

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-17

INTRODUCTION

March 19, 2019

PUBLIC HEARING & ADOPTION

April 2, 2019

AGENDA ITEM NUMBER

10.1

ORDINANCE NO. O-19-16

AN ORDINANCE AMENDING CHAPTER 188 LAND USE, ARTICLE III ACCESSORY BUILDINGS AND MISCELLANEOUS STRUCTURES, SECTION 11, ENTITLED ACCESSORY BUILDINGS 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 Land Use, Article III Accessory Buildings and Miscellaneous Structures, Section 11, entitled Accessory Buildings of the Revised General Ordinances of the Township of Howell, is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 188 Land Use, Article III Accessory Buildings and Miscellaneous Structures, Section 11, entitled Accessory Buildings, 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 remain unchanged.

CHAPTER 188 LAND USE

Article III **Zoning Requirements for** Accessory Buildings and Miscellaneous Structures

188-11 Accessory Buildings

- A. Any accessory building attached to a principal building is part of the principal building and shall adhere to the yard requirements for the principal building. No building permit shall be issued for an accessory building prior to the issuance of a building permit for the principal building, and construction of the principal building shall precede or coincide with the construction of the accessory building, otherwise the building permit for the accessory building may be revoked. Standby generator systems that do not meet the ***set setback*** requirements within the residential zoning district in which the principal structure is situated shall comply with the standards set forth in § 188-19. All standby generator systems shall require land use approval prior to installation. ***Standby generators and air conditioning units will not count towards a lot's impervious coverage on single family residential properties.***
- B. No accessory structure, with the exception of flag poles, light or signposts, walks, driveways, patios at ground level, mail boxes and septic tanks, shall be erected within any front yard.
- C. Setbacks for accessory structures shall be five feet on lots less than 10,000 square feet and equivalent to the height for lots larger than 10,000 feet in all residential zones. However, sheds that are: specifically designed to be and are in fact used for the storage of residential materials; 120 square feet or less; and eight feet in height or less will be permitted with a zero foot setback to rear and side property lines. The setback will be measured from the wall of the shed, edge of foundation/gravel bed, roof overhang or any other attached appurtenance, whichever is the greatest expanse of footprint. Only sheds meeting all three of the criteria above shall be eligible for reduced setback. Only two residential storage sheds per property will be permitted with the reduced setback. Any

additional structures will have to meet the general accessory structure setback. Any shed greater than 120 square feet in size or that is taller than eight feet in height will be required to meet the general accessory structure setback. This section shall not apply to any form of pool cabana or other accessory structure that is not specifically designed to be and is in fact used for the storage of residential materials.

D. Pool Cabanas - An accessory structure permitted to a lawfully existing and approved swimming pool on a residential property. The cabana must conform to the following standards:

- (1) A bathroom is permitted, but it may only have a sink and toilet; no indoor shower, bathtub, hot tub sauna or the like is permitted.**
- (2) An outdoor shower with hot water is permitted.**
- (3) No indoor cooking/kitchen facilities or appliances of any kind are permitted. An outdoor cooking facility will be permitted so long as it is not within the cabana structure itself. Outdoor kitchen can be under cover of overhang but not within actual structure.**
- (4) Air conditioning is permitted.**
- (5) No heating equipment of any kind is permitted.**
- (6) The cabana must be seasonal and must be closed when the pool is closed. Additionally, a pool cabana must be closed for at least 90 consecutive days during a 365 day period; if the closure is in the winter months, then the 90 consecutive day period may run from one calendar year into the next.**
- (7) Maximum height is one story or 20' to the peak. On lots less than 40,000 square feet the maximum height is one story or 14' to the peak. Maximum height for structures with flat roofs is one story or 12'.**
- (8) Setbacks for an accessory structure and other bulk standards must be met for the zone (building and impervious coverage). The maximum size of the structure shall be as follows:**
 - (a) On lots 40,000 square feet or greater:**
 - i. Maximum building footprint is 500 square feet for the enclosed structure.**
 - ii. An additional 500 square feet of area is permitted under a roofed overhang.**
 - (b) On lots less than 40,000 square feet:**
 - i. Maximum building footprint is 250 square feet for the enclosed structure.**

ii. An additional 250 square feet of area is permitted under a roofed overhang.

(c) Soffits 2' or less from the edge of the structure or support column line will not count towards to overall square footage of the structure.

(9) Pool cabanas are specifically excluded from the zero foot (0') setback for residential sheds listed in this chapter.

(10) All lighting shall be shielded sufficiently to prevent light spillage and glare on neighboring properties.

(11) Cabanas shall not have basements or crawl spaces beneath them.

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

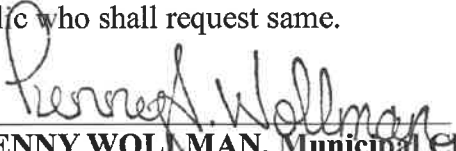
If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

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 March 19, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on April 2, 2019 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

EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 188 Land Use, Article III Accessory Buildings and Miscellaneous Structures, Section 11, entitled Accessory Buildings of the Revised General Ordinances of the Township of Howell to create standards for pool cabanas to be utilized as accessory structures to a legally existing swimming pool on residential properties.

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-17

INTRODUCTION

March 19, 2019

PUBLIC HEARING & ADOPTION

April 2, 2019

AGENDA ITEM NUMBER

10.2

ORDINANCE NO. O-19-17

AN ORDINANCE AMENDING CHAPTER 188 LAND USE, ARTICLE III ACCESSORY BUILDINGS AND MISCELLANEOUS STRUCTURES, SECTION 12, ENTITLED FENCES AND WALLS 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 Land Use, Article III Accessory Buildings and Miscellaneous Structures, Section 12, entitled Fences and Walls of the Revised General Ordinances of the Township of Howell, is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 188 Land Use, Article III Accessory Buildings and Miscellaneous Structures, Section 12, entitled Walls and Fences, 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 remain unchanged.

CHAPTER 188 LAND USE

Article III Accessory Buildings and Miscellaneous Structures

188-12 Fences and Walls

- A. Fences and walls shall not be located in any required sight triangle and shall not be higher than four feet unless set back from the street line the minimum setback required for the zone, except that there shall be no height limitations other than the maintenance of a clear sight triangle on living fences, fences around agricultural uses, and fences around utility and industrial uses. Fences and walls shall not exceed six feet in height when located more than the required setback from the street line in a residential zone nor more than eight feet in height when located more than the required setback from the street line in a business zone. Fences and walls located in the required setback area shall have open space for light and air representing at least 50% of the fence area.

For corner lots (as defined in Chapter 188-4) in residential zones, a 50% discount on the required front yard setback will be permitted for the practical side yard, meaning solid fences would be permitted within the discount area for a fence up to 6' in height. The practical side yard will be determined based on the architectural front of the structure. For residential structures whose architectural front is pointing directly to the intersection of the two roadways, the address of the property will define the front property line and the property line along the other roadway will be deemed the practical side yard. This section does not in any way permit the placement of fencing that is greater than 4' in height or less than 50% open space in any area between the architectural front of the residential structure and the front property line. This allowance is permitted for fencing only and does not apply to accessory structures which are not permitted within any front yard setback.

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

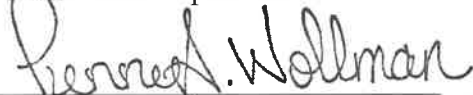
If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

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 March 19, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on April 2, 2019 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

EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 188 Land Use, Article III Accessory Buildings and Miscellaneous Structures, Section 12, entitled Fences and Walls of the Revised General Ordinances of the Township of Howell to allow for a 50% discount on the setback of fences for corner lots along those property lines that are the practical side yard of the property.

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-18

INTRODUCTION

March 19, 2019

PUBLIC HEARING & ADOPTION

April 2, 2019

AGENDA ITEM NUMBER

10.3

ORDINANCE NO. O-19-18

AN ORDINANCE AMENDING CHAPTER 188 LAND USE, ARTICLE V LOTS AND YARDS, SECTION 36, ENTITLED CORNER LOTS 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 Land Use, Article V Lots and Yards, Section 36, entitled Corner Lots of the Revised General Ordinances of the Township of Howell, is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 188 Land Use, Article V Lots and Yards, Section 36, entitled Corner Lots, 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 remain unchanged.

CHAPTER 188 LAND USE

Article V Lots and Yards

188-36 Corner Lots

For Corner Lots (as defined in Chapter 188-4), all property lines along roadways and/or right-of-ways will be considered front property lines and will have the required setback for a front yard per the zone in which it is located (except as otherwise provided). The following will determine the designation of the remaining lot lines:

- a. **First: Front door of house will be considered pointing towards front yard and the property line opposite this will be the rear yard; the remaining line(s) will be the side yard; if not applicable then;**
- b. **Second: address of property will determine the front yard and the opposite property line will be the rear yard; the remaining line(s) will be side yard; and if necessary then;**
- c. **Third: the property line with the most roadway frontage will be the front yard and the property line opposite that will be the rear yard; remaining line(s) will be side yard.**

Any principal or accessory building located on a corner lot shall have a minimum setback from both street lines equal to the required front yard and shall not interfere with any required sight triangle. **Nothing in this section shall prohibit the placement of an accessory structure within the practical side and rear yards even if said location is between the principal structure and property line, so long as the front yard setback and any other applicable setback requirements are met. Practical rear and side yards are determined by the architectural front of the house.**

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

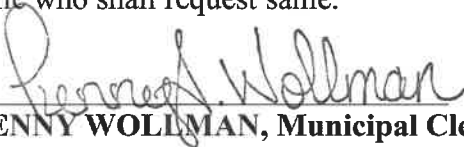
If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

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 March 19, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on April 2, 2019 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

EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 188 Land Use, Article V Lots and Yards, Section 36, entitled Corner Lots of the Revised General Ordinances of the Township of Howell to clarify the designation of lot lines on corner lots and to clarify that on corner lots accessory structures are permitted in the practical rear and side yards so long as all front yard setbacks and applicable accessory structure setbacks are met.

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-19

INTRODUCTION

March 19, 2019

PUBLIC HEARING & ADOPTION

April 2, 2019

AGENDA ITEM NUMBER

10.4

ORDINANCE NO. O-19-19

AN ORDINANCE AMENDING CHAPTER 188 LAND USE, ARTICLE I TITLE; PURPOSE; ~~DEFINITIONS~~, SECTION 4, ENTITLED DEFINITIONS AND RULES OF GENERAL APPLICABILITY 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 Land Use, Article I Title; Purpose; Definitions, Section 4, entitled Definitions and rules of general applicability of the Revised General Ordinances of the Township of Howell, is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 188 Land Use, Article I Title; Purpose; Definitions, Section 4, entitled Definitions and rules of general applicability, 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 remain unchanged.

CHAPTER 188 LAND USE

Article I Title; Purpose; Definitions

188-4

~~***YARD FRONT***~~

~~*A yard extending across the full width of the lot and lying between the street line of the lot and the nearest wall or part of the building. The depth of the front yard shall be measured at right angles to the front line of the lot.*~~

~~***YARD REAR***~~

~~*A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest wall or part of the building. The depth of a rear yard shall be measured at right angles to the rear of the lot in the same manner as specified herein for the measurement of lot depth.*~~

~~***YARD SIDE***~~

~~*An open unoccupied space between the side line of the lot and the nearest wall or part of the building and extending from the front yard to the rear yard, to the front or rear lot lines as the case may be. The width of the side yard shall be measured at right angles to the side line of the lot.*~~

MULTIGENERATIONAL FAMILY ACCOMMODATIONS

A dwelling area similar to those sometimes called a "mother-daughter apartment," serving as secondary living space for a relative or relatives. The ***multigenerational family accommodation living space*** shall be connected with a door to the remainder of the residence and may have

separate kitchen appliances installed pursuant to codes. ~~The accessory apartment must share a common entrance and may not have a separate exterior entrance.~~ *The multigenerational accessory apartment family accommodation must have access to the main entrance of the house, but is also permitted to have an entrance/exit to the side or rear of the structure. Two front doors are strictly prohibited.* The *multigenerational family accommodation dwelling area* shall be considered as an accessory apartment. The property owner must enter into an agreement with the Township of Howell to be recorded with the office of the Monmouth County Clerk, specifying the persons permitted to occupy the accessory apartment and agreeing to remove all kitchen appliances when the named parties no longer reside there.

POOL CABANA

An accessory structure permitted to a lawfully existing and approved swimming pool on a residential property to be used for recreational or storage purposes associated with the residential use of the property. The cabana must be seasonal (closed for at least 90 days) and is not permitted to have heating equipment, bedroom/overnight accommodations, indoor shower or any kind of indoor cooking amenities.

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

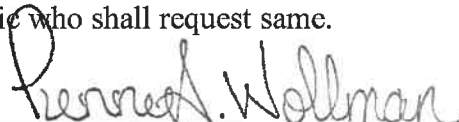
If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

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 March 19, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on April 2, 2019 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

EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 188 Land Use, Article I Title; Purpose; Definitions, Section 4, entitled Definitions and rules of general applicability of the Revised General Ordinances of the Township of Howell to clarify that a second entrance/exit from a legally permitted mother-daughter apartment is permitted via the rear and side of the structure, but two front doors are prohibited. This revision also eliminates redundant definitions for front, rear and side yards and includes a definition for pool cabana.

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-20

INTRODUCTION

March 19, 2019

PUBLIC HEARING & ADOPTION

April 2, 2019

AGENDA ITEM NUMBER

10.5

ORDINANCE NO. O-19-20

ORDINANCE OF THE TOWNSHIP OF HOWELL, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE VII OF THE TOWNSHIP CODE, ENTITLED “GUARANTEES, INSPECTIONS AND OFF-TRACT IMPROVEMENTS”

WHEREAS, as a result of adoption and signing into Law P.L. 2017, c. 312, certain revisions need to be made to the Township Code as it pertains to performance and maintenance guarantees for site plan and subdivision approvals.

BE IT HEREBY ORDAINED by the Township Council of the Township of Howell that Chapter 188 Land Use, Article VII Guarantees, Inspections and Off-Tract Improvements, of the Revised General Ordinances of the Township of Howell, is hereby amended and supplemented and shall read as follows:

NOTE: Sections of Chapter 188 Land Use, Article VII Guarantees, Inspections and Off-Tract Improvements, 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 remain unchanged.

SECTION ONE

Chapter 188 Land Use, Article VII Guarantees, Inspections and Off-Tract Improvements is hereby amended as follows:

§ 188-44 Assurance of installation and upkeep of improvements.

A. Before ***filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit final approval of a site plan or major subdivision***, the ***governing body approving authority*** shall require that the developer furnish performance and maintenance guarantees ***on properties to be dedicated to the Township or any other public entity, which have not yet been installed, in order*** to assure the ultimate installation and upkeep of the following:

- (1) Streets.
- (2) ***Pavement Grading***.
- (3) Gutters.
- (4) Curbs or other street borders.
- (5) Sidewalks or other pedestrian accessways.
- (6) Street lighting.

(7) Street Shade trees.

(8) Surveyor's monuments (as shown on the final map and as required by N.J.S.A. 46:23-9.9).

(9) Water mains.

~~(11) Culverts.~~

~~(12) Storm sewers.~~

~~(1013) Sanitary sewers or other means of sewerage disposal including dry sewer lines designed and installed for eventual connection to a public sewer system.~~

~~(1114) Drainage structures.~~

~~(15) Erosion and sediment control devices.~~

~~(1216) Public improvements of open space.~~

(13) Community septic system

~~(1417) Any grading necessitated by the preceding improvements~~Environmental protection improvements.

B. As to site plans only, the developer shall be required to furnish performance and maintenance guarantees only for improvements to existing public facilities or facilities which will have off-site or off-tract effects. The installation of other on-site improvements and landscaping (other than those associated with buffers) shall be insured pursuant to the site plan approval compliance review procedure set forth in ~~§ 188-110~~ of this chapter. The Township Engineer shall in his sole discretion determine whether any particular improvement shall be bonded in accordance with this provision.

C. Before the filing of final subdivision plat or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition of the issuance of a zoning permit, the governing body shall require that the developer furnish performance and maintenance guarantees in order to assure the ultimate installation and upkeep of privately-owned perimeter buffer landscaping, as required by Township Ordinance or as a condition of the approval. The developer has the option to provide separate bonding for these improvements as opposed to including the improvements referenced in subsection A, hereinabove.

In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," (TCOG) in favor of the Township in an amount equal to 120% of the cost of installation of only those improvements or items (including both private on-site and to be publicly dedicated)

which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a "temporary certificate of occupancy guarantee," all sums remaining under a performance guarantee, required pursuant to section A above, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. No same item may be included in multiple performance bonds. The scope and amount of the "temporary certificate of occupancy guarantee" shall be determined by the municipal engineer and accepted by resolution by the governing body. The "temporary certificate of occupancy guarantee" shall be released by the governing body upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

D. A developer shall furnish to the Township a "safety and stabilization guarantee," in favor of the Township. At the developer's option, a "safety and stabilization guarantee" may be furnished either as a separate guarantee or as a line item of the performance guarantee. A "safety and stabilization guarantee" shall be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that: (i) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and (ii) work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township's intent to claim payment under the guarantee.

The amount of a "safety and stabilization guarantee" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.

The amount of a "safety and stabilization guarantee" for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000.

The Township shall release a separate "safety and stabilization guarantee" to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.

The Township shall release a "safety and stabilization guarantee" upon the municipal engineer's determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

§ 188-46 Guarantees and inspections.

- A. No filing of final subdivision plat or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition of the issuance of a zoning permit final plat shall be approved by the governing body approving authority until all items required to be bonded (on site, off site and off tract) in the public interest, shall have been provided for by a performance guarantee accepted and approved by the governing body in accordance with the requirements of this section; and in addition thereto, the developer has delivered to the Township ~~Clerk~~ a certified check or money order in the amount of the inspection fees to be paid pursuant to Subsection ~~FE~~ of this section.
- B. A performance guarantee cost estimate shall be submitted to the ~~approving authority by the~~ Municipal Engineer as part of his subdivision, site plan or zoning permit report on final plat review. The ~~approving authority may request the~~ Municipal Engineer may review and update this estimate from time to time as required.
- C. The proposed performance guarantee required for subdivision, site plan or zoning permit final plat approval shall be submitted to the Township Engineer and Township Attorney for recommendations as to accuracy and form, then to the governing body for approval and acceptance by resolution. The subdivision, site plan or zoning permit Final plat approval shall not be deemed to be effective until the performance guarantee has been accepted and approved by the governing body. The performance guarantee shall consist of the following:
- (1) A performance guarantee cost estimate prepared by the Township Engineer. The total value of the performance guarantee to be submitted by the developer to the Township shall equal 120% of the performance guarantee cost estimate.
 - (2) A performance bond in which the developer shall be principal and an acceptable surety company licensed to do business in the State of New Jersey shall be surety. The maximum value of the bond shall be 90% of the total value of the performance guarantee as hereinbefore described. In lieu of posting such a performance bond, the developer shall deposit with the Township ~~Clerk~~ cash or certified check made payable to the Township of Howell, in the full amount of the performance guarantee, or the developer shall post a letter of credit on a format approved by the Township Attorney for a maximum value of 90% of the total value of the performance guarantee as herein described.
 - (3) If a performance bond or letter of credit is posted, as hereinbefore described, the remaining 10% of the total value of the performance guarantee, as hereinbefore defined, shall be paid in the form of cash or certified check made payable to the Township of Howell. In the event of default, the 10% cash fund herein mentioned shall be first applied to the completion of required improvements and the performance bond shall thereafter be resorted to, if necessary for the completion of the improvements.

- D. For legal services provided by the Township Attorney in connection with a development application, the developer shall pay fees to the Township ~~Clerk~~ for the following as set forth in Chapter 139, Fees:
- (1) For preparation of the developer's agreement.
 - (2) For review of initial performance guarantees and the preparation of any initial resolutions in connection therewith.
 - (3) For the review of subsequent, substituted, reduced or modified performance guarantees, review of maintenance guarantees and safety and stabilization guarantees and the review of any amendments or extensions to letters of credit, together with any required resolutions.
- E. For services provided by the Township Planner in connection with review of request for conceptual zone changes which will result in an application for a major subdivision or site plan approval or in conjunction with an application for a major subdivision, the applicant shall deposit with the Township ~~Clerk~~ an amount as set forth in Chapter 139, Fees. The Township Planner's fee shall be billed against such deposit until the review is completed or until an application is either approved or rejected. If, prior to action by the Planning Board with respect to an application for which a deposit for planner's fees has been made with the Township ~~Clerk~~, or if during the course of review of conceptual requests the amount on deposit is reduced to zero, the applicant shall immediately deposit with the Township ~~Clerk~~ an additional amount as set forth in Chapter 139, Fees. Any money not utilized for the purpose for which it was deposited shall be returned to the applicant, less a fee as set forth in Chapter 139, Fees, which shall be in lieu of all administrative and custodial expenses.
- F. Prior to beginning construction, the developer shall arrange for a preconstruction conference between the developer, contractor and Municipal Engineer. All improvements and utility installation shall be inspected during the time of their installation under the supervision of the Municipal Engineer to insure satisfactory completion. The Municipal Engineer shall be notified by the developer five days in advance of the start of construction. The cost of said inspection shall be the responsibility of the developer. The developer shall reimburse the municipality for all reasonable inspection fees calculated pursuant to this subsection by submitting a certified check or bank money order to the Township ~~Clerk~~. This fee shall be in addition to the amount of performance guarantee and all application fees as outlined herein and computed as follows: The construction inspection fee is to be calculated from the following tabulation based on the estimated cost of constructing the improvements, which estimate is to be prepared ~~and submitted by the developer's engineer and approved~~ by the Municipal Engineer, ~~with the concurrence of the governing body:~~
- (1) Inspection Fees. Inspection fees shall not exceed the greater of \$500.00 or five (5%) percent of the cost of the on-site and off-site bonded improvements unless there are "extraordinary circumstances" requiring a different amount and, with respect to private site improvements, no more than five (5%) percent of their costs.

The Township is permitted to require the developer to deposit additional funds, provided that a specific written request is made by and signed by the Township Engineer. That request will inform the developer of the need for the additional inspections and detail the items or undertakings that require inspections. It will provide an estimate of the time period for the inspection and set forth an estimate of the cost of performing the inspections. Subdivision inspection fee, including off-site improvements, as set forth in Chapter 139, Fees.

~~(2) Site plan inspection fees shall be determined and based upon the estimated cost of the on-site improvements as set forth in § 188-44 whether or not bonding is deemed to be required by the Township Engineer in accordance with this section. Such on-site improvements shall not be deemed to include landscape plantings, but shall include buffer plantings.~~

~~(a) The engineering inspection fees to be paid are as follows:~~

~~[1] For all improvements required to be bonded by the Howell Township Engineer, including buffer plantings, the inspection fees shall be the same as that set forth in Subsection E;~~

~~[2] For all on-site improvements associated with industrial and/or commercial development for which the Howell Township Engineer does not require bonding, the inspection fees shall be 60% of the amount set forth in Subsection E;~~

~~[3] The minimum fee to be charged for inspection is the sum set forth in Chapter 139, Fees.~~

~~(b) (b) The developer shall comply with the requirements of Subsection A concerning a preconstruction conference with the Township Engineer and Subsection F concerning notice to the Township Engineer of each phase of work to be performed and the securing of authorization from the Township Engineer to commence work.~~

~~(3) Inspection fee for off-site improvements related to a site plan to be determined based on estimated cost and subdivision inspection fee schedule set forth above. Improvement costs, as estimated in this section, shall be defined to include construction and installation costs of grading, pavement, surveyor's monuments, drainage structures, storm sewers and other means of sewage disposal, water mains, fire-protection features, streets, gutters, curbs, culverts, sidewalks, streetlighting, shade trees, parking areas, landscaping, street signs, erosion control and sedimentation control devices, public improvements of open space, and other on-tract improvements, as set forth in § 188-44.~~

~~(24)~~ The developer shall deposit a portion of the inspection fees as calculated above as follows:

(a) For those developments for which the reasonably anticipated fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the reasonably anticipated fees. When

the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall deposit the remaining 50% of the anticipated inspection fees.

(b) For those developments for which the reasonably anticipated fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall make additional deposits of 25% of the reasonably anticipated fees.

~~*(5) The Municipal Engineer shall not perform any inspection if sufficient funds to pay those inspections are not on deposit. The Municipal Engineer shall issue a stop-work order whenever there shall be insufficient funds on deposit to pay the cost of inspections. No person shall perform any work on items required to be inspected while the stop-work order remains in effect. A stop-work order shall remain in effect until adequate funds as determined by the Municipal Engineer pursuant to ordinance and state law have been deposited. Any person violating this provision shall be subject to a fine of \$1,000 and 30 days in jail or both at the discretion of the court, for each day of violation.*~~

~~(36)~~ In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38, the provisions of this section shall be applied by stage or section.

- G. No work shall be done without permission from the Municipal Engineer. No underground installation shall be covered until inspected and approved. The Municipal Engineer's office shall be notified after each of the following phases of the work have been completed so that he may inspect the work: road subgrade, curb and gutter forms; curbs and gutters; road paving (after each coat in the case of priming and sealing); drainage pipes and other drainage structures before backfilling; shade trees and planting strips; street name signs; and monuments.
- H. Electrical, gas, telephone and all other utility installations installed by utility companies shall not be subject to the inspection requirements contained herein.
- I. Occupancy permits for residential subdivisions or site plans will be issued only when the installation of curbs, utilities, functioning water supply and sewage treatment facilities, necessary storm drainage to insure proper drainage of the lot and surrounding land, ~~rough~~ grading of lots, soil stabilization, base course for the street and driveway, and sidewalks are installed to serve the lot and structure for which the permit is requested. Streets shall not receive surface course paving until all heavy construction is completed. Shade trees shall not be planted until all grading and earth moving is completed. Seeding

of grass areas shall be the final operation, subject to appropriate soil erosion control measures.

- J. Inspection by the Municipal Engineer of the installation of improvements and utilities shall not subject the municipality to liability for claims, suits, or liability of any kind that may arise because of defects or negligence, it being recognized that the responsibility to provide proper utilities and improvements and to maintain safe conditions at all times on all parts of the tract whether construction is waiting to start, is in progress, or is completed or any combination of conditions on all or part of the tract is upon the developer and his contractors or subcontractors, if any.
- K. After completing the construction of the improvements covered by the performance guarantee, the developer shall prepare two sets of the improvements and utility plans and the profiles amended to read "as constructed". *The "as constructed" plans shall also be submitted on a format acceptable to the Township Engineer, and apply to the governing body for final inspection of the work. The Municipal Engineer shall, within 60 days from completing the inspection, report in writing to the governing body indicating either approval, partial approval, or rejection of the improvements with a statement of reasons for any rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.*
- L. *Extension of allotted time; a*pproval of improvements.

(1) The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation as determined at of the time of the passage of the resolution.

(2) When bonded improvements have been substantially completed, the obligor shall notify the Township Clerk in writing by certified mail of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Township Engineer shall inspect all of the aforesaid improvements and file a report with the Township Council and the obligor within 45 days of the receipt of the notice from the obligator.

(3) Within 45 days after receipt of the Township Engineer's report, the Township Council, by resolution, shall accept or reject the bonded improvements, grant partial approval or withhold approval. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance bond except for that portion adequately sufficient to secure the improvements not yet approved provided that 30% of the amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements.

The safety and stabilization guarantee posted may be retained to ensure completion and acceptability of improvements. The safety and stabilization guarantee shall be

reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction.

Any amount of the performance guarantee attributable to bonded improvements for which a temporary certificate of occupancy guarantee has been posted shall be released from the performance guarantee even if such a release would reduce the amount held by the Township below 30 percent.

If the developer has furnished a safety and stabilization guarantee, the Township may retain cash equal to the amount of the remaining safety and stabilization guarantee.

~~The governing body shall either approve, partially approve or reject the improvements, on the basis of the report of the Municipal Engineer and shall notify the obligor in writing by certified mail, the contents of said report and the action of said approving authority with relation thereto, no later than 65 days after the receipt of notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved, provided that 30% of the amount of the performance guarantee posted may be retained to insure completion of all improvements. Failure of the governing body to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements.~~

- M. If any portion of the required improvements is rejected, the Township Engineer and/or Township Council approving authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in this section, shall be followed.
- N. The approval of any site plan or subdivision under this chapter by the governing body approving authority shall in no way be construed as acceptance of any street, drainage system, or other improvements required by this chapter, nor shall such site plan or subdivision approval obligate the Township in any way to maintain or exercise jurisdiction over such street, drainage system or other improvement. Acceptance of any street, drainage system or other improvement shall be implemented only by favorable action by the governing body.
- O. Maintenance guarantee. No improvement shall be acceptable by the governing body unless and until all of the following conditions have been met:

(1) Maintenance guarantees shall be posted with the Township prior to the release of performance guarantees and will cover the installation of improvements being released.

~~(2)~~ The Municipal Engineer shall have certified in writing that all the improvements are complete and that they comply fully with the requirements of this chapter and of other applicable local ordinances.

~~(32)~~ Provision for a maintenance guarantee to be posted with the governing body for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee, to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such utilities or improvements.

~~(43)~~ All maintenance guarantees shall be formally released by the Township Council by resolution. Thirty days prior to the release of a maintenance guarantee, the Township Engineer shall have inspected the improvement for which the maintenance guarantee had previously been posted and shall certify to the Township Council, in writing, that the improvement is free of defects and that the maintenance bond may be released. If any defects are found by the Engineer during the course of his or her inspection, then, in such event, the Township Engineer shall present a claim against the maintenance guarantee for the repair/replacement of the improvement.

(5) The developer shall post a maintenance guarantee for the private site improvements in an amount equal to fifteen (15%) percent of the costs of the installation of the following site improvements:

(a) Storm Water Management basins.

(b) In-flow and water quality structures within basins.

(c) Any out-flow pipes and structures of a stormwater management system.

(6) The maintenance guarantee shall be for a two-year period which shall automatically expire at the end of the established term.

P. Developer's agreement. The developer shall enter into a developer's agreement with the governing body prior to the signing and recording of final major subdivision plats and as a condition of final site plan approval. In the case of a site plan, the developer shall enter into a developer's agreement with the governing body prior to commencement of on-site/off-site improvements. This agreement shall be of a form that is acceptable to the Township Attorney and Township Engineer. The developer's agreement shall require that the developer agrees to abide by the terms and conditions and the Board approval, construct the required improvements in accordance with the approved plans, agree to maintain the constructed improvements, including but not limited to, payment of streetlighting charges, snow removal, maintenance of storm drain, sewer and water facilities. The developer shall also agree that in the event that improvements are not maintained, the Township can utilize the cash portions of the performance guarantees to immediately attend to such items.

~~§ 188-47. Conditional approval.~~

~~The approving authority may, in appropriate instances and for good cause demonstrated by the applicant, condition its final approval of a site plan or major subdivision upon the~~

~~subsequent submission of required performance and/or maintenance guarantees and inspection fees.~~

~~A. Conditional approval granted by the approving authority shall be for an initial period not to exceed 120 days after the date of the Township Engineer's performance guarantee cost estimate. In the absence of compliance, the conditional approval shall be null and void upon expiration of the conditional period.~~

~~B. The approving authority may, upon application for good cause demonstrated, extend the conditional approval for additional periods, each not exceeding 120 days.~~

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

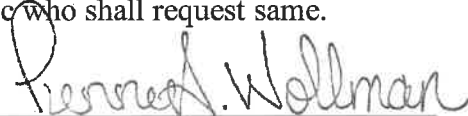
If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

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 March 19, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on April 2, 2019 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.

A handwritten signature in cursive script that reads "Penny Wollman". The signature is written in dark ink and is positioned above the printed name.

PENNY WOLLMAN, Municipal Clerk

EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell Amending Chapter 188 Land Use, Article VI Guarantees, Inspections and Off-Tract Improvements of the Revised General Ordinances of the Township of Howell to harmonize the Land Use Ordinance with State law.

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-21

INTRODUCTION

March 19, 2019

PUBLIC HEARING & ADOPTION

April 2, 2019

AGENDA ITEM NUMBER

10.6

ORDINANCE NO. O-19-21

AN ORDINANCE OF THE TOWNSHIP OF HOWELL AUTHORIZING THE ACQUISITION OF LAND KNOWN AS BLOCK 42, LOT 88 ON THE TAX MAP OF HOWELL FOR THE PURPOSE OF OPEN SPACE

WHEREAS, pursuant to N.J.S.A. 40A:12-1 *et. seq.* a municipality may acquire any real property for public use; and

WHEREAS, a vacant parcel of land known and designated as Block 42, Lot 88 on the Tax Map of Howell and adjacent to Deerwood Park on Lakewood-Allenwood Road, has been made available for purchase, and

WHEREAS, the real property known and designated as Block 42, Lot 88 on the Tax Map of Howell consists of 10 acres more or less in area; and

WHEREAS, the Township of Howell has determined that the aforementioned real property is needed for public use; and

WHEREAS, the Township of Howell intends to purchase this parcel for Open Space, and

WHEREAS, the Township of Howell has Open Space funds available to fund the purchase of this property.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Howell, in the County of Monmouth and State of New Jersey as follows:

SECTION 1. The Township authorizes the acquisition of Block 42, Lot 88 in the Township of Howell in accordance with the provisions of the Local Lands and Buildings Law Pursuant to N.J.S.A. 40A:12-1 *et. seq.*

SECTION 2. The Township authorizes the Township Attorney, Township Engineer and such other Township officials as are necessary to obtain appraisals to ascertain the value of Block 42, Lot 88 in the Township of Howell.

SECTION 3. The Township authorizes the adoption of a subsequent Resolution to confirm the actual sale price.

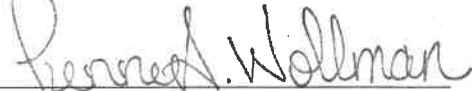
SECTION 4. The appropriate Township Officials, the Township Attorney, the Township Clerk and such other Township Officials and/or professionals are authorized and directed to negotiate and execute any and all documents on behalf of the Township in regard to this matter.

SECTION 5. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on March 19, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on April 2, 2019 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

EXPLANATORY STATEMENT: An Ordinance by the Township Council of the Township of Howell authorizing the purchase of real property known as Block 42, Lot 88 in the Township of Howell and adjacent to Deerwood Park on Lakewood-Allenwood Road with available Open Space Funds for public use.