effective.
SECTION 5. EFFECTIVE DATE

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

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on November 20, 2012 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, 2nd Floor, Howell, New Jersey on December 11, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

___________________________________
PENNY WOLLMAN, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on December 11, 2012.

___________________________________
PENNY WOLLMAN, Municipal Clerk
EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 134 entitled Excavation repeal the existing Chapter 134 and combine that with Chapter 277 entitled Streets and Sidewalks and the revised Chapter 134 will set parameters for permits and approvals issued by the Division of Engineering as part of the Department of Community Development and further creates “Individual Plot Plan Requirements” for residential or commercial construction/reconstruction and now includes references for road excavations, soil removal/fill, in-ground swimming pools and retaining walls of the revised general ordinances of the Township of Howell.
TOWNSHIP OF HOWELL

TOWNSHIP CLERK’S OFFICE

ORDINANCE COVER PAGE

Ordinance No. O-12-30

INTRODUCTION

PUBLIC HEARING & ADOPTION

November 20, 2012

December 11, 2012

AGENDA ITEM NUMBER

9A.7
STATEMENT TO BE READ BY COUNCILMEMBER WHO INTRODUCES ORDINANCE

PROCEDURE ON ORDINANCES:
INTRODUCTION and PASSAGE ON FIRST READING OF ORDINANCE

COUNCILMEMBER:
MOTION TO INTRODUCE ORDINANCE NO. 0-12-30 ON FIRST READING BY TITLE
AND TO ORDER THE SAME TO BE PUBLISHED IN THE 11/23/12 ISSUE OF THE
ASBURY PARK PRESS TOGETHER WITH NOTICE OF ITS INTRODUCTION AND
PASSAGE ON FIRST READING BY TITLE, AND THAT IT WILL BE FURTHER
CONSIDERED FOR FINAL PASSAGE AFTER PUBLIC HEARING AT A MEETING
OF THE TOWNSHIP COUNCIL TO BE HELD ON 12/11/12 AT 7:30 PM, PREVAILING
TIME, IN THE MUNICIPAL BUILDING.

SECONDED BY: COUNCILMEMBER

CLERK: Clerk reads ordinance by title only.

ROLL CALL VOTE.
ORDINANCE NO. O-12-30

AN ORDINANCE SUPPLEMENTING CHAPER 188 OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL BY ADDING CHAPTER 188-233 TO PROVIDE FOR EMERGENCY WAIVER OF NON-CONFORMING LAND USES AND STRUCTURES FOR POST-DISASTER TEMPORARY ACCOMMODATIONS MADE NECESSARY BY NATURAL DISASTERS

WHEREAS, the Township of Howell, along with many other communities along the New Jersey coast, experienced a storm of unprecedented fury when Hurricane Sandy struck New Jersey on October 29, 2012; and,

WHEREAS, many property owners in the Township of Howell suffered damage to their homes and businesses as a result of Hurricane Sandy; and,

WHEREAS, the Township Council is cognizant and supportive of the will and desire of our residents and businesses to rebuild a stronger Howell Township and is at the ready to assist in this process; and,

WHEREAS, the Township Council desires to provide for emergency waiver of non-conforming land uses and structures for post-disaster temporary accommodations as a result of Hurricane Sandy and any future natural disaster;

WHEREAS, the Township Council of the Township of Howell wishes to amend and supplement Chapter 188 to add section 188-233 entitled emergency waiver of non-conforming land uses and structures for post-disaster temporary accommodations of General Revised Ordinances of the Township of Howell;

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 188 of the General Revised Ordinances of the Township of Howell is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 188 that are to be amended are set forth below. Chapter 188-233 is being added and is shown in **bold italics**. All other sections of Chapter 188 will remain unchanged.

§ 188-233 Emergency waiver of non-conforming land uses and structures for post-disaster temporary accommodations

(a) Definitions.

Disaster means any natural, technological, or civil event necessitating the declaration of a state of emergency by the Township, the Governor of the State, or the President of the United States. Such events may include, but not be limited to, hurricanes, storms, floods,
severe wave action, severe wind damage, tornados, fire damage to numerous structures, earthquake, enemy attack, sabotage, terrorism, civil unrest, transportation accident, radiological accident, or chemical or other hazardous material incident.

Uninhabitable means any structure located in the Township which is determined by the construction code official, or any other federal or state governmental agency based on criteria contained in the New Jersey Building Code and other applicable local, state, and federal regulations to be so damaged, dilapidated, or unsafe that it creates a serious hazard to the health, safety or welfare of the occupants or the public, or which lacks illumination, ventilation, or sanitation facilities adequate to protect the health, safety or welfare of the occupants or the public; and which was rendered to be unfit for human habitation by a disaster.

(b) Rehabilitation or construction of a residence.

When a disaster has rendered a single-family residence uninhabitable, a maximum of one mobile home, manufactured home or recreational vehicle may be temporarily permitted on the single-family lot subject to the conditions set forth in this section, during rehabilitation of the original residence or construction of a new residence on the existing site, regardless of zoning district requirements. The placement of any mobile home, manufactured home or recreation vehicle must comply with a minimum side yard setback of (6) feet or the side yard setback of the applicable zone. In those instances where the site of the damaged residential structure is not suitable for temporary placement of a recreational vehicle, mobile or manufactured home, the property owner may designate an alternative site, provided that the temporary use can be located on the alternative site in compliance, to the extent possible with the locational and setback standards for accessory structures. When an alternative site is proposed, the permit applicant and the owner of the alternative site shall be noted on the required permit application and an agreement for permission from the site owner to allow the applicant use of the alternative site and removal of the temporary recreational vehicle, mobile or manufactured home shall be stipulated on the application. All alternative site locations shall require the approval of the Director of Community Development, Director of Land Use and Planning or Code Enforcement Officer or other designee. The mobile home or recreational vehicle shall be permitted for a period of no more than one year. At the expiration of one year, if the residence is not rehabilitated, the applicant must appear before the Township Council and request an extension of a period not to exceed six (6) months.

(c) Multiple housing sites.

Housing sites for multiple temporary dwelling units established by the Federal Emergency Management Agency and approved by the Township Council, may be established in any zoning district.
(d) Procedures for implementation of this section.

i. The Township council may authorize the implementation of this section by resolution or, in the event that a meeting of the Township council cannot be scheduled within one week of a declaration of state of emergency, the mayor, deputy mayor or Township Manager may implement the provisions of this Chapter upon determining that post-disaster circumstances are such that adequate repair or reconstruction of a significant number of structures in the Township or in specific areas of the Township will require substantial time to complete.

ii. After a determination that the implementation of this section is desirable, permits allowing temporary waiver of non-conformity shall be allowed. Such permits shall be issued only upon the determination of the construction code official or other local, state or federal official that the original structure is uninhabitable.

iii. The initial term of the permit allowing a non-conforming structure to remain in use and on site will be 365 days from the date of a declaration of a state of emergency. After this initial term, should the Township council determine that circumstances are such that safe and efficient reconstruction of damaged properties warrant the extension of the permit period, the council may issue a resolution allowing for an extension not to exceed 180 days of all issued permits. The Township council may grant additional extensions by resolution on a case by case basis and upon application to the council.

iv. Should the Township council determine that extension of all temporary non-conformity use permits issued pursuant to this section is not necessary, the council may, by resolution, authorize staff to grant extensions to individual permit holders who were unable to complete reconstruction in the permitted time because of extenuating circumstances beyond the permit holder's control including, but not limited to, a local shortage of building materials, or properly licensed contractors.

v. Without requiring an extension of a previously issued temporary non-conformity use permit, a new temporary non-conformity use permit may be issued for a structure damaged by a subsequent disaster, if that structure was previously issued a temporary non-conformity use permit which has not expired, and so long as the terms of this article were activated by the Township Manager to address damage caused by the subsequent disaster.

vi. As a condition for receiving a temporary non-conformity use permit, the applicant must complete an application including proof of ownership and an agreement with the Township wherein the applicant shall agree to remove the temporary recreational vehicle, mobile or manufactured home within 30 days of the issuance of the Certificate of Occupancy or Certificate of Completion for the new or rehabilitated residential use or upon expiration of the temporary non-conformity use permit, whichever occurs first. The Township council
delegates the authority to execute the provisions of the contract on behalf of the Township to the Township manager or designee.

(f) Conditions for use and limitations. For all temporary uses allowed by this section, the following shall apply:

i. No tents shall be permitted;

ii. Required electrical, water and sanitary facilities must be provided; siting of the recreational vehicle, mobile or manufactured home must comply with all current codes and regulations, except parking requirements, including floodplain management;

iii. Electrical service must be available on site and have a proper connection for a recreational vehicle, mobile or manufactured housing unit;

iv. Only a licensed mobile/manufactured home installation contractor will be allowed to apply for a permit and perform any work related to the connection of plumbing, electrical, sewer and mechanical service systems to the site;

v. Legal and proper disposal of all sanitary sewer and storm water is required; no portable toilet facilities will be permitted;

vi. No person shall occupy a recreational vehicle, mobile or manufactured home prior to inspection of the unit by the Township and the issuance of a Certificate of Occupancy, or temporary Certificate of Occupancy, as determined by the Township's Construction Official or his/her designee;

vii. The recreational vehicle, mobile or manufactured home must be removed from the property no later than 30 days after the Certificate of Occupancy or a Certificate of Completion is issued for the new or rehabilitated residence or upon expiration of the temporary use permit, whichever occurs first. The Township shall remove the temporary structure at the expense of the permit holder should the permit holder fail to comply with the removal requirement.

SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION 4. SEVERABILITY
If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 5. EFFECTIVE DATE

Pursuant to N.J.S.A. 40:69A-181(b), no ordinance other than the local budget ordinance shall take effect less than twenty days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least two-thirds of all the members of the council vote in favor of such resolution. This Ordinance shall take effect immediately and upon passage of the enabling resolution.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on November 20, 2012 and will be further considered for final passage and adoption at the Township Municipal Building at 4567 Route 9 North, Howell, New Jersey on December 11, 2012 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

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PENNY WOLLMAN, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on December 11, 2012.

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PENNY WOLLMAN, Municipal Clerk
EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 188 to add Chapter 188-233 entitled Emergency Waiver Of Non-Conforming Land Uses And Structures For Post-Disaster Temporary Accommodations of General Revised Ordinances of the Township of Howell.