

Local Environmental Planning Procedures



A MUNICIPAL HANDBOOK

For

Flood Control, Land Use, and
Environmental Protection

Prepared by:
South Branch Watershed Association, Inc.
Box 5192
Clinton, New Jersey

March, 1973

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Reprints are available at \$2.00 each

SOUTH BRANCH WATERSHED ASSOCIATION

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INTRODUCTION

This handbook is designed for use at the municipal level of government. It is a compilation of local ordinances, recent court decisions, and New Jersey statutes that affect the process of environmental planning.

At the end of each chapter will be an appendix of sample ordinances that can be used as a guide to the enactment of local land control legislation. This handbook should be of particular importance to the planning boards, zoning commissions, and elected governing bodies of those municipalities of Hunterdon, Morris, and Somerset counties that comprise the South Branch Watershed.

This handbook was prepared by Peter J. Calderone, a law student at Rutgers Law School, for the South Branch Watershed Association.

SOUTH BRANCH WATERSHED ASSOCIATION

The South Branch Watershed Association is a non-profit, non-partisan, scientific educational organization. It has been at work since 1959 promoting the best use of the watershed resources. The S.B.W.A. is a citizen's group which includes individuals, municipalities, industries, and other organizations in Hunterdon, Morris, and Somerset counties. The South Branch of the Raritan River includes the drainage areas of Spruce Run, Mulhocoway and Capoulong Creeks, the Neshanic River and many smaller tributaries, and encompasses a land area of some 279 square miles.

Dedicated to the purpose of preserving the natural environment and the ecological treasures of our region, the South Branch Watershed Association has prepared this handbook as a guide for local environmental planning. It is hoped that all who live within the South Branch region will not only encourage their municipal governing bodies to enact proper conservation ordinances, but will also actively participate in the development of a balanced community where the beauty of nature and the industries of man can exist in harmony.

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* CHAPTER I *

CLEAN WATER-POLLUTION CONTROL

New Jersey, because of its greatly expanding population, must be prepared to manage its water resources in order to meet the increasing needs of both industrial and residential water consumption. In recent years there has been a growing effort by concerned citizens to protect our water supply. State and municipal water resource controls have also been expanded, but further state and local measures are necessary to maintain an adequate and unpolluted water system.

The Individual and Semipublic Water Supply Code of New Jersey (1966) has been adopted by many local boards of health in accordance with N. J. S. A. 26:3-69.1 to 69.6. This Code "is recommended as a model for use in municipalities or sections of municipalities not provided with public water supply systems." Within the Code are general requirements for water consumption, well construction and location, springs, cisterns, surface supplies, water distribution, and other related matters. To adopt the Code, a local board of health must pass a short enacting ordinance in which the title of the Code is set forth. Three copies of the Code must be on file, and the enacting ordinance should contain a section relating to penalties and fees, which may vary among the different municipalities that adopt the Code. A municipality should enact

more stringent regulations to supplement the Code when necessary for local concerns. An example of the adoption of this Code can be found in the Readington Township ordinance, which is contained in the Appendix.

The New Jersey Legislature has greatly expanded water control legislation. Regulation of discharges into lakes and streams has been broadened under N.J.S.A. 23:5-28, which prohibits putting deleterious substances into water supplies, and under N.J.S.A. 58:10-23.1, which manages discharges into water systems and maintains water quality. N.J.S.A. 58:10-1 et seq. is important in that it increases certain water pollution penalties and sets standards for injunctive relief against violators of water pollution control laws. The Clean Ocean Act, N.J.S.A. 58:10-23.25 et seq., which regulates and controls waste disposal and sewage sludge near the coastal areas, and another bill which protects the Delaware River, N.J.S.A. 23:9-18, have been helpful measures in controlling water supplies in certain areas of the state.

Chapter 199, P. L. 1945, and Standards for the Construction of Sewerage Facilities for Realty Improvements provide standardized regulations for sewage management throughout New Jersey. Amended in 1972, these laws now require that any development that will result in fifty or more units, including apartment units, must be reviewed by the Division of Water Pollution Control to investigate the adequacy of its proposed sewerage facilities. The Individual Sewage Disposal Code of New Jersey (1962) supplements

certain areas of Chapter 199, P. L. 1945, and Standards for the Construction of Sewerage Facilities for Realty Improvements. Within the Individual Sewage Disposal Code are requirements for sewer construction and location, septic tanks, disposal areas, seepage pits, and other related matters. This Code can be adopted by reference by local boards of health in a manner similar to the adoption of the Individual and Semipublic Water Supply Code of New Jersey (1966). Reliance on percolation tests as the sole criteria in determining the location and size of sewerage facilities has often proved to be invalid. The Individual Sewage Disposal Code states:

Considerable judgment is required in making a complete evaluation of all factors involving the suitability of a proposed disposal area. Although the size of a disposal area for the purpose of the code is based on the results of percolation tests, such tests should not be considered as establishing definite proof of the suitability of the soil without supporting data relating to the type and characteristics of the soil, the elevation of any impervious layer below the disposal area, ground water elevations, and subsurface and surface drainage. A site inspection is essential unless the Administrative Authority is thoroughly familiar with subsoil conditions in the area based on past experience with existing disposal systems. In some instances additional information as to soil structure as established in Section 9.3 of the code will be the only available method of determining subsoil characteristics.

As outlined by the Code, in addition to percolation tests, the topography of the land and subsurface and surface water conditions should be examined to determine adequate sewerage facilities.

Some municipalities have adopted supplements to the Individual Sewage Disposal System Code. Such additions have included more stringent regulations, such as the requiring of two percolation tests per lot, the witnessing of percolation tests by officials of the board of health, the requesting of soil pit investigations, the increasing of disposal areas, and the requiring of dual sewage systems for kitchens and bathrooms. Boards of health also have the authority to condemn any property where a septic tank is a menace to health. By implementing state codes and preparing additional local regulations where needed, a total and coordinated system of water maintenance and sewage control can be effectuated. Additional technical assistance can be obtained without charge through the services of the Soil Conservation Districts which are listed in the Appendix of Chapter IV.

APPENDIX

Chapter I

Clean Water-Pollution Control

1. Readington Township - An Ordinance Providing for the Adoption of the Individual and Semi-Public Water Supply Code of New Jersey (1966).
2. Washington Township - An Ordinance Establishing a Code to Regulate and Control the Location, Construction, Use, Maintenance and Method of Emptying or Cleaning Individual Sewage Disposal Systems....
3. Lafayette Township - An Ordinance Establishing the Individual Sewage Disposal Code of New Jersey, 1963....
4. Delaware Township - An Ordinance Establishing Additional Requirements for the Taking of Percolation Tests.
5. Manalapan Township - An Ordinance... Establishing Septic Cleaning Service, Fixing and Establishing the Rates, Fees and Charges Therefore and Imposing a Lien Upon Properties Serviced for the Non-Payment and Payment Thereof.
6. Morris Township - An Ordinance Concerning the Closing Up of Unused or Abandoned Cesspools and Other Storage Areas.

N O T I C E

Notice is hereby given that, at a meeting of the Board of Health of the Township of Readington, in the County of Hunterdon, held on the 21st day of September, 1971, the following Ordinance of the said Board of Health of the Township of Readington was presented and passed on first reading; the said Ordinance was then ordered to be published in the Hunterdon Review, for one week, the issue of 10/6/71. Notice is hereby given that the said Ordinance will be considered for final passage at the meeting of the Board of Health of the Township of Readington, to be held on the 19th day of October 1971, at 8:00 P.M., in the Municipal Building.

Harry W. Haver
Board of Health Secretary

AN ORDINANCE PROVIDING FOR THE ADOPTION OF THE INDIVIDUAL AND SEMI-PUBLIC WATER SUPPLY CODE OF NEW JERSEY (1966)

BE IT ORDAINED by the Board of Health of Readington Township, County of Hunterdon, State of New Jersey:

SECTION 1. A code regulating the location, construction, alteration, use and supervision of individual and semi-public water supplies, requiring certain permits, providing for the inspection of such supplies, the fixing of fees and prescribing penalties for violations is hereby adopted pursuant to Chapter 188, P. L. 1950 (N.J.S.A. 26:3-69.1 to 69.6). A copy of said code is annexed hereto and made a part hereof without inclusion of the text thereof herein.

SECTION 2. (A) The said code established and adopted by this Ordinance is described and commonly known as the Individual and Semi-public Water Supply Code of New Jersey (1966), (hereinafter referred to as the 1966 Code), as amended and supplemented by subsection (B) of this Section 2.

(B) (1) Section 4.1 of the 1966 Code is hereby amended by adding thereto an additional sentence, as follows:

All wells must be at least 100 feet deep.

(2) Section 4.2.3 (d) is amended by changing the number 10, in the third line from the end, to the number 60.

(3) Section 4.3.1 (b) of the Code is hereby amended to read as follows:

(b) Minimum Diameter: No well casing shall be smaller than six inches inside diameter. All well shafts must have a diameter at least four inches larger than the outside diameter of the casing.

(4) Section 4.3.2 of the 1966 Code is hereby deleted. Non-metallic casing is prohibited.

(5) (i) Section 4.4.1 (a) of the 1966 Code is hereby amended as follows:

(a) In unconsolidated formations the casing shall extend to at least sixty feet below grade.

(ii) Section 4.4.1 (b) of the 1966 Code is amended to read as follows:

(b) Where installed in bored or dug wells, casing shall extend to a minimum of 10 feet below the lowest minimum seasonal stage of the static ground water table, but not less than 60 feet below the surface of the ground.

(6) Section 4.5.1 (b) of the 1966 Code is hereby amended to read as follows:

(b) In dug wells, linings may be constructed of stone, brick, concrete, cinder or terra cotta block, either new or clean and undamaged and of sufficient strength and durability, to maintain the opening and withstand the loads imposed including that of watertight casing.

(7) Section 4.6. of the 1966 Code is amended by deleting the phrase "non-metallic casings".

(8) Section 5 of the 1966 Code is deleted.

(9) Section 6.1 of the 1966 Code is amended to read as follows:

6.1. Type and Capacity.-- Type and capacity of the pump and equipment (motor, drop pipes, foot valve, cylinder, storage tank, etc.) used shall be selected to meet applicable conditions and the requirements of the property served. The pumps shall be of the following type and capacity:

Jet pumps and submersible pumps shall be at least one-half horsepower to serve a dwelling unit of two bedrooms or less. Jet pumps and submersible pumps shall be at least three-quarter horsepower to serve a dwelling unit of three or more bedrooms.

The Board of Health may require pumps of greater capacity to serve dwelling units with five or more bedrooms. Pumps of smaller capacity may be approved by the Board of Health for good cause shown. Subsections (a) and (b) of Section 6.1 of the 1966 Code shall remain the same.

(10) There is added to Section 7 of the 1966 Code a new Section, being Section 7.1.1, as follows:

7.1.1. Tank Capacity. -- The water storage tank shall be not less than 42 gallon capacity for a dwelling unit with two bedrooms or less; 84 gallon capacity for a dwelling unit with three or four bedrooms; 120 gallon capacity for a dwelling unit with five bedrooms. The Board of Health may require larger capacity storage tanks for dwelling units which have in excess of five bedrooms.

(11) Section 7 of the Code is hereby amended by adding thereto the following subsections:

7.2.1 If plastic pipe is used it shall be at least 120 pound test and shall bear the manufacturer's name directly on the pipe.

(12) Section 8.1.1. 3. of the Code is hereby amended by adding thereto a new subsection c. as follows:

3. The certified results of a bacteriological test performed within 14 days of the application by a person, or persons, whose qualifications to make said test are acceptable to the administrative authority.

(13) Section 8.1.1. d. of the Code is hereby amended by adding thereto new subsections 4. and 5., as follows:

4. A copy of the well log.

5. A diagram showing the exact location of the well if the location differs from the proposed location shown in the sketch required by 8.1.1. b.3.

SECTION 3. Three copies of the said Individual and Semi-public Water Supply Code of New Jersey (1966) have been placed on file in the office of the secretary, clerk or other similar officer of this Board of Health upon the introduction of this Ordinance and will remain on file in said office for the use and examination by the public.

SECTION 4. (A) No person shall locate, construct or alter any water supply until a permit for the location, construction or alteration of said water supply shall have been issued by the Board of Health.

(B) The Board of Health may issue a permit if an application for the same is accompanied by a certificate by an engineer licensed to practice professional engineering in New Jersey, stating that the design of the water supply as proposed is in compliance with the Code.

SECTION 5. (A) New water supplies shall not be placed in operation, nor shall new dwellings or buildings or additions thereto be sold or occupied, which must rely on such a supply for water, until the Board of Health shall have issued a certificate indicating that the said water supply has been located and constructed in compliance with the terms of the permit issued and the requirements of the aforesaid Code. Issuance of such certificate shall not be required for alteration to an existing water supply.

(B) The Board of Health may issue such a certificate if an engineer licensed to practice professional engineering in New Jersey submits a statement in writing signed by him to the Board of Health that the said water supply has been located and constructed in accordance with the terms of the permit and the requirements of the aforesaid Code.

SECTION 6. In case any permit or certification required by this Ordinance is denied by the Board of Health, a hearing shall be held thereon before the Board within fifteen (15) days after request therefor is made by the applicant and upon such hearing the Board of Health shall affirm, alter or rescind its previous determination and take action accordingly within fifteen (15) days after the date of such hearing.

SECTION 7. The Board of Health may order all further work in and about any water supply, which is being erected or installed in violation of the Code, to be stopped forthwith, except such work as shall be necessary to remedy such violation, and thereafter, the work continued without any violation of any of the provisions of the Code, and after issuance of any such order and the service of a copy thereof upon any person connected with or working in and about the erection or installation of any such water supply, or any part thereof, no further work shall be done thereon except as aforesaid.

SECTION 8. The following fees and charges are herewith established:

(A) For the filing of an application and plans for a permit to locate and construct a water supply ten dollars.

(B) For the filing of an application and plans for a permit to alter an existing water supply ten dollars.

(C) For the issuance of a permit to locate and construct or alter a water supply ten dollars.

(D) For each reinspection of a water supply, or part thereof, caused by the failure of the permittee to locate and construct or alter the same in accordance with the terms of the permit issued or the terms of the aforesaid Code, an inspection fee of five dollars shall be charged.

SECTION 9. (A) Any person or persons, firm or corporation, violating any of the provisions of or any order promulgated under this Ordinance or Individual and Semi-public Water Supply Code of New Jersey (1966) made a part hereof and as amended and supplemented by this Ordinance shall, upon conviction thereof, pay a penalty of not less than five dollars nor more than five hundred dollars for each violation.

(B) Each day a particular violation continues shall constitute a separate offense.

SECTION 10. All ordinances, codes or parts of same inconsistent with any of the provisions of this Ordinance and the Code established hereunder are hereby repealed to the extent of such inconsistency.

SECTION 11. In the event that any section, sentence or clause of this Ordinance or Code shall be declared unconstitutional by a court of competent jurisdiction such declaration shall not in any manner prejudice the enforcement of the remaining provisions.

SECTION 12. This Ordinance and the Code herein established shall take effect 30 days after the first publication of the Ordinance in accordance with the provisions of R.S. 26:3-69.

AN ORDINANCE ESTABLISHING A CODE TO REGULATE AND CONTROL THE LOCATION, CONSTRUCTION, USE, MAINTENANCE AND METHOD OF EMPTYING OR CLEANING INDIVIDUAL SEWAGE DISPOSAL SYSTEMS, OR OTHER PLACES USED FOR THE RECEPTION OR STORAGE OF HUMAN EXCREMENT, THE ISSUANCE OF LICENSES AND PERMITS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY the Board of Health of the Township of Washington, County of Morris, State of New Jersey:

SECTION 1. A code regulating the location, construction, use, maintenance, and method of emptying or cleaning individual sewage disposal systems, the issuance of licenses and permits to locate, construct, empty or clean said systems, and fixing penalties for the violation thereof is hereby adopted pursuant to Chapter 188, P.L. 1950 (N. J. S.A. 26: 3-69.1). A copy of said Code is annexed hereto and made a part hereof without inclusion of the text thereof herein.

SECTION 2. The said Code established and adopted by this Ordinance is described and commonly known as the Individual Sewage Disposal System Code of New Jersey (1963).

SECTION 3. Three copies of the said Individual Sewage Disposal System Code of New Jersey (1963) have been placed on file in the office of the secretary, clerk or other similar officer of this Board of Health upon the introduction of this Ordinance and will remain on file in said office for the use and examination of the public.

SECTION 4. (a) No person shall locate, construct or alter any individual sewage disposal system until a license or permit for the location, construction or alteration of said sewage disposal system shall have been issued by the Board of Health.

(b) The Board of Health may issue a license or permit if an application for the same is accompanied by a certificate made by an engineer licensed to practice professional engineering in New Jersey stating that the design of the individual sewage disposal system as proposed is in compliance with the Code.

SECTION 5. (a) New individual disposal systems shall not be placed in operation nor shall new dwellings or buildings or additions thereto be sold or occupied, which must rely on such a system for sewage disposal, until the Board of Health shall have issued a certificate indicating that said disposal system has been located and constructed in compliance with the terms of the license or permit issued and the requirements of the aforesaid Code.

Legal Notices

Issuance of such certificate shall not be required for alterations to an existing individual sewage disposal system.

(b) The Board of Health may issue such a certificate if an engineer licensed to practice professional engineering in New Jersey submits a statement in writing signed by him to the Board of Health that the said disposal system has been located and constructed in accordance with the terms of the license or permit issued and the requirements of the aforesaid Code.

SECTION 6. (a) Persons shall not engage in the business of emptying or cleaning septic tanks, cesspools, privies or any place used for the reception or storage of human excrement who do not hold a license to engage in such business, issued by the Board of Health. Such licenses shall be valid for a period of one year from the date of issuance but may be renewed by the Board of Health. Said license may be revoked for failure of the licensee to comply with the provisions of the Code or any rule or ordinance of the Board of Health.

SECTION 7. In case any license or permit or certification required by this ordinance is denied by the Board of Health, a hearing shall be held thereon before the Board within fifteen (15) days after request therefor is made by the applicant and upon such hearing the Board of Health shall affirm, alter or rescind its previous determination and take action accordingly within fifteen (15) days after the date of such hearing.

SECTION 8. The Board of Health may order all further work in and about any individual sewage disposal system, which is being erected or installed in violation of the Code, to be stopped forthwith, except such work as shall be necessary to remedy such violation and, thereafter, the work continued without any violation of any of the provisions of the Code, and after issuance of any such order and the service of a copy thereof upon any person connected with or working in and about the erection or installation of any such disposal system, or any part thereof, no further work shall be done thereon except as aforesaid.

SECTION 9. The following minimum size systems are hereby required:

When a disposal bed or field is prescribed for an individual dwelling, the minimum size shall be 750 sq. ft.

When a seepage pit is prescribed, it shall, for an individual dwelling, have a minimum diameter size of 10 feet and a minimum depth of 15 feet.

The minimum size and type of septic tank for an individual sewage disposal system shall be 900 gallons concrete.

Legal Notices

SECTION 10. The following fees and charges are herewith established:

(a) For the filing of an application and plans for a license or permit to locate and construct an individual sewage disposal system \$15.00.

(b) For the filing of an application and plans for a license or permit to alter an existing individual sewage disposal system \$5.00.

(c) For the issuance of a license or permit to locate and construct or alter an individual sewage disposal system \$5.00.

(d) For each reinspection of an individual sewage disposal system, or part thereof, caused by the failure of the licensee or permittee to locate and construct or alter the same in accordance with the terms of the license or permit issued or the terms of the aforesaid Code an inspection fee of \$10.00 shall be charged.

(e) For the issuance or renewal of a license to a person or corporation engaged in the business of cleaning or emptying receptacles for the reception and storage of human excrement or other putrescible matter \$20.00 for each vehicle or conveyance.

(f) For the issuance of a license or permit to clean or empty any receptacle used for the reception or storage of human excrement or other putrescible matter \$5.00.

SECTION 11. (a) Any person or persons firm or corporation violating any of the provisions of or any order promulgated under this Ordinance or the Individual Sewage Disposal System Code of New Jersey (1963) made a part hereof shall, upon conviction thereof, pay a penalty of not less than two dollars nor more than one hundred dollars for each violation.

(b) Each day a particular violation continues shall constitute a separate offense.

SECTION 12. All ordinances, codes or parts of same inconsistent with any of the provisions of this Ordinance and the Code established hereunder are hereby repealed to the extent of such inconsistency.

SECTION 13. In the event that any section, sentence or clause of this Ordinance or Code shall be declared unconstitutional by a court of competent jurisdiction, such declaration shall not in any manner prejudice the enforcement of the remaining provisions.

SECTION 14. This Ordinance and the Code herein established shall take effect 30 days after the first publication of the Ordinance in accordance with the provisions of R. S. 26: 3-69.

DATED: April 15, 1968.
THE BOARD OF HEALTH OF
THE TOWNSHIP OF WASHINGTON
P.F. \$12.40, 1.T. 5-6. 4040

AN ORDINANCE ESTABLISHING THE INDIVIDUAL SEWAGE DISPOSAL SYSTEM CODE OF NEW JERSEY, 1963, PREPARED BY THE NEW JERSEY STATE DEPARTMENT OF HEALTH, AS A CODE FOR LAFAYETTE TOWNSHIP TO REGULATE AND CONTROL THE LOCATION, CONSTRUCTION, USE, MAINTENANCE, AND METHOD OF EMPTYING OR CLEANING INDIVIDUAL SEWAGE DISPOSAL SYSTEMS, OR OTHER PLACES USED FOR THE RECEPTION OR STORAGE OF HUMAN EXCREMENT, THE ISSUANCE OF LICENSES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED by the Board of Health of the Township of Lafayette, County of Sussex, and State of New Jersey, that:

SECTION 1. A code regulating the location, construction, use, maintenance, and method of emptying or cleaning individual sewage disposal systems, the issuance of licenses to locate, construct, empty or clean said systems, and fixing penalties for the violation thereof is hereby adopted pursuant to Chapter 188, P.L. 1950 (N.J.S.A. 26:3-69.1 to 69.6), except as otherwise herein provided. A copy of said Code is annexed hereto and made a part hereof without inclusion of the text thereof herein.

SECTION 2. The said Code established and adopted by this Ordinance is described and commonly known as the Individual Sewage Disposal System Code of New Jersey (1963).

SECTION 2A. The following matters are made exceptions to the aforesaid code, and the following matters are hereby adopted as the regulations governing the Township of Lafayette rather than the provisions in said code, to wit:

3.2 Distances. — The minimum distance for location of the various component parts of the disposal system shall comply with the following table:

Component	Well or Line Feet	Property Line Feet
Building Sewer	100	—
Septic tank	100	20
Distribution box	100	20

Component	Well or Line Feet	Property Line Feet
Disposal field	100	20
Seepage pit	100	20
Dry well	100	20
Cesspool	150	20

4.2 Material. — Building sewers must be constructed of cast iron.

5.1 Capacities. — Septic tanks shall have the following minimum capacities:

(a) When serving single family dwelling units they shall have capacities as shown below. Expansion attics shall be considered as additional bedrooms.

Number of Bedroom	Liquid Capacity of Tank
2 or less	1,000 gallons
3	1,000 gallons

5.4 Construction. (a) septic tanks must be concrete water-tight and constructed of sound and durable materials not subject to excessive corrosion, decay, frost damage or to cracking or buckling due to settlement or backfilling. Covers shall be designed and constructed so as not to be damaged by any load which may be placed on them.

5.6 Materials. — The following provisions of 5.6 are eliminated from the Code, to wit: "(c) Prefabricated metal" and "Prefabricated metal tanks shall conform to the Commercial Standard 177-51 of the U. S. Department of Commerce".

5-10 Inlets and Outlets. — The materials required in 5.10 for piping shall be concrete rather than metal.

7.3 Construction. — Distribution boxes shall be water-tight and constructed of concrete or other durable material. They shall be designed to accommodate the necessary distribution lines leading therefrom and to provide equal distribution to such lines by means of baffles or other acceptable methods.

Each distribution box will be constructed on a cement base to keep it level and prevent shifting. Minimum thickness of base for placing distribution box will be three (3) inches.

10.4 Distribution Lines. — All lateral lines in the individual disposal bed will be constructed of perforated orangeburg pipe or extra heavy perforated plastic pipe.

10.9 Fill. — When disposal fields are built up by fill to a depth of two feet or more, the area of such fill shall extend at least twenty feet beyond the limits of the disposal field and the fill shall be of earth having a percolation value at least equal to that of the ground over which the fill is placed. The percolation rates used for the design of systems in fill shall be the value found in the ground over which the fill is placed. All grounds shall be seeded or otherwise be improved to the satisfaction of the Sanitarian.

12.3 — Minimum Percolating Area (Individual Dwellings). — The minimum required percolating area per bedroom shall be determined from the following table, provided that in no event shall the total bottom area be less than 750 square feet for each dwelling unit.

13.3 — Minimum Percolating Area (Individual Dwellings). — The minimum required percolating area shall be determined from the following table, provided that in no event shall the area be less than 150 square feet for each dwelling unit.

SECTION 3. Three copies of the said Individual Sewage Disposal System Code of New Jersey (1963) have been placed on file in the office of the secretary, clerk or other similar officer of this Board of Health upon the introduction of this Ordinance and will remain on file in said office for the use and examination of the public.

SECTION 4. (a). No person shall locate, construct or alter any individual sewage disposal system until a license for the location, construction or alteration of said sewage disposal system shall have been issued by the Board of Health.

(b). The Board of Health may issue a license if an application for the same is accompanied by a certificate made by an engineer licensed to practice professional engineering in New Jersey stating that the design of the individual sewage disposal system as proposed is in compliance with the Code.

SECTION 5. (a). New individual disposal systems shall not be placed in operation, nor shall new dwellings or buildings or additions thereto be sold or occupied, which must rely on such a system for sewage disposal, until the Board of Health shall have issued a certificate indicating that said disposal system has been located and constructed in compliance with the terms of the license issued and the requirements of the aforesaid Code. Issuance of such certificate shall not be required for alterations to an existing individual sewage disposal system.

(b). The Board of Health may issue such a certificate if an engineer licensed to practice professional engineering in New Jersey submits a statement in writing signed by him to the Board of Health that the said disposal system has been located and constructed in accordance with the terms of the license issued and the requirements of the aforesaid Code.

SECTION 6. (a). Persons shall not engage in the business of emptying or cleaning septic tanks, cesspools, privies or any place used for the reception or storage of human excrement who do not hold a license to engage in such business issued by the Board of Health. Such licenses shall be valid for a period of one year from the date of issuance but may be renewed by the Board of Health. Said license may be revoked for failure of the licensee to comply with the provisions of the Code or any rule or ordinance of the Board of Health.

(b). The contents of any septic tank, cesspool, privy or other receptacle containing human excrement shall not be removed until a license for such removal has been obtained from the Board of Health.

SECTION 7. In case any license or certification required by this ordinance is denied by the Board of Health, a hearing shall be held thereon before the Board within fifteen (15) days after request therefor is made by the applicant and upon such hearing the Board of Health shall affirm, alter or rescind its previous determination and take action accordingly within fifteen (15) days after the date of such hearing.

SECTION 8. The Board of Health may order all further work in and about any individual sewage disposal system, which is being erected or installed in violation of the Code, to be stopped forthwith, except such work as shall be necessary to remedy such violation, and, thereafter, the work continued without any violation of any of the provisions of the Code, and after issuance of any such order and the service of a copy thereof upon any person connected with or working in and about the erection or installation of any such disposal system, or any part thereof, no further work shall be done thereon except as aforesaid.

SECTION 9. The following fees and charges are herewith established:

(a). For the filing of an application and plans for a permit to locate and construct an individual sewage disposal system Twenty (\$20.00) dollars.

(b). For the filing of an application and plans for a permit to alter an existing individual sewage disposal system Ten (\$10.00) dollars.

(c). For the issuance of a license to locate and construct or alter an individual sewage disposal system (no more than five (5.00) dollars, R.S. 26:3-31 f & g).

(d). For each reinspection of an individual sewage disposal system, or part thereof, caused by the failure of the permittee to locate and construct or alter the same in accordance with the terms of the permit issued or the terms of the aforesaid Code, an inspection fee of five (\$5.00) dollars shall be charged.

(e). For the issuance or renewal of a license to a person or corporation engaged in the business of cleaning or emptying receptacles for the reception and storage of human excrement or other putrescible matter (not more than \$20.00, R.S. 26:3-31 i) Twenty (\$20.00) dollars for each vehicle or conveyance.

(f). For the issuance of a license to clean or empty any receptacle used for the reception or storage of human excrement or other putrescible matter (no more than five (5.00) dollars R.S. 26:3-31 f & g).

SECTION 10 (a). Any person or persons, firm or corporation violating any of the provisions of or any order promulgated under this Ordinance or the Individual Sewage Disposal System Code of New Jersey (1963) made a part hereof shall, upon conviction thereof, pay a penalty of not less than two dollars nor more than one hundred dollars for each violation.

(b). Each day a particular violation continues shall constitute a separate offense.

SECTION 11. All ordinances, codes or parts of same inconsistent with any of the provisions of this Ordinance and the Code established hereunder are hereby repealed to the extent of such inconsistency.

SECTION 12. In the event that any section, sentence or clause of this Ordinance or Code shall be declared unconstitutional by a court of competent jurisdiction such declaration shall not in any manner prejudice the enforcement of the remaining provisions.

SECTION 13. This Ordinance and the Code herein established shall take effect 30 days after the first publication of the Ordinance in accordance with the provisions of R.S. 26:3-69.

The above Ordinance was passed at first reading, at a regular meeting, on April 11, 1972, at 7:30 P.M. in the Municipal Building, by the Lafayette Township Committee, Lafayette, Sussex County, New Jersey, and will be considered for adoption at a special meeting to be held on April 27, 1972, at 7:30 P.M. in the Municipal Building, Lafayette, New Jersey.

BESSIE S. HUNT
Township Clerk

April 14, '72—PF \$91.50

May, 1972

TOWNSHIP OF DELAWARE
AN ORDINANCE ESTABLISHING ADDITIONAL REQUIREMENTS FOR THE TAKING OF PERCOLATION TESTS.

WHEREAS, the Board of Health of Delaware Township, Hunterdon County, New Jersey has heretofore on November 27, 1967 enacted an ordinance entitled "An Ordinance Establishing A Code To Regulate And Control The Location, Construction, Use, Maintenance, And Method Of Emptying Or Cleaning Individual Sewage Disposal Systems, Or Other Places Used For The Reception Or Storage Of Human Excrement, The Issuance Of Permits And Providing Penalties For The Violation Thereof," which adopted the "Individual Sewage Disposal System Code of New Jersey (1963).";

WHEREAS, experience has shown the importance of percolation tests in protecting the home owner and the public at large and it is desirable to increase the safeguards provided by such tests by requiring two tests, verification of tests and soil log information;

THEREFORE BE IT ORDAINED BY THE BOARD OF HEALTH OF DELAWARE TOWNSHIP, HUNTERDON COUNTY, NEW JERSEY AS FOLLOWS:

1. Prior to the issuance of a building permit, the applicant therefor shall have obtained two (2) percolation tests per lot taken at least twenty feet apart/with each of the tests located within the proposed location of the disposal field; both of such tests must pass the requirements of the "Individual Sewage Disposal System Code of New Jersey (1963)" heretofore adopted in this Township.
2. Both of the tests required by Section 1. shall be accompanied by a sketch showing the accurate location of all tests, whether passing or not, including the two which are being submitted for the obtaining of a building permit.
3. Before obtaining a building permit, the applicant shall also furnish (1) soil log per lot taken in the area of the proposed septic system disposal field, which soil log is to be taken to a depth of 5 feet below the bottom of the proposed disposal field or to solid rock if rock should be encountered shallower than 5 feet below the bottom of the field.
4. All percolation tests and soil log tests shall be done in the presence of personnel of the County Department of Health, or the Township Engineer or their designee. Notification of proposed testing shall be made directly to the Hunterdon County Department of Health a minimum of two working days prior to the proposed testing.
5. Any person or persons, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, pay a penalty of not less than \$2 nor more than \$100 for each violation.
6. This ordinance shall take effect 30 days after publication.

PLEASE TAKE NOTICE that the foregoing ordinance was read on first reading by the Delaware Township Board of Health on April 18, 1972 and will be read and considered for final passage at a meeting to be held Tuesday, May 30, 1972 at 8:00 P.M. at the municipal building, Sergeantsville, New Jersey, at which time an opportunity will be given all interested persons to be heard.

HARRIE E. COPELAND
 President

Leland P. Harbourt, Jr.
 Secretary

(Pr's. Fee \$24.75)

Township of Manalapan
Pop: 14,049
Rec: November 1971

AN ORDINANCE SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MANALAPAN, IN THE COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY, ESTABLISHING SEPTIC TANK CLEANING SERVICE, FIXING AND ESTABLISHING THE RATES, FEES AND CHARGES THEREFOR AND IMPOSING A LIEN UPON PROPERTIES SERVED FOR THE NON-PAYMENT AND PAYMENT THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MANALAPAN, IN THE COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY, AS FOLLOWS:

SECTION I:

The Township of Manalapan shall have the authority to provide septic tank cleaning service to the residents of the Township upon payment of the following fees and in accordance with the terms and provisions of this ordinance.

SECTION II: Service Charges and Fees

The Township shall charge, collect and receive the following fees for the cleaning of septic tanks from the owner, lessee or occupant, or any agent, servant, representative or employee of any Township resident having control of the premises to which said service is provided.

(a) Residential Properties. Minimum fee of Five (\$5.00) Dollars per truck tank load, or part thereof, including the first twenty-five (25) feet of hosing, and an extra fee of Two (\$2.00) Dollars for every additional ten (10) feet of hose, or part thereof.

(b) Commercial and Other Properties. Minimum fee of Thirty (\$30.00) Dollars for the first tank load, or part thereof, and a fee of Fifteen (\$15.00) Dollars for each additional truck tank load, or part thereof including the first twenty-five (25) feet of hosing and an extra fee of Two (\$2.00) Dollars for every additional ten (10) feet of hose, or part thereof.

(c) Saturday, Sunday and Holiday Service. There shall be added to the above minimum fees the sum of Three (\$3.00) Dollars for services rendered on a Saturday, Sunday or any legal holiday.

SECTION III: Provisions for Collection of Unpaid Fees.

In the event of any of the aforementioned fees shall remain unpaid for more than thirty (30) days after rendering of the service herein provided, the Township Clerk shall, by registered or certified mail, serve written notice upon the owner, lessee, or occupant or any person having the care or control of the premises to which said service was provided, to make payment of the unpaid fees within five (5) days after receipt of such notice. If the person upon whom this notice is served

fails to remit or cause remittance of said fees within the time stipulated, then the amount or amounts thereof shall be certified by the Township Clerk to the Collector of Taxes. Such unpaid fees shall thereupon become and be a lien upon the property serviced and shall be added to and become part of the taxes next to be assessed and levied upon such property, shall bear interest at the same rate as taxes, and shall be collected and enforced by the same officer, and in the same manner, as taxes.

SECTION IV: Conditions for Provision of Service

The Township shall not be obliged to furnish the above described service unless the septic tank top or opening is accessible to the Township employees.

SECTION V: Waiver of Claim for Damage.

Every order for the services provided in this Section by the owner lessee or occupant, or any agent, servant, representative or employee of the aforesaid, whether accompanied by a written waiver or not, shall automatically waive and release any and all claims against the Township of Manalapan for alleged damages to septic tanks, cesspool or dry well tops or claims for alleged damages caused to the premises.

SECTION VI: Repeal and Severability.

(a) All ordinances inconsistent herewith are hereby repealed.

(b) Should any of the provisions of this ordinance be declared invalid, void or unconstitutional by a court of competent jurisdiction, that shall not affect any of the other parts of this ordinance which other parts shall remain in full force and effect.

SECTION VII: Effective Date.

This ordinance shall become effective after final passage and publication in the manner provided by law.

NOTICE

PLEASE TAKE NOTICE that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Committee of the Township of Manalapan on Wednesday, October 27, 1971, and that the said ordinance will be taken up for further consideration for final passage by the said Township Committee at a regular meeting to be held in the Township Hall of said Township on Wednesday, November 10, 1971, at 8:30 P.M. or as soon thereafter as said matter can be reached, or to any meeting to which said meeting may be adjourned from time to time at which time all persons interested in said ordinance may be heard for or against its passage.

THOMAS F. WHALEN,

MAYOR
ROBERT B. LAUGHLIN,
Clerk

NOTICE

Notice is hereby given that the following Ordinance was submitted in writing at a regular meeting of the Board of Health of the Township of Morris in the County of Morris and State of New Jersey, held on April 9, 1969, introduced and read in full and passed on first reading and that the said Board will further consider the same for second reading and final passage thereof at a regular meeting to be held May 14, 1969 at seven thirty o'clock P.M., prevailing time, at the Township Hall, Woodland Avenue, in said Township, at which time and place a public hearing will be held thereon by the governing body and all parties in interest and citizens and all persons shall have an opportunity to be heard concerning said ordinance.

BY ORDER OF THE TOWNSHIP
OF MORRIS
BOARD OF HEALTH
JAMES F. O'KEEFE
CLERK

DATED: April 9, 1969

ORDINANCE NO. 11-69

AN ORDINANCE CONCERNING THE
CLOSING UP OF UNUSED OR ABAN-
DONED CESSPOOLS AND OTHER
STORAGE AREAS.

BE IT ORDAINED by the Board of Health of the Township of Morris in the County of Morris, State of New Jersey, it being the Board of Health of said Township as follows:

Section One: All unused or abandoned cesspools, septic tanks, seepage pits, privies or other places used for the reception or storage of human excretion, shall be pumped out, and filled to the level of the surrounding earth with clean earth, within six months after the connection with the public sanitary sewer system, or after abandonment or disuse.

Section Two: A certificate shall be secured from the Board of Health of the Township of Morris showing approval by the person designated by the Board of Health certifying that the requirements set forth in Section One have been met.

Section Three: All presently existing unused or abandoned cesspools, septic tanks, seepage pits, privies or other places used for the reception or storage of human excretion, shall be pumped out and filled to the level of the surrounding earth with clean earth within six months from the adoption of this ordinance.

Section Four: Any person, persons, firm or firms, violating this ordinance, shall upon conviction thereof, be liable to a penalty not exceeding \$200.00 and/or imprisonment in jail for 30 days or both in the discretion of the magistrate imposing such penalty.

Section Five: All ordinance or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

Section Six: This ordinance shall take effect immediately upon final passage and publication thereof as provided for by law.

P.F. \$22.10, 1-T, 4-14

3098

* CHAPTER II *

OPEN AREAS

The preserving of open spaces is essential not only for the proper physical utilization of land, but also from a social perspective of providing a better environment for each individual.

Planning as a decision-making process analyzes the past, present, and future in preparing for the orderly development of a community.

Of particular importance is the zoning process of each individual municipality and the creating of a master plan for a comprehensive program of locally planned growth.

The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development and the maintenance of property values previously established. To such end, the master plan shall also include adequate provision for light and air, the promotion of good civic design and arrangements, the wise and efficient expenditure of public funds, and adequate provision for public utilities and other public requirements. N.J.S.A. 40:55-1.12.

The master plan and zoning process, if adequately prepared with environmental safeguards, become a fundamental procedure in maintaining open spaces in a balanced community. Both municipalities and counties have the power to obtain land for open spaces through purchase, gift, devise, or condemnation. Tax incentives to obtain conservation easements, by which a property owner would agree to

limit the development of his land for a reduction in tax assessment, is another means of conserving the natural topography of the land.

The authority of municipalities to enact zoning ordinances is derived from the legislature by statute. N.J.S.A. 40:55-30. The courts have held that a valid zoning ordinance must bear a reasonable relationship to powers conferred by state statute, that it must tend to promote the public good in some degree, and that it must have a substantial relationship to public health, morals, safety or welfare in a proper sense. Kirsch Holding Co. v. Borough of Manasquan, 111 N. J. Super. 359, 268 A.2d 333 (1970). In testing whether a zoning ordinance has a substantial relationship to the public health, morals, and general welfare, the existing circumstances in each individual community is usually the determining factor.

In Oakwood at Madison, Inc. v. The Township of Madison, 117 N. J. Super. 11, 283 A.2d 353 (1971), the court held that Madison Township's zoning ordinance with restricted multi-family dwellings and divided most of the vacant land into zones requiring one or two acre lots was invalid in that the zoning plan had failed to promote a reasonably balanced community. Madison Township did not adequately defend its zoning ordinance on ecological arguments and neglected to present data showing the serious flood conditions that might result from increased development in the area. Judge Furman stated:

Only engineering data and expert opinion and, it may be, ecological data and expert opinion could justify the ordinance under attack. These were lacking both in the legislative

process and at the trial. The record fails to substantiate that safeguarding against flood and surface drainage problems and protection of the Englishtown aquifer would be reasonably advanced by the sweeping zoning revision into low population density districts along the four water courses and elsewhere or the exclusionary limitation of multi-family apartment units.

The court also found that under New Jersey law fiscal zoning is improper and a municipality could not zone solely with the idea of promoting favorable tax consequences. A valid zoning plan with a provision for environmental protection and open spaces should be rationally prepared to provide for the public welfare of the total community and must be based on precise engineering and land use data.

More and better environmental planning data can now be obtained. As of September, 1972, aerial photographs that overlay U.S.G.S. topographical maps can be prepared with the help of the New Jersey Bureau of Geology. Such photographs have proved more accurate and less costly than ground engineering in many situations. Information on slopes, vegetation, streams, soils, and wildlife become vital to a proper planning procedure, which necessitates the study of all available data.

The zoning concept of cluster subdivisions is a technique whereby houses are grouped closer together and the remaining land is combined for open spaces. Cluster development, like all forms of environmental planning, necessitates a thorough study of the land area to decide which sections are best suited for construction and which areas are most proper for open spaces. Marlboro Township

allows a developer the option to reduce lot sizes in a given subdivision, provided that the overall density remains the same. Delaware Township permits developers of tracts of land totaling 14 or more acres in certain areas of the township to cluster group single family dwellings and/or townhouses on 60 per cent of the acreage with the remaining 40 per cent devoted to open spaces.

Besides the advantage of preserving open spaces for community use, cluster development also provides a reduction of municipal services by limiting street area and sewer and water lines. The developer also obtains substantial savings in construction costs. The Department of Environmental Protection is currently preparing suitable plans to maintain the open spaces, which result from cluster development. Some municipalities have had open spaces deeded to the community, while others have formed homeowners associations to manage the area.

New Jersey has no state regulation requiring environmental impact statements, but the Department of Environmental Protection is recommending that this type of procedure be utilized. To assist local planning boards, zoning boards, and environmental commissions in reviewing plans and making recommendations on local projects which may adversely affect their community, the Department has developed guidelines which are adaptable for use by regional, county, or local governments. These guidelines are contained in the Appendix. The use of these guidelines will minimize environmental destruction and will place the burden of

identifying environmental problems and offering feasible alternatives, upon the individual, corporation, or agency which proposes to alter the environment. Before the construction of new dwellings or roads, an analysis of the effects of such projects on the topography of the land would be prepared. From this report, local planning boards and environmental commissions would be better able to detect the full environmental consequences of new developmental projects. It is strongly recommended that municipalities adopt the environmental impact guidelines developed by the Department of Environmental Protection.

In 1963 the voters of New Jersey approved the Farmland Assessment Amendment, and in 1964 the Legislature adopted the Farmland Assessment Act. Lowering the taxes on farmlands is another means of preserving open spaces and should be actively pursued in New Jersey where farm owners continue to pay the nation's highest average tax per acre on farmland.

The open space areas in New Jersey, the most urbanized state in the nation, are rapidly diminishing. Through proper zoning and developmental procedures, local governing bodies, planning boards, and citizens organizations can better protect the natural environment and preserve vital open space areas for the future.

APPENDIX

Chapter II

Open Spaces

1. Benefits Accruing to Donors of Land Given to Municipalities.
2. Union Township - An Ordinance Dedicating Certain Lands in the Township of Union in the County of Union Owned by Said Municipality for Recreational Purposes, Flood Control, and the Preservation of Natural Resources.
3. Excerpts of Municipal Zoning Codes with Reference to Open Areas.
4. Delaware Township - Cluster Development as Amendment and Supplement to Zoning Ordinance.
5. East Brunswick Township - Standards for Cluster Development.
6. Department of Environmental Protection--Environmental Impact Statements.
7. Clinton Township--Environmental Impact Guidelines.
8. Open Space Programs and Information.

Benefits Accruing to Donors of Land Given to Municipalities

by

R. D. Goodenough

July, 1966

- A. Appraised value of donated land may be deducted from taxable income in year in which land was given to the municipality. (Income tax deduction in excess of the maximum amount permitted is carried over to the five succeeding years to the extent of the difference between the current contributions and the maximum allowance. Note: Any contributions to a private foundation would adversely affect his carry-over.)
- B. Elimination of annual municipal real estate taxes on donated land.
- C. Elimination of inheritance tax on donated land.
- D. If land was bought at low price and sold at a high price, the owner must pay capital gains tax (not in excess of 25 per cent). If the land is given to the municipality, tax exemption credit is allowed on full value and no capital gains tax is incurred.
- E. Land can be donated now, irrevocably, to the municipality "in trust," with "life interest" reservation so that donor may continue to live on the land until his death. At that time it passes to the municipality.

Advantages of the "life interest" plan:

- (a) Donor may continue living on the land.
- (b) Donor can deduct from taxable income of the year in which the gift was made an amount based on the "remainder interest." This amount is figured on the value of the gift and the age of the donor. The income tax deduction permitted by the donor is based upon tables published by the Treasury Department. Example: If donor is 70 years of age, approximately 72 per cent of appraised value of property donated can be deducted from taxable income that year not in excess of the total amount of all contributions made within the year.
- (c) No inheritance tax on land donated to the municipality.
- (d) Cost of surveying and cost of appraisal for gifts of land are also deductible.
- (e) Costs of the value of conservation easements donated are also deductible.

Municipal Conservation
Commission Handbook,
Trenton, April, 1970, p. 37.

TOWNSHIP OF UNION

PUBLIC NOTICE is hereby given that the ordinance set forth below was introduced at a meeting of the Township Committee of the Township of Union in the County of Union held on March 12, 1963, and that the said ordinance will be further considered for final passage at a meeting of the said Township Committee at Municipal Headquarters, Municipal Building, Friberger Park, Morris Avenue, Union, N. J. on March 26, 1963, at 8 o'clock p.m.

MARY E. MILLER
Township Clerk

AN ORDINANCE DEDICATING CERTAIN LANDS IN THE TOWNSHIP OF UNION IN THE COUNTY OF UNION OWNED BY SAID MUNICIPALITY FOR RECREATIONAL PURPOSES, FLOOD CONTROL, AND THE PRESERVATION OF NATURAL RESOURCES.

WHEREAS, the dedication of lands for public recreation and the conservation of natural resources promotes the public health, prosperity and general welfare; and

WHEREAS, the dedication of lands for such purpose is a proper responsibility of government; and

WHEREAS, the expansion of the population, while increasing the need for such lands, will continually diminish the supply thereof; and

WHEREAS, the preservation of open spaces in their open and natural condition will facilitate the protection of natural streams, flood control, conservation of soil, forests, wild life, or other natural resources, and the preservation of scenic, aesthetic, and cultural values; and

WHEREAS, the Township of Union of the County of Union, has heretofore set aside certain open spaces for future municipal use; and

WHEREAS, said Township Committee has now determined that certain of said lands heretofore set aside should now be dedicated for the aforementioned purposes,

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Union in the County of Union that:

Section 1. The premises hereinafter described be and the same are hereby dedicated for the uses and the purposes herein set forth in the preamble hereof.

Section 2. Said premises may be used in the discretion of the governing body of the Township of Union in the County of Union for any and/or all of the purposes hereinabove set forth in the preamble hereof.

Section 3. The premises dedicated pursuant to Section 1 hereof are more particularly described as follows:

BEGINNING at a point in the Northwest line of Liberty Avenue, where the same is intersected by the Southwest line of lands delineated on a certain filed map entitled, "Map of Emerson Park, Section Three, Township of Union, Union County, N. J."; thence (1) North 53 degrees 36 minutes 07 seconds West, along said Southwest line of lands delineated on aforementioned map, one thousand seventy feet and sixty one-hundredths of a foot (1,070.60') to a point; thence (2) still along South-

westerly line of lands delineated on aforementioned map, North 47 degrees 11 minutes 10 seconds West, one hundred forty-one feet and six one-hundredths of a foot (141.06') to a point in the division line of lands now or formerly of Elizabethtown Water Company and lands of Union Township; thence (3) Northwest, along said division line between lands of Union Township and lands now or formerly of Elizabethtown Water Company, six hundred one feet more or less (601.0') more or less to the Southeast line of lands adjacent to the Rahway River belonging to Union County Park Commission; thence (4) Southwest and Southerly, along said line of lands of Union County Park Commission, one thousand one hundred feet more or less (1,100.0') more or less to a point in said line of lands of Union County Park Commission where it is intersected by the extension Northwest, in a straight line, of the Northeast line of Carol Road; thence (5) Southeast, along the Northeast line of Carol Road and the projection thereof, three hundred twenty feet more or less (320.0') more or less to a point in the Northeast line of Carol Road where it is intersected by the projection in a Northeast direction of the Southeast line of Mount Vernon Road; thence (6) Northeast, and at right angles to Carol Road, one hundred ten feet (110.0') to a point; thence (7) Southeast, on a course parallel to Carol Road and distant one hundred ten feet (110.0') Northeast from the Northeast line of Carol Road measured at right angles thereto, one thousand three hundred eighty-five feet more or less (1,385.0') more or less to the Northwest line of Liberty Avenue; thence (8) Northeast, along said Northwest line of Liberty Avenue, its various courses and distances to the place of BEGINNING.

BEGINNING at a point in the Northeast line of Whitewood Road, distant seven hundred eighty-seven feet and nine one-hundredths of a foot (787.09') Southeast from the intersection thereof with the Southeast line of Oakview Place; thence (1) running North 37 degrees 21 minutes 20 seconds East, three hundred sixty-five feet (365.0') to a point; thence (2) running North 37 degrees 19 minutes 50 seconds East, one hundred sixty-one feet and eighty-nine one-hundredths of a foot (161.89') to a point in the Northeast side line of Willow Drive projected in a Southeast direction; thence (3) North 52 degrees 40 minutes 10 seconds West, five feet and eleven one-hundredths of a foot (5.11') to a point; thence (4) North 37 degrees 19 minutes 50 seconds East, along line of lands now or formerly belonging to Leonard J. Zehnbauser and being also the rear line of lots fronting on Durham Court, one hundred forty feet (140.0') to a point; thence (5) North 20 degrees 59 minutes 40 seconds East, still along line of lands now or

formerly of Leonard J. Zehnbauser and being also the rear line of lots fronting on Durham Court, two hundred sixty-three feet and fifty-five one-hundredths of a foot more or less (263.55') more or less to a point in line of lands of the Suburban Golf Club; thence (6) Southeast, along line of lands of Suburban Golf Club, five hundred nine feet and eighteen one-hundredths of a foot (509.18') to a point in the North line of lands delineated on a certain filed map entitled, "Putnam Manor, Section 16A Revised, Union Township, Union County, N. J."; thence (7) Southwest, along said aforementioned line of lands delineated on Map of Putnam Manor, Section 16A Revised, six hundred ninety-one feet and sixty-two one-hundredths of a foot (691.62') to a point one hundred feet (100.0') North from the North side line of Schuyler Way measured along the Easterly side line of Pitcher Terrace produced; thence (8) Southerly, along said projection of the Easterly line of Pitcher Terrace, one hundred feet (100.0') to a point in the North side line of Schuyler Way; thence (9) Southwest, along the Northwest side line of Schuyler Way, fifty feet (50.0') to a point in the Southwest line of Pitcher Terrace; thence (10) North, along the extension of the Southwest line of Pitcher Terrace and line of lands now or formerly of Beatrice Binstok, thirty-five feet more or less (35.0') more or less to a point; thence (11) West, along the North line of lands now or formerly of Beatrice Binstok, two hundred four feet and thirty-three one-hundredths of a foot (204.33') to a point in the Northeast line of lands delineated on a certain filed map entitled, "Map of Washington School Park, Section 6, Township of Union, Union County, N. J."; thence (12) Northwest, along said Northeast line of lands delineated on said Map of Washington School Park, Section 6 one hundred eighty-nine feet and eighty-five one-hundredths of a foot more or less (189.85') more or less to a point distant fifty feet (50.0'), in a Southeast direction, from the first course herein described measured at right angles thereto; thence (13) South 37 degrees 21 minutes 20 seconds West, and parallel to the first course and distant fifty feet (50.0') Southeast therefrom, measured at right angles thereto, one hundred five feet and ten one-hundredths of a foot (105.10') to a point in the Northeast line of Whitewood Road; thence (14) Northwest, along said Northeast line of Whitewood Road, fifty feet (50.0') to the place of BEGINNING.

Section 4. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Section 5. This ordinance shall take effect immediately after publication in the manner provided by law.

Union Leader -- March 14, 1963

(Fee: \$56.32)

Excerpts of Municipal Zoning Codes
In Reference to Open Areas

Village of Ridgewood, New Jersey
Section 320

Open space zoning shall mean the creation of lots of less area or frontage than that normally required for the Zone District in which said lots are located, and by subdivision designed and arranged in such a manner as to maintain the standard density requirement of the Zone District in which open space zoning is permitted, as an optional method for developing property, so as to permit the use of the additional unused area for open space by the Village of Ridgewood for public uses, parks and recreational facilities and the title to which by virtue of the permitted reduction, shall vest in the Village of Ridgewood.

Ramsey, New Jersey
Section 13. 316 Open Space Zoning

Open space zoning is a permitted reduction in lot sizes and lot area requirements in major subdivisions in the R-1 Residence District Zone in which the density requirement (dwelling units per acre) is maintained and where all resulting undeveloped land within said subdivision is deeded to the Borough of Ramsey for public purposes.

CLUSTER
USTER DEVELOPMENT

DELAWARE TOWNSHIP
Pop: 3,249
Rec: March 1972

**DELAWARE TOWNSHIP
AN ORDINANCE TO AMEND
AND SUPPLEMENT**

The Zoning Ordinance of the Township of Delaware, County of Hunterdon, N.J. BE IT ORDAINED BY THE Township Committee of the Township of Delaware, County of Hunterdon and State of New Jersey, that the Zoning Ordinance of the Township of Delaware, County of Hunterdon, N.J. be amended and supplemented as follows:

ARTICLE V

District Regulations

5.1.1 (1) See 6.5 EXCEPTIONS...It shall be supplemented to read: 6.5.3 (b) Major Subdivisions.

Because of the Municipal Sewer and Water systems in Sergeantsville, CLUSTER Concept in this Village Residential (VR) Zone on parcels of not less than 14 acres, with each .86 acres thereof being entitled to one sewer connection, may be approved if the following requirements are complied with:

1. Every lot within the subdivision must be connected to the Municipal potable water supply and Sewer systems;
2. There shall be maintained a density of one family per .86 acres with a minimum 1200 sq. ft. of habitable living area or living space per unit;

3. There shall be dedicated for common use, 40 percent of the acreage in the Cluster subdivision. This percentage shall include streets but not common parking facilities; which shall be in off street areas. Two parking spaces shall be provided for each dwelling unit, either as part of the unit package or provided in a common parking lot or garage, and shall comply with ARTICLE IV 4.2 and 4.2.1.

4. All utilities such as electric, gas or telephone shall be installed underground. The applicant shall arrange with the serving utility for the underground installation of the utility distribution supply facilities in accordance with the provisions of the applicable Standard Terms and Conditions incorporated as part of its Tariff as the same are then on file with the State of New Jersey of Public Utility Commissioners. The applicant shall submit for the Planning Board prior to the granting of Final approval, a written instrument from each serving utility which shall evidence full compliance with the provisions of this paragraph.

5. **PROCEDURE:** Applicant shall present a detailed Rough Sketch of his proposed Cluster Major Subdivision to the Planning Board at the Board's regular meeting at least one month prior to submission of a Regular Sketch Plat application required for a major subdivision. This Rough Sketch is for discussion purposes and not for classification or for processing. If the Planning Board deems it advisable to obtain professional advice from architects or planning consultants or engineers, the charge for these services shall be paid by the applicant before the signing of any approval.

The Planning Board may extend the Rough Sketch discussions to the next Regular meeting. Applicant may also, with the consent of the Planning Board, the discussion periods may not extend for more than 3 regular Board meetings. However, should extensions be necessary or deemed advisable by the Planning Board, a resubmission of a Rough Sketch shall be in order and shall be governed as above outlined. Should more than one

calendar year become involved, resubmission shall be required.

6. REQUIREMENTS:

(a) Cluster or parcel area shall conform to boundary minimums then established in the Village Residential (VR) Zones or Districts. Streets shall also conform in width to the then VR requirements. Standards for finishing of streets, curbs, sidewalks, street lights, drainage requirements shall be decided by the Planning Board after consultation with the Township Engineer at the Rough Sketch period or periods. Charge for this shall be paid for by the applicant at a time to be determined by the Planning Board. Flexibility of design, site variations, varying lot sizes and building heights, yards and setbacks may also require the services of consultants. This charge(s) shall be borne by the applicant and payable upon request by the Planning Board.

(b) **CLUSTER:** Within the Cluster parcel area the following is permitted:

1. detached one or two story dwellings with or without accessory buildings;

2. attached one or two story dwellings, town house type, with or without accessory buildings. There shall be no more than five in a series, with percentage of same to be decided at Rough Sketch period. Sound proof and fire proof party walls are required;

3. combinations of detached and attached may be permitted but must be harmonious. This is to be resolved, if possible, at the Rough Sketch period(s). And so called "look alikes" are to be avoided and varying roof lines to be encouraged;

4. great price differentials for units is to be discouraged.

(c) **COMMON USE AREAS** will require:

1. legally created automatic membership in a non-profit home owners association, shall run with the land and be included in the deed.

(a) It shall be dedicated and recorded with its covenants on the recorded subdivision directly or indirectly by reference to be dedicated and recorded in a separate document;

(b) It shall be in effect before first lot is sold;

(c) it shall give each lot owner right to use and enjoyment of the common property;

(d) it shall place responsibility for operation and maintenance, assuring sufficient funds, and also safeguarding against unduly high assessment charges;

(e) it shall give each member voting rights with the association having also the right to deprive members of use of the common area for nonpayment of assessment charges;

(f) natural features such as trees, brooks, views or vistas are to be preserved wherever possible and if possible made a part of the common use area or areas.

7. ARTICLE V...District Regulations

5.1.1 (h) shall apply to the SERGEANTSVILLE VILLAGE RESIDENTIAL(VR) Zone (District).

PLEASE TAKE NOTICE that the foregoing Ordinance was introduced and passed on first reading by the Township Committee, Delaware Township, Hunterdon County, New Jersey, on March 13, 1972, that a copy of the Ordinance has been posted on the bulletin board of the Municipal Building, that copies of the Ordinance are available to the members of the general public upon request to the Municipal Clerk, and that the Ordinance will be read and considered for final passage at the meeting of the Township Committee to be held on Monday, April 10, 1972, at 7:30 p.m., at the Municipal Building, Sergeantsville, New Jersey, at which time an opportunity will be given to all interested persons to be heard.

HARRIE E. COPELAND, JR., Mayor
Bonnie J. McCrea
Township Clerk
(Pr's Fee \$45.50)

TOWNSHIP OF EAST BRUNSWICK
NOTICE

TAKE NOTICE that the following ordinance was passed on first reading by the Township Council or the Township of East Brunswick at a meeting held on February 14, 1972 and that said ordinance will be further considered for final passage at a regular meeting of the Council to be held at 8 PM, February 28, 1972 at the East Brunswick Civic Center, 575 Ryders Lane in the Township of East Brunswick at which time and place a public hearing will be held and all persons will be given an opportunity to be heard concerning said ordinance.

DAVID GERMAIN,
Municipal Clerk

ORDINANCE 72-135E
AN ORDINANCE TO AMEND
THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EAST BRUNSWICK, CHAPTER XXIII, LAND SUBDIVISION, PROVIDING STANDARDS FOR CLUSTER SUBDIVISIONS TO PRESERVE OPEN SPACE

BE IT ORDAINED by the Township Council of the Township of East Brunswick, as follows:

SECTION 1. The Revised General Ordinances of the Township of East Brunswick, Chapter XXIII, Land Subdivision, is hereby amended as follows:

SECTION 2. Section 23-9. The following sections shall be denoted as Section 23-9, titled "Cluster Subdivision Standards". The Sections now numbered 9, 10 and 11 shall be changed to read 10, 11 and 12, respectively.

SECTION 3. Section 23-9. Cluster Subdivision Standards.

Section 23-9.1. Application. An application for approval of a Cluster Subdivision shall be deemed an alternative method of subdividing land and may be initiated at the option of the subdivider.

Section 23-9.2. Minimum Acreage. The common open space provided shall be not less than five acres in area.

Section 23-9.3. Preliminary Plat Details. The preliminary plat of a cluster subdivision shall show or be accompanied by the following information:

A. The location and extent of a common open space and a statement specifying whether the same is to be in private ownership or in public ownership.

B. If private ownership of common open space is contemplated, the proposed documentation of such ownership shall be submitted. Such documentation shall include the name and address of the owner, if then known, or if not, a statement of the nature of the owning entity, such as a homeowner's association. It shall also include adequate provisions to insure the retention and maintenance of such space for open space uses in perpetuity. Such documentation shall be subject to and accompanied by the approval of the Township Attorney, and it may include a provision that the fee title shall vest in the Township in the event that the space shall not be retained or maintained for open space uses.

C. Membership in a homeowner's association shall be automatic and mandatory and shall be accomplished by the purchase of a home on a lot in the subdivision. Every member shall have a right and easement of enjoyment in and to the common open space.

D. The subdivider may retain the legal title to the common open space until such time as the Planning Board shall designate for the completion of improvements thereon, or until such further time as the homeowner's association, in the opinion of the Planning Board, is able to maintain the premises, at which time the subdivider, its heirs, successors and assigns shall convey legal title to the common open space to the homeowner's association.

E. In the event that the Township shall obtain title to such open space, the Township shall then maintain the land for open space uses. Proposed documentation of such public ownership shall be submitted and shall be subject to and accompanied by the approval of such ownership and the terms and conditions of such documentation by the Township Attorney and by the Township Council or other public body that is to assume ownership.

Section 23-9.4. Final Plat Details. The final plat of a cluster subdivision shall show or be accompanied by the following information:

A. The location and extent of common open space with accurate dimensions, bearings and acreage.

B. Documentation of title to common open space duly executed in final and recordable form, subject to and accompanied by the approval of the Township Attorney, and, if applicable, of the Township Council or other public body that is to assume ownership of such space, all in accordance with the preliminary plat submission. Such documentation of title shall be recorded in the Office of the Middlesex County Clerk, and either the original of such recorded documentation, in the case of public ownership, or a copy of such recorded documentation, certified by the County Clerk, in the case of private ownership, shall be furnished to the Township, by and at the cost and expense of the subdivider, before the approval of the final plat.

Section 23-9.5. Improvements. Prior to the granting of approval of a final plat of a cluster subdivision, the subdivider shall have installed or, at the option of the Planning Board, shall have furnished performance guarantees for the ultimate installation of the following:

A. Such grading, drainage, planting, walkways, fencing and lighting of the common open space as shall be deemed appropriate by the Planning Board to enhance the intended open space uses.

B. Such other improvements in the common open space as shall be proposed by the subdivider and approved by the Planning Board.

C. Where such improvements include trees, shrub or ground covers, the same shall consist of varieties and shall be planted in accordance with standards approved by the Planning Board and on file in the Office of the Township Engineer.

Section 23-9.6. Design Standards. Cluster subdivisions shall be subject to the following design standards:

A. House lots and common open space shall be so arranged as to discourage future development of the common open space for other than open space uses.

B. The maximum number of house lots compatible with good design shall abut the common open space, and all house lots shall have reasonable access to the common open space.

C. The location and arrangement of common open space shall be determined with due regard for area topography, preservation of landscape, appropriate siting of cluster lots, relationship of open space to surrounding development, access to persons and maintenance equipment, safety vehicles and other applicable factors, as determined by the Planning Board.

D. Where feasible, separate vehicular and pedestrian circulation systems shall be provided.

E. Where practicable, house lots in the cluster subdivision shall be located and sized so as to avoid abrupt changes in lot sizes, setbacks or the like between the cluster subdivision and abutting existing developments.

F. Common open space shall remain in private ownership, unless the Planning Board determines that public ownership is desirable and unless the subdivider agrees to the necessary land donation, in which case ownership shall be in the Township of East Brunswick or in such other public body as shall be deemed appropriate, provided that the Township or such other public body shall approve such public ownership. In the event that the Planning Board shall determine that there shall be public ownership of common open space but the subdivider or the public body shall not agree to the same, or in the event that the Planning Board shall not approve the form of private ownership of common open space, the Planning Board may disapprove the application to subdivision of the reduction in lot area provisions of Section 24-5.11 of the Zoning Ordinance. Standards for the Planning Board determination as to public ownership shall include, but not be limited to, the following:

(i) The need for public open space or recreational facilities in the area as determined by the Township Master Plan.

(ii) The potential for an open space connection between two public open space areas.

(iii) The desirability of public access due to the peculiar physical characteristics of the area which make it suitable for public open space uses not otherwise available in that area.

(iv) Soil or vegetation characteristics of the area that provide a desirable public wildlife refuge.

G. All common open space shown on a preliminary plat shall be included in the first section submitted for final plat approval. However, in the case of a subdivision to be developed over a period of years, the Planning Board may permit the total area proposed for common open space to be divided among the sections submitted for final plat approval, in which case the common open space appurtenant to each such section shall comply with the minimum common open space requirements as applied to each section.

SECTION 4. If any section, paragraph, subdivision, clause or provision of this ordinance shall be judged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provisions so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

SECTION 5. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. This ordinance shall take effect 20 days after final passage, adoption and publication according to law.

Dated: February 10, 1972

JOHN ROONEY,
Council President

ATTEST:
DAVID GERMAIN,
Township Clerk
578-1.17

89.88

GUIDELINES - ENVIRONMENTAL IMPACT STATEMENT

GENERAL POLICY GUIDELINES

The environmental impact statement shall provide the information needed to evaluate the effects of a proposed project upon the environment.

The statement shall generally include:

1. An inventory of existing environmental conditions at the project site and in the surrounding region which shall describe air quality, water quality, water supply, hydrology, geology, soils, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics, history, and archeology;
2. A project description which shall specify what is to be done and how it is to be done, during construction and operation;
3. A listing of all licenses, permits or other approvals as required by law and the status of each;
4. An assessment of the probable impact of the project upon all topics described in 1.;
5. A listing of adverse environmental impacts which can not be avoided;
6. Steps to be taken to minimize adverse environmental impacts during construction and operation, both at the project site and in the surrounding region;
7. Alternatives to all or any part of the project with reasons for their acceptability or nonacceptability;
8. A reference list of pertinent published information relating to the project, the project site, and the surrounding region.

A. DRAFT ENVIRONMENTAL IMPACT STATEMENT

Section 1. An environmental statement shall be prepared by the agency Authority or such consultant or consultants as may be deemed qualified by virtue of their systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in accordance with the criteria and guidelines here-in-after set forth. The impacted corridor area to be studied in detail shall be of sufficient width to encompass all of the alternatives considered.

Section 2. Criteria and Guidelines - the following are to be covered in the content of the Draft Statement:

- a. A description of the proposed project including information and technical data adequate to permit a careful assessment of environmental impact including:
 - (1) reason for the project;
 - (2) the recommended or favored alternative mapped and/or described;

- (3) parks, recreational sites, wildlife, refuges and historic sites mapped and described;
 - (4) existing land use, zoning and master plan delineation of project area mapped and described;
 - (5) ambient environmental assets mapped and described.
- b. The probable impact of the proposed project on the environment including impact on ecological systems such as wildlife, fish and marine life. Both primary and secondary significant consequences for the environment should be included in the analysis including, but not limited to:
- (1) implications of the proposed action for population distribution or concentration should be estimated and an assessment made of the effect of any possible change in population patterns upon the resource base, including land use, water and public services of the area impacted.
- c. Any probable adverse environmental effects which cannot be avoided including:
- (1) water quality;
 - (2) air quality;
 - (3) noise;
 - (4) undesirable land use patterns;
 - (5) damage or destruction of significant plant or wildlife systems;
 - (6) aesthetic values;
 - (7) destruction of natural resources;
 - (8) displacement of people and business;
 - (9) displacement of viable farms;
 - (10) employment and property tax;
 - (11) destruction of man-made resources;
 - (12) disruption of desirable community and regional growth;
 - (13) health, safety and well-being of the public;
- d. A thorough discussion of the steps to be taken, before, during and after construction of the project, to minimize the adverse environmental affects as described in Section 2c including:
- (1) the effect on the rules, regulations and standards promulgated under State and/or Federal environmental statutes.
- e. Alternatives to the proposed project including:
- (1) that of no project;

- (2) description of alternatives alignments with an objective evaluation of the alternatives that might avoid some or all of the adverse environmental effects with the rationale for acceptability or non-acceptability of each alternative;
- (3) an analysis of the costs and social impact of the alternatives including construction problems and traffic service.
- f. The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity assessing the project for cumulative long-term effects from the perspective that each generation is a trustee of the environment for future generations.
- g. A quantifiable identification of any irreversible and irretrievable commitments of resources which would be involved in the implementation of the project.

B. PUBLIC HEARING AND DISSEMINATION OF DRAFT STATEMENT

Section 1. Upon completion of the Draft Environmental Impact Statement, it shall be forwarded to the Commissioner of the Department of Environmental Protection for an assessment as to its completeness.

Section 2. The Commissioner, Department of Environmental Protection shall within ten (10) days certify its completeness and authorize the agency to schedule a public hearing or hearings to be held at such time and place as shall be convenient for the residents of the area or shall notify the agency as to areas or sections of the Draft Statement which are deemed to be incomplete.

Section 3. Copies of the Draft Environmental Impact Statement shall be disseminated to:

- (1) the Director of the Chosen Board of Freeholders of counties affected;
- (2) the Chairman of the County Planning Board of the counties affected;
- (3) the Mayor of each municipality through which the project affects;
- (4) the Chairman of each municipal planning board of each municipality which the project affects;
- (5) the Chairman of each municipal environmental commission established by law of each municipality which the project affects;
- (6) the Chairman of any county environmental or conservation commission that has been established of each county which the project affects;
- (7) a reasonable number of copies shall be available for any interested party who so requests or has requested such statement.

Section 4. A public hearing or hearings shall be scheduled no less than thirty (30) days after public notification of the availability of the Draft Environmental Impact Statement has been given and Section 3, items 1-6 inclusive has been completed.

Section 5. The public hearing or hearings shall be conducted in a manner to afford ample public discussion and expression by those who wish to submit testimony or comments.

Section 6. An official record of the public hearing or hearings shall be kept and such records shall be kept open for a period of not less than ten (10) days after such hearing or hearings.

C. FINAL ENVIRONMENTAL IMPACT STATEMENT

Section 1. The Final Environmental Impact Statement shall include:

- a. Draft Environmental Impact Statement.
- b. The official record of the public hearing or hearings.
- c. A summary of the relevant problems and objections particularly raised at the public hearing or hearings.
- d. A statement may be included by the agency response to C.1.c. above.

Section 2. The Final Environmental Impact Statement shall be submitted to the Commissioner of the Department of Environmental Protection in duplicate for his review and recommendations.

EVALUATING ENVIRONMENTAL IMPACTS OF LAND USE

To aid in properly implementing the general provisions of the subdivision ordinance that refer to protection of streams, wooded areas, scenic views and similar environmental concerns, the Clinton Township Conservation Commission has prepared the attached "ENVIRONMENTAL PROTECTION STANDARDS" together with "CRITERIA FOR EVALUATING ENVIRONMENTAL IMPACT OF LAND USE PROPOSAL". We have applied these to on-site review of several land use proposals. We believe if these standards are adopted and the review procedure conducted at the earliest possible stage of land use planning, the findings will provide a basic guide to more compatible land use, fewer drainage and erosion-sediment problems, and generally a more pleasing and economically feasible result.

Clinton Township Conservation Commission
Municipal building, Annandale, N.J. 08801

June 12, 1972

ENVIRONMENTAL PROTECTION STANDARDS

- A. Streams and Drainageways: Shall be protected within their natural courses

Definitions

1. Channel: The area occupied by "bank full" flow indicated by first appreciable drop into the waterway from adjacent land.
2. % Slope Steepness: According to percentages as used by SCS in soil mapping.
3. Stream Corridor: The channel and adjacent lands necessary to insure the hydraulic, biological and esthetic integrity (functioning) of the stream.
4. Drainageways: Ordinarily dry but carries or will carry water in a more or less defined channel during periods of rainfall runoff.

Standards

The stream corridor shall be determined by rule of thumb on the basis of 5 feet horizontal measurement either side of the stream center line for each 1 foot of channel width.

Where streamside slopes are 12% or greater, the corridor shall extend to top of slope plus 10 feet.

Where flood-way and flood fringe areas have been mapped and exceed these standards, this shall be the stream corridor.

Minimum stream corridor or drainage easement shall not be less than 50 feet wide.

No construction or earth moving should take place within the stream corridor
(Exceptions: Bridge construction, utility crossing)

Stream channeling, relocation, or otherwise disturbing shall be only with permission of the Conservation Commission and Division of F. & G. Biologists.

Suitable uses of stream corridor are any uses not in conflict with these standards.

B. Surface water regimen shall be preserved.

Definition:

Surface water as indicated by active springs, lakes, seep areas, marshes and swamps or any area where the groundwater table appears at the surface and/or having vegetation consisting of a predominance of rushes and sedges on open lands. or spice bush or native stands of pin oak on forested lands.

Standards:

These areas shall be left in their natural state to insure their hydraulic and biological functioning. Any modification shall be a special case and must insure both hydraulic and biologic function of the area.

C. Groundwater regimen shall be protected

Definition:

Those areas where the groundwater periodically occurs within four feet of the surface and other areas where soils survey or on-site investigation shows to be generally wet soils, shall be regarded as water holding areas and therefore protected. A fluctuating water table can be easily identified by characteristic mottling of the soils.

Standards:

These areas may be partially encroached upon if suitable compensating functional measures are devised.

D. Trees and Wooded areas should be preserved as a matter of course for their environmental enhancement values

Additionally, because existing wooded areas almost always encompass some other critical environmental aspect such as, wet soil, steep slopes, springs, etc., they should be carefully assessed before disturbance is permitted.

For these reasons there is need for tree protection.

To be shown on sketch plats are:

1. Wooded areas
2. Hedge Rows
3. Scattered trees 2" or more 1 ft. above ground
4. Trees intended to be removed.

Standards:

1. Where trees occur in conjunction with defined critical areas, as described in A, B, C, they shall not be subject to removal.
2. Scattered trees shall be preserved
3. Removal of trees shall be limited to requirements for placement of structures.

E. Slopes

Slopes 20% or greater should be protected from any construction or disturbance. Slopes 10% to 20% may be considered buildable with 3 acre minimum lot size. Erosion and sediment control plans and precise stormwater retention plans are a necessary requirement as well as roadway alignment consideration.

F. Alternatives

In general open space planning (clustering) is probably the best means of surmounting most of these environmental restraints.

"CRITERIA FOR EVALUATING ENVIRONMENTAL IMPACT OF LAND USE PROPOSAL"

1. WHAT IS THE PROPOSED ACTION?
2. WHAT IS THE RELATIONSHIP OF ENTIRE SITE TO ITS SURROUNDINGS?
3. HOW DOES THE PROPOSED ACTION RELATE TO OR AFFECT #2 ABOVE?
ENHANCE? ADVERSELY AFFECT? NEUTRAL?
4. WHAT ADVERSE EFFECTS CANNOT BE AVOIDED IF THE PLAN IS IMPLEMENTED?
5. WHAT ARE THE AVAILABLE ALTERNATIVES TO THE PROPOSED ACTION?
ELIMINATION.... MODIFICATION.... MITIGATION
6. WHAT ARE THE CUMULATIVE AND LONG TERM EFFECTS OF THE PROPOSED ACTION WHICH EITHER SIGNIFICANTLY REDUCE OR ENHANCE THE STATE OF THE ENVIRONMENT FOR FUTURE GENERATIONS vs. LOCAL SHORT TERM USE?
7. WHAT ARE THE IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES WHICH WOULD BE INVOLVED IF THIS PROPOSED ACTION SHOULD BE IMPLEMENTED?
8. WHO IS PAYING THE ENVIRONMENTAL COST OVER WHO IS GAINING THE BENEFITS FROM THE PROPOSED ACTION?

Governmental Programs to Preserve Open Space

1. Soil Conservation Program

New Jersey Department of Agriculture runs a number of programs that are rurally orientated.

2. Land and Water Conservation Fund Program

This federal program is administered by the New Jersey Department of Environmental Protection. Several programs in outdoor recreation facilities are provided with 50 per cent matching funds.

3. Open Space Acquisition Program

Administered by HUD this program provides 50 per cent matching grants and has an emphasis on urban areas. Information can be obtained by contacting the Regional Administrator, Metro-Development, Widener Building, Philadelphia, Pa.

4. The Youth Conservation and Recreational Development Act (N.J.S.A. 9:24-8 to 16)

The purpose of the act is to aid disadvantaged youth in New Jersey. The act provides for:

- a. Youth Conservation Projects
 - b. Transportation to recreational facilities
(100 per cent grant)
 - c. Equipment and facilities grant (50 per cent grant)
5. Valuable information on planning procedures can be obtained from the county planning boards.

* CHAPTER III *

FLOOD CONTROL AND SURFACE WATER MANAGEMENT

Communities along rivers and streams must delineate and regulate the land use of the flood plains and water tributaries in their area in order to protect themselves from dangers of flooding. A total flood control program should include not only flood plain regulations along the rivers, but also adequate measures for surface water management. Flooding is often a consequence of improper land control at the source waters of the rivers, such as inadequate management over the gullies, ravines, and small tributaries that eventually feed into the larger rivers.

Flood control relates to three phases of regulation. The first phase is the defining of flood plains, which would include the floodways and flood hazard areas along streams. Where these topographic conditions exist, regulating the use of the flood plains in order to keep them available for the passage of flood water flows becomes essential. The second regulatory phase consists of the setting of stream corridor standards for the permitted land and water uses within and along the tributary streams where flood plains are not evident. This is necessary so that these streams may perform their ecological and hydrological functions free from encroachment. Lastly, storm water runoff management and guidelines, which could

be coordinated with erosion and sedimentation control measures, should be planned and implemented.

The state has authority over actual stream or river beds. The Channel Encroachment Law provides:

No structure within the natural and ordinary high-water mark of any stream shall be made by any public authority; or private person or corporation without notice to the (Division) and in no case without complying with such condition as the (Division) may prescribe for preserving the channel and providing for the flow of water therein to safeguard the public against danger from the waters impounded or affected by such structures, and this prohibition shall apply to any renewal of existing structures. N.J.S.A. 58:1-26.

This measure gives the Division of Water Resources the authority to issue permits for walls, culverts, and dams. In 1962, the responsibility of the Division was broadened to include the delineation of flood hazard areas and the coordination of flood damage information. The actual land use regulations of flood plain regions had been a matter of local zoning and regulation.

In December, 1972, Assembly Bill 572, which regulates flood plain development, was passed by the New Jersey Legislature and signed into law by the Governor. Laws of New Jersey, ch. 185 (December 14, 1972). This measure gives the state authority to regulate or ban construction in areas bordering streams or rivers. If municipalities do not adopt their own regulations, which must meet specific minimum state standards, within twelve months following passage of the law, the state will impose its own

restrictions on flood plain development. Municipalities may adopt more stringent measures to supplement the state regulations.

To implement flood control regulations, an environmental data base of a region's natural resources is necessary. For the regulation of major flood plains, it is necessary to prepare accurate maps of the flood areas, which would be based upon engineering data and all other available information. Soil maps showing alluvial and wet soils as prepared by the Soil Conservation Service are also generally acceptable criteria for proper planning in flood-prone areas. For the stream corridors and tributaries, maps outlining subwater sheds and the topography of the area would be necessary in determining land contours and slopes. Vegetation maps showing trees, grasslands, and marshes and an inventory of the fish and wildlife species and habitats are important data for developing proper land regulations in these areas. For storm water runoff control, additional data sources would include the location and size of all culverts and bridges and a map of the hydrologic soils in the area.

Where floodway engineering maps have been adopted, the encroachment lines are usually clearly prepared. The Division of Water Resources has defined its jurisdiction to include the natural and ordinary high water mark, which contains the primary flood plain. Besides the power of the Division to delineate flood plains and ordinary encroachment lines, local governing bodies also have the authority to set "reasonable" encroachment boundaries equal to, or

more restrictive than, the Division's standards. The state will uphold local measurements where they are valid for community needs and where the local regulations have been filed with the Encroachment Section of the Division of Water Resources. Through local ordinances, municipalities may protect streams from channelization, gravel digging, and stream relocation. Those seeking exception to the municipal standards would have to contact the Fish and Game Department and the Soil Conservation Service, which would determine the need and design of any proposals that conflict with municipal programs. New Jersey has also set guidelines for the alteration of upland streams.

Municipalities are legally responsible for the damage which results from uncontrolled or misdirected drainage. Correcting faulty drainage at a later date can be extremely costly. In a project undertaken by Little River, Shrewsbury, and Red Bank, where encroachment required the piping of streams and brooks, it cost those municipalities \$354,000 to drain an area of 336 acres. At a cost of \$1,050 per acre, this project is a clear example of the importance of proper planning to protect the natural drainage systems.

Regulation of flood plain regions must be reasonable and be within the police power of the community. One approach would be for the total or limited ban on construction in flood hazard areas, with the municipality initiating condemnation procedures and paying just compensation to affected property owners. In October, 1971

East Paterson enacted a one-year moratorium on building in flood-prone areas. In Manalapan Township, landowners seeking subdivisions in flood plain regions are required to prepare a conservation easement agreement, by which the Township obtains control over the natural vegetation along the flood plain. Pequannock Township's flood plain ordinance prohibits construction of buildings below a given elevation above the normal river level. Developers must therefore artificially raise the level of the land, which will then contain rising waters between the elevated river banks but could cause serious problems for the communities downstream. The Princeton Township ordinance in the Appendix would be a more practical and beneficial ordinance than either Manalapan or Pequannock's proposals for flood plain regulation. The Princeton ordinance concerns itself with the environmental problems of the flood plain region and is recommended as a model for local planning.

The National Flood Insurance Program was established under the Housing and Urban Development Act of 1968. Communities seeking to obtain flood insurance should submit an application, and within a reasonable amount of time, must enact local flood control legislation. Information can be obtained through the New Jersey Bureau of Planning and Management of the Division of Water Resources, or through the Federal Insurance Administrator in the U. S. Department of Housing and Urban Development.

The Raritan River Basin was recently chosen as a pilot project for river basin and flood plain mapping procedures by the U.S. Senate Public Works Committee. Demographic study of this region, along with proper municipal regulations, is a necessary procedure to combat flooding and ecological destruction.

APPENDIX

Chapter III

Flood Control and Surface Water Management

1. U. S. Department of Housing and Urban Development-
Suggested Resolution to be Used When Applying for Flood
Insurance.
2. Model Flood Plain Ordinance: Princeton Township - An
Ordinance Delineating and Regulating Encroachments in
Floodways and Flood Hazard Areas Along Stony Brook in
the Township of Princeton.
3. Stillwater Township - An Ordinance to Amend an Ordinance
Entitled "The Zoning Ordinance of the Township of Stillwater"
to Provide for the Regulation of the Construction of Buildings
and Structures in Critical Areas.
4. Bernardsville - An Ordinance Delineating and Regulating
Encroachments in Floodways, Flood Hazard Areas and
Riparian Yards in the Borough of Bernardsville....
5. Alexandria Township - An Ordinance to Amend an Ordinance
Entitled "The Zoning Ordinance of the Township of Alexandria"
to Provide for the Regulation of the Construction of Buildings
and Structures in Flood Plain Areas.
6. Madison Township - Zoning Ordinance to Protect Trees near
Streams.

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, D. C. 20410

SUGGESTED RESOLUTION TO BE USED WHEN APPLYING FOR FLOOD INSURANCE

WHEREAS, certain areas of the (COMMUNITY) are subject to periodic flooding and/or mudslides from the (STREAM(s)) (ATLANTIC OCEAN) causing serious damages to residential properties within these areas; and

WHEREAS, relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968 as amended; and

WHEREAS, it is the intent of this (BOARD, LEGISLATURE, COUNCIL, ETC.) to comply with land use and management criteria regulations as required in said act; and

WHEREAS, it is also the intent of this (BOARD, LEGISLATURE, COUNCIL, ETC.) to recognize and duly evaluate flood and/or mudslide hazards in all official actions relating to land use in the flood plain and/or mudslide areas having special flood and/or mudslide hazards; and

WHEREAS, the Code Citation(s) of any State enabling legislation and of any resulting county, city, town or village ordinance that authorizes this (COUNTY, CITY, TOWN, VILLAGE) to adopt land use and control measures (is, are), (e.g., STATE LAW, §4; COUNTY LAW, §11; CITY LAW, §20; TOWN LAW, §175; VILLAGE LAW, §261);

NOW, THEREFORE, BE IT RESOLVED, that this (BOARD, LEGISLATURE, COUNCIL, ETC.) hereby assures the Federal Insurance Administration that it will take legislative action as follows:

(1) (a) (If applying before December 31, 1971)

Adopt by that date and maintain in force for areas having special flood and/or mudslide hazards adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Part 1910 of the National Flood Insurance Regulations.

(b) (If applying after December 31, 1971)

Submit a copy of the land use and control measures the community has adopted in order to meet the requirements of §1910.3 and/or §1910.4 of the National Flood Insurance Regulations.

(2) Take such other official action as may be reasonably necessary to carry out the objectives of the program. Such actions will include but not be limited to:

(a) Delineating or assisting the Administrator, at his request, in delineating the limits of the areas having special flood and/or mudslide hazards on available local maps of sufficient scale to identify the location of building sites.

(b) Providing such information as the Administrator may request concerning present uses and occupancy of the flood plain and/or mudslide area.

(c) Maintaining for public inspection and furnishing upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new or substantially improved structures and, where there is a basement, the distance between the first floor and the bottom of the lowest opening where water flowing on the ground will enter; and

(d) Providing the name of the individual and the office that will be responsible for furnishing the first floor elevation information.

(e) Cooperating with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify flood plain or mudslide areas, and cooperate with neighboring communities with respect to management of adjoining flood plain and/or mudslide areas in order to prevent aggravation of existing hazards.

BE IT FURTHER RESOLVED, that this (BOARD, LEGISLATURE, COUNCIL, ETC.) hereby appoints (AGENCY or OFFICIAL) with the responsibility, authority and means to submit on the anniversary date of the community's initial eligibility, an annual report to the Administrator on the progress made during the past year within the community in the development and implementation of flood plain and/or mudslide area management measures and to implement all other commitments made herein.

PRINCETON FLOOD PLAIN ORDINANCE

An ordinance delineating and regulating encroachments in floodways and flood hazard areas along Stony Brook in the Township of Princeton.

WHEREAS, the Township Committee of the Township of Princeton, being cognizant of the recurring flooding of Stony Brook, requested the advice and assistance of the Division of Water Policy and Supply of the New Jersey Department of Conservation and Economic Development as to the alleviation of problems resulting from such flooding, and

WHEREAS, the Division of Water Policy and Supply has prepared, and delivered to the Township Committee, and the Committee has studied and considered, a report entitled "Flood Hazard Report No. 1, Delineation of Flood Hazard Areas, Stony Brook, Princeton Township, Division of Water Policy and Supply, Prepared under Authority of Chapter 19, Public Law 1962, 58:16A (50-54) by Anderson-Nichols and Co., Inc., Consultant, February, 1967";

NOW, THEREFORE, Be It Ordained by the Township Committee of the Township of Princeton:

1. Purpose and Policy. It is hereby found that Stony Brook in the Township of Princeton is subject to recurring flooding, that such flooding damages and endangers life and public and private property and facilities, that this condition is aggravated by developments and encroachments in the flood plain, and that the most appropriate method of alleviating such condition is through regulation of such developments and encroachments. It is therefore determined that the special and paramount public interest in the flood plain justifies the regulation of property located therein as provided in this ordinance, which is in the exercise of the police power of the municipality, for the protection of the persons and property of its inhabitants, and for the preservation of the public health, safety and general welfare.

2. Content. This ordinance consists of this text and that certain map entitled "State of New Jersey, Department of Conservation and Economic Development, Division of Water Policy and Supply, Stony Brook, Princeton Township, Delineation of Floodway and Flood Hazard Area, Anderson-Nichols and Co., Boston, Mass." Said map contains seven sheets, identified as Plate Nos. 1 through 7, respectively, each showing the plan and profile of a portion of Stony Brook and the floodway and flood hazard area adjacent thereto, and said sheets encompass in the aggregate approximately 10 miles of the stream, extending from its junction with the Millstone River upstream to Province Line Road. Said map is on file in the offices of the Township Clerk and the Township Engineer and is incorporated in this ordinance by reference as though fully set forth in this text.

3. Definitions. As used herein, the following terms have the meanings indicated:

Flood Map:	The map identified in Section 2 of this ordinance.
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Channel: The bed and banks of Stony Brook, which convey the normal flow of the stream that occurs most of the time.

Flood Plain: The relatively flat area adjoining the channel which has been or may be hereafter covered by flood water of the stream.

Floodway: The channel and portions of the adjacent flood plain that carry the greater part of flood flow at greater depths and velocities than do the other parts of the flood plain that constitute the minimum area required for the passage of flood flows without aggravating flood conditions upstream and downstream, that are necessary to preserve the natural regimen of the stream for the reasonable passage of the floodway design flood and that are delineated on the flood map as floodway in the Township of Princeton.

Flood Hazard Area: The floodway, and additional portions of the flood plain that are subject to flood flow at lesser depths and lower velocities than the floodway, that are inundated by the flood hazard area design flood and that are delineated on the flood map as flood hazard area in the Township of Princeton.

Design flood: The relative size or magnitude of a flood, (floodway or flood expressed as a design discharge in cubic hazard area) feet per second, which is developed from hydrologic criteria, represents a major flood of reasonable expectancy, reflects both flood experience and flood potential, and is the basis of the delineation of the floodway and the flood hazard area and of the water surface elevations thereof. The design discharge of Stony Brook, at the United States Geological Survey stream gaging station immediately downstream from the United States Route 206 bridge, is determined to be 8,250 cfs. for the floodway design flood and 10,650 cfs. for the flood hazard area design flood.

Design flood profile: The elevations of the water surface of the floodway design flood and the flood hazard area design flood as shown on the flood map.

4. Applicability. The following regulations shall govern developments in the floodway and flood hazard area:

(a) No building or structure shall be erected or moved, or externally altered or added to or enlarged, nor shall any material or equipment be stored, nor shall any fill be placed nor shall the elevation of any land be substantially changed, in the floodway, except in accordance with a permit issued

therefor as provided by this ordinance; provided, however, that accepted practices of soil husbandry, and the harvesting of crops, in connection with farming, are not included in the foregoing prohibitions.

(b) No building or structure shall be erected or moved or externally altered or added to or enlarged, in the flood hazard area outside the floodway, if the elevation of any floor thereof, including cellar, shall be less than one foot above the flood hazard area design flood profile, except in accordance with a permit issued therefor as provided by this ordinance.

(c) In cases of doubt or uncertainty as to the exact limit of the floodway or flood hazard area in a proposed development, the Township Engineer may, upon the application and with the consent of the landowner, determine the precise location of a floodway or flood hazard area limit by close inspection, field survey or other appropriate method, and cause the same to be marked on the ground, notifying the landowner, the Building Inspector and the Planning Board of the results thereof.

5. Procedure. The following procedure shall govern the issuance of such permits:

(a) The property owner shall apply to the Building Inspector for approval of development plans, which shall be submitted with the application. Such plans shall include a true and accurate plot plan, submitted in triplicate, drawn to a scale of not less than 1 inch equals 50 feet, with contour lines at intervals of not more than 2 feet, showing the exact size, shape, location and elevation of existing and proposed buildings and structures and of any proposed fill or regrading, the exact dimensions and acreage of each lot or plot to be built upon or otherwise used the location of the floodway and flood hazard area limits, the location, layout and elevation of existing and proposed parking areas, driveways, drainage, sewer and water facilities and connections, plantings, seedings, screenings, fences, and signs, and such other information as shall be reasonably required for an evaluation of the effect of the development upon flood control.

(b) The Building Inspector shall, within 30 days after receiving the application, forward the same and the development plans submitted therewith, together with his written report thereon, to the Planning Board for review. The written report of the Building Inspector shall state whether or not the application complies with the provisions of the Zoning Ordinance; and if not, the report shall specify, and the Building Inspector shall specify, and the Building Inspector shall notify applicant in writing of, the respects in which it does not comply. Neither the failure of the Building Inspector so to notify the applicant, nor the omission of any zoning non-compliance from such notification, shall relieve the applicant from the requirements of the Zoning Ordinance. If it is indi-

cated that any variance is needed from the provisions of the Zoning Ordinance, the Planning Board shall nevertheless review the application as hereinafter provided, but approval thereof by the Planning Board shall not relieve the applicant from complying with the provisions of the Zoning Ordinance, nor shall it constitute a recommendation of any zoning variance that the applicant may thereafter seek from the Board of Adjustment.

(c) The Planning Board shall refer the application to the State Division of Water Policy and Supply for report and recommendation, and the Board shall not take final action thereon until after such report and recommendation have been received or until after 30 days shall have elapsed from the date of such reference without receipt of such report and recommendation. The Planning Board shall review the application, and after giving the applicant an opportunity to appear and be heard with respect thereto, shall approve or disapprove the same, being guided in its action by the standards set forth in Section 6. Approval may be made conditional upon the applicant's adoption of specified changes. The Board shall state its findings and the reasons for its action in writing, and a copy thereof shall be given to the applicant.

(d) If the application shall be approved, the Building Inspector shall issue a permit for the development in accordance with such approval, but such permit shall not relieve the applicant from complying with such other laws and ordinances as shall be applicable.

(e) If the Planning Board shall fail to take final action within 90 days after the date of the submission of the application to the Building Inspector, or within such further time as shall have been agreed to by the applicant, the application shall be deemed to have been approved.

(f) If any person shall be aggrieved by the action of the Planning Board, appeal in writing to the Township Committee may be taken within 10 days after the date of such action. The Township Committee shall fix and notify appellant of a time and place for a public hearing on said appeal, and the appellant shall cause notice of such hearing to be published in a newspaper circulating in the Township at least 10 days prior to the hearing. All parties in interest shall be afforded an opportunity to be heard thereat. After such hearing, the Township Committee shall affirm or reverse the action of the Planning Board, stating its findings and reasons its act for its action, and a written copy of such action shall be given to the appellant.

6. Standards. In reviewing applications submitted under Section 5, the Planning Board shall consider and be guided by the general purposes set forth in Section 1 and, in addition, shall apply the following standards:

(a) As to developments in the floodway, primary consideration shall be given to preserving this area as defining the minimum capacity required for the passage of flood flows without aggravating flood conditions upstream and downstream. Encroachments therein shall therefore be permitted most sparingly and only in cases in which the public interest will be served, such as bridges, road, utility installations, and the like, and the temporary storage of material or equipment in connection with and during the construction thereof, or where the obstruction is minimal, such as surface parking or recreation areas, open fencing, and the like, and then, in either case, only in accordance with conditions designed to limit the obstruction to the practicable minimum.

(b) As to developments in the flood hazard area outside the floodway, primary consideration shall be given to the protection of persons and property involved in the development, and such consideration shall not be avoided by the waiver of the applicant. Exceptions from the prohibitions of Section 4 (b) shall therefore be permitted only where the building or structure is not designed or intended as a human dwelling place, is of a monetary value less than 10% of the value of the lot or parcel of land upon which it is proposed to be installed, is not intended to house property of a value greater than its own value, and will not by reason of its size, shape, construction or location have any substantial adverse effect upon the functioning of the floodway.

7. Validity and Severability. If any provisions of this ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions, which shall be deemed severable therefrom.

8. Penalty. Any person, firm or corporation who or which shall violate any provision of this ordinance shall be liable to a fine not exceeding \$200, or to imprisonment for a term not exceeding 90 days, or both, and each day in which such violation continues shall constitute a separate violation or offense.

Joseph R. Nini, Clerk

Carl C. Schafer, Jr., Mayor

Adopted November 6, 1967

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED
"THE ZONING ORDINANCE OF THE TOWNSHIP OF
STILLWATER" TO PROVIDE FOR THE REGULATION
OF THE CONSTRUCTION OF BUILDINGS AND STRUC-
TURES IN CRITICAL AREAS.

BE IT ORDAINED by the Township Committee of the Township of Stillwater that the Ordinance entitled "The Zoning Ordinance of the Township of Stillwater" adopted June 7, 1966 shall be and is hereby amended as follows:

Section 1. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Section 210A to provide as follows:

"210A Critical Area. Any area in any Zoning District of the Township wherein, because of soil characteristics, or the existence of a stream, floodplain, pond, lake or wetland, or because of any water table, slope, topographical or vegetational condition, general regulations governing the construction of buildings and structures are herein provided in order to promote and protect the public health, safety and general welfare of the people."

Section 2. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Section 217A to provide as follows:

"217A. Flood Plain. The relatively flat area adjoining the channel of a natural stream which has been inundated or covered by flood water, including, but without limitation, all flood plain shown in red on Map, herein called the "Flood Plains Map", entitled "Soils Limitations Map" showing Flood Plains of Stillwater Township prepared by U. S. Department of Agriculture, Soil Conservation Service New Jersey from the Stillwater Interim Soils Report of March 1970 - Sheet 3".

Section 3. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Section 243A to provide as follows:

"243A. Soil Map. That map, hereinafter called the "Soil Map" entitled "Stillwater Township Soils Limitations for Sewage Effluent Disposal prepared by U. S. Department of Agriculture, Soil Conservation Service New Jersey, from the Stillwater Interim Soils Report of March 1970 - Sheet 1", together with said interim Soils Report.

Section 4. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Section 244B to provide as follows:

"244B. Stream. Any body of constantly or inconstantly flowing water whether designated as a stream, brook, river or otherwise, and consisting of a bed, banks, and water course, including, but without limitation, all streams shown in blue on the Flood Plains Map."

Section 5. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Section 251A to provide

"251A. Wetland. Soft, spongy ground too wet for cultivation; land requiring drainage to fit it for cultivation or other use; marsh; swamp; land saturated with water, including, but without limitation, all wetlands shown in pink on Map, hereinafter called the "Wetland Map", entitled "Stillwater Township Soils Limitations Map of Critical Wetland" prepared by U.S. Department of Agriculture, Soil Conservation Service New Jersey from the Stillwater Interim Soils Report of March 1970 - Sheet 2"

Section 6. Said Zoning Ordinance shall be and is hereby amended to add to Section 301 thereof a new paragraph to provide as follows:

"The Flood Plains Map entitled 'Soils Limitations Map showing Flood Plains of Stillwater Township prepared by U.S. Department of Agriculture, Soil Conservation Service New Jersey from the Stillwater Interim Soils Report of March 1970 - Sheet 3', the Soil Map entitled 'Stillwater Township Soils Limitations for Sewage Effluent Disposal prepared by the U.S. Department of Agriculture, Soil Conservation Service New Jersey, from the Stillwater Interim Soils Report of March 1970 Sheet 1', and the Wetland Map entitled 'Stillwater Township Soils Limitations Map of Critical Wetland prepared by U.S. Department of Agriculture, Soil Conservation Service New Jersey from the Stillwater Interim Soils Report of March 1970 - Sheet 2', are hereby adopted as supplements to the Zoning Map of Stillwater Township. Said interim Soils Report of March 1970 entitled 'Soil Survey Report and Soil Resource Data for Stillwater Township New Jersey' and herein and on said Maps called the Stillwater Interim Soils Report of March 1970, is hereby adopted by reference and made part of this Ordinance as fully as if entirely set forth herein. A copy of each of said Maps, and of said Report are on file in the office of the Clerk of the Township of Stillwater and are available for inspection."

Section 7. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Section 300A entitled "General Regulations" to provide as follows:

"Section 300A General Regulations.

301A. Notwithstanding any other provision of this Zoning Ordinance, no building or structure shall be erected or constructed, either above or below ground level, within any flood plain in the Township of Stillwater. Nothing herein contained, however, shall be construed to prohibit the use of any flood plain for farming, grazing, plant nurseries, horticulture, truck farming, livestock and poultry raising, forestry, wild crop harvesting, open recreation uses such as parks, playgrounds, sport fields, golf courses, boat landings, bathing beaches, picnic areas, hunting, fishing or the like, provided any such use is permitted in the district in which the premises are located..

302A. Notwithstanding any other provision of this Zoning Ordinance, no building or structure shall be erected or constructed, either above or below ground level, within 100 feet from the bank of any stream or from the edge of any wetland, pond or lake in the Township of Stillwater. Nothing herein contained, however, shall be construed to prohibit the construction and maintenance of dams or other structures for the impoundment or retention of water in any such stream, wetland, pond or lake or of dug ponds or reservoirs provided that all applicable requirements and approvals of any public authority having jurisdiction over such matters are met and obtained.

303A Any person aggrieved by the enforcement of any of the provisions of 301A or 302A may appeal to the Zoning Board of Adjustment in accordance with the provisions of Section 716 of the Zoning Ordinance at which time he shall be entitled to show that because of soil, slope, topographical and hydrological conditions and the natural vegetation and environment at the particular location involved, the prescribed limitations and conditions are excessive. In considering any such appeal the Zoning Board of Adjustment shall give special consideration to the Flood Plains Map, the Soil Map, the Wetland Map and the Stillwater Interim Soils Report of March 1970, and to such matters as water table, slope, topography, vegetation and natural environment, and no variance shall be granted or recommended which would or might result in the pollution of, or injury or drying up of any stream or other body of water or wetland, or in otherwise endangering the public health, safety or general welfare.

Section 8. This ordinance shall take effect after publication and passage according to law.

ORDINANCE NO. 389

AN ORDINANCE DELINEATING AND REGULATING ENCROACHMENTS IN FLOODWAYS, FLOOD HAZARD AREAS AND RIPARIAN YARDS IN THE BOROUGH OF BERNARDSVILLE IN THE COUNTY OF SOMERSET, PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS THEREIN CONTAINED AND FIXING PENALTIES FOR THE VIOLATION THEREOF.

Be it ordained by the Mayor and Common Council of the Borough of Bernardsville, in the County of Somerset, and State of New Jersey, as follows:

SECTION 1. SHORT TITLE. This ordinance shall be known as the Floodplain and Watercourse Ordinance of the Borough of Bernardsville.

SECTION 2. PURPOSE. Whereas, Mine Brook, the Passaic River, the North Branch of the Raritan River and tributaries thereto in the Borough of Bernardsville are subject to recurrent flooding and recurrently bear loads of debris, silt and other materials; such flooding and such materials waterborne or deposited by water endanger life and damage public and private property and facilities; and these conditions are aggravated by developments and encroachments in and near said watercourses and floodplains thereof; and

Whereas, said watercourses provide water supply and singular recreational opportunities to inhabitants and sustain agriculture, plant life and wildlife including fish and waterfowl; said watercourses therefore constitute a unique and valuable part of the environment of the Borough; and such values are impaired by developments and encroachments in and near said watercourses; and

Whereas, said watercourses rise in compact and generally steep watersheds in and near the Borough; such situation interlinks and exaggerates the responses of said watercourses to local climatic and environmental stresses including developments and encroachments in and near said watercourses; and such developments and encroachments carelessly conceived or executed therefore incur disproportionate hazard to persons, property and water quality therein and downstream therefrom; and

Whereas, the most appropriate method to alleviate and forestall the conditions and to secure the values set forth herein is through regulation of developments and encroachments in and near watercourses.

It is accordingly found and determined that the paramount public interest in watercourses and floodplains justifies the regulation of property located within and in the vicinity thereof, which is in the exercise of the police power of the municipality, for the protection of the persons and property of its inhabitants, and for the preservation of the public health, safety and general welfare.

SECTION 3. DEFINITIONS. For the purpose of this ordinance, certain terms are defined as follows:

CHANNEL. the bed and banks of a river, stream, brook or spring which convey water most of the time.

DESIGN FLOOD. the relative size or magnitude of a major flood of reasonable expectancy, which reflects both flood experience and flood potential and is the basis of the delineation of the floodway and the flood hazard area and of the water surface elevations thereof.

DESIGN FLOOD PROFILE. The elevations of the water surface of the design flood.

FLOOD HAZARD AREA. The floodway, and additional portions of the flood plain that are subject to flood flow at lesser depths and lower velocities than the floodway, that are inundated by the design flood and that are delimited in Paragraph (e) of Section 4 of this ordinance.

FLOOD MAP. The map identified in Paragraph (b) of Section 4 of this ordinance.

FLOODPLAIN. A relatively flat area adjoining a channel which has been or may be hereafter covered by flood water from the channel.

FLOODWAY. The channel of a watercourse and portions of the adjacent floodplain that carry the greater part of flood flow at greater depths and velocities than do other parts of the floodplain, that constitute the minimum area required for the passage of flood waters without aggravating flood conditions upstream and downstream, that are necessary to preserve the natural regimen for the river or stream for the reasonable passage of the design flood and that are delimited in Paragraph (d) of Section 4 of this ordinance.

RIPARIAN YARD. The watercourse, the flood hazard area and a contiguous area that buffers the watercourse or the floodplain therefrom from abnormal fluctuations in discharge and burdens of foreign substances which could arise from careless development and that is delimited in Paragraph (f) of Section 4 of this ordinance.

WATERCOURSE. Any channel, lake or pond delineated on the flood map as "watercourse", or any normally wet area contiguous to a watercourse.

SECTION 4. DESIGNATIONS AND SPECIFICATIONS.

(a) **DESIGNATIONS.** for the purpose of this ordinance, there are hereby designated in the Borough of Bernardsville:

- (1) Watercourses
- (2) Floodways
- (3) Flood hazard areas
- (4) Riparian yards

(b) **FLOOD MAP.** Floodways, flood hazard areas and Riparian yards are hereby established along all watercourses designated on the map entitled "FLOOD MAP, BOROUGH OF BERNARDSVILLE, COUNTY OF SOMERSET, STATE OF NEW JERSEY", dated Nov. 1971, prepared by the Engineering Department of the Borough of Bernardsville. Said flood map accompanies this ordinance and is hereby declared to be a part hereof.

(c) **DESIGN FLOOD PROFILES.** Design flood profiles given as elevations above the normal surface levels of certain watercourses are hereby established for said watercourses as follows:

- (1) Mine Brook below the crossing of Seney Drive and above the crossing of United States 202, eight (8) feet.
- (2) Mine Brook below the crossing of United States Route 202, eight (8) feet.
- (3) Passaic River, seven (7) feet.
- (4) North Branch of the Raritan River, nine (9) feet.
- (5) Indian Grave Brook below the crossing of Hardscrabble Road approximately three-fourths mile upstream from the mouth of Indian Grave Brook, six (6) feet.

(d) EXTENT OF FLOODWAY. Floodway is hereby established to encompass the channel of every watercourse designated on the flood map and adjacent portions of floodplain of certain watercourses that are not elevated above the design flood profile and that are not located more than a specified distance from the centerline of the channel as follows:

(1) Mine Brook below the crossing of Seney Drive and above the crossing of United States Route 202, fifty (50) feet.

(2) Mine Brook below the crossing of United States Route 202, one hundred (100) feet.

(3) Passaic River, one hundred (100) feet.

(4) North Branch of Raritan River, one hundred (100) feet.

(5) Indian Grave Brook below the crossing of Hardscrabble Road, approximately three-fourths mile upstream from the mouth of Indian Grave Brook, fifty (50) feet.

(e) EXTENT OF FLOOD HAZARD AREA. Flood hazard area is hereby established to encompass the floodway of every watercourse designated on the flood map and adjacent portions of floodplain that are not elevated above the design flood profiles established in Paragraph (C) of this Section.

(f) EXTENT OF RIPARIAN YARD. Riparian yard is hereby established to encompass the channel, floodway and flood hazard area of every watercourse designated on the flood map and contiguous areas that lie distant not more than twice the minimum rear yard width (as specified by the Zoning Ordinance of the Borough of Bernardsville for the zone in which the riparian yard lies) from the centerline of the watercourse and

(1) elevated not more than five (5) feet above the nearest normally wet point of the watercourse, or

(2) distant not more than said minimum rear yard width from the nearest normally wet point of the watercourse.

(g) RESOLUTION OF DOUBT. In cases of doubt or uncertainty as to exact limit of the floodway, flood hazard area or riparian yard in a proposed development, the Borough Engineer may, upon application of the landowner, determine the precise location of a floodway or flood hazard area limit by close inspection, field survey or other appropriate method, and cause the same to be marked on the ground, notifying the landowner, the Building Inspector, and the Planning Board of the results thereof.

SECTION 5. GENERAL REGULATIONS. Within a riparian yard no structure may be erected, no equipment or goods may be stored, and no landfill, excavation or construction operations may be undertaken except upon application to and specific approval of the Planning Board and, whenever state statute so requires, of the Department of Environmental Protection of the State of New Jersey. Any other use that is allowed (by right or subject to the approval of the Board of Adjustment) in the zone in which the riparian yard is located is permitted provided that it is also subject to the requirements of Section 6. Any existing building may be altered subject to the approval of the Planning Board provided that the alteration will not materially affect the floodway or increase the obstruction to the flow of flood waters.

The placement of an existing or proposed structure within the extension of a riparian yard resulting from a proposed dam, but outside the resulting flood hazard area, shall not prejudice the construction of said dam or structure. Accepted practices of soil husbandry, planting and harvesting of crops in connection with farming, forestry and arboriculture are not included in the above prohibitions.

SECTION 6. REQUIREMENTS.

(a) no activity regulated by Section 5 shall hereafter be undertaken within any riparian yard unless and until a Site plan shall have been submitted to the Planning Board for its review and approval. Said Site Plan shall, in addition to the information required in other ordinances show the following information:

(1) The existing and proposed contours at a contour interval of two (2) feet.

(2) The proposed elevations of the levels of the lands involved at the corners of the foundation of any existing or proposed structure.

(3) The lowest elevation of the lowest proposed area within any proposed structure after its completion.

(4) The layout of existing and proposed public streets and the nature, extent and location of existing and proposed public utilities servicing and to service the premises in question.

(5) The layout of existing and proposed features that may have material hydrologic effect including, but not limited to, pavements, forests, retaining walls, drains and culverts.

(6) The elevation of any existing or proposed pumping facilities

(b) The Planning Board shall not approve any Site Plan required by this Section unless and until the following requirements have been met:

(1) The lowest floor including the cellar and all essential services of any proposed structure in a flood hazard area will be at least one (1) foot above the flood hazard area design flood profile.

(2) Adequate drainage is provided so as to reduce exposure to flood hazards.

(3) New or replacement water supply systems and/or sanitary sewage systems have been designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and on-site waste disposal systems will be located so as to avoid impairment of them or contamination from them during flooding.

(4) Any proposed structure, when built, can be occupied without peril to the health or safety of the occupant.

(5) Any proposed structure will not adversely affect the flow in any watercourse.

(6) All public utilities such as sewer, gas, electrical and water systems will be located, elevated and constructed to minimize flood damage.

(7) All improvements to structures in the flood hazard area will be anchored to prevent flotation, collapse or lateral movement, use construction materials and utility equipment that are resistant to flood damage and use construction methods and practices that will minimize flood damage.

SECTION 7. TIME LIMITS. The Planning Board shall act upon any Site Plan provided for in Section 6 within sixty (60) days of the date of filing thereof or the date of approval by the State Department of Environmental Protection, or other extension of time agreed to by the applicant. Failure of the Planning Board to act within the time limit or limits shall be deemed an approval of any Site Plan submitted under this ordinance. Planning Board disapproval shall include written findings upon any Site Plan element found contrary to the provisions or intent of this ordinance.

SECTION 8. ISSUANCE OF PERMITS. No building Permit shall be issued by the Building Inspector for any proposed structure to be located within any riparian yard unless and until the Planning Board shall have approved a Site Plan submitted in accordance with Section 6. No Certificate of Occupancy shall be issued by the Building Inspector unless and until proof has been submitted to him that all conditions of Site Plan approval have been fully met and complied with.

SECTION 9. APPEAL. If any person shall be aggrieved by the action of the Planning Board or Building Inspector, appeal in writing to the Common Council of the Borough of Bernardsville may be within ten (10) days after the date of such action. Said Council shall fix and notify appellant of a time and place for a public hearing on said appeal, and the appellant shall cause notice of such hearing to be published in a newspaper circulating in the Borough at least ten (10) days prior to the hearing. All parties shall be afforded an opportunity to be heard thereat. After such hearing, said Council shall affirm or reverse the action of the Planning Board, stating its findings and reasons for its actions, and a written copy of such action shall be given to the appellant.

SECTION 10. STANDARDS. In reviewing applications submitted under Section 6, the Planning Board shall consider and be guided by the general purposes and policies set forth in Section 2, and, in addition, shall apply the following standards:

(a) As to developments in the floodway, primary consideration shall be given to preserving this area for the passage of flood waters without aggravating flood conditions upstream and downstream. Encroachments in the floodway shall therefore be permitted only in cases in which the general public interest will be served, such as parks, playgrounds, bridges, utility rights of way, and the like, or where the obstruction to the flow of flood waters is minimal, such as recreational areas, docks, open fencing, suitably designed dams, parking areas, and the like. In no case shall landfill be permitted within the channel or floodway, nor shall the piping of a channel underground be permitted. In addition to the preceding considerations the considerations of paragraphs (b) and (c) of this Section shall apply to the floodway.

(b) As to developments in the flood hazard area outside of the floodway, primary consideration shall be given to the protection of persons and property involved in the development, and such consideration shall not be avoided by the waiver of the applicant. Exceptions from the prohibitions of Section 6 shall therefore be permitted only where the building or structure is not designed or intended as a human dwelling place, is of a monetary value less than ten percent (10%) of the value of the lot or parcel of land upon which it is proposed to be installed, is not intended to house property of a value greater than its own value, and will not by

reason of its size, shape, construction or location have any substantial adverse effect upon the functioning of the floodway. In addition to the preceding considerations of paragraph (c) of this Section shall apply to the flood hazard area.

(c) As to developments in the riparian yard outside the flood hazard area, primary consideration shall be given to the protection of persons and property downstream, and to the preservation of water resources and quality. Developments therein shall therefore be permitted only upon satisfactory evidence that erosion, runoff discharged into the watercourse and changes in level of the water table caused by such development shall be controlled so that hazards of flood and drought downstream will not be augmented, the stability of banks will not be impaired, and the burden of foreign substances in the watercourse including, but not limited to, silt, petroleum products or septic tank effluents, will not be regularly or recurrently augmented.

SECTION 11. VIOLATIONS AND PENALTIES. Any person, firm or corporation who or which shall violate any provision of this ordinance shall be liable to a fine not exceeding five hundred dollars (\$500), or to imprisonment for a term not exceeding ninety (90) days, or both, and each day in which such violation continues shall constitute a separate violation or offense.

SECTION 12. VALIDITY. If any Section, paragraph, sentence, clause, phrase or other portion of this ordinance shall for any reason be held invalid by any court, the same shall not affect the validity or effect of the remaining provisions of this ordinance.

SECTION 13. WHEN EFFECTIVE. This ordinance shall take effect immediately upon passage and publication in the manner provided by law.

Introduced and passed on 1st Reading November 15, 1971.

Published November 18, 1971.

Passed on Final Reading and Adopted November 29, 1971.

Published December 2, 1971.

COMMON COUNCIL OF THE BOROUGH OF BERNARDSVILLE IN THE COUNTY OF SOMERSET.

By Thomas A. Germuska
Mayor

Attest: Helen L. Humiston
Borough Clerk

TOWNSHIP OF ALEXANDRIA

NOTICE OF ORDINANCE

Notice is hereby given that at a regular meeting of the Township Committee of the Township of Alexandria, County of Hunterdon and State of New Jersey, held on the 9th day of February, 1972 the following ordinance was presented and passed on first reading. The ordinance was then ordered to be published according to law. Notice is hereby given that said ordinance will be considered for final passage at a meeting of the said Township Committee of the Township of Alexandria on the 8th day of March, 1972 at the Everittstown School, at 8:00 p.m.

WILLIAM ERWIN, clerk

ORDINANCE 72-2

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED "THE ZONING ORDINANCE OF THE TOWNSHIP OF ALEXANDRIA" TO PROVIDE FOR THE REGULATION OF THE CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD PLAIN AREAS.

WHEREAS the Township Committee of the Township of Alexandria being cognizant of the recurring flooding of streams within the Township has requested the advice and assistance of the Township Conservation Commission and the Hunterdon County Soil Conservation District as to the prevention and alleviation of problems resulting from such flooding; and

WHEREAS the Soil Conservation Service assisting the Hunterdon County Soil Conservation District has prepared and delivered to the Township Committee and the Committee has studied and considered a Flood Plain Map showing flood plains of streams within Alexandria Township, now therefore

BE IT ORDAINED by the Township Committee of the Township of Alexandria that the Ordinance entitled "The Zoning Ordinance of the Township of Alexandria" adopted July 1, 1961 shall be and is hereby amended as follows:

Section 1. Purpose and Policy. It is hereby found that streams within the Township of Alexandria are subject to recurrent flooding, that such flooding has the potential of endangering public and private property and facilities, that this condition is aggravated by developments and encroachments on the flood plain which create an additional hazard to the lives and property of those dwelling on the flood plain and that the most appropriate method of alleviating such conditions is through regulation of such developments and encroachments. It is therefore determined that the special and paramount public interest in the flood plain justifies the regulation of property located therein as provided in this ordinance which is in the exercise of the police power of the municipality for the protection of the persons and property of its inhabitants and for the preservation of the public health, safety and general welfare.

Section 2. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Article V, Section 7, to provide as follows:

7(a) Flood Plain. The relatively flat area adjoining the channel of a natural stream which has been inundated or covered by flood water, including, but without limitation, all flood plains shown on Map, herewith called the "Flood Plain Map," delineating Flood Plains of Alexandria Township based on soil survey data of the U.S. Department of Agriculture, Soil Conservation Service."

7(b) Flood Plain Soils. Flood plain soils, where overflow is frequent or very frequent, have been designated on the Flood Plain Map with the following symbols:

Name

Map symbol	Pub. symbol
0121, 0520, 0521, Alluvial land, loamy	Ac
0131, 0530, 0531 Alluvial land, wet	Ae
0330, 0332, B030, B031	
B130, BH30, L330 Bowmansville silt loam	Bt
0320 Rowland silt loam	Ro

On the map the soil symbols occur on top or first in the examples:

B030

B-12 or B030-B-12

Section 3. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Article V, Section 8 to provide as follows:

8. The Flood Plain Map is hereby adopted as supplement to the Zoning Map of Alexandria Township. Said map is hereby adopted by reference and made part of this Ordinance as fully as if entirely set forth herein. A copy of said Map is on file in the office of the Clerk of the Township of Alexandria and is available for inspection.

Section 4. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Article V, Section 9, to provide as follows:

9. Notwithstanding any other provision of this Zoning Ordinance, no building or structure shall be erected or constructed, either above or below ground level, within any flood plain in the Township of Alexandria. Nothing herein contained, however, shall be construed to prohibit the use of any flood plain for farming, grazing, plant nurseries, horticulture, truck farming, livestock and poultry raising, forestry, wild sport fields, golf courses, boat landings, bathing beaches, picnic areas, hunting, fishing or the like, provided any such use is permitted in the district in which the premises are located. Nothing herein contained shall be construed to prohibit the construction and maintenance of dams or other structures for the impoundment or retention of water in any such stream, provided that all applicable requirements and approvals of any public authority having jurisdiction over such matters are met and obtained.

Section 5. Said Zoning Ordinance shall be and is hereby amended to add thereto a new section to be designated Article XI, Section 7 to provide as follows:

7. Any person aggrieved by the enforcement of any of the provisions of these sections may appeal to the Zoning Board of Adjustment in accordance with the provision of Article XI, Section 7 of the Zoning Ordinance at which time he shall be entitled to show that because of soil, slope, topographical and hydrological conditions and the natural vegetation and environment at the particular location involved, the prescribed limitations and conditions are excessive. In considering any such appeal the Zoning Board of Adjustment shall consult with the Soil Conservation Service and give special consideration to the Flood Plain Map, and to such matters as water table, slope, topography, vegetation and natural environment, and no variance shall be granted or recommended which would or might aggravate the hazards of flooding by encroaching on or obstructing the flood plain and no variance shall be granted or recommended which would or might result in the pollution of, or injury or drying up of any stream or other body of water or in otherwise endangering the public health, safety, or general welfare.

Section 6. This Ordinance shall take effect after publication and passage according to law.

DONALD CROUSE, Mayor

Approved:

William W. Erwin, clerk

MADISON TOWNSHIP ZONING ORDINANCE

5-18-1. No tree over fifty (50) inches in circumference measured three (3) feet above ground within one-hundred (100) feet of any stream as above shall be removed nor shall any area fifteen (15) square within one-hundred (100) feet of any such stream be cleared of all smaller trees except as follows:

- (1) Pursuant to site plan approved by the Township of Madison
- (2) in accordance with the "management plan" developed by the N.J. Department of Conservation and Economic Development, Bureau of Farm services, that shall be filed with the Township Clerk or Township Engineer.
- (3) any tree growing in a public or private right of way. Removal of diseased and dead trees may not be prohibited except that girding or poisoning of trees in order to avoid compliance with approved plans shall constitute a violation.

* CHAPTER IV *

SOIL EROSION AND SEDIMENTATION CONTROL

Soil Erosion and Sedimentation Control is a necessary feature of a total environmental planning program. Proper safeguards for soil maintenance are important to alleviate flooding, to protect open areas, and to provide a clean water supply. While there is increasing pressure for statewide erosion and sediment control regulations, the present standards require local measures of environmental protection in the area of soil standards.

In Fred V. Borough of Old Tappan, 17 N.J. Super. 153, 85 A.2d 317 (1951), the Superior Court upheld Old Tappan's soil control measures as constitutional. The court reasoned that the dangers of uncontrolled removal of topsoil might necessitate local measures to prevent erosion. Besides topsoil maintenance, many municipalities have enacted local ordinances to regulate quarry and mining operations. Such measures should attempt to preserve environmental factors, while also promoting the economic concerns of the excavation industry. Examples of local mining ordinances can be obtained through the South Branch Watershed Association.

Slope standards are also important measures to control soil erosion and sedimentation. The New Jersey Soil Conservation Districts can provide technical assistance in the area of soil planning

and slope regulations. A list of the Soil Conservation Districts can be found in the Appendix. The state model soil and sedimentation control ordinance is also included in the Appendix and is recommended for adoption by local governments.

APPENDIX

Chapter IV

Soil Erosion and Sedimentation Control

1. New Jersey Model Ordinance - Model Ordinance to Amend Municipal Subdivision and Zoning Ordinances to Control Soil Erosion and Sedimentation.
2. Washington Township - An Ordinance of the Township of Washington Concerning the Environment; Regulating Soil Removal and Public Trees and Shrubs; Providing for Administration and Enforcement, and Providing Penalties for Violation.
3. Soil Conservation Districts in New Jersey.

MODEL ORDINANCE TO AMEND MUNICIPAL SUBDIVISION AND ZONING
ORDINANCES TO CONTROL SOIL EROSION AND SEDIMENTATION

An ordinance to amend municipal subdivision and land use ordinances and establish regulations for controlling soil erosion and sedimentation within the municipality of _____

ARTICLE I
TITLE AND PURPOSE

A. Title

This ordinance shall be known as the "_____
Municipal soil Erosion and Sediment Control Ordinance."

B. Purpose

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

ARTICLE II
DEFINITIONS

A. Rules Applying To Text

For the purpose of this ordinance certain rules of word usage apply to the text as follows:

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

B. Definitions

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

1. Approved plan - a plan to control soil erosion and sedimentation which has been approved by the municipal governing body.
2. Applicant - A person, partnership, corporation or public agency requesting permission to engage in land disturbance activity.
3. Critical area - A sediment-producing highly erodible or severely eroded area.
4. Excavation or Cut - Any act by which soil or rock is cut into dug, quarried, uncovered, removed, displaced or relocated.
5. Erosion - Detachment and movement of soil or rock fragments by water, wind, ice and gravity.
6. Farm Conservation Plan - A plan which provides for use of land, within its capabilities and treatment, within practical limits, according to chosen use to prevent further deterioration of soil and water resources.
7. Land - Any ground, soil, or earth including marshes, swamps, drainageways and areas not permanently covered by water within the municipality.
8. Land Disturbance - Any activity involving the clearing, grading, transporting, filling and any other activity which causes land to be exposed to the danger of erosion.
9. Permit - A certificate issued to perform work under this ordinance.

10. Mulching - The application of plant residue or other suitable materials to the land surface to conserve moisture, hold soil in place, and aid in establishing plant cover.
11. Sediment - Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.
12. Sediment Basin - A barrier or dam built at suitable locations to retain rock, sand, gravel, silt or other material.
13. Erosion and Sediment Control Plan - A plan which fully indicates necessary land treatment measures, including a schedule of the timing for their installation, which will effectively minimize soil erosion and sedimentation. Such measures shall be at least equivalent to the standards and specifications as adopted by the _____ Soil Conservation District.
14. Soil - All unconsolidated mineral and organic material of any origin.
15. Soil Conservation District - A governmental subdivision of this state, which encompasses this municipality, organized in accordance with the provisions of Chapter 24, Title 4, N.J.R.S.
16. Site - Any plot, parcel or parcels of land.
17. Stripping - Any activity which significantly disturbs vegetation or otherwise stabilized soil surface including clearing and grubbing operations.

ARTICLE III
PROCEDURE

A. REGULATION

No site plan or preliminary plat submitted to the planning board pursuant to the subdivision or land use ordinance of _____ (municipality) shall be granted approval unless it includes a soil erosion and sediment control plan in accordance with the

standards and specifications for soil erosion and sediment control adopted by the _____ Soil Conservation

District. The applicant shall bear the final responsibility for the installation and construction of all required soil erosion and sediment control measures according to the provisions of this Ordinance except as exempted by ARTICLE V.

B. Data Required

The applicant must submit to the planning board a separate soil erosion and sediment control plan for each site. Such plan shall contain:

1. Location and description of existing natural and man made features on and surrounding the site including general topography and soil characteristics and a copy of the soil conservation district soil survey where available.

2. Location and description of proposed changes to the site.

3. Measures for soil erosion and sediment control which must meet or exceed STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL adopted by the _____ Soil Conservation District. STANDARDS AND SPECIFICATIONS shall be on file at the offices of the local Soil Conservation District and the township clerk,

4. A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project including starting and completion dates.

5. All proposed revisions of data required shall be submitted for approval.

ARTICLE IV
PRINCIPLES AND STANDARDS

A. General Design Principles

Control measures shall apply to all aspects of the proposed site development involving land disturbance and shall be in operation during all stages of the disturbance activity.

The following principles shall apply to the soil erosion and sediment control plan:

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

C. MAINTENANCE

All necessary soil erosion and sediment control measures, installed under this ordinance, shall be adequately maintained for one year after completion of the approved plan. The enforcement officer shall give the applicant upon request a certificate indicating the date on which the measures called for in the approved plans were completed.

D. MAINTENANCE BONDS

E. FEES

F. PENALTIES OR VIOLATIONS

1. Monetary
2. Stop orders
3. Injunctive relief

ARTICLE V EXEMPTIONS

The following activities are specifically exempt from this ordinance:

1. Minor subdivisions.
2. Site plans for development where the land will not be disturbed.
3. Agricultural use of lands when operated in accordance with a farm conservation plan approved by the local Soil Conservation District or when it is determined by the local soil conservation district that such use will not cause excessive erosion and sedimentation.

ARTICLE VI INSPECTION AND ENFORCEMENT

The requirements of this ordinance shall be enforced by the duly authorized and qualified municipal agent who shall also inspect or require adequate inspection of the work carried out pursuant to site plan approval. If the authorized official finds existing conditions not as stated in the applicant's erosion and sediment control plan he may refuse to approve further work and may require necessary erosion and sedimentation control measures to be promptly installed and may seek other penalties as provided in ARTICLE IV F.

APPEALS

Appeals from decisions under this ordinance may be made to the municipal governing body in writing within ten days from the date of such decision. The appellant shall be entitled to a hearing before the municipal governing body within thirty days from date of appeal.

ARTICLE VIII VALIDITY AND SEVERABILITY

If any part of this ordinance is found not valid, the remainder of this ordinance shall remain in effect.

Draft 9/3/71

Washington Township (Morris Co.)

May, 1972 pop. 6,962

NOTICE

Public Notice is hereby given that the following ordinance was introduced and passed on the first reading at a meeting of the Township Committee of the Township of Washington, Morris County, New Jersey, held on April 17, 1972, and that said ordinance will be further considered for final passage by the Township Committee of the Township of Washington at the Township Hall, Long Valley, Washington Township, Morris County, New Jersey, on Monday, May 15, 1972, at 8:30 o'clock P.M., at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning the same.

By order of the Township Committee of the Township of Washington.

Dated: April 17, 1972

Kenneth K. Lance, Clerk
AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON CONCERNING THE ENVIRONMENT; REGULATING SOIL REMOVAL AND PUBLIC TREES AND SHRUBS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT, AND PROVIDING PENALTIES FOR VIOLATION.

BE IT ORDAINED by the Township of Washington, County of Morris, State of New Jersey as follows:

PRELIMINARY STATEMENT
The numeration employed in this ordinance reflects the chapter, section and subsection references to be used in the pending revision of the Township ordinances, wherein this ordinance will be Chapter XV.

CHAPTER XV ENVIRONMENT

15-1 Soil Removal.

15-1.1 Findings. The township committee hereby finds that the uncontrolled and unregulated excavation, filling and removal of soil has resulted and will result in conditions detrimental to the public safety, health and general welfare, deterring substantially the efforts of the township to promote and effectuate the general purpose of municipal planning and flood damage control.

15-1.2 Definitions. As used in this chapter:

a. "Soil" shall mean earth, sand, clay, loam, gravel, humus, rock or dirt, without regard to the presence or absence of organic matter.

b. "Redistribution" shall mean any change or alteration in the grade of any property.

c. "Move" shall mean to dig, excavate, remove, deposit, fill, grade, replace, level or otherwise alter or change the location or contour of land or to transport or supply soil.

15-1.3 Permit Required. No person shall excavate any soil or change or alter the grade of any property within the township without having first obtained a permit from the township committee. This section shall not apply to the excavation of soil for use on the premises from which it is taken, provided that this does not involve any substantial change in the topography of the premises; or the excavation of soil in connection with the construction or alteration of the basement or foundation of a building.

15-1.4 Applications. Applications shall be made through the township engineer and shall be accompanied by the following:

a. A map of the premises showing the present contour lines and the proposed future contour lines resulting from the intended excavation or redistribution of soil.

b. The grades resulting from the intended removal or redistribution of soil in relation to the topography of the premises, which information may be included in the map required by the preceding paragraph.

c. The proposed dates for the commencement and completion of the work.

d. Name and address of the owner of the land.

e. Lot and block numbers of the lands as shown on the current tax map of the township.

f. Reason for removing the soil.

g. Type and quantity of soil to be removed.

h. Location to which soil is to be removed.

i. Such other pertinent data as the director of public works may deem necessary.

j. Applicant shall notify all property owners within 200 feet of the boundaries of the affected lot and/or contiguous piece of the property by certified mail, return receipt to be submitted with the filing of the application.

15-1.5 Consideration of Application. In considering the application, the township engineer shall take into consideration and be guided by the following factors:

a. Soil erosion by water and wind.

b. Drainage.

c. Soil fertility.

d. Lateral support slopes and grades of abutting streets and lands.

e. Land values and uses.

f. Any other factor relevant to the coordinated, adjusted and harmonious development of the township.

If, after considering the above factors, the township engineer determines that the proposed removal or redistribution of soil will not be detrimental to the health, safety or welfare of the township or its inhabitants, he shall recommend to the Township Committee the issuing of the necessary permit.

However, after considering the above factors, the Township Engineer determines that the proposed removal or redistribution of soil will be detrimental to the health, safety or welfare of the Township or its inhabitants, he shall recommend to the Township Committee the denial of the permit.

15-1.6 Fee. No soil removal shall be issued until a fee of One Hundred (\$100.00) Dollars shall be paid by the applicant to the Township Clerk, upon application, together with a charge of One (\$1.00) Dollar per cubic yard for each cubic yard of soil removed upon issuance of permit.

15-1.7 Lawn Sod. 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.

15-1.8 Bond Requirements. Before the permit is issued the applicant shall file with the Township Clerk a bond executed by the applicant as principal and a surety company licensed to do business in the State of New Jersey as surety. The amount of the bond shall be determined by the township engineer, but in no event shall it be less than One Thousand (\$1,000.00) Dollars. The bond shall be conditioned as follows:

a. That the permittee will complete the work authorized by the permit in conformity with the terms of the permit and the provisions of this chapter on or before the date of completion set forth in the application.

b. That the applicant will repair any public street, structure or land which may be damaged as a result of the work authorized by the permit.

15-1.9 Regulations. Soil removal or redistribution conducted under a permit issued under this chapter shall be in accordance with the following regulations:

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

b. Lands shall be graded so as to conform to the contour lines and grades approved and shall be cleared of debris.

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

d. All of the work described in this chapter shall be performed between the hours of 8:00 a.m. and 8:00 p.m. on any working day.

e. Adequate measures shall be taken to prevent erosion or the depositing of soil upon surrounding lands, streets or municipal facilities.

15-1.10 Injunctive Proceedings. Nothing in this chapter shall be construed so as to prevent the township from taking injunctive proceedings to restrain removal of top soil as described in this chapter.

15-2 Trees and Shrubs.

15-2.1 Permit Required for Certain Acts. No person shall do or cause to be done any of the following acts affecting the trees, plants, shrubbery or other ornamental flora planted or growing naturally within the highways or public places under the jurisdiction of the township, except with a written permit first obtained from the shade tree commission.

a. Cut, trim, break, disturb the roots of, or spray with chemicals any living tree or shrub; or injure, misuse or remove any structure or device placed to support or protect any tree or shrub.

b. Plant or remove any living tree or shrub, or climb with spikes any living tree or shrub.

c. Fasten any rope, wire, electric attachments, sign or other device to a tree or shrub, or to any guard about such tree or shrub.

d. Close or obstruct any open space provided about the base of a tree or shrub to permit the access of air, water or fertilizer to the roots of such tree or shrub.

e. Pile any building material, or make any mortar or cement within six feet of a tree or shrub.

f. Change the grade of the soil within the limits of the lateral spread or the branches of any such tree.

15-2.2 Wire, Cable, Electric Current. Every person having control over any wire for the transmission of an electric current along a public highway shall at all times guard all trees through which, or near which, such wire passes, against any injury from the wire or cable or from the electric current carried by it. The device or means used shall in every case be subject to approval by the shade tree commission.

15-2.3 Guy Wires, Braces Prohibited. No person shall place any guy wire, brace or other device on any such tree in such a manner as to injure it.

15-2.4 Injury by Animals. No person shall hitch or fasten an animal to any tree or shrub upon a public highway or to any guard or support provided for the same, or permit an animal to bite or otherwise injure any tree or shrub.

15-2.5 Chemical Damage. No person shall permit any brine, gas or injurious chemical or liquid to come in contact with the stump or roots of any tree or shrub upon a public highway.

15-2.6 Interference with shade tree commission. No person shall prevent, delay or interfere with any lawful work undertaken by the shade tree commission or its authorized agent.

15-3 Enforcement. If any person shall continue to violate any of the provisions of this chapter, after being duly notified of such violation, or shall neglect or refuse to comply with any lawful order of Township

Engineer or other lawful authority, the failure to comply with a second or each of any subsequent notifications or orders, shall be construed as an additional violation of this chapter, and each such additional offense shall subject the offending party upon conviction to the same penalty as provided for the first offense.

Validity. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not effect the remaining portion of this ordinance.

Inconsistency. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Penalty. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, pay a fine not exceeding five hundred (\$500.00) dollars or be imprisoned in the county jail for a term not exceeding 90 days, or both.

Effective Date. This ordinance shall take effect upon final passage and publication in accordance with the law.

4/27/1

SOIL CONSERVATION DISTRICTS IN NEW JERSEY

Burlington SCD	Mick Building Rt. 38, Mt. Holly 08060	609-267-0811
Camden SCD	152 Ohio Avenue Clementon 08021	609-767-3977 or 784-1001
Cape-Atlantic SCD	Atlantic Co. Bldg. 1200 W. Harding Hwy. Mays Landing 08330	609-625-2203 or 465-5115
Cumberland SCD	10 Fayette Street Bridgeton 08302	609-451-2144
Freehold SCD (Middlesex Co.)	1380 Hamilton Street Somerset 08873	201-828-2577
Freehold SCD (Monmouth Co.)	20 Court Street Freehold 07728	201-462-1079
Gloucester SCD	Gloucester Co. Bldg. Clayton 08312	609-881-0240
Hunterdon SCD	Route 6, Box 49 Flemington 08822	201-782-3915
Mercer SCD	930 Spruce Street Trenton 08638	609-396-4593 or 599-3511
Morris SCD	Court House Morristown 07960	201-538-1552
Northeast SCD	317 Pennsylvania Ave. Paterson 07503	201-278-5000
Ocean SCD	Whitesville Road Toms River 08753	201-349-1245
Salem SCD	43 S. Main Street Woodstown 08098	609-769-1125
Somerset-Union SCD	1151 U.S. Route 22 Somerville 08876	201-725-3848
Sussex SCD	16 Church Street Newton 07860	201-383-3800 or 852-5450
Warren SCD	Stiger Street Hackettstown 07840	201-852-5450
State Soil Cons. Committee	P. O. Box 1888 Trenton 08625	609-292-5540

* CHAPTER V *

ENVIRONMENTAL COMMITTEES AND COMMISSIONS

In 1968, the New Jersey Legislature adopted legislation which enabled municipalities to establish conservation commissions; N.J.S.A. 40:56A 1 to 5. This act gave each local conservation commission the power to research the use of open lands in their community, to publish and distribute conservation pamphlets and books, and to acquire property in the name of the municipality by gift, purchase, grant, bequest, devise or lease to the terms of the conveyance or gift. Recent legislation has altered the title of municipal conservation commissions to that of environmental commissions; Chapter 35, P.L. 1972. The commissions have also been given broader powers and a wider scope of environmental concerns, including noise control, flora and fauna protection, and water resources management. The role of the commissions in sponsoring land control ordinances based upon environmental data is also of increased importance. Besides local appropriations, certain organizations, such as the Ford Foundation, and state-matching funds under a recently-enacted law provide funds to accomplish the work of these commissions. The Department of Conservation and Economic Development's Municipal Conservation Handbook is a valuable source of information for the local commissions.

Another municipal program to protect the environment is the formation of local shade tree committees or commissions. Committees are most often advisory and made recommendations to the local governing bodies. Commissions usually have broader powers and can effectuate planning procedures within the area of their concern. Both shade tree committees and commissions actively work to protect and encourage the growth of trees, shrubs, and various forms of natural vegetation. Projects of these groups are aimed at community beautification and have helped to alleviate the massive destruction of both large woodlands and neighborhood shade trees.

New Jersey has adopted a number of conservation control measures in recent years. Included among these have been the Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq.; Water Pollution Control Code, N.J.S.A. 26:2E-1 et seq.; Water Classification Code, N.J.S.A. 58:12-3; Protection of Plants, Crops and Timber, N.J.S.A. 4:17-9; and Public Health Nuisance Act, N.J.S.A. 26:3B-1 et seq. The continuing efforts of conservation organizations and dedicated public officials have been an important impetus to the passage of such legislation.

On the local level, conservation education and regional projects have been a vital means of advancing environmental protection. A recent example of organized community resistance to the destruction of natural areas was the opposition of nearby residents

to the proposed construction of a jetport in Hunterdon County. The devastating effects of such a project on the ecology of the region were clearly presented by local citizens at public hearings in Trenton. In contrast, a project that has been supported by area conservationists is the planned acquisition of from 1,000 to 1,200 acres of parkland along the South Branch of the Raritan River by the Hunterdon County Board of Freeholders. Endorsing the project, the South Branch Watershed Association noted, "Reserving these lands is the best way to assure their multiple use values of agriculture, protection from flood damage, water quality protection, recreation, enhancement of values of adjacent lands, fish and wildlife habitat and general esthetics of the valley region." Green acres funds and federal grants should also assist local and county governments in the developing of such parklands.

Educational programs in conservation studies have been advanced at many colleges and universities in the state, and have often worked in conjunction with the State School of Conservation at Lake Wapalanne. In many situations, these educational institutions with the help of federal and state agencies are able to provide assistance and information for local conservation projects. To be effective, concerned citizens and environmental committees and commissions must involve as much of their local community as possible in order to implement municipal environmental planning procedures.

APPENDIX

Chapter V

Environmental Committees and Commissions

1. **Model Ordinance to Establish Environmental Commissions.**
2. **Lower Township - An Ordinance to Establish an Environmental Commission.**
3. **Absecon - Ordinance to Establish Advisory Shade Tree Committee.**
4. **Clinton Township - Ordinance to Establish Shade Tree Commission.**
5. **Recommended Tree Regulations.**
6. **Federal Agencies.**
7. **State Agencies.**
8. **Private Associations.**

An Ordinance to establish an Environmental Commission in the Township of _____, County of _____ and State of New Jersey.

BE IT ORDAINED by the Township Committee of the Township of _____:

Section 1. Creation: The Township of _____ Conservation Commission is hereby established pursuant to Chapter 245 of the Laws of 1968 (N.J.S.A 40:56 A-1 to 40:56 A-5), as amended by Chapter 35, P.L. 1972.

Section 2. Members: A Commission shall consist of seven (7) members appointed by the Mayor, one of whom shall also be a member of the Planning Board and all of whom shall be residents of the Township of _____; the members shall serve without compensation except as hereinafter provided. The Mayor shall designate one of the members to serve as Chairman and presiding officer of the Commission. The terms of office of the first commissioners shall be for 1, 2 or 3 years, to be designated by the Mayor in making his appointments and their successors shall be appointed for terms of 3 years and until the appointment and qualification of their successors. The first members of the Commission shall be appointed for the following terms:

2 members for the term expiring December 31, _____
2 members for the term expiring December 31, _____
3 members for the term expiring December 31, _____

The Mayor or Township Committee may remove any member of the Commission for cause, on written charges served upon the member and after a hearing thereon at which the member shall be entitled to be heard in person or by counsel. A vacancy on the Commission occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

Section 3. Powers of Commission: The Commission is established for the protection, development or use of natural resources, including water resources, located within the territorial limits of the Township of _____. The Commission shall have power to conduct research into the use and possible use of the open land areas of the Township and may co-ordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its purposes. It shall keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, in order to obtain information on the proper use of such areas, and may from time to time recommend to the Planning Board, plans and programs for inclusion in The Master Plan and the development and use of such areas.

Section 4. Acquisitions by Commission: The Conservation Commission may, subject to the approval of the Township Committee acquire property, both real and personal, in the name of the Township by gift, purchase, grant, bequest, devise or lease for any of its purposes and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with limitations or reversions), as may be necessary to acquire, maintain, improve, protect, limit the future use or otherwise conserve and properly utilize open spaces and other land and water areas in the Township.

Section 5. Records and Annual Report: The Conservation Commission shall keep records of its meetings and activities and make an annual report to the Township Committee.

Section 6. Appropriations: The Commission may appoint such clerks and other employees as it may from time to time require, providing the same shall be within the limits of funds appropriated to it by the Township Committee.

Section 7. This Ordinance shall take effect immediately upon its passage and publication according to law.

Passed first reading:

Passed and approved:

Chairman, Township Committee

Attest:

Township Clerk

- June, 1972

**TOWNSHIP OF LOWER
COUNTY OF CAPE MAY
STATE OF NEW JERSEY
Ordinance No. 72-18**

**AN ORDINANCE TO ESTABLISH
AN ENVIRONMENTAL COMMISSION
IN THE TOWNSHIP OF
LOWER, COUNTY OF CAPE MAY,
STATE OF NEW JERSEY.**

BE IT ORDAINED by the Township Committee of the Township of Lower, the governing body thereof, as follows:

ARTICLE I:

There is hereby established within the Township of Lower an Environmental Commission to be known as the Environmental Commission of the Township of Lower, for the protection, development or use of natural resources, including the water resources, located within the Township of Lower.

ARTICLE II:

Membership, appointment, terms, vacancies:

SECTION 1: The Environmental Commission shall consist of six members, all of whom shall be residents of Lower Township and one of whom shall also be a member of the Planning Board of the Township of Lower.

SECTION 2: The members of the Environmental Commission shall be appointed by the Mayor of the Township of Lower and shall serve without compensation. The Mayor shall designate one member of the Environmental Commission as Chairman and presiding officer of the Commission.

mission.

SECTION 3: The term of two of the original Commissioners shall be one year; the term of another two original Commissioners shall be two years; the term of the final two commissioners shall be three years. Once this rotation has been established the term of each Commissioner shall be three years and until the appointment and qualification of his successor.

SECTION 4: The vacancy on the Environmental Commission occurring otherwise than by expiration of a term shall be filled for the unexpired term by the Mayor. The Mayor or Township Committee may remove any member of the Commission for cause on written charges served upon the member and after a hearing thereon in which the member may be entitled to be heard in person or by Counsel.

ARTICLE III:

Powers of Commission.

The Environmental Commission shall have the power to conduct research into the use and possible use of the open land areas of the municipality and may coordinate the activities of unofficial bodies organized for similar purposes and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its purposes. It shall keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, in order to obtain information on the proper use of such areas, and may from time to

time recommend to the Planning Board plans and programs for inclusion in a municipal master plan and the development and use of such areas.

The Environmental Commission shall have power to study and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, marine resources and protection of flora and fauna.

ARTICLE IV:

Acquisitions by Commission.

The Environmental Commission may, subject to the approval of the Township Committee, acquire property both real and personal, in the name of the municipality by gift, purchase, grant, bequest, devise or lease for any of its purposes and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with limitations or reversions), as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly utilize open spaces and other land and water areas in the municipality.

ARTICLE V:

Records, annual report.

The Environmental Commission shall keep records of its meetings and activities and shall make an annual report to the governing body of the municipality.

ARTICLE VI:

Appropriation, employees.

The Township Committee may appropriate funds for the expenses incurred by the Environmental Commission. The Commission may appoint such clerks and other employees as it may from time to time require and as shall be within the limits of funds appropriated to it.

ARTICLE VII:

Validity of Ordinance.

If any Article, Section, Paragraph, sub-division, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the article, section, paragraph, sub-division, clause or provision so adjudicated and the remainder of this ordinance shall remain valid in its entirety.

ARTICLE VIII:

Effective date.

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

J. Glenn Holman, Mayor

John T. Lincoln,

Committeeman

Thomas H. Clydesdale,

Committeeman

ATTEST:

Helen O'Neill

Township Clerk

NOTICE

The foregoing ordinance was introduced at a meeting of the Township Committee of the Township of Lower on June 14, 1972 and was passed on first reading. It will be further considered for final passage at a meeting of said Township Committee to be held on July 12, 1972 at the Township Hall, Cold Spring, New Jersey.

Helen O'Neill
Township Clerk

6-22-11-pf851.54

FILE

COPY

ABSECON

ORDINANCE NO. 1, 1972

AN ORDINANCE AMENDING "THE CODE OF ORDINANCES OF THE CITY OF ABSECON, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY"

BE IT ORDAINED by the City Council of the City of Absecon, County of Atlantic and State of New Jersey, that:

SECTION 1. The Code of Ordinances of the City of Absecon is hereby amended as follows:

SECTION 2. Chapter 70. Shade Tree Control.

1. Advisory committee established; membership.

A. The City of Absecon Shade Tree Committee is hereby established.

B. The Advisory Committee shall consist of five (5) members appointed by Mayor of the City of Absecon, who shall be residents of this municipality and shall serve without compensation except as hereinafter provided.

2. Terms of office.

A. The first members of the Committee shall be appointed within thirty (30) days after the effective date of this ordinance and their terms of office shall commence on January 1, next succeeding such appointment:

(1). One (1) member to serve for a term of one (1) year.

(2). One (1) member to serve for a term of two (2) years.

(3). One (1) member to serve for a term of three (3) years.

(4). One (1) member to serve for a term of four (4) years.

(5). One (1) member to serve for a term of five (5) years.

B. The terms of each appointee shall be designated in his appointment. All subsequent appointments, except to fill vacancies, shall go for the full term of five (5) years to take effect on January 1, next succeeding such appointment. In the event that the membership of any Committee is increased the new members shall be appointed in such manner that the terms shall expire in accordance with the foregoing.

SECTION III. Organization; compensation of secretary and members.

The Advisory Committee shall organize within thirty (30) days after the appointment of its total membership or of the remainder of the then calendar year, and thereafter annually by the election of one (1) of its members as chairman, and the appointment of a secretary, who need not be a member.

SECTION IV. Vacancy.

Any vacancy occurring by reason of death or resignation of any member of the Shade Tree Committee shall be appointed for the unexpired term by the Mayor of the City of Absecon.

SECTION V. Scope and responsibilities of the Shade Tree Committee.

The scope and responsibilities of the Shade Tree Committee shall be as follows:

A. To prepare programs and plans for consideration by the governing body with respect to the purchase, planting, spraying, care, rearing, trimming, preserving and control of the shade and ornamental trees of the City of Absecon.

B. To meet with the governing body upon their request for discussion of programs and recommendations.

C. To consult regularly with the Councilman in charge of Public Buildings and Grounds concerning the shade tree program of the City of Absecon.

D. Encourage arboriculture.

SECTION VI. Inspection and report to City of Absecon Planning Board.

A. When application for a subdivision of land is first submitted to the Planning Board, the Planning Board will, within

two (2) weeks, advise the City of Absecon Shade Tree Committee of the desired subdivision, whereupon the committee shall inspect the property involved, noting the number, type and location of the various trees and shrubbery situated on the land proposed to be subdivided, their approximate age and density of growth and taking into account the necessity for cutting or trimming to meet subdivision requirements.

B. Within thirty (30) days after receipt of such information, the Shade Tree Committee shall make a written report of its findings to the Absecon Planning Board, together with any recommendation it might desire to make regarding the safeguarding of desirable trees and shrubbery during the course of the subdivision and the erection of buildings in such development.

SECTION VII. Shade Tree Committee. The Shade Tree Committee shall have the power to:

A. Regulate and control the use of the grounds surrounding the shade and ornamental trees and shrubbery, so far as may be necessary for their proper growth, care and protection;

B. Move or require the removal of any tree or part thereof dangerous to public safety; and

C. Administer treatment to or remove any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the municipality, and enter upon private property for that purpose, with the consent of the owner thereof, provided this suspected condition is first confirmed by a certificate of the Atlantic County Department of Agriculture.

SECTION VIII. Cost assessment.

A. The initial costs of all trees planted by the Shade Tree Committee, the cost of planting the same, the cost of the post and boxes or guards used for the protection of the trees, and the cost of the removal of any tree or part thereof dangerous to public safety shall, be the responsibility of the City of Absecon.

SECTION IX. Appropriations.

The City Council of Absecon shall annually appropriate such sum as it may deem necessary for the purchase of trees and shrubbery, the purchase of necessary equipment and the materials, and for the cost of services for the promotion of the work.

SECTION X. Governing body authority not superseded.

Nothing contained in this ordinance shall be held to take away or diminish any of the powers or authority of the City Council of Absecon over the trees or shrubbery in the City of Absecon within its jurisdiction or to give any other commission or board any power or authority with respect to such trees or shrubbery.

SECTION XI. An ordinance entitled "Shade Tree Commission" is hereby repealed and all other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

NOTICE is hereby given that the foregoing ordinance was introduced and passed first reading at a meeting of the Council of the City of Absecon City, New Jersey, held March 9, 1972 and will be further considered for final passage at a meeting of said Council to be held at the City Hall, Absecon, New Jersey on Thursday evening April 13, 1972 at 8 p.m. at which time all persons for or against same will be heard.

By Order of the Council of Absecon City.

WILLIAM E. MURD,

City Clerk.

pub. March 30, 1972

pr. fee 47.28

TOWN OF CLINTON

2-20 Shade Tree Commission.

2-20.1 Established. A shade tree commission is established for the purpose of regulating, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways of the town, except state highways unless the State Highway Department assents thereto, and except county highways, parks and parkways if a county shade tree commission is operative and gives assent thereto. The commission members shall be residents of the town and serve without compensation except as hereinafter provided.

2-20.2 Appointment of Members; Terms; Vacancies. The shade tree commission shall consist of five members appointed by the mayor for a term of five years, except that those first appointed shall be on a staggered basis. All appointments, except those to fill vacancies, shall be effective January 1 next succeeding the appointment. Any vacancy occurring by reason of the death, resignation or removal of any commissioner shall be filled for the unexpired term by the mayor.

2-20.3 Organization. The commission shall organize annually by the election of one of its members as chairman, and the appointment of a secretary, who need not be a member.

2-20.4 Powers and Duties. The shade tree commission shall have the power to:

a. Promulgate such ordinances and written rules and regulations as may be necessary, pursuant to statute, and for the proper interpretation of this section, administration and enforcement, provided that the ordinances and regulations do not conflict with this section and conform to the general standards.

b. Exercise full and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now located, or which may hereafter be planted, in any public highway, park or parkway, except such as are excluded pursuant to subsection 2-20.1, including the planting, trimming, spraying, care and protection thereof.

c. Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.

d. Move or require the removal of any tree, or part thereof, dangerous to public safety.

e. Care for and control such parks and parkways; encourage arboriculture; make, alter, amend and repeal, in the manner prescribed for the passage, alteration, amendment and repeal of ordinances by the governing body, any and all ordinances necessary or proper for carrying out the provisions hereof.

f. Administer treatment to or remove any tree situated upon private property which is believed to harbor a

disease or insects readily communicable to neighboring healthy trees in the care of the town and enter upon private property for that purpose, with the consent of the owner, provided the suspected condition is first confirmed by certificate issued by or on behalf of the New Jersey Department of Agriculture.

2-20.5 Planting and Removal of Trees to be a Lien.

Except as hereinafter provided, the initial cost of all trees planted by the commission, the cost of planting the same, the cost of the posts and boxes or guards used for their protection, and the cost of the removal of any tree or part thereof dangerous to public safety shall, if the commission so determines, in accordance with rules and regulations for that purpose, be a charge upon the real estate in front of which the tree shall be planted or removed as an improvement. The cost, if it is so determined that it is to be paid by the owner shall, unless paid directly to the commission, be certified to the collector of taxes and shall thereupon be a lien upon the real estate, and shall be included in the next tax bill rendered to the owner and collected in the same manner as other taxes against the property.

The provisions of this section shall not apply to a planting to replace a tree planted by the commission or a planting in connection with Arbor Day exercises or other educational demonstration.

2-20.6 Notice and Hearing. In every case where the owner will be charged with the cost of planting any shade tree, the commission shall give notice of the meeting at which it is proposed to consider the planting by publishing the notice at least once, not less than 20 days before the meeting, in a newspaper circulating in the town, or by personal service of a copy of the notice upon the abutting owner at least ten days before the meeting. The notice shall specify the street or portions thereof, on which the planting is proposed and require all persons who may object to present their objections in writing at the office of the commission at or before the meeting. Before final action is taken, all objections so filed shall be considered. The commission shall give reasonable notice of its intention to remove, or cause the removal of a tree or part of a tree dangerous to public safety, unless public safety requires immediate removal, in which case no notice shall be necessary.

2-20.7 Consent Required for Certain Improvements. No statute giving any person, state, county or municipal board, body or official, power or authority to lay sidewalk along or to open, construct, curb or pave any street, or to do any similar act, shall be construed to permit or authorize any interference with or injury to a highway shade tree without the consent of the shade tree commission within whose jurisdiction the tree is located. In all cases, the commission shall

reasonably cooperate with the person, board, body or official for the general public good.

Nothing in this section shall be held to take away or diminish any of the powers or authority of any county park commission over the trees or shrubbery in any county park or parkway within its jurisdiction, or to give any other commission or board any power or authority with respect to such trees or shrubbery.

2-20.8 Annual Appropriations. During the month of December in each year, the shade tree commission shall certify to the council the estimated sum necessary for the proper conduct of its work during the ensuing fiscal year, which shall include the sums estimated to be expended for such of the following items as it is anticipated expenditure will be made:

- a. Payment of wages and salaries of employees.
- b. Expenses of commission members in discharging official duties, including expenses incident to attendance at professional meetings.
- c. Purchase of trees and shrubbery.
- d. Purchase of necessary equipment and materials and the cost of services for the prudent promotion of the work.

The council shall annually appropriate such sum as it may deem necessary for the purposes.

RECOMMENDED TREE REGULATIONS

Title

An ordinance providing for the removal, planting, control, regulation, and improvement of trees and shrubbery in the Township of _____.

Purpose Clause

WHEREAS, it has been found that the uncontrolled destruction and removal of trees growing upon lands within the Township of _____ has resulted in soil erosion, stream pollution, a decrease of the fertility of the soil, the creation of dust and air pollution, inadequate surface drainage and the creation of breeding places for mosquitoes and other undesirable insects and further that same has rendered land unsuitable for its most appropriate uses and has caused a deterioration in the value of improved and unimproved real estate within the municipality.

Definitions

(a) tree: Any living deciduous tree having a trunk of a diameter greater than three inches (3") D. B. H. (Diameter Breast High), any living coniferous tree having a trunk of a diameter greater than four inches (4") D. B. H., or any living Dogwood (*Cornus Florida*) or American Holly (*Ilex opaca*) tree having a diameter of one inch (1") or greater D. B. H. (local conditions may require different or additional indices)

(b) shrub: Native Laurel (*Kalmia Latifolia*) having a root crown of three inches (3") or greater measured at the soil or surface level. (local conditions may require different or additional indices)

(c) Township Forester: (optional) A person professionally qualified and appointed by the _____ Township Committee to supervise the conservation of trees and soil within the municipality, which position is hereinafter created.

(d) Street: All municipal streets, municipal parks and parkways, county roads, state highways, and private roads.

(e) permits: A license issued by (Building Inspector, or Shade Tree Committee, or Township Forester, or such other person or persons applicable to local conditions)

(f) additional definitions as needed

Permits

No person shall do any of the following acts to any tree or shrub without the prior permit:

(1) Cut, prun, climb with spikes, break damage, or remove or kill trees and shrubs.

(2) Fasten with rope, wire, sign or other device.

(3) Spray with any chemical.

(4) Disturb soil in any manner that will disturb root systems.

(5) Close or obstruct any open space provided about the base of a tree or shrub to permit the access of air, water, or fertilizer to the roots of trees or shrubs.

(6) Change the grade of the soil within the limits of the lateral spread of the branches of any tree.

(7) Place any material, machinery, or soil deposits within six feet of the trunk of any living tree in excess of the size hereinabove set forth. Nor shall harmful excavation around such tree be permitted. To the extent that regrading may require, trees shall be walled in to prevent damage or destruction.

(8) Additional measures as required for local conditions

FEDERAL AGENCIES

Department of Agriculture, Washington, D. C. 20250

This Department provides many research programs of environmental studies through the Agricultural Research Service and Federal Extension Service. The Farmers Home Administration and the Rural Community Development Service are concerned mainly with rural areas and farm problems. The Soil Conservation Service assists local water and soil conservation districts by providing technical assistance for land use and flood control projects.

Department of Commerce, Washington, D. C. 20230

The Environmental Science Services Administration and Business and Defense Services Administration provide assistance in alleviating air pollution problems and in developing and preserving open areas. The Economic Development Administration is directly concerned with areas of high unemployment and helps to develop public works projects.

Department of Defense, The Pentagon, Washington, D. C. 20301

The Corps of Engineers can provide assistance in the planning, developing, and maintaining of dredging projects, dams, and canals through its Water Resources Development Program. Requests for survey assistance are made through members of the United States Senate or House of Representatives.

Department of Health, Education, and Welfare, Washington, D. C. 20201

The National Center for Urban and Industrial Health provides programs of sanitation control and helps to develop and administer waste disposal projects. The Public Health Service also provides a center for air pollution control. Educational programs are administered through the Office of Education and include courses in conservation studies.

Department of Housing and Urban Development, Washington, D. C. 20201

Programs of this Department are concentrated in urban areas and concern planning and zoning regulations. The Land and Facilities Development Administration is concerned with preserving open spaces and public work projects.

Department of the Interior, Washington, D. C. 20240

Water pollution and flood control projects are administered by The Federal Water Pollution Control Administration, The Office of Water Resources Research, and the Bureau of Reclamation. The National Park Service and the Bureau of Outdoor Recreation help to plan recreational and park facilities.

Department of Labor, Washington, D. C. 20210

Employment in conservation programs through public works projects are administered through The Manpower Administration, Neighborhood Youth Corps, and the Special Impact Program.

General Service Administration, Washington, D. C. 20405

This agency is responsible for the disposition of surplus federal lands and can convey such lands to municipalities at 50 per cent of market value, and property for historic projects or wildlife conservation purposes at no cost.

STATE AGENCIES

Department of Agriculture

Soil and conservation problems are administered by the State Soil Conservation Committee.

Department of Community Affairs

This Department helps local communities apply for federal funds and programs through the Office of Community Services. The Division of State and Regional Planning helps to appropriate state aid to municipalities, counties, and regional agencies for planning and study programs.

Department of Environmental Protection

Problems of water control and flooding are administered through the Division of Water Resources. The Division of Parks, Forestry and Recreation acquires and maintains lands for state parks and forests. State aid through State Sewerage Facilities Loan Funds are appropriated to develop intermunicipal and stream valley sewerage systems. Programs in air pollution and solid waste disposal are administered by the Division of Environmental Quality.

Department of Higher Education

The State School of Conservation at Lake Wapalanne provides studies in environmental problems and outdoor education. Rutgers-The State University also provides pollution control research at various locations and agricultural studies through the Agricultural Experiment Station and Cook College.

PRIVATE ASSOCIATIONS

New Jersey Federation of Shade Tree Commissioners
Edgar G. Rex, Executive Secretary
Blake Hall, Room 221
Rutgers - The State University
New Brunswick, New Jersey 08901

New Jersey Federation of Planning Officials
Thomas A. Hyde, Executive Secretary
1308 Wood Valley Road
Mountainside, New Jersey 07092

New Jersey State League of Municipalities
Room D-403
433 Bellevue Avenue
Trenton, New Jersey 08618

A current list of conservation organizations can be obtained from:
North Jersey Conservation Foundation
Mr. David Moore, Executive Director
300 Mendham Road
Morristown, New Jersey

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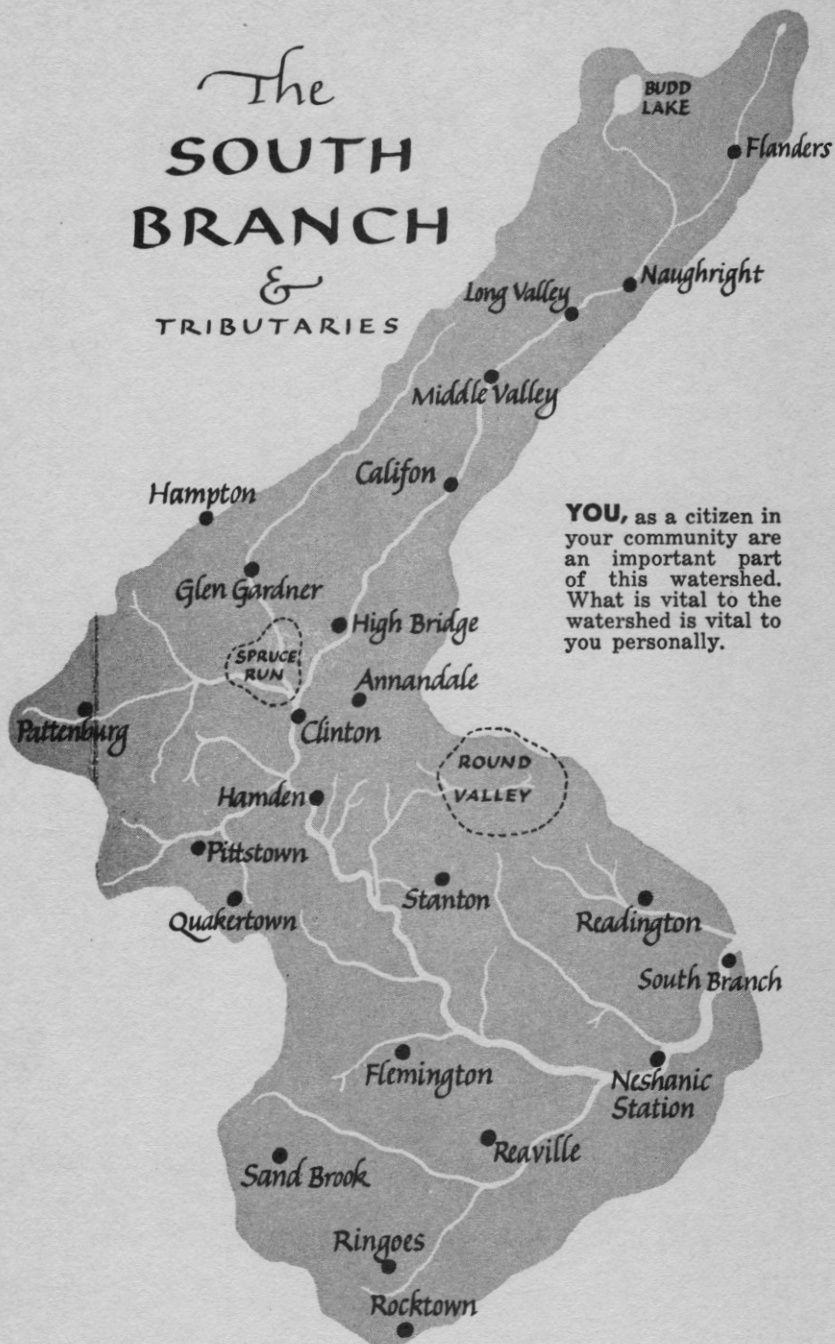
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The
**SOUTH
BRANCH**
&
TRIBUTARIES



YOU, as a citizen in your community are an important part of this watershed. What is vital to the watershed is vital to you personally.

DISCLAIMER

William P. Minervini created this searchable PDF file in 2018 by scanning his copy of this Handbook (scanned in black and white except for outside front and back covers scanned in grayscale) and applying the text recognition feature of basic PDF software. The searchable text layer has some errors.

Mr. Minervini was not and is not affiliated with the South Branch Watershed Association or its successor, Raritan Headwaters, and was not asked by either of those organizations to prepare this searchable PDF file.