

## **Title 15**

### **BUILDINGS AND CONSTRUCTION**

Chapters:

**15.04 State Uniform Construction Code**

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#### **Chapter 15.04**

#### **STATE UNIFORM CONSTRUCTION CODE**

Sections:

**15.04.010 Contract with the county of Ocean.**

**15.04.020 Fees.**

**15.04.030 All code agreement.**

#### **15.04.010 Contract with the county of Ocean.**

A. The mayor and township clerk are authorized and directed to enter into and execute a contract with the county of Ocean, designating the county of Ocean as the agent of the municipality for the provision of electrical, plumbing, and fire code services required in the provisions of the Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., and the regulations promulgated thereunder.

B. A copy of the contract is on file and available for public inspection at the township clerk's office which is located on North Maple Avenue, New Gretna, New Jersey, any weekday between the hours of 9:00 a.m. and 1:00 p.m.

(Ord. 90-17 §§ 1, 2)

#### **15.04.020 Fees.**

There are established the following construction and subcode fees:

## I. Building Subcode Fees

A. Plan Review For the purpose of N.J.A.C. 5:23-4.18(b)1 and (j), the plan review fee shall be twenty (20) percent of this schedule.	
B. The fee for a construction permit shall be the sum of the subcode fees listed in (1) thru (5) hereof and shall be paid before the permit is issued.	
1. The Building Subcode Fees shall be: Residential uses	
New construction	\$.027/CF
Other uses	
Building or structure volume up to 100,000 CF	\$.015/CF
for every CF above 100,000 CF	\$.006/CF
All uses	
Minimum fee	\$65.00
Renovation, alterations, repairs, etc.	
Fee based on the estimated cost of the work	
\$1.00 to \$50,000.00	\$24.00/thousand
\$50,001.00 to \$100,000.00	\$18.00/thousand
Over \$100,000.00	\$15.00/thousand
Minimum fee	\$65.00
Modular/pre-manufactured buildings	
Basic unit set on footing and foundation	
Minimum fee	\$750.00
Combination of renovations and additions	
Fees computed separately as renovations and additions	
Swimming pools	
In ground/public	\$250.00
In ground/private	\$150.00
Above ground	\$75.00
Chimneys	
Fireplace and masonry	\$75.00
Woodburning stoves	\$75.00
Chimney stove fireplace	\$75.00
Fences	
Over 6 feet	\$.10/LF
	\$85.00 minimum fee
Storage sheds	
Over 100 - 200 square feet	\$65.00
Radio or TV antenna	

Over 12 feet high	\$65.00
Demolition or removal	
Structure less than 5,000 square feet and 30 feet high or less	
One or two family dwelling farm structure	\$65.00
All other structures	\$100.00
Signs	
One side only for double-faced signs	\$3.00/square feet
	\$65.00 minimum fee
Decks	
Open decks	\$75.00
Elevators, escalators and dumbwaiters--commercial	
Elevators and escalators	\$150.00 each
Dumbwaiters	\$75.00 each
Inspection	\$125.00 each
Elevators and dumbwaiters for one/two family dwellings	
Elevators	\$150.00
Dumbwaiters	\$85.00
Above ground/below ground storage tanks	
Installation	\$150.00
Removal	\$75.00
Temporary/other structures	
Unable to calculate volume	\$65.00
2. The Plumbing Subcode Fees shall be:	
Per plumbing fixture device and plumbing stack installed	\$20.00
Minimum fee	\$65.00
Special devices as defined by NJ Uniform Code Reg.	\$20.00
*NJ State Uniform Code Regs. are available for inspection with building subcode official during business hours of the official	
3. Fire Protection Code fees shall be:	
New construction--10% of volume fee plus add-one items listed below as applicable:	
Minimum fire fee	\$65.00
Fire detection systems--All use groups, 1-12 devices	\$45.00
Each additional 5 devices	\$15.00
*Each detector, bell, pull station, etc. to be counted as a device	

Suppression systems-- Other than sprinklers, local application systems and total flooding systems	\$150.00 each
Commercial kitchen exhaust and duct	\$150.00 each
Gas, oil fired heating systems (boiler/furnaces)	\$150.00 each
Sprinkler systems:	
1 to 20 heads	\$100.00
21 to 100 heads	\$150.00
101 to 200 heads	\$300.00
201 to 400 heads	\$700.00
401 to 1,000 heads	\$1,000.00
Over 1,000 heads	\$1,500.00
Fire pumps	\$75.00 each
Standpipes	\$350.00/riser
Reinstatement of lapsed permit	\$75.00
4. Certificate Fee:	
Certificate of occupancy	\$45.00/Unit
Commercial	\$75.00
1 to 50 units-Residential	\$35.00/Unit
Over 50 units-Residential	\$25.00/Unit
All other uses groups, basic building	
excluding individual tenant occupancies	
18% of building subcode fee:	\$120.00 min. fee
Individual tenant occupancies	\$120.00/Unit
Continued use certificate	
Residential use groups	\$35.00/Unit
NOTE:	
<p>A. The construction official shall, with the advice of the subcode officials, prepare and submit to the board of commissioners bi-annually a report recommending a fee schedule based on the operation expenses of the agency, and any other expenses of the municipality fairly attributable to the enforcement of the State Uniform Construction Code Act.</p>	
<p>B. In order to provide for the training, certification and technical support programs required by the Uniform Construction Code Act and the regulations, the enforcing agency shall collect in addition to the fees specified above, a surcharge fee of \$.0019/CF of volume of new construction. The surcharge fee shall be remitted to the Bureau of Construction Code Enforcement, Department of Community Affairs on a quarterly basis. The surcharge fee for renovations and alterations is \$0.96 per \$1,000.00.</p>	
C. Electrical Subcode Fees.	
Electrical Fixtures and Devices:	

1. From one (1) through twenty five (25) receptacles, fixtures, or devices	\$65.00
For each additional twenty-five (25) receptacles, fixtures or devices	\$25.00
Receptacles, fixtures, or devices shall include lighting fixtures, wall switches, electric discharge fixtures, convenience receptacles, sensors, dimmers, alarm devices, smoke & heat detectors, communications outlets, light standards eight feet or less in height including luminaires, emergency lights, electric signs, exit lights or similar electric fixtures and devices rated 20 amperes or less including motors or equipment rated less than one horsepower (HP), one kilowatt (KW) or kilovolt ampere (KVA).	
2. Each motor or electrical device rated 1 HP or 1 KW to 10 HP or 10 KW ****	\$25.00
Each transformer or generator rated 1 KW or 1 KVA to 10 KW or 10 KVA	
Each replacement or wiring involving 1 branch circuit or part thereof	
Each storable pool or hydro massage bathtub	
Each underwater lighting fixture	
Each Household cooking equipment rated up to 16 KW	
Each fire security or burglar alarm control unit	
Each receptacle rated from 30 amperes to 50 amperes	
Each light-standard greater than eight feet in height including luminaires	
Each communications closet	
**** When installed in conjunction with works included in subsection (C)(1) or (C)(7) of this section	
1 to 4 units--Each	\$65.00
Additional Units--Each	\$15.00

3. Each Motor or electric device rated from greater than 10 HP or 10 KW to 50 HP or 50 KW	\$65.00
Each service equipment, panel board, switchboard, switchgear, motor control center, or disconnecting means rated 225 amperes or less	
Each transformer or generator rated from greater than 10 KW or 10 KVA to 45 KW or 45 KVA	
Each Electric sign rated greater than 20 amperes to 225 amperes including associated disconnecting means rated 225 amperes or less	
Each receptacle rated greater than 50 amperes	
Each utility load management device	
4. Each motor or electrical device rated from greater than 50 HP or 50 KW to 100 HP or 100 KW	\$160.00
Each service equipment, panel board, switchboard, switchgear, motor control center or disconnecting means rated for greater than 225 amperes to 600 amperes	
Each transformer and generator greater than 45 KW or 45 KVA to 112.5 KVA	
5. Each motor or electrical device rated greater than 100 HP or KW to 1000 HP or 1000 KW	\$300.00
Each service equipment, panel board, switchboard, switchgear, motor control center, or disconnecting means rated from greater than 600 amperes to 1000 amperes	
6. Each motor or electrical device rated greater than 1000 HP or 1000 KW	\$65.00
Each service equipment, panel board, switchboard, switchgear, motor control center, or disconnecting means rated greater than 1000 amperes	

Each transformer or generator greater than 112.5 KW or 112.5 KVA	
7. Each permanently installed private swimming pool as defined in the building subcode, spa, hot tub, or fountain including any required bonding, and associated equipment such as filter pumps or motors rated less than 1 HP or KW, disconnecting means, switches, required receptacles, and heaters, etc., excepting panel boards and underwater lighting fixtures. For public swimming pools, the fee shall be charged on the basis of the number of electrical fixtures and rating of electrical devices involved in accordance with subsections (C)(1) through (C)(6) of this section.	\$75.00
8. For installations consisting of multimeter stacks, the fee shall be based on the ampere rating of the main bus and not upon the number of meters or rating of disconnects on the meter stack. Individual loadside panel boards shall be charged in accordance with subsections (C)(1) through (C)(6) of this section. There shall be no additional fee charged for the concurrent installation of feeder conductors to these loadside panel boards.	
9. For motors or similar devices requiring concurrent installation of individual controls, relays and switches, the fee shall be based only upon the rating of the motor or device. There shall be no additional fee charged for the concurrent installation of individual circuit components, for example controllers, starters, and disconnecting means.	

10. For electrical work requiring replacement or installation of service entrance conductors or feeder conductors only, the fee shall be in accordance with subsections (C)(1) through (C)(6) of this section based on the designated ampere rating of overcurrent device of the service or feeder.	
11. Annual inspection of swimming pools, spas, or hot tubs	\$75.00
12. For the purpose of computing these fees, all electrical and communications devices, utilization equipment, and motors which are part of premises wiring, except those which are portable plug-in type, shall be counted.	
D. Applicable Fees.	
1. Plan Review Fee. 20% of the amount to be charged for a new construction permit.	
2. Basic Construction Fee. The sum of the parts computed on the basis of the volume or cost of construction, the number of plumbing fixtures and equipment, the number of electrical fixtures and devices, and the number of sprinklers, standpipes, and detectors (smoke and heat) at the unit rates provided herein plus any special fees.	
3. Certificates and Other Permits.	
a. Demolition or Removal Permit.	
i. Structures less than 5,000 square feet in area and less than 30 feet in height (Use Group R-3), and for structures on farms including commercial farm buildings under N.J.A.C. 5:23--3.2(d)	\$46.00
ii. All other use groups	\$85.00

b. Sign Permit. Permit fee to construct a sign shall be in the amount of \$1.00 per square foot surface area of the sign, computed on one side only for double-faced signs.	
c. Certificate of Occupancy.	
i. 10% of the new construction permit fee which would be charged pursuant to these regulations, minimum fee	\$85.00
ii. One or two-family structures (Use Group R-3 of the Building Subcode) of less than 5,000 square feet in area and less than 30 feet in height, and structures on farms, including commercial farm buildings subject to N.J.A.C. 5:23-3.2(d), minimum fee	\$46.00
d. Certificate of Occupancy Granted Pursuant to a Change of Use Group	\$125.00
i. \$50.00 to building;	
ii. \$25.00 to plumbing;	
iii. \$25.00 to fire;	
iv. \$25.00 to electrical.	
e. Certificate of Continued Occupancy	\$100.00
i. \$40.00 to building;	
ii. \$20.00 to plumbing;	
iii. \$20.00 to fire;	
iv. \$20.00 to electrical.	
f. Temporary Certificate of Occupancy	No Fee
g. Certificate of Approval	\$20.00 (certifying that work done under a construction permit has been satisfactorily completed).
h. Periodic Inspections. Fees for the department's periodic reinspection of equipment and facilities granted a certificate of approval for a specified duration in accordance with N.J.A.C. 5:23-2.23 shall be as follows:	
i. Elevators, escalators and moving walks requiring reinspection every 6 months	\$65.00

ii. Five-year inspection and witnessing of tests on elevators	\$208.00
iii. Dumbwaiters requiring inspection every 12 months	\$26.00
iv. Cross connections and backflow preventers requiring reinspection every:	
(A) Three months, each	\$33.00
(B) Annually (broken down and tested) each	\$85.00
i. Annual Permits.	
i. Construction Permit. Flat fee based upon the number of maintenance workers who are employed by the facility, and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purpose of establishing the annual construction permit fee.	
ii. Annual permits may be issued for building, fire protection, electrical and plumbing.	
j. Reinstatement of lapsed permit	\$25.00

(Ord. 2008-09 § 3; Ord. 2004-02 § 1; Ord. 2004-02 § 1; Ord. 92-4 § 1)

**15.04.030 All code agreement.**

A. The appropriate officers of this municipality are authorized and directed to enter into and execute an amendment to the all code agreement with the county of Ocean providing for a revision of the fee schedule to be effective May 1st, 1992.

B. A copy of the agreement is on file and available for public inspection at the office of the municipal clerk during regular business hours.  
 (Ord. 92-4 §§ 1--3; Ord. 90-17 §§ 1, 2; Ord. 90-1 §§ 1, 2; Ord. 85-3 §§ 1--4; Ord. 81-10 § 1; Ord. 79-1C § 1; Ord. 77-1 §§ 1--3)

**Chapter 15.08**

**ESCROW DEPOSITS FOR DEVELOPMENT APPLICATIONS**

Sections:

- 15.08.010 Established.
- 15.08.020 Specific provisions.
- 15.08.030 Certified check or money.

**15.08.040 Professional fees.**

**15.08.050 Resubmission of revision of any application.**

**15.08.010 Established.**

The joint planning board and zoning board shall require escrow deposits in accordance with the provisions of this chapter. Such escrow shall be utilized to pay the cost of any professional fees incurred for review of and or testimony concerning an application for development submitted by an applicant. (Ord. 94-4 § 1(1))

**15.08.020 Specific provisions.**

Subject to the provisions of this section, each applicant shall, prior to the application being ruled complete pursuant to the provisions of the Municipal Land Use Law, submit the following sum(s) to be held in escrow in accordance with the provisions hereof:

Residential Development Applications Involving Structures	Escrow to be Posted
0--25 units	\$ 2,000.00
26--100 units	2,500.00
101--500 units	5,000.00
501--1,000 units	7,500.00
1,001+ units	10,000.00

Residential subdivision development application not involving structures. Minor subdivision maximum of two new lots (plus reserved land) fifty dollars (\$50.00) per new lot. Major subdivision (thirty (30) or more new lots) two thousand five hundred (\$2,500.00) plus twenty-five dollars (\$25.00) per lot.

Commercial/Industrial Development Application Not Involving Structures Acres	Escrow to be Posted
0--3	\$ 3,500.00
3+	5,000.00

Commercial/Industrial Development Application Involving Structures Total Ground Area	Escrow to be Posted
Up to 2,500 square feet	\$ 1,500.00
2,501--20,000 square feet	2,500.00
20,001+ square feet	5,000.00
Bulk variance	50.00
Use variance or conditional use	500.00

B. For any type of application for which a fee is not specifically set forth in this chapter, the board may require an escrow deposit based on estimates provided by the board's professionals.

C. For any applications which the board considers sufficiently minor in nature as to not require professional reviews, the board may waive the escrow requirement.

D. Within forty-five (45) days after the filing of an application for development, the board shall review the application for development to determine whether the escrow amount set forth above is adequate. In conducting such review, the board shall consider the following criteria:

1. The presence or absence of public water and/or sewer servicing the site;
2. Environmental considerations, including but not limited to geological, hydrological and ecological factors;
3. Traffic impact of the proposed development;
4. Impact of the proposed development on existing aquifer and/or water quality;
5. Impact of the proposed development on off tract facilities;
6. Surface drainage impact on the site or on surrounding properties of facilities.

E. Upon completion of such review and within the forty-five (45) day period, the board shall adopt a resolution specifying whether the escrow amount specified above is sufficient, excessive or insufficient. In the event the board shall determine that the amount is excessive, it shall, in the resolution, specify the amount that shall be deemed sufficient. In the event the board shall determine that the amount specified above is insufficient, it shall so specify and shall further set forth the amount required to be posted in light of the criteria specified herein. In the event the board shall determine that it is appropriate that no escrow be posted, it shall so specify in its resolution. In the event that the escrow is fully expended and further review is required, the board shall determine what additional amount should be placed in escrow and shall notify the applicant thereof in writing. No further review of the application shall be made until after the additional sum is deposited. Failure to make an escrow payment shall cause an application to be deemed incomplete.  
(Ord. 94-4 § 1(2) and (3))

#### **15.08.030 Certified check or money.**

No application for development shall be deemed completed until such time as the applicant shall have posted with the township in cash, certified check or money order the amount of escrow deposit determined by the board to be required in accordance with the provisions of this chapter.  
(Ord. 94-4 § 1(4))

#### **15.08.040 Professional fees.**

All such escrow funds shall be utilized by the appropriate board to pay the cost of any professional fees incurred by the board for review and/or testimony in connection with the particular application for development. All sums not actually so expended shall be refunded to the applicant within one hundred twenty (120) days after certification by the board chairman that the application has been finally determined. "Finally determined" shall

be (1) denial of preliminary approval; or (2) denial of final approval; or (3) compliance with all conditions following final approval; or (4) withdrawal of application; or (5) expiration of approval.  
(Ord. 94-4 § 1(5))

#### **15.08.050 Resubmission of revision of any application.**

The provisions of this chapter shall be applicable to any resubmission or revision of a development plan or application as if same were an initial development application. The escrow deposit required by this chapter shall, therefore, be the same for a resubmission or revision of a development plan or application as for a new application which shall be in addition to the amounts paid or owed for the original application and for any previous resubmission or revisions. Escrow deposits on account of a revised plan or application may, in the discretion of the reviewing agency, be waived for any revision not involving any additional cost or review by professional personnel or hearing expenses.  
(Ord. 94-4 § 1(6))

### **Chapter 15.12**

#### **Building, Residential and Mechanical Codes Adopted\***

Sections:

**15.12.010 Adopted.**

\* Prior ordinance history: Ord. 1998-1.

#### **15.12.010 Adopted.**

A. A certain document, three copies of which are on file in the office of the construction code official of the township of Bass River, and being marked and designated as the International Building Code NJ Addition 2006 is adopted as the building code of the township of Bass River in the state of New Jersey; and each and all of the regulations, provisions, penalties, conditions and terms of the International Building Code NJ Addition 2006 are referred to, adopted, and made apart hereof as if fully set out in this chapter.

B. A certain document, three copies of which are on file in the office of the construction code official of the township of Bass River, and being marked and designated as the International Residential Code NJ Addition 2006 is adopted as the residential code of the township of Bass River in the state of New Jersey; and each and all of the regulations, provisions, penalties, conditions and terms of the International Residential Code NJ Addition 2006 are referred to, adopted, and made apart hereof as if fully set out in this chapter.

C. A certain document, three copies of which are on file in the office of the construction code official of the township of Bass River, county of Burlington, and state of New Jersey, being marked and designated as the "2000 International Mechanical Code" for the control of mechanics located within the buildings and structures as herein provided in each and all of the regulations, provisions, penalties, conditions and terms of said 2000 International Mechanical Code, are hereby referred, adopted and made a part hereof as if fully set out in this chapter.

D. All other ordinances or parts of ordinances in conflict with the ordinance codified in this chapter are repealed to the extent of such conflict or inconsistency.

E. Nothing in this chapter shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any cause or causes of action acquired or existing under any act, ordinance or appeal as cited in subsection E of this section; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.  
(Ord. 2008-1 § 1: Ord. 2002-6 §§ 1--6, 2002)

## **Chapter 15.16**

### **SOIL REMOVAL**

Sections:

- 15.16.010 Definitions.
- 15.16.020 License required for removal of soil.
- 15.16.030 Application review and approval.
- 15.16.040 Application data.
- 15.16.050 Fees.
- 15.16.060 Inspection by township engineer.
- 15.16.070 Review by environmental commission.
- 15.16.080 Hearing.
- 15.16.090 Approval or rejection.
- 15.16.100 Appeal.
- 15.16.110 Pinelands review.
- 15.16.120 Expiration date of permit.
- 15.16.130 Prohibited acts and regulations applicable to excavation permits.
- 15.16.140 Rehabilitation.
- 15.16.150 Bond.
- 15.16.160 Right of entry.
- 15.16.170 Violations and penalties.

#### **15.16.010 Definitions.**

For the purpose of this chapter, unless from the context a different meaning clearly appears, the following words shall be defined as follows:

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

"Move" means to dig, excavate, remove, deposit, place, fill, regrade, level or otherwise alter or change the location or contour; to transport; to supply. 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 the soil for agricultural or horticultural purposes.

"Owner" means any person seised in fee simple of any lot, or having such other interest or estate therein as will permit exercise of effective possession thereof or dominion thereover.

"Person" means any individual, firm association, partnership, corporation or any group of two or more of them.

"Premises" means any parcel of land or portion thereof, the boundary lines of which can be ascertained by reference to the maps and records, or either, in the office of the township clerk of the township of Bass River, or in the office of the Burlington county clerk.

"Soil" means any earth, sand, clay, loam, gravel, humus, rock or dirt, without regard to the presence or absence therein of organic matter, and including both subsoil and topsoil.  
(Ord. 89-10 § 1)

**15.16.020 License required for removal of soil.**

No person shall move or cause, allow, permit or suffer to be moved any gravel, sand, stone and earth in or upon any lot in the township from which the same shall be taken without first having procured a license therefor from the building subcode official of the township. Permits shall not be required in connection with extraction which is incidental to the construction or alteration of a building on the premises or grading incidental thereto or for agricultural purposes or in connection with the construction of a pool on any premises and grading incidental thereto.  
(Ord. 89-10 § 2)

**15.16.030 Application review and approval.**

The matter of reviewing and considering in all applications for excavation permits is referred to the planning board of the township. The building subcode official of the township shall issue no excavation permit until the planning board approves the same and submits to the building subcode official its report and recommendation.  
(Ord. 89-10 § 3)

**15.16.040 Application data.**

The applicant shall, twenty-one (21) days prior to a regular meeting, submit to the planning board secretary an application letter in five copies containing each of the following items:

1. The applicant's name and address and his or her interest in the subject property;
2. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application;
3. The legal description, including block and lot designation and street address, if any, of the subject property;
4. A description of all existing uses of the subject property;
5. A brief written statement generally describing the proposed development. This shall include the purpose or reason for the excavation and whether it will be done in connection with a proposed subdivision and, if so, the date of filing of the application for a subdivision; the location to which the soil is to be removed, if known, and if not known why it cannot be determined; a statement of the type of equipment and apparatus to be used in the operation; a statement of the hours within which operations will be conducted; the kind and quantity in cubic yards of the material to be moved; and the proposed date of completion of the work;
6. A USGS Quadrangle map, or copy thereof, and a copy of the municipal tax map sheet on which

the boundaries of the subject property and the Pinelands Management Area designation and zoning designation are shown;

7. A topographic map at a scale of one inch equals two hundred (200) feet, showing the proposed dimensions, location and operations on the subject property; all roads, buildings, streams or bodies of water within one thousand (1,000) feet thereof; the names of the adjoining owners and the existing and proposed contours of the lands and premises; all wooded areas and trees having a diameter of six inches or more measured four and one-half feet above ground level; the proposed final elevation at each point where existing elevations shown on the map are to be changed as a result of completion of the proposed work; proposed slopes and lateral supports at the limits of the area upon completion of the operation; and proposed provisions and facilities for surface water drainage and, where applicable, channels of any streams, bodies of water and watercourses, natural or artificial, including detailed cross sections showing proposed channel widths, bank slopes and methods of erosion and control thereof;
8. A certification that grade stakes have been placed at each corner of the premises from which the excavation is to be made and at the existing elevation points designated on the topographical map accompanying the application. Such grade stakes shall be clearly marked to indicate the extent of the excavation cuts or fill and shall remain until the application is approved;
9. The location, size and intended use of all buildings;
10. The location of all points of ingress and egress;
11. A location map, including the area extending at least three hundred (300) feet beyond each boundary of the subject property, showing all streams, wetlands and significant vegetation, forest associations and wildlife habitats;
12. The location of all existing and proposed streets and rights-of-way, including railroad rights-of-way;
13. A soils map;
14. A reclamation plan which includes:
  - a. Method of stockpiling topsoil and overburden,
  - b. Proposed grading and final elevations,
  - c. Topsoil material application and preparation,
  - d. Type, quantity and age of vegetation to be used,
  - e. Fertilizer application including method and rates,
  - f. Planting method and schedules,

g. Maintenance requirements schedule, and

h. Proposed final use;

15. A signed acknowledgment from both the owner and the applicant that they are responsible for any resource extraction activities which are contrary to any provision of this chapter or of the approved resource extraction plan done by any agent, employee, contractor, subcontractor or any other person authorized to be on the parcel by either the owner or the applicant;
16. For operations in the Pinelands area, a certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 or, until January 14, 1991, evidence of prior approval from the Pinelands Development Review Board or the Pinelands Commission pursuant to the interim rules and regulations;
17. When prior approval for an operation in the Pinelands area has been granted by the township, evidence of Pinelands Commission review pursuant to Section 15.16.110 of this section;
18. A soil erosion and sedimentation control plan to be approved by the Burlington county soil conservation district where required by N.J.S.A. 4:24-39 et seq;
19. Proof of payment of taxes; and
20. Such other pertinent data as the planning board may, by resolution, hereafter require.

(Ord. 89-10 § 4)

#### **15.16.050 Fees.**

Upon the filing of an application, the applicant shall pay a fee of three hundred dollars (\$300.00) and agree to cover the cost of investigating the information and cost of processing the application, including engineering and legal fees; and upon the issuance of a license, the applicant shall pay a further annual permit fee of three hundred dollars (\$300.00) minimum for the duration of each permit. In addition, for permits covering areas in excess of one hundred (100) acres an additional annual fee of one hundred dollars (\$100.00) per one hundred (100) acres or part thereof not to exceed a maximum of one thousand dollars (\$1,000.00) shall be submitted.

(Ord. 89-10 § 5)

#### **15.16.060 Inspection by township engineer.**

A. The township engineer shall make an inspection of the site from which the material is to be moved and shall make such engineering studies as may be required to determine the effect of the removal of material from the location as it relates to:

1. Soil erosion by water and wind;
2. Surface and subsurface water drainage;

3. Soil fertility;
4. Lateral support of abutting streets and lands;
5. Public health and safety;
6. Suitability of the reclamation plan;
7. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious development of the township.

B. If after considering the above factors, the township engineer determines that the proposed moving of soil as defined hereinabove will not be detrimental to health, safety or welfare of the township or its inhabitants, he or she shall recommend to the planning board of the township the issuing of the necessary permit. However, if after considering the above factors, the township engineer determines that the proposed moving of soil will be detrimental to the health, safety or welfare of the township or its inhabitants, he or she shall recommend to the planning board of the township the denial of the permit.  
(Ord. 89-10 § 6)

#### **15.16.070 Review by environmental commission.**

A. On receipt of an application, the planning board shall submit a copy of the application and map to the township environmental commission for their review.

B. Within sixty (60) days of the receipt of an application, the environmental commission will submit to the planning board a statement of recommendations on the application. If no such statement is forthcoming from the environment commission within the aforesaid time period of sixty (60) days, the environmental commission will be deemed to have taken no position with regard to the application.  
(Ord. 89-10 § 7)

#### **15.16.080 Hearing.**

The planning board shall, within a reasonable time after receipt of the application, fix a date for hearing of same and shall give the applicant, by registered mail, notice of the time and place of the hearing. The applicant shall, at least ten (10) days prior to the date appointed for such hearing, serve another notice, by certified mail, return receipt requested, upon such persons as are shown by the assessment rolls of the township to be owners of property within fifteen hundred (1,500) feet of the property in question. The notice shall be published in the official newspaper at least ten (10) days prior to the public hearing. The applicant shall, at the hearing, present proof in affidavit form, of the service of such notices.  
(Ord. 89-10 § 8)

#### **15.16.090 Approval or rejection.**

The planning board shall review and consider the application and shall render its report and recommendation to the building subcode official, who shall grant or refuse the permit in accordance with the

recommendation:

- A. The planning board in reviewing the application shall be guided by, and take into consideration that the proposed project will not create conditions detrimental to the public health, welfare and safety, and will not result in the creation of any sharp declivities, soil erosion or fertility problems, depressed land values, nor create any drainage, sewerage problems or other conditions of danger.
- B. The planning board shall also insure that the operation to be conducted will comply with the regulations set forth in Sections 15.16.120 and 15.16.130.
- C. Such report and recommendation shall be made within ninety (90) days after receipt of the application.

(Ord. 89-10 § 9)

#### **15.16.100 Appeal.**

In the event of a denial, the applicant may appeal in accordance with the provisions of N.J.S.A. 40:55-1.19.

(Ord. 89-10 § 10)

#### **15.16.110 Pinelands review.**

All permit applications for operations in the Pinelands Area shall be subject to the notice requirements of Chapter 17.32 of the zoning title and shall be subject to review by the Pinelands Commission in accordance with that section.

(Ord. 89-10 § 11)

#### **15.16.120 Expiration date of permit.**

The excavation permit shall be dated as of the date it is actually issued and shall expire in one year.

- A. The excavation permit may be renewed for a one year duration by submitting a letter of request, an annual permit fee, Section 15.16.050, and two copies of a map of the scale of two hundred (200) feet to one inch, showing the present contour lines, to the planning board.
- B. The application shall be submitted twenty-one (21) days prior to the regular planning board meeting prior to the expiration of the current permit.

(Ord. 89-10 § 12)

#### **15.16.130 Prohibited acts and regulations applicable to excavation permits.**

A. No person shall conduct or maintain any sand, gravel or similar kind of pit, any sand or gravel washing or screening machinery or equipment or any quarry or similar business or industry unless expressly permitted in the district in which the premises are located and classified by the zoning ordinance of the township.

B. No person shall conduct or maintain any excavation or soil moving operations without having first made adequate provisions for the laying of dust incidental to the use of vehicles, machinery and equipment on the lands described in the permit, and on access roads to the junction of a paved public highway.

The applicant shall also be responsible for maintaining the intersections of access roads and paved public highways by keeping them free of spilled materials.

C. The removal of lawn sod shall be permitted on the condition that the owner or lessee of the land from which the lawn sod is removed, shall, within two months, replace any soil which has been removed with the sod.

D. No person shall conduct any excavation removal operations beyond the expiration date of the permit.

E. Operations shall be conducted so that there shall be no sharp declivities, pits or depressions. Lateral support slopes and grades of abutting streets and lands shall be considered, and such support slopes shall start not less than two hundred (200) feet from roadways and have no greater than a five to one slope; and start not less than two hundred (200) feet from abutting property lines or fifteen hundred (1,500) feet from any public building or dwelling (other than located on the premises) and have a slope of not greater than three to one.

F. The top layer of soil to a depth of twelve (12) inches shall not be removed from the premises, but shall be set aside and respread over the premises when the remainder of the soil has been removed.

G. Any open excavation of over ten (10) feet in depth or possessing slopes of more than thirty (30) degrees shall be entirely enclosed by a six foot high fence suitable to prevent entry by animals or humans. The fence shall be located not less than fifty (50) feet from the edge of any excavation. A minimum buffer of one hundred (100) feet to all property lines must be maintained.

H. Adequate measures shall be taken to prevent erosion or the depositing of soil upon surrounding lands, streets or municipal facilities, or the silting or polluting of any stream or waterway navigable or otherwise. Surface run-off will be maintained on the parcel in a manner that will provide for on-site recharge to groundwater.

I. All of the work described in this chapter shall be performed between the hours of seven a.m. and seven p.m. Monday to Friday, and the hours of seven a.m. and one p.m. on Saturday. No operation is permitted on Sundays or Labor Day, July Fourth, Memorial Day, Thanksgiving Day, Christmas Day and New Years Day.

J. No person shall create a mosquito hazard by allowing the presence of stagnant water filled holes.

K. Asphalt/bituminous manufacturing plants are prohibited.

L. Ingress and egress shall be provided to the resource extraction operation from public roads by way of gravel or porous paved roadways.

M. The operation will not involve excavation below the seasonal high water table, unless the

excavation will serve as a recreational or wildlife resource or a water reservoir for public, agricultural or industrial uses or for any other use authorized in the area in which the site is located; provided that in no case shall excavation have a depth exceeding twenty-five (25) feet below the natural surface of the ground existing prior to excavation.

N. The operation will be carried out in accordance with an extraction schedule which depicts the anticipated sequence, as well as anticipated length of time that each twenty (20) acre unit of the parcel proposed for extraction will be worked.

O. The operation will not involve clearing adjacent to ponds in excess of twenty (20) acres or an area unnecessary to complete scheduled operations; or will not involve unreclaimed clearing exceeding one hundred (100) acres or fifty (50) percent of the area to be mined, whichever is less.

P. The operation will not result in a substantial adverse impact upon those significant resources depicted on the Special Areas Map appearing as Figure 7.1 in the Pinelands Comprehensive Management Plan. (Ord. 89-10 § 13)

#### **15.16.140 Rehabilitation.**

A. At the time of initial application a complete plan for rehabilitation of the site, or any part thereof, not in active use shall be submitted along with the application.

B. If operation ceases in a portion of the site exceeding three acres for a period of one year, rehabilitation of such portion shall be required. Rehabilitation shall be a continuous process, and each portion of the parcel shall be restored such that the ground cover be established within two years and tree cover established within three years after resource extraction is completed for each portion of the site mined.

C. The plan shall show existing and proposed final contours.

D. Sufficient arable soil shall be set aside and respread over the site in a thickness capable of supporting vegetation in all areas.

E. Where the operation has been terminated, all debris, fencing, and temporary structures shall be removed from the site. All equipment, machinery and structures, except for structures that are usable for recreational purposes or any other use authorized in the area, shall be removed within six months after the resource extraction operation is terminated and restoration is completed. The area shall be regraded to as close to the natural contour of the land as possible with consideration given to drainage to prevent accumulation of water pockets. Drainage flows, including direction and volume, shall be restored to the maximum extent practical to those flows existing at the time the resource extraction operation was initiated. Grading shall be accomplished so that the vertical slope does not exceed one foot vertical to five feet horizontal.

F. If the excavations are filled with water, the shore slope shall not be less than one foot in five and the center of the lake should be at least twelve (12) feet deep. The outline of the lake shall be pleasing and free of pockets where water might become stagnant. There shall be overflow outlets to maintain constant water levels.

G. The rehabilitation plan shall include reforestation in accordance with a plan developed by the New Jersey Department of Environmental Protection, Bureau of Forestry or other professional person skilled and qualified in forest land management. The plan shall consider site, soil characteristics, and species to be planted. The physical and chemical characteristics of the soil shall be determined and the required improvement practices necessary to insure satisfactory plant survival shall be implemented. Reclamation shall to the maximum extent practical result in the reestablishment of the vegetation association which existed prior to the extraction activity and shall include:

1. The planting of a minimum of one thousand (1,000) one-year-old pitch pine seedlings per acre or other native Pinelands tree species;
2. Stabilization of exposed areas by establishing ground cover vegetation;
3. Cluster planting, in lieu of subsection (G)(1) of this section, of characteristic Pinelands oak species, such as Blackjack Oak, Bear Oak, Chestnut Oak and Black Oak, and shrubs such as Black Huckleberry, Sheep Laurel and Mountain Laurel, at a spacing sufficient to ensure establishment of these species.

H. Grading and tree planting shall be done prior to the expiration of the bond. After an inspection and review by the planning board a proportional part of the bond may be released.

I. At the time of the application the traffic routing and type of vehicle traveling the township roadways shall be determined and the township engineer shall establish an estimate of the amount and cost of wear and damage to the roads and other improvements attributable to vehicle traffic in connection with the application, and the amount determined by the township engineer may be required to be bonded by the applicant. Such improvements may be deemed off-site capital improvements attributable to the development.

J. The letter of credit, surety bond, or other guarantee of performance which secures restoration of each section shall be released after the township has determined that the requirements of this section are being met and the guarantee of performance is replaced with a maintenance guarantee for a period of two years thereafter.

(Ord. 89-10 § 14)

### **15.16.150 Bond.**

A. No permit shall be issued unless the applicant shall file and maintain a bond, guaranteeing performance of the requirements of Sections 15.16.130 and 15.16.140, during the time required for the excavation of the materials described in the application. The bond shall be approved as to form and surety by the planning board attorney, and shall be equal to the township engineer's estimate of the cost of restoration of the area to be excavated in the two-year duration of any approval that is granted. The bond shall also insure that the applicant will repair any public street, structure, land or improvement which may be damaged as a result of the work authorized by the permit. In the Pinelands area, the bond shall name the Pinelands Commission and the township as obligees.

B. In addition, the bond shall guarantee the rehabilitation of the premises according to the standards specified by this chapter and the planning board at the time of approval.

1. The bond may be used by the township to accomplish such rehabilitation one year after cessation of operations in the event of default by the operator.
2. In the event of a breach of the conditions of approval of the permit, the board of commissioners may, after notice to the applicant or his or her representative, proceed with the rehabilitation of the premises charging the cost thereof to either the applicant or the bonding company or both. The remedy of rehabilitation as set forth herein is not intended to be the exclusive remedy provided in this chapter, and any breach shall also constitute a violation of this chapter for which provision is made in Section 15.16.170.
3. The planning board shall, with the issuance of each subsequent yearly permit which may be issued pursuant to the terms hereof, review the bond for sufficiency in accordance with the requirements of this section.

(Ord. 89-10 § 15)

#### **15.16.160 Right of entry.**

For the purpose of administering and enforcing this chapter, the duly authorized officers, agents or employees of the township and the Pinelands Commission, shall have the right to enter into, upon and over any lands in and upon which the above designated excavation operations are being conducted, to examine and inspect same.

(Ord. 89-10 § 16)

#### **15.16.170 Violations and penalties.**

Any person who shall violate this chapter shall, upon conviction thereof, pay a fine not exceeding five hundred dollars (\$500.00) or be imprisoned in the county jail for a term not exceeding ninety (90) days, or both, for each offense, in the discretion of the court. Each day that a violation shall continue shall constitute a separate offense.

(Ord. 89-10 § 17)

### **Chapter 15.20**

#### **SWIMMING POOLS**

Sections:

**15.20.010 Definitions.**

**15.20.020 Regulations.**

**15.20.030 Permits--Fees.**

**15.20.040 Public swimming pools.**

**15.20.050 Private swimming pools.**

**15.20.060 Closing of pools authorized.**

**15.20.070 Fencing of pools.**

**15.20.080 Location of private swimming pools.**

**15.20.090 Noise and nuisance.**

**15.20.100 Violations and penalties.**

#### **15.20.010 Definitions.**

The words, terms or phrases listed below, for purposes of this chapter, except when the context requires a different meaning, shall be defined as follows:

"Construction" means building or installing a new swimming pool or enlarging an existing swimming pool or any of its facilities.

"Nonportable pool" means any above-surface pool in excess of seventy-five (75) cubic feet capacity considered stationary and not capable of being removed or dismantled for storage.

"Permanent built-in-ground pool" means any pool in excess of seventy-five (75) cubic feet capacity considered to be constructed in such a manner as to require the excavation of the ground shall be considered a permanent pool.

"Person" means and includes corporations, companies, associations, societies, firms and partnerships as well as individuals.

"Portable pool" means any above-surface-type pool of more than seventy-five (75) cubic feet capacity, not stationary or fixed, and capable of being removed for storage.

"Private swimming pool" means any pool of water having a water depth in excess of twelve (12) inches and an area greater than seventy-five (75) square feet, designed, used and maintained for swimming purposes by an individual for use by his or her household and guests without fees, and located on property owned, leased or otherwise used and maintained by the owner of the swimming pool. It shall further mean and include fill and draw, flow-through and recirculation pools which are artificially constructed to provide recreational facilities for swimming, bathing or wading, and all buildings, equipment and appurtenances thereto. It shall not include natural outdoor ponds, rivers or lakes, nor baths used for cleansing of the body or practice of the healing arts.

"Public swimming pool" means either outdoor or indoor pools which are artificially or partly artificially constructed to provide recreational facilities for swimming, bathing or wading and shall not include swimming or wading pools established or maintained upon any premises by any individual for his or her own or his or her family's use or guests of his or her household.

"Wading pool" means any artificially constructed pool intended for use by children, not designed or used for swimming, with a maximum area of seventy-five (75) square feet and a maximum water depth of eighteen (18) inches.  
(Ord. 75-6 § 1)

#### **15.20.020 Regulations.**

No person shall erect, construct, maintain, operate or use any swimming pools in the township of Bass River, county of Burlington and state of New Jersey except as herein provided and unless same complies with the requirements of this chapter in all respects.  
(Ord. 75-6 § 2)

#### **15.20.030 Permits--Fees.**

A. It is unlawful to establish or construct a private, public or portable swimming pool without first obtaining a permit therefor in the manner hereinafter prescribed. No permit shall be required for a wading pool.

B. Application for a permit to construct a private, public or portable swimming pool, accompanied by four sets of plans and specifications or proper descriptive brochures shall be made to the building inspector by the owner of the property together with a fee of twenty-five dollars (\$25.00) for public swimming pools and ten dollars (\$10.00) for pools requiring a permit. The building inspector shall not pass upon the structural features or durability of the pool except insofar as may be necessary to assure safe and sound construction in accordance with the generally acceptable principles of safe swimming pool construction and for the purpose of insuring compliance with the terms of this chapter. If the building inspector is satisfied with respect to the structural features of the proposed pool, he or she shall submit the plans and specifications or brochures to the Burlington County board of health, which shall review the same for the purpose of assuring that the health and sanitary features and equipment of the pool are in accordance with the terms of this chapter and the laws of the state of New Jersey. If the board of health approves the plans and specifications, it shall cause a statement to that effect to be endorsed thereon and return the same to the building inspector.

C. Portable pools that are dismantled at the end of the useable season and erected prior to swimming season shall pay the permit fee only for the initial erection providing a signed affidavit is given to the inspector indicating intent.

D. The plans and specifications required to be submitted to the building inspector hereinabove, shall show the location, height and type of all existing fencing or walks on the boundary lines if the property, together with the type and height of fencing or enclosure as may be required by this chapter.  
(Ord. 75-6 § 3)

#### **15.20.040 Public swimming pools.**

Public swimming pools shall be constructed, maintained, located, altered and operated in accordance with the Swimming Pool Code of New Jersey (1970) which is adopted herein by reference. A copy of the Swimming Pool Code of the state of New Jersey is attached to the ordinance codified in this chapter and three copies of the same have been placed on file in the office of the township clerk and are available to all persons desiring to use and examine it.  
(Ord. 75-6 § 4)

#### **15.20.050 Private swimming pools.**

Private swimming pools shall be so designed and constructed as to facilitate emptying and cleaning and shall be maintained and operated in such a manner as to be clean and sanitary at all times. The interior of the pool shall be constructed with a smooth finish. Inlets shall be so located and spaced as to secure satisfactory disbursement of inflowing water throughout the pool and to permit draining, cleaning and disinfecting of the bottom and the sides. A discharge of waters, either directly or indirectly from such pools upon the property of others shall be deemed a nuisance under the terms of this chapter.  
(Ord. 75-6 § 5)

#### **15.20.060 Closing of pools authorized.**

Whenever any pool is a hazard to the health of the public, the building inspector is authorized to summarily close such pool upon the failure of the owner, lessee or occupant of the premises upon which such pool is located to take satisfactory action to abate such hazard to the health of the public within twenty-four (24) hours after the receipt of notice from the building inspector and keep such pool closed until no further hazard to the public exists subject to the right of appeal to the board of commissioners by the owner of such pool. Such appeal, however, shall not stay the action of the building inspector. Owners or persons in possession of swimming pools shall allow the building inspector access to inspect the pool and the appurtenances at any time they may be required by the building inspector.

(Ord. 75-6 § 6)

### **15.20.070 Fencing of pools.**

A. All private swimming pools now existing or hereafter constructed, installed, established or maintained shall be completely and continuously surrounded by a permanent durable well, fence or barrier which shall be no more than eight feet nor less than four feet in height above grade, and shall be so constructed as to have no opening, mesh, hole or gap larger than two inches in any dimension, except for doors and gates; provided, however, if a picket fence is erected or maintained, the horizontal dimensions of any gap or opening shall not exceed two and one-half inches. No fence of any kind or material shall be constructed or maintained which shall contain projections of any kind at any point on the outer surface of such fence. A dwelling house or accessory building may be used as part of such enclosure. All gates used in conjunction with any of the above-described enclosures shall conform to the specifications required above as to height and dimensions of openings, mesh, holes or gaps in the case of fences, and all gates and doors shall be equipped with self-closing and self-latching devices for keeping the gate or door securely closed at all times when not in actual use. Gates and doors shall be locked when the pool is not in use or is unguarded or unattended; provided, however, that nothing herein contained shall be construed to require the construction of an additional wall, fence or barrier where, in lieu thereof, the entire premises or a part thereof wherein the pool is contained shall be fully enclosed by a wall, fence or barrier which meets the specifications set forth herein.

B. Every outdoor wading pool or portable pool shall be enclosed by a durable wall, barrier or fence as described in the preceding subsection, unless such outdoor wading pool or portable pool be:

1. Emptied when not in use or unattended; or
2. Covered with a suitable, strong, protective covering fastened or locked in place when not in use or unattended. (A cover shall be considered to be of sufficient strength and securely fastened or locked in place if, when fastened or locked in place, it will support a minimum dead weight of two hundred (200) pounds;
3. All pools considered as above-ground type having a height above ground level of not less than four feet or forty-eight (48) inches shall be exempt from perimeter fencing only when the pool is provided with a retractable or swing up ladder or steps or having additional fencing above the forty-eight (48) inch or four foot minimum and be supplied with a gate and lock to deny access when pool is not in use.

(Ord. 75-6 § 7)

### **15.20.080 Location of private swimming pools.**

All persons now owning or maintaining any outdoor swimming or wading pool shall be and are granted a period of ninety (90) days after the effective date of the ordinance codified in this chapter within which to enclose the same as herein provided.

(Ord. 75-6 § 8)

### **15.20.090 Noise and nuisance.**

No excessive noise or other nuisance which annoys or disturbs the comfort of anyone on neighboring properties shall be permitted in connection with the operation and maintenance of any swimming pool.

(Ord. 75-6 § 9)

### **15.20.100 Violations and penalties.**

Any person or persons, firm or corporation violating any of the provisions of this chapter shall upon conviction thereof pay a fine of not more than five hundred dollars (\$500.00) for each violation or imprisonment in the county jail for a term not exceeding ninety (90) days or both.

(Ord. 75-6 § 10)

## **Chapter 15.24**

### **FLOOD HAZARD AREAS**

Sections:

15.24.010 Findings of fact.

15.24.020 Statement of purpose.

15.24.030 Methods of reducing flood losses.

15.24.040 Definitions.

15.24.050 Lands to which this chapter applies.

15.24.060 Basis for establishing the areas of special flood hazard.

15.24.070 Penalties for noncompliance.

15.24.080 Abrogation and greater restrictions.

15.24.090 Interpretation.

15.24.100 Warning and disclaimer of liability.

15.24.110 Establishment of development permit.

15.24.120 Designation of the construction code official of the township.

15.24.130 Duties and responsibilities of the construction code official of the township.

15.24.140 Use of other base flood data.

15.24.150 Information to be obtained and maintained.

15.24.160 Alteration of watercourses.

15.24.170 Interpretation of FIRM boundaries.

15.24.180 Variance procedure--Appeal board.

15.24.190 Conditions for variances.

15.24.200 General standards.

15.24.210 Specific standards.

### **15.24.010 Findings of fact.**

A. The flood hazard areas of the township, county of Burlington, are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of

which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.  
(Ord. 1982-12 § 1)

**15.24.020 Statement of purpose.**

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas, of special flood hazard;
- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To insure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. 1982-12 § 2)

**15.24.030 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for;

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 1982-12 § 3)

#### **15.24.040 Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Appeal" means a request for a review of the construction code official's interpretation of any provision of this chapter or a request for a variance.

"Area of shallow flooding" means a designated AO or VO zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a nonbasement building (1) Built in the case of a building in an area of special flood hazard to have the top of the elevated floor or in the case of a building in a coastal high hazard area to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special flood hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In areas of coastal high hazard "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Maps and the water surface elevation of the base flood.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable nonelevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

"Manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building, a mobile home, or a gas or liquid storage tank, that is principally above-ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored before the damage occurred.
  - a. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
  - b. The term does not, however, include either:
    - i. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
    - ii. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(Ord. 87-3 §§ 1--3; Ord. 1982-12 § 4)

#### **15.24.050 Lands to which this chapter applies.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the township, county of Burlington.

(Ord. 1982-12 § 5)

#### **15.24.060 Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled The Flood Insurance Study for the Township of Bass River, County of Burlington, State of New Jersey, dated October 4, 1982, with accompanying Flood Insurance Rate Maps is adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file with the Township Clerk, Municipal Building, North Maple Avenue, New Gretna, New Jersey.

(Ord. 1982-12 § 6)

#### **15.24.070 Penalties for noncompliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full

compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the township from taking such other lawful action as is necessary to prevent or remedy any violation.  
(Ord. 1982-12 § 7)

#### **15.24.080 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.  
(Ord. 1982-12 § 8)

#### **15.24.090 Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 1982-12 § 9)

#### **15.24.100 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the township, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 1982-12 § 10)

#### **15.24.110 Establishment of development permit.**

A. A development permit shall be obtained before construction or development begins any area of special flood hazard established in Section 15.24.060. Application for a development permit shall be made on forms furnished by the building department of the township and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

- B. Specifically, the following information is required:
1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
  2. Elevation in relation to mean sea level to which any structure has been floodproofed;
  3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15.24.210; and
  4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. 1982-12 § 11)

#### **15.24.120 Designation of the construction code official of the township.**

The construction code official of the township is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. 1982-12 § 12)

#### **15.24.130 Duties and responsibilities of the construction code official of the township.**

Duties of the construction code official of the township shall include, but not be limited to:

- A. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- B. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- C. Review all development permits for compliances with the provisions of subsection E of Section 15.24.200.

(Ord. 1982-12 § 13)

#### **15.24.140 Use of other base flood data.**

When base flood elevation and floodway data has not been provided in accordance with Section 15.24.060, Basis for Establishing the Areas of Special Flood Hazard, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Section 15.24.210, Specific Standards, Residential Construction, and Nonresidential Construction.

(Ord. 87-3 § 4; Ord. 1982-12 § 14)

#### **15.24.150 Information to be obtained and maintained.**

- A. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all or new substantially improved structures, and whether or not the structure contains a

basement.

B. For all new substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level); and

2. Maintain the floodproofing certifications required in subsection (B)(3) of Section 15.24.110.

C. Maintain for public inspection all records pertaining to the provisions of this chapter.

(Ord. 1982-12 § 15)

#### **15.24.160 Alteration of watercourses.**

A. Notify adjacent communities and the New Jersey Department of Environmental Protection prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

B. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

(Ord. 1982-12 § 16)

#### **15.24.170 Interpretation of FIRM boundaries.**

Make interpretation where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.24.180.

(Ord. 1982-12 § 17)

#### **15.24.180 Variance procedure--Appeal board.**

A. The zoning board of adjustment of the township as established by the township shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The zoning board of adjustment of the township shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the construction code official of the township in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the zoning board of adjustment of the township, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, Law Division, as provided in N.J.S.A. 40:55D-1, et seq.

D. In passing upon such applications, the zoning board of adjustment of the township of Bass River shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Upon consideration of the factors of subsection D of this section and the purposes of this chapter, the zoning board of adjustment of the township may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The construction code official shall maintain the records of all appeal actions including technical information and report any variances to the Federal Insurance Administration upon request.  
(Ord. 1982-12 § 18)

#### **15.24.190 Conditions for variances.**

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1 through 11 in subsection 15.24.180(D) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the

procedures set forth in the remainder of this section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection D of Section 15.24.180 or conflict with existing local laws or ordinances.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 1982-12 § 19)

### **15.24.200 General standards.**

In all areas of special flood hazards the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction Materials and Methods

1. Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in subsection (B)(4) of this section.

2. Structural Support.
  - a. All new construction and substantial improvements shall be securely anchored on piling or columns.
  - b. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equalled or exceeded in any given year (one hundred (100) year mean recurrence interval).
  - c. There shall be no fill used for structural support.
3. Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of subsections (B)(1) and (B)(2)(a) and (b) of this section.
4. Space Below the Lowest Floor.
  - a. Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this chapter shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.
  - b. Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than ten (10) or no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading of twenty (20) pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
    - i. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
    - ii. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and nonstructural).
  - c. If breakaway walls are utilized, such enclosed space shall be used solely for

parking of vehicles, building access, or storage and not for human habitation.

- d. Prior to construction, plans for any breakaway wall must be submitted to the building subcode official for approval.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
4. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five acres (whichever is less).

- E. Encroachments. In all areas of special flood hazard in which base flood elevation data has been provided, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths of one foot at any point.

- F. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above

grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(Ord. 87-3 § 7; Ord. 1982-12 § 20)

#### **15.24.210 Specific standards.**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 15.24.060, basis for establishing the areas of special flood hazard, or in Section 15.24.140, use of other base flood data, the following standards are required.

- A. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- B. Nonresidential Construction.
  - 1. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or,
  - 2. Together with attendant utility and sanitary facilities, shall:
    - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water,
    - b. Have structural components capable of resisting hydrostatic and hydronamic loads and effects of buoyancy, and
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in Section 15.24.130.
- C. Mobile Homes.
  - 1. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.
  - 2. All new mobilehomes are specifically prohibited by the zoning ordinances of the township and more specifically for purposes of this chapter, mobilehome parks or mobilehome subdivisions be and are prohibited within any flood hazard area located within the township, county of Burlington and state of New Jersey as designated in the Flood Insurance Study for the township, county of Burlington, state of New Jersey, dated October 4, 1982 and the Flood Insurance Rate Maps be incorporated by reference and declared to be a part of this chapter.

(Ord. 87-3 §§ 8, 9; Ord. 1982-12 § 21)

## **Chapter 15.28**

### **STREAM ENCROACHMENT**

Sections:

- 15.28.010 Short title.**
- 15.28.020 Statement of purpose.**
- 15.28.030 Definitions.**
- 15.28.040 Applicability.**
- 15.28.050 Procedures.**
- 15.28.060 Standards.**
- 15.28.070 Special cases.**
- 15.28.080 Hardship waivers.**
- 15.28.090 Fees.**
- 15.28.100 Penalties.**

#### **15.28.010 Short title.**

This chapter shall be known and may be cited as The Flood Fringe Ordinance of the Township of Bass River.

(Ord. 85-7 § 1)

#### **15.28.020 Statement of purpose.**

It is determined that the flood fringe areas of delineated streams within the township are subjected to flooding and that such flooding is a danger to the lives and properties of the public; that such flooding is also a danger to the natural resources of the township, Burlington County and state; and unregulated development, the placement of fill, or construction within these flood fringe areas results in increased flood damages, erosion damages and adverse impacts on the ecological resources within the downstream of the township. It is therefore determined that it is in the public's interest to regulate the development of real property within the flood fringe areas of delineated streams pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq. and related rules, N.J.A.C. 7-13 and to establish standards to regulate construction and the placement of fill within these areas. The township accepts the responsibility empowered to it by the Flood Hazard Area Control Act to regulate stream encroachments within the flood fringe areas of delineated streams.

(Ord. 85-7 § 2)

#### **15.28.030 Definitions.**

The following definitions are listed below for possible inclusion in the flood fringe chapter. The municipality has the option to include this shortened list of important definitions in the chapter directly or to adopt the longer listing of terms defined in the Flood Hazard Areas Regulations by reference. The appropriate reference to be cited is New Jersey Administrative Code N.J.A.C. 7:13-1.2, Definitions:

- A. Words and terms used in this chapter shall have the meanings given to them in the State Flood Hazard Area Regulations, N.J.A.C. 7:13-1.2.
- B. The following words and terms, when used in this chapter, shall have the following meanings

unless the context clearly indicates otherwise:

"Act" means the Flood Hazard Area Control Act, N.J.A.C. 58:15A-50 et seq.

"Alteration" means changes in banks, bed and vicinity of a stream which may affect its flood carrying capacity or environment.

"Applicant" means the owner of the property on which the permit is applied for or his or her legal agent.

"Application" means the board's application form.

"Board" means that entity that has been given the authority to enforce this chapter by the municipal governing body.

"Dam" means any artificial dike, levee or other barrier together with appurtenant works, which is constructed for the primary purpose of impounding water on a permanent or temporary basis that raises the water level from five feet or more above its usual mean low water height to the emergency spillway crest or in the absence of an emergency spillway, the top of dam.

"Delineated stream" means a stream that has a delineated floodway that has been officially adopted by NJDEP and published in New Jersey Register.

"Encroachment line" means a line encompassing the channel of a natural stream and portions of the one hundred (100) year floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream. It is approximately equal to the floodway line along delineated streams. Methods for determining this line are set out in N.J.A.C. 7:13-1.8 and in the manual.

"Exceptional and undue hardship" means situations which strict compliance with this chapter would result in peculiar and substantial burdens upon the applicant or owner and where such compliance would not be necessary to avoid substantial detriment to the public health, safety and general welfare.

"Flood damage potential" means the susceptibility at a particular site to damage by potential floods at that site, as well as increased off-site flooding or flood related damages caused by such use.

"Flood fringe" means that portion of the flood hazard area not designated as the floodway.

"Flood hazard area" means the floodway and the flood fringe area of a delineated stream.

"Flood hazard area design flood" means the one hundred (100) year storm in nondelineated areas and the one hundred (100) year storm plus twenty-five (25) percent in delineated areas.

"Flood hazard design elevation" means the elevation of the flood hazard area design flood.

"Floodplain" means the relatively flat area adjoining the channel of a natural stream which has been or may be hereafter covered by flood water.

"Floodproofing" means any combination of structural and nonstructural design features, additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" means the channel of a natural stream and portions of the flood hazard area adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any natural stream.

"Hazardous material" means any waste or combination of waste which poses a present or potential threat to human health, living organisms or the environment.

1. It shall include waste material that is toxic, carcinogenic, genetically harmful, corrosive, irritating or sensitizing, radioactive, biologically infectious, explosive, or flammable.
2. It includes, but need not be limited to, those materials and concentrations of materials that are determined to be toxic by the Federal Secretary of Health and Human Services pursuant to section 20(6) of the Occupational Safety and Health Act of 1970 (Public Law 91-596, OSHA) and those materials listed in the current Part 172, Title 49 of the Code of Federal Regulations issued by the Federal Department of Transportation.

"Major project" means that class of project defined as major in the 90-Day Rules, N.J.A.C. 7:1C-1.

"Manual" means the Technical Manual on Stream Encroachment published by the Department of Environmental Protection (NJDEP) in draft form in December, 1981 and any subsequent amendments thereto.

"Minor project" means that class of project defined as minor in the 90-Day Rules.

"MLUL" means the Municipal Land Use Law, N.J.A.C. 40:55D-1 et seq.

"Net fill" means additional earth or other fill beyond the total quantity already present above the low water level of the stream or groundwater level (whichever is higher) in that portion of the project site which is in the flood hazard area or one hundred (100) year floodplain.

"Ninety day rules" means N.J.A.C. 7:1C (90-Day Construction Permits).

"NJDEP" means the New Jersey Department of Environmental Protection.

"Nonregulated use" means any use set forth in N.J.A.C. 7:13-3.2 and 4.5.

"Nontrout waters" means the nontrout waters identified in the NJDEP's Surface Water Quality Standards N.J.A.C. 7:9-4.1 et seq.

"Prohibited use" means a use which shall not be allowed under any circumstances.

"Projects of special concern" means stream encroachment projects which must be permitted by the NJDEP and which, because of their potentially serious adverse effects, will be subject to the special conditions

described in N.J.A.C. 7:13-5.

"Regulated use" means any use which is subject to the provisions of the sections of this chapter dealing with regulated uses.

"Stream encroachment" means any structure, alteration, filling, construction or other activity within the area which would be inundated by the one hundred (100) year flood of any nondelineated stream or within the flood hazard area of a delineated stream.

"Stream encroachment permit" means a permit issued by the department, delegated agency or municipality under the provisions of N.J.S.A. 58:16A-50 et seq. and N.J.A.C. 7:13.

"Structure" means any assembly of materials above or below the surface of land or water including, but not limited to, buildings, fences, except as provided in this chapter, dams, fills, levees, bulkheads, dikes, jetties, embankments, causeways, culverts, roads, railroads, bridges, and the facilities of any utility or governmental agency. Trees or other vegetation shall not be considered to be structures.

"Trout-associated streams" means streams that are:

1. Trout production waters;
2. Trout maintenance waters;
3. Nontrout water upstream from trout production waters (with or without intervening trout maintenance waters); or
4. Nontrout water less than one mile upstream from trout maintenance waters that are not upstream from trout production waters.

"Trout maintenance water" means the trout maintenance waters identified in the NJDEP's Surface Water Quality Standards N.J.A.C. 7:9-4.

"Trout production waters" means the trout production waters identified in the NJDEP's Surface Water Quality Standards N.J.A.C. 7:9-4.

"Trout stocked waters" means waters that are stocked with trout by the NJDEP's Division of Fish, Game and Wildlife, as listed in the Fish Code adopted by the New Jersey Fish and Game Council.  
(Ord. 85-7 § 3)

#### **15.28.040 Applicability.**

A. This chapter shall apply to all regulated uses within the flood fringe of delineated streams. Regulated uses within the delineated floodway and the one hundred (100) year floodplains of nondelineated streams require the approval of NJDEP. Regulated uses are defined in N.J.A.C. 7:13-4.7 and below:

1. Regulated uses are all land uses within the flood fringe area of delineated streams except for

nonregulated uses and prohibited uses as defined herein and N.J.A.C. 7:13-4.5 and 4.6.

2. No person shall engage in a regulated use within a delineated flood fringe area or until he or she has received a stream encroachment permit from the board or NJDEP.
  3. Prohibited Uses. The disposal of pesticides, industrial wastes, radioactive materials, petroleum products or other hazardous materials shall not be permitted within the flood fringe area. Wastewater and water treatment plants may be permitted and shall comply with this chapter.
- B. Nonregulated Uses.
1. For the purposes of this chapter, nonregulated uses are land uses within flood fringe areas which:
    - a. Do not require the construction of structures with an area of more than one hundred (100) square feet or major regrading; and
    - b. Do not require modification or relocation of any channel.
  2. Nonregulated uses must satisfy the conditions of subsection (B)(1) of this section and may include, but are not limited to, the following:
    - a. Residential. Improvements such as lawns, play areas, gardens, landscaping, fences, anchored dog houses and auxiliary utility building, driveways, barbecues, and additions of no more than two hundred (200) square feet to existing residential structures.
    - b. Private and public recreation. Playing fields, bike paths, picnic grounds, fences, swimming areas, parks, wildlife and nature preserves, gamefarms, hunting and fishing areas, shooting preserves, hiking and horseback riding trails, tennis courts, basketball courts, driving ranges, fish hatcheries and anchored auxiliary utility buildings.
    - c. Agriculture. General cultivation, pasture, grazing, fences, irrigation, outdoor plants, nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
      - i. Additionally, specific soil conservation practices such as terracing, construction of diversions, subsurface drainage and the construction of grassed waterways and dug ponds will be considered nonregulated uses but only when designed and constructed under the supervision of the appropriate soil conservation district.
      - ii. Anchored plastic covered greenhouses and other anchored auxiliary utility buildings constructed without permanent foundations, and fences associated with agricultural uses, are nonregulated.
    - d. Utility poles and towers.

(Ord. 85-7 § 4)

### **15.28.050 Procedures.**

- A. Required information for all applications submitted to the township planning board:
  - 1. The application form must be completed by the applicant or his or her agent including all signatures and seals. Notarization is not necessary.
  - 2. The engineering data sheets must be completed and all required information required by the engineering data sheet for the type of project must be supplied.
  - 3. The fees as required by Section 15.28.090 of this section.
  - 4. Certifications of notification required by subsection B of this section, for major projects and projects of special concern must be included with the application.
  - 5. Five sets of plans prepared in accordance with requirements outlined on the engineering data sheet.
  - 6. Hydrologic and hydraulic computations (for major projects only) must be supplied as outlined in the engineering data sheet.
  - 7. Except for applications by government agencies, easements or other property rights must be obtained before the board will approve an application where any work is outside of the applicant's property or physically affects other properties.
- B. Notice.
  - 1. The applicant shall provide proof of notice with an application for a stream encroachment constituting a major project or with a request for a hardship exemption or with an appeal from the decision of the board. The notice shall include a description of the nature and location of the proposed project, data on the application and a request for written comment. It shall be sent to the following:
    - a. Municipal planning board, engineer, environmental commission, and clerk's office where the project is located. The clerk of any municipality, directly across the stream, if any, and the municipality next downstream on both sides of the waterway, if within one mile of the project must be notified;
    - b. All abutting property owners;
    - c. County planning board, engineer and mosquito control commission;
    - d. The soil conservation district; and
    - e. Any other agencies or bodies as requested by the board or the county.

2. Notice sent pursuant to the 90-Day Rules or the MLUL to the above listed parties will satisfy the requirement of this section.

C. Preapplication Conference.

1. A preapplication conference is suggested and may be requested by the applicant, his or her agent or his or her engineer to meet with one of the representatives of the board (or municipal engineer) to discuss the requirements for preparation of a specific application.

a. Minutes of the conferences will be kept by the board of engineers.

b. When the application is submitted, it shall make reference to the date and parties present at any such conference.

2. A preapplication conference may also be used to deliver an application to the board to be checked for completeness and accepted for review.

3. A preapplication conference will be scheduled by appointment only.

D. Applications.

1. The board will provide standard forms and procedures for all applications and a docket number to identify each application. This docket number shall be clearly marked on all correspondence and submissions related to the application.

2. The board will retain at least one copy of the application, including detailed drawings of the project showing floodway line and flood fringe line and of any additional information required, on file for public review.

3. Upon review of the application, the board will within forty-five days either:

a. Declare the application complete for the purpose of making a review for determination and decision; or

b. Return the application as unacceptable for further review; the applicant shall be notified in writing of the reasons for such action; or

c. Request in writing that the applicant submit, within a specific period of time, additional information to assist in its review.

4. When the application is deemed complete, the board shall provide for public notice and review. One copy of the application and other submitted information and a fact sheet stating the following shall be made available for public review:

a. The docket number;

- b. The applicant;
- c. The date and application was declared complete by the board;
- d. The date by which interested parties may submit comments concerning the application. Such date shall be thirty (30) days from the date the application is declared complete;
- e. The date by which the board shall approve, condition, or disapprove the application; and
- f. A description of the proposed project.

5. The board shall render its decision and notify and applicant in writing within forty-five (45) days as follows:

- a. Approval: By issuance of a stream encroachment permit;
- b. Conditional approval: By issuance of a stream encroachment permit with conditions;
- c. Disapproval: By issuance of a letter citing the reasons for disapproval;

6. The board shall notify all persons who have submitted comments concerning the application of the decision within five working days after the decision.

7. To give persons who may object to the issuance of the permit time to appeal, the permit shall not be valid until fifteen (15) days following issuance of the permit.

E. Appeals and Hearings.

1. The municipality shall establish appeal procedures for application in the flood fringe area which shall provide a fair hearing for persons adversely affected by the municipality's decision including hardship waiver, as described in Section 15.28.080, concerning an applicant's stream encroachment application.

2. Persons adversely affected shall file an appeal with the appropriate body within fifteen (15) days of the issuance of the permit.

3. A verbatim record must be made of any appellate hearing held pursuant to subsection (E)(1) of this section.

4. No project may commence construction pending the completion of all appeal processes.

(Ord. 85-7 § 5)

**15.28.060 Standards.**

The standards outlined in this section shall apply to all regulated uses in the flood fringe area of delineated streams. For the purposes of development subject to the flood damage prevention ordinance, the

standards in that ordinance shall apply wherever stricter than those described below. Additionally, uses considered by this chapter to be nonregulated may be regulated under the flood damage prevention ordinance.

A. Structures.

1. Requirements for structures under regulated use:

- a. Within the flood fringe area of delineated streams, all proposed structures must be designed and anchored to prevent collapse, lateral movement and buoyancy.
- b. All proposed hospitals, nursing homes, schools, day care centers, residence and similar noncommercial structures shall be elevated so the lowest floor, including any basement, is at or above the flood hazard design elevation along delineated streams.
  - i. At least one driveway and access route to any hospital, school, nursing home, day care center or other similar noncommercial structure, except for individual residences, shall be elevated to comply with the requirements of subsection (A)(1)(b) of this section.
  - ii. Recreation areas may be allowed to be inundated in low areas where it is determined that there is acceptable flood damage potential.
- c. All proposed commercial and industrial structures, including water supply and wastewater treatment facilities, shall be elevated so that the lowest floor, including any basement, is at or above the flood hazard design elevation along delineated streams.
  - i. An exception to this may be allowed if such structures are floodproofed in a manner which reflects flood velocities, durations, rates of rise, hydrostatic and hydrodynamic forces, probable evacuation time available after flood warning, and other similar factors.
  - ii. The applicant shall submit a plan or document certified by a licensed professional engineer that the floodproofing measures are consistent with the design elevation and associated flood factors.
  - iii. All or any of the following flood-proofing measures may be required so as to result in a dry floodproofed structure:
    - (A) Installation of watertight doors, bulkheads, and shutters, or similar devices;
    - (B) Reinforced walls to resist water pressure;
    - (C) Use of membranes or mortars to reduce seepage of water through

walls;

- (D) Installation of pumps to remove water from the structures;
- (E) Construction of water supply and wastewater treatment systems in a manner which prevents the entrance of floodwaters;
- (F) Pumping facilities, or comparable measures, for the subsurface drainage systems of buildings to relieve external foundation wall and basement flood pressures;
- (G) Construction that resists rupture or collapse caused by water pressure or floating debris;
- (H) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage or storm waters into the structure. Gravity drainage of basements may be eliminated by mechanical devices;
- (I) Location or floodproofing of all electrical equipment, in a manner which all assure that it is not subject to flooding; and
- (J) Adequate emergency electrical power supplies.

d. Parking lots and recreation areas may be allowed to be inundated where it is determined by the board that the risk is acceptable.

2. Lawful pre-existing prohibited structures:

- a. Lawful preexisting prohibited structures damaged by any means other than flooding may be restored provided that:
  - i. Any expansion or enlargement will not increase the flood damage potential; and
  - ii. Efforts are made to provide floodproofing or other similar techniques to minimize future flood damage to the structure.
- b. Lawful pre-existing prohibited structures damaged by flooding may be restored provided that:
  - i. Any expansion or enlargement will not increase the flood damage potential;
  - ii. The owner submits an application together with drawings of the proposed reconstruction and the application is approved by the board and building

subcode official; and

- iii. Efforts are made to provide floodproofing or other similar techniques to minimize flood damage to the structure.

B. Fill. Requirements for fill under regulated uses:

1. Within the flood fringe area of delineated streams, the volume of net fill and structures to be placed on an applicant's site shall be limited to occupying twenty (20) percent of the total volume of net fill which:
  - a. Is from within the flood fringe net area of delineated streams or within the one hundred (100) year floodplain, but outside of encroachment lines, of nondelineated streams; and
  - b. Which is also from between the natural or existing ground surface, whichever is lower, and the level of the flood hazard design elevation along delineated streams or the one hundred (100) year storm elevation along nondelineated streams.
2. It will have to be shown adequately on submitted plans and in calculations that this limit of twenty (20) percent is not being exceeded. There shall be no net fill in the floodway or within stream encroachment lines except where a permit has been obtained from NJDEP.
3. All fill shall be graded in a manner so as not to adversely affect overland drainage flows.
4. Fill shall be placed so that slopes are not steeper than a ratio of two horizontal to one vertical.
5. Fill shall be compacted and stabilized in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey or latest amendment thereto, adopted pursuant to N.J.A.C. 2:90-1.3.
6. When a stream encroachment permit has been granted allowing the placement of fill, under the provisions of this chapter, any subsequent subdivision of the property shall not have the effect of increasing the total amount of fill allowed to be placed upon the property covered by the previous permit. Additional fill may be placed on the newly divided property only to the extent that the total amount of fill allowed under these rules for the original defined property has not been exceeded.
7. A variance from the requirements of this subsection may be granted by the NJDEP, on a case-by-case basis, for federal, state, county or municipal highway or road construction projects, pursuant to N.J.A.C. 7:13-5.4(b).
8. The requirements of this subsection are not applicable to flood control projects approved as flood control projects by the NJDEP.

9. Where dikes, levees, floodwalls or other structures, not approved as flood control projects, impede the entry of flood waters into an enclosed space, the enclosed space shall be considered as solid fill for the purposes of this subsection.
- C. Excavation Requirements Under Regulated Uses.
1. All projects involving permanent excavation within the flood fringe, except as related to the installation of underground utilities or foundation for structures, shall not have cut faces at slopes steeper than a ratio of one vertical to two horizontal.
  2. Excavation projects shall not be so deep as to affect any wells in the surrounding areas or to cause any groundwater pollution.
- D. Disposal of Spoil Requirements Under Regulated Uses:
1. Material being disposed of within the flood fringe area shall be spread evenly and should not inhibit the drainage of the area. Such spoil material shall be stabilized within forty-eight (48) hours according to the Standards for Soil Erosion and Sediment Control. Details of the methods of stabilization shall be included on the plan.
  2. The board may require information and set conditions concerning excavation methods, contents and disposal sites of any excavated materials except material recovered from stream cleaning.
- E. Retention and Detention Basins for Stormwater Management. Retention and detention basins for stormwater management within the flood fringe area along delineated streams shall be constructed in accordance with criteria of the State Storm Water Management Regulations N.J.A.C. 7:8. Stormwater impoundments, including berms, may be required to obtain a dam permit from NJDEP where appropriate.
- F. Manhole Requirements Under Regulated Uses. If manholes are to be located within the flood fringe area along delineated streams, they shall be flush with ground level and provided with watertight manhole covers.
- G. Minimization of Environmental Damage.
1. Consideration shall be given to short and long term primary environmental effects of any stream encroachment whether or not it is classified or handled as a project of special concern.
  2. Stream encroachment projects shall be carried out in such a manner that the pollution, impairment, or destruction of the environment as related to the flood hazard area, is minimized to the extent practicable. Federal, state, and local statutes, regulations, and ordinances designed to minimize or prevent such damage shall be complied with.
- H. Sewage Disposal Requirements Under Regulated Uses. Individual sewage disposal systems

within the flood fringe area shall be constructed in accordance with the New Jersey State's Standards for the Construction of Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9-2.

(Ord. 85-7 § 6)

### **15.28.070 Special cases.**

#### **A. General Provisions.**

1. To help assure adequate protection of the aquatic life and water resources from the adverse impacts of some kinds of stream encroachment, special procedures and standards have been prepared to supplement the general standards. These special requirements include the following:

The classification of some kinds of stream encroachments as a Project of Special Concern; and must be reviewed and approved by New Jersey Department of Environmental Protection.

2. Any project which appears to be a Project of Special Concern, as defined in N.J.A.C. 7:13-5.2 and in subsection B of this section must be reviewed by the department. If the department agrees with the classification, the applicant must apply directly to the department for a stream encroachment permit.

#### **B. Projects of Special Concern, Defined.**

1. A project of special concern shall be any stream encroachment project in perennial streams with over fifty (50) acres of drainage area, which involves either or both of the following:
  - a. Channelization or relocation of a stream for a distance over one hundred (100) feet (except for low-flow channels constructed as part of a detention basin) or for a distance over three hundred (300) feet on either side of a bridge or culvert; or
  - b. Loss of more than six thousand (6,000) square feet of the existing woodland within twenty-five (25) feet of the banks;
  - c. Construction of low dams across perennial, trout-associated streams, except for the reconstruction or repair of existing dams;
  - d. Stream encroachment projects causing exposure of acid-producing deposits along more than fifty (50) feet of stream channel, if the drainage area of the stream is over fifty (50) acres. However, this applies to smaller streams if the stream is trout-associated and if the stream is perennial;
  - e. Projects for construction of federal, state, county or municipal highways or roads, where a variance is requested under N.J.A.C. 7:13-4.7(d)7, (e)3, or Section 15.28.060(B) shall be considered projects of special concern;

- f. All regulated uses within the floodway of delineated streams or within the one hundred (100) year flood plain of nondelineated streams require a NJDEP review and permit.

C. Tidal Waters. Activities otherwise regulated by this chapter that are located along tidal water bodies and segments of tidal water bodies, shall be exempt from requirements of Section 15.28.060(B), provided that the computed flood hazard area elevation at that point is not higher than the level of the one hundred (100) year tidal surge at the mouth of the water body.

D. Dams. All dams, as defined by the New Jersey Safe Dam Act, and this chapter, must be submitted to NJDEP for a dam permit.

E. Coastal Fish Resources.

- 1. **Applicability.** The requirements of this section apply whether or not the stream encroachment projects are classified as major or minor in the ninety (90) day construction permits rules N.J.A.C. 7:1C. The requirements of this section apply to all projects within the authority of the Act whether or not the project is located in the New Jersey Coastal Zone defined in NJDEP's Coastal Resource and Development Policies N.J.A.C. 7:7B.
- 2. **Special Standards.** The board will only approve the stream encroachment projects in accordance with the provisions for protection of coastal fish resources in the NJDEP Coastal Resource and Development Policies N.J.A.C. 7:1E-1.1 et seq. including, but not limited to, policies concerning fin fish migration pathways, N.J.A.C. 7:7E-3.5, maintenance dredging, new dredging, and dredge spoil disposal N.J.A.C. 7:7E-4.10 and marine fish and fisheries N.J.A.C. 7:7E-8.2.

F. Projects Affecting Shellfish Areas.

- 1. **Applicability.** The requirements of this section apply whether or not stream encroachment projects are classified as "major" or "minor" in the ninety (90) day construction permits rules N.J.A.C. 7:1C. The requirements of this section apply to all projects within the authority of the Act whether or not the project is located in the New Jersey Coastal Zone defined in NJDEP's Coastal Resource and Development Policies N.J.A.C. 7:7E.
- 2. **Special Standards.** The board will only approve stream encroachment projects that are in accordance with the shellfish protection provisions of the NJDEP'S Coastal Resource and Development Policies N.J.A.C. 7:7E, including policies concerning shellfish beds N.J.A.C. 7:7E-3.2, maintenance dredging, new dredging, and dredge spoil disposal N.J.A.C. 7:7E-4.10, and potentially productive shellfish area N.J.A.C. 7:7E-8.3.

G. Bridges.

- 1. Bridge approaches within the flood fringe of delineated streams for bridges that traverse the floodway shall be considered as part of the permit application for the bridge and must be submitted to NJDEP for review and approval.
- 2. Where a project is performed in phases and two or more applications are submitted, the total

length of the affected stream segment shall be used in applying the criteria in subsection (G)(1).

3. In addition, stream encroachment projects are projects of special concern if the board or NJDEP determines that they would be likely to produce serious adverse effects, including, but not limited to, the following:
  - a. Potential serious adverse effects on the biota of the stream, the adjoining wetlands, or on the sites where dredge spoils are to be disposed of including, but not limited to, rare or endangered species.
  - b. Potential serious degradation of water quality below the NJDEP's Surface Water Quality Standards or Ground-Water Quality Standards.
  - c. Potential serious adverse effects on water resources including, but not limited to, adverse effects on potable water supplies, flooding, drainage, channel stability, navigation, energy production, municipal, industrial, or agricultural water supplies, fisheries or recreation. Such adverse effects include damage to potential as well as existing water uses.
4. Projects affecting the following are always projects of special concern in the indicated geographic areas: trout-associated streams. Stream encroachment applications requiring loss of more than six thousand (6,000) square feet of the existing woodland within fifty (50) feet of the banks of perennial trout-associated streams.

(Ord. 85-7 § 7)

#### **15.28.080 Hardship waivers.**

- A. A waiver from strict compliance with the requirements of this chapter may be granted by the board for any of the following reasons:
  1. Cases in which the board determines that there is no feasible and prudent alternative to the proposed project, including the no-action alternative, which would avoid or substantially reduce any anticipated adverse effects and where the waiver is consistent with the reasonable requirements of the public health, safety and welfare; or
  2. Cases in which the board determines that the costs of strict compliance are unreasonably high in relationship to the benefits achieved by strict compliance; or
  3. Cases in which the board and applicant agree to alternative requirements that, in the judgment of the board, provide equal or better protection to the public health, safety and welfare.
- B. No such waiver shall be granted without advance public notice and, where requested or needed, a fact-finding meeting. These requirements may be waived in emergency situations, as determined by the board.
- C. Where granted, such waivers are subject to the appeal procedures in Section 15.28.050(E) of this chapter. Decisions to grant a hardship waiver may also be appealed to NJDEP under N.J.A.C. 7:13-2.11.

D. In order for the board to consider a hardship waiver, the applicant must demonstrate the following:

1. That by reason of the extraordinary or exceptional situation or condition of the property, the strict enforcement of this section would result in exceptional and undue hardship upon the applicant in question;
2. That the waiver will not substantially impair the appropriate use or development of adjacent property and will not pose a threat to the public health, safety, and general welfare;
3. That the hardship is unique or peculiar to the applicant; and
4. That the exceptional or undue hardship claimed as grounds for the waiver has not been created by the applicant.

E. The applicant shall submit to the board with an application for a hardship waiver as much of the following information as is relevant to the projects:

1. A plan for flood proofing, the implementation of which shall be a condition of the waiver;
2. Proof that appropriate steps shall be taken to anchor materials in order to prevent flotation, collapse, or lateral movement;
3. The relationship of the proposed project to the comprehensive land use plan and floodplain program for the area;
4. Proposed routes to and from the property during flood times;
5. The projected height, velocity and duration of the floodwaters expected at the site during the design flood;
6. The type of soil located at the proposed site;
7. A statement concerning the land use and value absent the granting of the hardship waiver;
8. Information regarding the existing development of the area and the impact of the additional work;
9. Evidence that the project will not distort the stream's flood carrying capacity so as to cause substantial problems along the stream;
10. An analysis of the extent to which the sediment regimen and water quality of the stream will be affected by the proposed exemption; and
11. A description of the potential effects of the project upon the environment.

F. The applicant shall also submit proof of required public notice for consideration of a hardship waiver as required by Section 15.28.050(B).

G. The applicant shall submit the request for a waiver along with the appropriate documentation to the board.

1. The board shall notify the applicant of the results of its review within ninety (90) days.
2. Before making a decision, the board may request that additional information and/or documentation be supplied. When additional information is not provided by the applicant as requested, the waiver will be denied.

H. If the material submitted to the board by the applicant in support of the petition for a hardship waiver does not satisfactorily demonstrate that a hardship waiver is warranted, the board shall so notify the applicant by letter advising the applicant that the petition for a hardship waiver has been denied by the board and shall also state the reasons for this denial.

I. The denial of a waiver shall be treated as the denial of an application without prejudice.

J. A hardship waiver granted pursuant to this section does not relieve the applicant from obtaining any other approvals, certifications or permits required by law. A copy of the notification granting the hardship waiver shall be forwarded to the Bureau of Flood Plain Management.  
(Ord. 85-7 § 8)

**15.28.090 Fees.**

In addition to any fee due to the municipality as a result of the applicant's underlying application for a municipal approval, there shall be due to the municipality at the time of submission of materials in support of this application a fee as follows:

**Fee Schedule for Stream Encroachment Projects**

Type of Project	Limits and Descriptions	Fees
Minor Headwalls, Utility Crossings, Cleaning Ponds, etc.	Project with drainage area more than 320 acres and/or project with drainage area less than 320 acres but not approved by the appropriate municipal or county engineer.	One hundred dollars (\$100.00)
	Projects within the 100-year flood hazard area that do not require the establishment of an encroachment line and all property is outside the floodway, or those projects requiring the establishment of an encroachment line along a delineated floodway.	One hundred dollars (\$100.00)

	*Project with drainage area less than 320 acres and approved by the appropriate municipal and/or county engineer.	None
Major All Projects	Projects with drainage area more than 150 acres and/or a project with a drainage area less than 150 acres but not approved by the appropriate municipal or county engineer.	One thousand dollars (\$1,000.00)
Major Bridge, Culvert, Channel relocation and other projects.	Each project in or along the channel, or portion of the channel thereof up to 1,000 feet.	One thousand dollars (\$1,000.00). Fee includes channel work for a distance of 300 feet upstream and downstream for projects such as bridges and culvert
	Each succeeding thousand (1,000) feet segment or part thereof.	One thousand dollars (\$1,000.00)
Major Projects such as fill, structures, and subdivisions	Each project or portion thereof up to 1,000 feet outside the channel within 100 year flood hazard area and requiring the establishment of an encroachment line.	One thousand dollars (\$1,000.00) for each 1,000 feet.
	Each succeeding 1,000 feet or portion thereof.	One thousand dollars (\$1,000.00)
	*Project with drainage area less than 150 acres and approved by the appropriate municipal and/or county engineer.	None
Extension-of-time for an approved project.	Each project.	Fifty dollars (\$50.00)
Modification-in-detail of projects.	Each project.	Fifty (50) percent of the total permit fee charged project to be modified.

\* Should be designed to the safe passage of the 100-year flood. Subject to revision.  
(Ord. 85-7 § 9)

### 15.28.100 Penalties.

An owner, contractor, agent or any other person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof shall be subject upon conviction to a fine of not more than two thousand dollars (\$2,000.00) or to imprisonment for not more than ninety (90) days, or to both such fine and imprisonment. Each and every day such violation continues shall be deemed a separate and distinct violation punishable as such.

(Ord. 2006-06 § 1 (part); Ord. 85-7 § 10)

## Chapter 15.32

### ACCESSIBILITY BY DISABLED

Sections:

**15.32.010 Fees related to the construction of improvements waived.**

**15.32.010 Fees related to the construction of improvements waived.**

A. No person shall be charged a construction permit surcharge fee or enforcing agency fee for any construction, reconstruction, alteration, or improvement designed and undertaken solely to promote accessibility by disabled persons to an existing private structure or any of the facilities contained therein.

B. A disabled person, or a parent or sibling of a disabled person, shall not be required to pay any municipal fee or charge in order to secure a construction permit for any construction, reconstruction, alteration, or improvement which promotes accessibility to his or her own living unit. For purposes of this chapter, "disabled person" means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this state who is disabled pursuant to the federal Social Security Act (42 U.S.C. § 416), or the federal Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.), or is rated as having a sixty (60) percent disability or higher pursuant to any federal law administered by the United States Veterans' Act. For purposes of this subsection "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees shall be considered as having a central visual acuity of 20/200 or less.

(Ord. 2000-1 §§ 1, 2)