

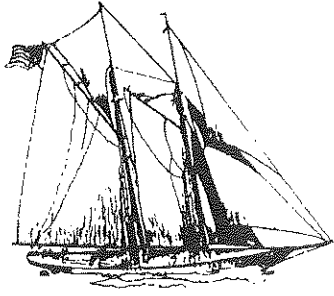
Batch II

8- thru 14

Item 8

Recreation Sites

Open Space Map.



# *Township of Commercial*

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1768 Main Street • Port Norris, New Jersey 08349  
(856) 785-3100 • Fax: (856) 785-9420

MIKE VIZZARD  
*Mayor*

FLETCHER JAMISON  
*Deputy Mayor*

RYAN BROUGHTON  
*Committeeman*

HANNAH E. NICHOLS  
*Township Clerk*

## COMMERCIAL TOWNSHIP RECREATIONAL SITES & OPEN SPACE

1. LAUREL LAKE RECREATIONAL PARK - OFF OF SPRING GARDEN ROAD AND QUAIL ROAD, LAUREL LAKE, NJ
2. LAUREL LAKE BASKETBALL COURT - SPRING GARDEN ROAD, LAUREL LAKE, NJ
3. HALEYVILLE LITTLE LEAGUE FIELD & BABE RUTH FIELDS – STEEP RUN ROAD, HALEYVILLE, NJ
4. CHARLES SHEPPARD COMMUNITY CENTER – FOR USE WITH LITTLE LEAGUE AND RENTALS, NJ
5. COMMERCIAL TOWNSHIP TENNIS COURT – BEHIND THE HALEYVILLE MAURICETOWN SCHOOL, HALEYVILLE, NJ
6. MAURICETOWN WATERFRONT PARK, HIGHLAND STREET & RIVER, MAURICETOWN, NJ
7. PORT NORRIS RECREATIONAL PARK, MEMORIAL AVENUE, PORT NORRIS, NJ
8. MUNICIPAL WHARF – AT THE END OF OGDEN AVENUE & MILLER AVENUE, SHELLPILE, NJ
9. PORT NORRIS BASKETBALL COURT – BROWN STREET AND HIGH STREET. PORT NORRIS, NJ  
ON GROUNDS OF PORT NORRIS SCHOOL
10. PORT NORRIS BASEKTBALL COURT – END OF STRAWBERRY & JAMES MOORE ROADS, PORT NORRIS – Not used much any more.

# Item 8B

## OFFICIAL MAP TOWNSHIP OF COMMERCIAL Cumberland County, NJ



DOWNE TOWNSHIP  
CUMBERLAND COUNTY

CITY OF NILESVILLE  
CUMBERLAND COUNTY

MAURICE RIVER TOWNSHIP  
CUMBERLAND COUNTY

DOWNE TOWNSHIP  
CUMBERLAND COUNTY

MAURICE RIVER TOWNSHIP  
CUMBERLAND COUNTY

### General Notes and Data Sources:

This Official Map is for demonstration purposes only; any use of this product without respect to accuracy and precision shall be the sole responsibility of the user.

The areas, boundaries and details shown on this Official Map, are referenced, in part, from aerial surveys and recorded plans, tax assessment maps and documents, and are to be used for municipal boundary purposes only.

This map was created, in part, utilizing Open Water & Stream/Ditch datasets provided by the Natural Heritage Database provided by New Jersey Department of Environmental Protection (NJDEP).

Cadastral data provided by Commercial Township current tax maps, last updated by Remington, Verick & Wallberg Engineers to current conditions as of 12-22-2014. Ownership information provided by Commercial Township's tax assessed 2000 NY database, last updated by the Commercial Township tax assessor's office to current conditions as of 8-18-2015.

Additional cadastral features mapping data, such as, waterways, roads, railroads, aerial orthophotography, etc., was obtained from the New Jersey Department of Environmental Protection (NJDEP). This secondary product has not been verified by NJDEP and is not state authorized.

All positions are based on the following:  
- NAD 83 (horizontal datum)  
- New Jersey State Plane Coordinate System  
- English units (feet)

The accuracy and precision of the Geographic Information System (GIS) data contained in this mapping has not been developed nor verified by a professional licensed land surveyor and shall not be used for any purpose requiring delineation and location of low-ground horizontal and vertical controls.

0 1,500 3,000 6,000 Feet  
1 Inch = 1,500 feet

### Legend

- |                    |                                                                       |
|--------------------|-----------------------------------------------------------------------|
| Stream/Ditch       | Commercial Township Owned Land                                        |
| County Road        | Cumberland County Owned Land                                          |
| Local Road         | NJ Department of Environmental Protection Owned Lands                 |
| Railroad           | NJDEP Wildlife Management Area                                        |
| Parcels            | Other Preserved Lands (Natural Lands Trust, NJ Audubon Society, etc.) |
| Open Water         | School Facilities                                                     |
| Municipal Boundary | Places of Worship                                                     |



**RV & W**  
Remington, Verick and Wallberg Engineers  
845 North Main Street  
Pleasantville, NJ 08232  
(609) 645-7110 Fax: (609) 645-7076  
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Item# 9

Re-Development Landfill

Ord 2011-522

COMMERCIAL TOWNSHIP  
ORDINANCE 2011-522

ACCEPTING THE FINDINGS AND RECOMMENDATIONS OF THE  
COMMERCIAL TOWNSHIP LAND USE BOARD REGARDING THE  
DRAFT REDEVELOPMENT PLAN FOR THE LANDFILL  
REDEVELOPMENT AREA: & ADOPTING SAME AS AN ORDINANCE  
FOR THE TOWNSHIP OF COMMERCIAL.

WHEREAS, there exists in the Township of Commercial, Cumberland County, New Jersey ("Township"), an approximately 37.2 acre Township-Owned parcel of land located between the Edward G. Bevan Fish and Wildlife Management Area to the north, the WHIBCO/Unimin Railroad Right-Of-Way to the west, the portion of Snow Hill road created and dedicated in 2006 to the south and the lands fronting Spring Garden Road to the east designated as Block 171, Lot 12 on the official tax map of Commercial Township; and

WHEREAS, Block 171, Lot 12 is the site of the Township's former municipal Sanitary Landfill, which operated between 1963 and 1987 and which received approval for a Closure and Post Closure Plan from the New Jersey Department of Environmental Protection in February 1996 ("Landfill"); and

WHEREAS, while the Closure Plan specified the installation of an earthen cap, it did not require remediation of subsurface conditions. The Landfill is therefore considered unusable for traditional development and currently is as vacant, underutilized and unproductive land; and

WHEREAS, Township Officials have been approached by a Solar Energy Provider who is interested in utilizing the Landfill for a Solar Energy Production Facility; and

WHEREAS, such a facility would return this land to active, productive use without the necessity of costly remediation otherwise required; and

WHEREAS, while the Township is interested in such a proposal, at issue is the municipal ownership of the land and the legal mechanisms under which a municipality may dispose of excess and unneeded lands; and

WHEREAS, under the Local Lands and Buildings Law (N.J.S.A. 40A:12-1 et. Seq.), and absent the Redevelopment process described herein, the Township would be required to sell or lease the Landfill at auction to the highest bidder. Such a process will not give the Township the flexibility to address what would effectively be a Ground Lease or Land Sale combined with the complexities of a Power Purchase Agreement; and

WHEREAS, the unknown condition of the soil and the costs involved in any investigation to determine the threshold developability of the Landfill, combined with the costs of remediation should any contamination be discovered, makes it unlikely, absent this Redevelopment process, that this land would be developed solely through the instrumentality of private capital; and

WHEREAS, without the ability to negotiate, the bid produced at auction may not result in the greatest net benefit to the Township and its taxpayers; and

WHEREAS, under the auction process, the Township is limited in its ability to insure that the successful bidder is fully qualified to undertake the project, and is further limited, short of litigation, to guarantee performance; and

WHEREAS, Township Zoning for the Landfill does not permit Solar Energy Production Facilities. Any development other than under existing zoning would require variance relief. The cost and time required to obtain such relief and the uncertainty injected into the process by the variance requirement would likely

impact the value of the land and thus reduce the lease payments or other compensation offered at auction; and

WHEREAS, in 1992, the New Jersey Legislature empowered municipalities to address conditions as exist in the Landfill by adopting the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq. - "Redevelopment Law"); the purpose of which is to provide municipalities with the tools and powers necessary to (re)plan vacant, unutilized and unproductive land as exists in the Landfill and to actively (re)develop such areas in assets for the community. Utilizing a comprehensive set of planning tools and techniques afforded municipalities only under the Redevelopment Law, municipalities may, either alone or with the assistance of a private (Re) developer, reprogram lands and buildings for specific desired uses, provide for the clearance of said lands, install infrastructure and/or other site improvements, acquire (through negotiations or condemnation) real property deemed necessary to effectuate such (re)development and to negotiate, enter into partnerships with and transfer land to public and private entities in order to accomplish certain defined municipal goals and objectives; and

WHEREAS, the Redevelopment Law permits the Township to enter into negotiated Redevelopment Agreement with a Solar or other Alternative / Renewable Energy Power Provider. Under such a mechanism, the Township would be able to engage what it determines to be the most qualified provider, address issues related to land use, and negotiate the business terms of a deal to insure the greatest net benefit to the municipality and the taxpayers; and

WHEREAS, the first step in the Redevelopment process as mandated by the Redevelopment Law is for a municipal Governing Body to direct the municipal Planning Board to undertake what the Redevelopment law describes as a Preliminary Investigation to determine if a targeted area meets any one (10 of the eight (8) Statutory Criteria under which an area may be determined to be "In Need of Redevelopment" pursuant to N.J.S.A. 40A:12A-5; and

WHEREAS, in lieu of a Planning Board, Commercial Township operates under a combined Land Use Board pursuant to N.J.S.A. 40:55D-25 c(1) ("Land Use Board"); and

WHEREAS, on November 18, 2010, the Township Committee of the Township of Commercial adopted Resolution No. 2010-110, thereby directing the Commercial Township Land Use Board to conduct the necessary investigations, make the requisite public notice and hold the Statutorily-mandated public hearing to determine whether or not the Landfill Study area, consisting of Block 171, Lot 12, Block 171, Lot 11.01 and the portion of Snow Hill Road created and dedicated in 2006, or any portion thereof, does or does not qualify under the statutory criteria for "Redevelopment Area" designation pursuant to section 5 of the Redevelopment Law; and

WHEREAS, Resolution No. 2010-110 further directed that, at the conclusion of the Preliminary Investigation, the Land Use Board shall submit its findings and recommendations to the Township Committee in the form of a Resolution with supportive documentation; and

WHEREAS, recognizing the environmentally-sensitive nature of Commercial Township and its Rural (PA-4) Planning Area classification under the New Jersey State Development & Redevelopment Plan, Resolution No. 2010-110 limits the end use of any Landfill Redevelopment Project to Alternative / Renewable Energy Production Facilities, along with such ancillary uses as may be required, requires that any resultant Landfill Redevelopment Area be deed-restricted to such use and requires that any Redevelopment Plan or other land use regulatory document resulting from this Redevelopment process limit activities in any resultant Redevelopment Area to such use in-perpetuity; and

WHEREAS, typically, a municipal Planning Board will require the services of a Professional Planning Consultant to assist with such Preliminary Investigation; and

WHEREAS, the Township Committee engaged the services of Remington, Vernick and Walberg ("RV&W"), licensed Professional Planners in the State of New Jersey and the Township's municipal engineer, to assist the Board with this investigation; and

WHEREAS, ON November 24, 2010, the Land Use Board accepted the directive embodied in Township Resolution No. 2010-110 and assigned RV&W to undertake the Preliminary Investigation on the Board's behalf; and

WHEREAS, also at its meeting of November 24, 2010, in accordance with N.J.S.A. 40A:12A-6b (1) and (3), the Land Use Board directed that a map of the Study Area, depicting the boundaries of the area and the individual lots therein, as well as Resolution No. 2010-110 setting forth the Basis for the Township's Investigation and therefore satisfying this Statutory requirement, be placed on file with the Township Clerk for public review; and

WHEREAS, RV&W conducted its analyses and submitted to the Land Use Board a document entitled Report of Findings: Preliminary (Redevelopment) Investigation, Landfill Study Area (dated January 8, 2011) ["Report of Findings"]; and

WHEREAS, said Report of Findings finds and recommends that Block 171, Lot 12 exhibits conditions which conform with Criterion 'c' of the Redevelopment Law; and

the portion of Snow Hill Road created and dedicated in 2006, exhibits conditions which conform with Criterion 'c' and Criterion 'e' of the Redevelopment Law' and

WHEREAS, the Redevelopment Law provides that a Redevelopment Area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part; and

WHEREAS, said Report of Findings finds that, to the extent that the portion of the Snow Hill road right-of-way created and dedicated in 2006 may be found not to conform with the Statutory Criterion required for Redevelopment Area designation, the exclusion of such lands from any resultant Redevelopment Area would significantly limit the Township's ability to (access and therefore) generate a comprehensive and effective Redevelopment Plan for the remaining, qualifying lands. The inclusion of such lands, if any, is therefore recommended as necessary for the effective redevelopment of the Study Area; and

WHEREAS, the Report of Findings concludes with a recommendation that, based on the totality of the evidence presented, the Commercial Township Land Use Board find, and upon such finding recommend to the Commercial Township Committee, that the Landfill Study Area, in its entirety, be declared to be an Area in Need of Redevelopment in accordance with N.J.S.A. 40A:12A-5 and 6; and

WHEREAS, should the Land Use Board make such a recommendation to the Township Committee, and should the Township Committee designate the Landfill Study Area, or any part thereof, to be in Need of Redevelopment, the Report of Findings further recommends:

That the Township Committee authorize the preparation of a Redevelopment Plan for such Redevelopment Area:

That, in recognition of the environmentally-sensitive nature of Commercial township signified by its Rural (PA-4) Planning Area classification under the New Jersey State Development & Redevelopment Plan, and consistent with Township Committee Resolution 2010-110, any resultant Redevelopment Plan include specific provisions;

- A. limiting the end use of the Redevelopment Area, in-perpetuity, to Alternative / Renewable Energy Production, along with such ancillary uses as may be required therefore; and
- B. deed restricting the Landfill to such use;

WHEREAS, the Land Use Board scheduled a public hearing regarding the Preliminary Investigation for January 26, 2011, and invited anyone who would be interested in or affected by a potential Redevelopment designation of the Study Area, or any part thereof, to appear and be heard; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, notice of said Land Use Board hearing was published in The News of Cumberland County, one of the Township's newspapers of record, on January 7, 2011 and January 14, 2011

WHEREAS, also pursuant to N.J.S.A. 40A:12A-6, notice of said Land Use Board hearing, was mailed to all persons whose names appear on the City's Tax assessment records for each parcel within the Study Area and for each parcel with 200' of the Study Area; and

WHEREAS, due to the inclement weather on January 26, 2011, the Land Use Board postponed its public hearing to February 2, 2011. Notice of the postponement and rescheduled public hearing was prominently placed at the hearing room for those members of the public who might not have known of the postponement; and

WHEREAS, on February 2, 2011, the Land Use Board conducted said public hearing, at which time it heard a presentation and oral testimony regarding the Report of Findings from the RV&W Professional Planner who prepared the Report; and

WHEREAS, also at the public hearing, the Land Use Board heard from persons in attendance who were interested in or who would be affected by a determination that the Landfill Study Area, or any part thereof, qualifies as an "Area in Need of Redevelopment". All such testimony, including statements of opposition and statements of support of such a determination, were received, carefully considered and made part of the public record; and

WHEREAS, Land Use Board members had the opportunity to question RV&W's Planner regarding the findings and recommendations contained in the Report of Findings; and

WHEREAS, at the end of the public hearing, the Land Use Board, after full and careful consideration of the findings, contained in the Report of Findings, the presentation and testimony of RV&W's Planner and the testimony from the members of the public in attendance, and after due and careful deliberation, adopted Land Use Board Resolution No. 2011-1, which based on the substantial credible evidence presented:

- A. found that the Landfill Study Area, more particularly described as Block 171, Lot 12; Block 171, Lot 11.01; and the portion of Snow Hill Road created and dedicated in 2006, exhibits conditions which conform with, variously, Criterion 'c' and Criterion 'e' of the Local Redevelopment and Housing Redevelopment Law



- B. found that the exclusion of the portion of the Snow Hill Road right-of-way created and dedicated in 2006 from any resultant Redevelopment Area would significantly limit the township's ability to (access and therefore) generate a comprehensive and effective Redevelopment Plan for the remaining, qualifying lands; and

WHEREAS, Land Use Board Resolution No. 2011-1 referred these findings and determinations to the Commercial Township Committee with a recommendation that the Landfill Study Area, in its entirety, be declared to be an Area In Need of Redevelopment pursuant to the Local Redevelopment and Housing Law; and

WHEREAS, Land Use Board Resolution No. 2011-1 further recommended, should the Township Committee designate the Landfill Study Area, or any part thereof, to be in Need of Redevelopment, that the Township Committee authorize the preparation of a Redevelopment Plan for such Redevelopment Area, and that, in recognition of the environmentally-sensitive nature of Commercial township signified by its Rural (PA-4) Planning Area classification under the New Jersey State Development & Redevelopment Plan, and consistent with Township Committee Resolution No. 2010-110, any resultant Redevelopment Plan include specific provisions:

- A. limiting the end use of the Redevelopment Area, in-perpetuity, to Alternative / Renewable Energy Production, along with such ancillary uses as may be required therefore; and
- B. deed-restricting the Landfill to such use;

WHEREAS, the Township Committee received the Resolution and recommendations of the Land Use Board and the Report of Findings, and carefully considered same; and

WHEREAS, having carefully considered the analyses, findings and recommendations contained in the Report of Findings and the determinations and recommendations of the Land Use Board as embodied in Land Use Board Resolution No. 2011-1, adopted Township Resolution No. 2011-24, thereby

- A. concurring with the recommendations of the Land Use Board;
- B. declaring Block 171, Lot 12; Block 171, Lot 11.01; and the portion of Snow Hill road created and dedicated in 2006 to be an Area In Need of Redevelopment pursuant to the Local Redevelopment and Housing Law; and
- C. designating this area as the Landfill Redevelopment Area; and

WHEREAS, Township Resolution No. 2011-24 further directed RV&W to prepare a Redevelopment Plan for the landfill Redevelopment Area. In recognition of the environmentally-sensitive nature of Commercial Township signified by its Rural (PA-4) Planning Area classification under the New Jersey State Development & Redevelopment Plan, and consistent with the intent of Township Committee Resolution No. 2010-110 and Land Use Board Resolution No. 2011-1, such resultant Redevelopment Plan was directed to include specific provisions;

- A. permitting the continued use of the lands known locally as the Commercial Township Convenience Center for the open-air storage of composting and other organic materials and for the temporary storage of bulk goods prior to their transfer to an appropriate off-site landfill; and
- B. other than the continuation of the Convenience Center, limiting any future use of the Redevelopment Area, in-perpetuity via deed restriction,

to Alternative / Renewable Energy Production, along with such ancillary uses as may be required therefore; and

WHEREAS, Township Resolution No. 2011-24 further directed the Township Clerk to transmit a copy of such Resolution and the Report of Findings to the Commissioner of the Department of Community Affairs as required by N.J.S.A. 40A:12A06b(5), and to further transmit a notice of such designation to all property owners within the Redevelopment Area and to publish a notice of such designation in the Township's newspaper of record; and

WHEREAS, upon adoption, Township Resolution No. 2011-24 was transmitted to the NJDCA Commissioner for approval. Further, notice of the Redevelopment designation was transmitted to all properly owners within the Redevelopment Area and published in The News of Cumberland County, one of the Township's newspapers of record; and

WHEREAS, THE Township received NJDCA Conditional Approval of the Redevelopment Area designation by letter dated March 3, 2011, and

WHEREAS, RV&W prepared a document entitled Redevelopment Plan, Landfill Redevelopment Area, Township of Commercial, County of Cumberland, New Jersey dated (April 7, 2011 - "Redevelopment Plan"); and

WHEREAS, N.J.S.A. 40A:12A-7e requires that, prior to adoption of a Redevelopment Plan by a municipal Governing Body, that such Redevelopment Plan be reviewed by the municipal Planning Board, after which a recommendation regarding the Redevelopment Plan is to be transmitted to the Governing Body; and

WHEREAS, N.J.S.A. 40A:12A-7d. requires that "All provisions of [a] redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan; but the municipal governing body may adopt a redevelopment plan which is inconsistent with or not designed to effectuate the master plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the redevelopment plan"; and

WHEREAS, The Commercial Township Land Use Board received and reviewed the Redevelopment Plan and, on April 19, 2011, held a public hearing regarding the matter. At said public hearing, the Land Use Board heard a presentation of the Redevelopment Plan by the RV&W Professional Planner who prepared the Redevelopment Plan; and

WHEREAS, no one from the public elected to attend this public hearing.

WHEREAS, at the end of the Public Hearing, the Land Use Board, after full and careful consideration of the Redevelopment Plan and the presentation and testimony of RV&W's Planner and after due and careful deliberation, adopted Land Use Board Resolution 2011-10 thereby finding and determining the Municipal Goals & Objectives, Anticipated Redevelopment Actions and Redevelopment Provisions of the Redevelopment Plan, Landfill Redevelopment Area to be fully consistent with, and designed to effectuate, the 2006 Master Plan; therefore satisfying the statutory requirements for a Redevelopment Plan under the Local Redevelopment and Housing Law; and

WHEREAS, Land Use Board Resolution No. 2011-10 further recommends that the Township Committee of Commercial Township adopt the Redevelopment Plan, Landfill Redevelopment Area, dated April 7, 2011, as an Ordinance of the Township; and

WHEREAS, Mayor Jamison and Committeeman Riggan are, respectively, Class I and Class II members of the Land Use Board and were in attendance at the Board's April 19, 2011 Public Hearing. Accordingly these members of the Township Committee have heard the presentation and oral testimony regarding the

Redevelopment Plan from RV&W's Planner, the Board's questioning of RV&W's Planner and the Planner's answers to such questions; and

NOW THEREFORE, BE IT ORDAINED BY THE Township Committee of the Township of Commercial, County of Cumberland, State of New Jersey, having carefully considered the Redevelopment Plan and the findings, determinations and recommendations of the Land Use Board as embodied in Land Use Board Resolution No. 2011-10 and after due and careful deliberation:

1. That pursuant to N.J.S.A. 40A:12A-7d., the document entitled Redevelopment Plan, Landfill Redevelopment Area, Township of Commercial, Cumberland County, New Jersey, prepared by Remington, Vernick & Walberg (dated April 7, 2011), is found to be consistent with the Commercial Township Master Plan.
2. That pursuant to N.J.S.A. 40A:12A-7, such Redevelopment Plan is hereby adopted as an Ordinance of the Township of Commercial.
3. That the Township Solicitor is ordered to prepare a deed restriction on the Township-owned property to the effect that, other than the continuation of the Convenience Center, any future use of the Redevelopment Area shall be limited, in-perpetuity, to Alternate / Renewable Energy Production, along with such ancillary uses as may be required therefore. The township Solicitor is further ordered to record such deed restriction with the appropriate recording office upon sale or lease of such property to a Redeveloper as specified in the Redevelopment Plan.
4. That the Zoning Map of the Township of Commercial is hereby amended to incorporate the provisions of such Redevelopment Plan, and Land Use Board Engineer is instructed to physically amend such Zoning Map.
5. That the provisions of the adopted Redevelopment Plan shall supersede the provisions of the development regulations of the Township of Commercial to the extent set forth in such Redevelopment Plan.
6. That all Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, thereby repealed.
7. That should any section, clause, sentence, phrase, provision or application of this Ordinance be declared unconstitutional or invalid by a Court of Competent Jurisdiction, such decision shall not invalidate or otherwise affect the remaining portions of this Ordinance.


This Ordinance shall take effect upon final passage, adoption and publication in a manner prescribed by law.

Moved: Committeewoman Moore

Second: Committeeman Riffin

Roll call vote: Committeewoman Moore	Yes
Committeeman Riffin	Yes
Mayor Jamison	Yes

  
Fletcher Jamison, Mayor

Attest:  
  
Hannah E. Nichols, Township Clerk

First Reading:	April 21, 2011
Publication:	April 28, 2011
Second Reading:	May 3, 2011
Adoption:	May 3, 2011
Publication:	May 10, 2011

## Item 11

### Resource Protection Ord

Ord. 2013-546 - Protection Trees

Ord. 2015-568 Bamboo Planting Prohibited

Ord. 2015-567 Closing Road to Truck Traffic

Ord. 2016-576 Flood Damage Protection

Ord. 2014-559 Permission South Jersey  
Gas to install new  
lines,

COMMERCIAL TOWNSHIP  
ORDINANCE 2013-546

AN ORDINANCE AMENDING ORDINANCE 2007-487  
COMMERCIAL TOWNSHIP DEVELOPMENT  
REGULATION ORDINANCE TO INCLUDE

PROTECTION OF TREES

Section 1-A PURPOSE

The governing body of the Township of Commercial finds that uncontrolled removal of trees causes soil erosion, siltation of surface waters, flooding, enlarged flood plains, air, water and noise pollution, wind damage to property, and elevated air temperatures in summer. The loss of trees reduces ground water recharge, soil fertility, and aquatic and terrestrial native wildlife habitats. Tree removal may reduce the historic incentive to dwell in this community because of its rural atmosphere and high quality of life. All of the above lead to the degradation of regional biodiversity and the ecosystem instability, rendering land unfit for its most appropriate use and adversely affecting the health, safety and general welfare of the inhabitants of the Township. Therefore, the Township of Commercial desires to regulate the cutting of trees within the Township, to regulate future development of lands which are not fully developed, to preserve the maximum possible number of trees in the course of development of a site, to protect larger, older specimens of trees and to encourage innovative design and grading to promote the preservation of existing trees.

The Standards and procedures established herein intended to furnish guidelines for the Environmental Commission and the decisional authority, in connection with the issuance of permits for tree cutting and removal, subject to the exemptions listed in Section 1-F.

Section 1-B Intent

It is the intent of this Ordinance to protect and to maintain the rural atmosphere and natural resources of the Township, consistent with the goals and objectives of the master Plan, to encourage the protection of every landmark tree within the township and, to the greatest extent practicable, of each specimen tree.

Section 1-C Definitions

As used herein, the following terms shall have the meanings indicated:

**AGRICULTURAL USE** – A land use to derive income from growing plants or trees on land, including but not limited to land used principally for timber production, and not including land used principally for another use and incidentally for growing trees or plants for income.

**CALIPER** – (standard measure of tree size for trees to be newly planted) the diameter of a tree six (6) inches above the ground but if that diameter is greater than four (4) inches, the diameter twelve (12) inches above the ground.

**COMMERCIAL NURSERY OR TREE FARM** – A plant or tree nursery or farm having trees which are planted and growing for sale or intended sale to the general public in the ordinary course of business.

**CRITICAL AREA** – Areas which are located within three hundred (300) feet of both edges of a stream; areas within the one-hundred-year floodplain as defined by

the Federal Emergency Management Agency (FEMA); and areas defined as wetlands and their respective transition buffers by the New Jersey Department of Environmental Protection. The Township's environmental mappings may be used to generally locate such critical areas.

**CROWN** – The branches and foliage of a tree; the upper portion of a tree.

**DEVELOPMENT APPLICATION** – An application filed with the Township Land Use Board pursuant to the Municipal Land Use Law and the Township land development ordinances for approval of a subdivision plan, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or N.J.S.A. 40:55D-36),

**DIAMETER AT BREAST HEIGHT – (DBH)** – The diameter of a tree measured four and one-half (4 1/2) feet (forestry method) above the ground level on the downhill side.

**DICISIONAL AUTHORITY** – In the case of a Development Application shall mean the approving authority, The Land Use Board.

**DISTURBANCE ZONE** – That portion of a lot covered by existing or proposed buildings, structures or improvements and within a certain distance around the same as noted below:

1. House or building: twelve (12) feet (averaged around all sides).
2. Garage: eight (8) feet.
3. Pool/apron: twelve (12) feet.
4. Driveway/sidewalk: five (5) feet.
5. Septic fields: ten (10) feet.
6. Underground utility: five (5) feet.
7. Paved parking/drive aisle: five (5) feet.
8. Shed: five (5) feet.
9. Improvement (other): five (5) feet.

**DRIPLINE** – The perimeter line on the ground measured from the outermost edge of the vertical plane established by the branches of the tree.

**ENDANGERED SPECIES** – Any species of tree which has been determined by the Federal Fish and Wildlife Service or the State of New Jersey to be endangered or threatened.

**FOREST MANAGEMENT PLAN** – A plan approved by NJDEP which details the management practices proposed to be employed on a site.

**FORESTER, PROFESSIONAL** – A person who has a B.S. degree from a four-year school of forestry accredited by the Society of American Foresters.

**HISTORIC TREE** – Any tree representing or approaching in girth the larges of its species in the State of New Jersey, or dedicated to or commemorating an individual or event, as may be maintained by the State of New Jersey or the Township of Commercial.

**INVASIVE SPECIES** – As defined by the US Department of Agriculture is  
(1) non-native (or alien) to the ecosystem under consideration and  
(2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

A list of invasive species is available in the township office and on the internet.

**LANDMARK TREE** – Any tree with a diameter of thirty (30) inches or greater.

**LANDSCAPE ARCHITECT** – A person certified as a landscape architect by the State of New Jersey.

**LANDSCAPER** – An individual who has been gainfully employed for a period of at least five (5) years in a position involving the care and planting of trees.

**NATIVE TREE** – Any tree listed by the NJDEP as indigenous to the state. A list of Native trees will be available in the Township Office. Lists of trees native to New Jersey can also be found on the internet.

**NONSPECIMEN TREE** – Any tree with a diameter less than sixteen (16) inches, but at least six (6) inches.

**PERMIT** – Any permit in writing issued by a township official.

**PERSON** – Any individual, person, association, company, corporation or similar group.

**REPLACEMENT TREE** – A nursery-grown certified tree, properly balled, marked with a durable label indicating genus, species and variety, and satisfying the standards established for nursery stock and installation thereof, set forth by the most recent publication of the American Association of Nurserymen.

**SPECIMEN TREE** – Any tree with a diameter of at least sixteen (16) inches, but less than thirty (30) inches.

**THINNING** – The removal of undesirable, competitive, diseased or damaged trees so as to cultivate and improve the development of remaining trees on the lot.

**TOWNSHIP** – The Township of Commercial or any designated representative.

**TREE** – Any woody perennial plant usually having but one (1) main stem or trunk and a more or less definitely formed crown, and which has the potential based on its genus and species to grow to a height of ten (10) feet or more.

**TREE CANOPY** – The top layer or crown of mature trees.

**TREE PROTECTION ZONE** – That portion of a lot outside of the disturbance zone.

**TREE REMOVAL** – The cutting down of a tree, the transplanting of a tree to a site other than that under development or the infliction of damage to a tree which is of such severity as to show evidence within a period of two (2) years of irreparable harm leading to the ultimate death of a tree.

#### **Section 1-D APPLICABILITY**

This ordinance pertains to any new residential construction on site plan. Existing business, and commercial properties are exempt. No tree shall be cut or otherwise removed from any lands in the Township of Commercial except as permitted by this Chapter. All Development Applications that involve tree removal shall include an application for a tree removal permit for each lot that will result from the application. Any applicant wishing to remove trees upon the property which is the subject of the Development Application must comply with Section 1-H of this ordinance. No part of this ordinance will apply to homeowners clearing trees on their own property so long as the cutting of the trees is not part of a subdivision. No homeowner may cut more than fifty percent of the trees on the property for any reason except those listed below in Section 1-F of this chapter. No tree that was planted or preserved as part of any approved subdivision or site plan or in accordance with any street tree requirements approved in conjunction with a subdivision or site plan shall be removed, except as permitted by Section 1-F of this chapter. This ordinance supersedes development regulations ordinances 8.5.

The filing of a Development Application shall constitute the applicant's consent for the township zoning officer to enter upon the applicant's land for purposes of inspection.

**1-D.1 DEVELOPMENT APPLICATIONS.** In Development Applications, recommendations of the Environmental Commission shall be advisory to the decisional authority.

**1-D.2 APPEALS.** Appeals from decisions of the Land Use Board may be taken in accordance with the Municipal Land Use Law.

The standards contained herein shall be considered the minimum standards to be met and maintained. Standards established by other township ordinances or by state and federal rules and regulations shall apply where those standards are more restrictive than the standards set forth herein.

Plans for the harvesting of timber and or silviculture shall be in accordance with the standards and recommendations of the New Jersey State Bureau of Forestry. A copy of such plan must be filed with the Environmental Commission, the Township Land Use Board and Township Committee at least thirty (30) days prior to the harvesting of timber and/or silviculture.

#### **Section 1-E TREE CUTTING OR REMOVAL RESTRICTED**

Excerpt as permitted in Section 1-F, no person shall cut or remove, or cause to be cut or removed, any tree with a (DBH) of four (4) inches or greater upon any lands within the Township of Commercial unless the cutting or removal can be accomplished in accordance with the provisions of this ordinance. No person shall cut, destroy or remove any historic or endangered tree as defined in section 1-C above, without a permit. No person shall cut or remove any tree within wetlands, flood hazard areas or other areas protected by State or Federal law or applicable EPA or NJDEP regulations. For a list of endangered and threatened species see the following New Jersey Environmental Protection web site <http://www.nj.gov/dep/parksandforests/natural/heritage/jan2010plantlist.pdf>.

#### **Section 1-F EXEMPTIONS**

The following shall be exempt from the requirements of this ordinance:

1. Removal of dead trees, diseased or irreparably damaged. Any person relying on this exemption without prior consultation with the Environmental Commission must prove to the satisfaction of the Environmental Commission that the tree was dead at removal.
2. Removal by cemeteries of trees within their limits.
3. Removal of trees directed to be removed by municipal, county, state or federal authorities.
4. Pruning of trees by utility companies for maintenance of utility wires or pipelines and the pruning of trees within site easements.
5. Removal of trees in compliance with a forestry management plan that has been approved by NJDEP pursuant to N.J.S.A. 54:4-23.3 and N.J.A.C. 18:15-2.7 as part of an approved farmland assessment.
6. Any activity protected by the Right to Farm Act, N.J.S.A. 4:1 C-9 et seq. or any other state statute or regulation in an area in which local regulation has been preempted.
7. Removal of trees, in projects which have received major or minor subdivision or site plan approval prior to the effective date of this



Ordinance. Major or minor subdivision or site plans or new home construction approved after the effective date of this Ordinance are subject to the provisions of this Ordinance, subject to the right of the Approving Authority to grant variances or waivers in accordance with the Municipal Land Use Law and the Township Master Plan.

8. Any cultivated tree growing on property actually being used as a nursery, orchard or Christmas tree farm.
9. Commercial sand mining operations with an approved landscape reclamation plan.
10. Removal of trees considered invasive to the area as determined by the NJDEP.

**1-G.1 TREE REPLACEMENT.** Tree replacement shall be provided in accordance with the following:

**a. Replace of trees.**

- 1) Where the township zoning officer, in consultation with the Environmental Commission and the Land Use Board, determines that it is impossible to retain trees in the tree protection zone, or any specimen tree as defined by this chapter, due to cutting, filling or other construction activity, the applicant shall replant two (2) inches of a new tree diameter for every five (5) inches of existing tree diameter removed. Replacement trees should be shown on the tree removal permit application or tree management plan for review. New replacement trees should have the minimum diameter of two and one-half (2 1/2) inches measured six (6) inches above the ground. Replanting should be done according to the standards specified by the American Nurserymen's Association.

Where it has been determined by the Environmental Commission that a landmark tree has been cut or removed, the person responsible shall be fined no more than one thousand dollars (\$1,000.) and shall be required to replant one (1) inch of new tree diameter for every one (1) inch of the landmark tree diameter cut or removed. New replacement trees should have a minimum diameter of eight (8) inches measured six (6) inches above the ground. Replanting should be done according to the standards specified by the American Nurserymen's Association.

2. If trees are removed without first obtaining approval, the person clearing the trees will be required to replant one hundred new trees per acre of cleared land. The replacement trees will meet the criteria specified in section 1-G-1-a-1 and 1-G-1b of this ordinance.

**b. Criteria for the selection of new trees.** When an applicant is required to replace trees as described above, the applicant should replace the trees with the same species that were removed or, with the approval of the Environmental Commission, choose other tree species, preferably native to Commercial Township but in any case native to the state of New Jersey. In selecting replacement trees, the following positive criteria should be used. These guidelines should also be followed in choosing trees proposed to be retained or cleared.

- 1) Species longevity;
- 2) Whether native to the area;
- 3) Hardiness (wind firmness, climate requirements, characteristics of soil to hold tree);
- 4) Resistance to insect and disease, attack and to pollution;

- 5) Aesthetic values (autumn coloration, type of flowers or fruit, form characteristics);
- 6) Low maintenance and care (pruning, etc.,);
- 7) High wildlife values;
- 8) Comfort to surroundings;
- 9) Freedom from disease, rot or other damage to tree;
- 10) Protection of pedestrians, vehicles and buildings;
- 11) Size at maturity;
- 12) Effect of soil retention and erosion control; and
- 13) Value as a noise buffer.

#### **1-G.2 PROTECTION OF EXISTING TREES**

Applicants should exercise due care to protect trees to be retained from damage during construction as delineated in the Land Use Ordinance.

#### **1-G.3 REVIEW STANDARDS**

In accordance with the design requirements provided in this Chapter, unless otherwise indicated herein, a tree removal permit may only be granted for the following reasons and under the following terms and conditions:

- a. Where the area proposed for tree removal is to be occupied by: a building or other structure; a street or roadway; a driveway (when no other site is available); a parking area; a patio; a swimming pool; a recreation area; a power, drainage, sewerage or any other utility line easement, or right-of-way; or where the area of tree removal is twenty (20) feet or less from either side of or around the perimeter of any of the foregoing; whichever is applicable.
- b. In areas proposed for tree removal which are not to be occupied by any of the uses or facilities set forth in part "a" of this Section:
  - 1) If the continued presence of such tree or trees is likely to cause danger to persons or property upon the property for which removal is sought, or upon adjoining or nearby property.
  - 2) If the area where such tree or trees are located has a cut, depression or fill of land, or the topography of the land is of such a character as to be injurious or dangerous to such tree or trees, or to a tree or trees located nearby.
  - 3) If the removal of trees is for the purpose of conducting Silviculture activities, which activities include, but are not limited to, the harvesting of trees in accordance with a forest management plan and the thinning out of a heavily wooded area, with some trees to be removed and other trees to remain.
- c. Upon an express finding by the Decisional Authority that the proposed tree removal will not result in or cause, increase or aggravate any or all of the following conditions: impaired growth or development of remaining trees or shrubs on the property of the applicant or upon adjacent property, soil erosion, sedimentation and dust, drainage or sewerage problems and dangerous or hazardous conditions.
- d. The Decisional Authority shall have the power to affix reasonable conditions to the granting of the permit for the removal of trees.

#### **Section 1-H TREE REMOVAL REQUIREMENTS FOR MAJOR AND MINOR SUBDIVISIONS AND SITE PLANS**

Each application to the Land Use Board for approval of a major or minor subdivision or any site plan that requires the removal of more than fifty (50) percent of the tree canopy shall include an application for a tree removal permit. A separate application shall be filed for each lot that will result from the application. The application and development proposal shall conform with the Municipal Land Use Law.

**1-H.1 APPLICATION FORM** – The application form shall be available from the Township Construction Official and shall include the same information as required in Section 1-G-2

**1-H.2 LANDSCAPE PLAN** – A plan prepared by a licensed landscape architect or professional engineer which includes information required by the Municipal Land Use Law.

### **1-H.3 DESIGN REQUIREMENTS**

- a. To the greatest extent practicable, large trees sixteen (16) inch DBH and larger), tree rows and hedgerows should be preserved. Only those trees necessary to permit the construction of buildings, structures, streets, driveways (when no other reasonable site is available), infrastructures and other authorized improvements shall be removed. Existing vegetation shall be preserved to the greatest extent feasible.
- b. On all residential lots, natural screening and woodlands between lots, along property lines and between buildings shall be preserved to the greatest extent feasible.
- c. (Nothing listed for “c”).
- d. Up to fifty (50) percent of the existing tree canopy may be removed without obtaining a permit. The location of the remaining tree canopy to be preserved shall be noted on the landscape plan. In cases where more than fifty (50) percent of the canopy is removed, ten (10) percent of the total trees removed must be replaced. Steep slope limits of disturbance shall supersede this section when appropriate.
- e. No more than ten (10) percent to existing trees with a DBH equal to or greater than ten (10) inches within the area of development/limit of disturbance shall be removed unless the applicant shall replant trees removed in accordance with Section 1-G.6.
- f. Input from a designated Landscape Architect or professional engineer shall be requested for recommended areas of tree preservation.
- g. Landscape standards may be waived by the Land Use Board, after consultation with the Environmental Commission when trees and/or shrub masses are preserved and/or relocated on-site that duplicate or essentially duplicate the landscape requirements contained in this section.
- h. The Decisional Authority shall have the option of requesting a conservation easement to protect any or all trees o tree canopy areas to remain on site.

#### **1-H.4 SITE PROTECTION**

- a. Tree protection measures for all trees to remain on site after construction and the limit of disturbance line shown on the landscape plan shall be installed in the field with snow fencing or other durable material and verified by the Township Zoning Officer or other designated official prior to soil disturbance.
- b. Protective barriers shall not be supported by the plants they are protecting, but shall be self-supporting. Barriers shall be a minimum of four (4) feet high and shall last until construction is complete.
- c. Chain link fence may be required for tree protection if warranted by site conditions and relative rarity of the plant.
- d. Snow fencing used for tree protection shall be firmly secured along the drip line, but no less than six (6) feet from the trunk when the drip line is less than six (6) feet.
- e. The grade of the land located within the drip line shall not be raised or lowered more than six (6) inches unless compensated by welling or retaining wall methods; and in no event shall welling or retaining wall methods be less than six (6) feet from the truck of a tree.
- f. No soil stockpiling, storage of building materials, construction equipment or vehicles shall be permitted within the drip line or within six (6) feet of any remaining trees, whichever is greater.
- g. Any clearing within the drip line, or within six (6) feet of the trunk of remaining tree, whichever is greater, shall be done by hand-operated equipment.
- h. Where a tree that has been noted for preservation is severely damaged and unable to survive, tree replacement shall occur as provided in Section 1-H.6.

#### **1-H.5 REVIEW OF APPLICATIONS**

All applications for a tree removal permit or a tree protection management plan shall be immediately referred by the Township Construction Official to Township Zoning Officer, the Environmental Commission and Land Use Board.

- a. The Environmental Commission shall provide a recommendation of approval or denial of the tree removal permit or the tree protection management plan application to the Land Use Board. Failure on the part of the Environmental Commission to provide a recommendation within thirty (30) days, provided that the Environmental Commission receives the application at least ten (10) days in advance of its regularly scheduled meeting, shall be deemed a recommendation for approval. In the event that the Environmental Commission recommends denial of an application, it shall specify, in writing, the reasons(s) for its action. The Land Use Board shall review and consider the recommendations of the Environmental Commission, and the recommendations shall be made a part of the record before the Board. The Land Use Board shall have the authority to approve or to deny the tree removal permit or a tree protection management plan as part of the subdivision and/or site plan review process.

- b. The Land Use Board shall review the application for a tree removal permit or a tree protection management plan and, if necessary, have the Township Planner, Engineer, and/or other consultant, as may be required, review the application and inspect the site. All reviews and inspections by the Township Planner, Engineer, and/or other consultants shall be paid for by the applicant through the deposit of escrow funds.
- c. The Land Use Board and the Environmental Commission shall consider the following factors in reviewing an application for a tree removal permit or tree protection management plan to either recommend approval or denial:
  - 1) Impact on the growth of remaining trees.
  - 2) Impact on existing drainage patterns.
  - 3) Impact on soil erosion or increased dust.
  - 4) Impact on the vegetative screening between adjacent land uses.
  - 5) Impact on a tree or scenic corridor given a landmark value.
  - 6) Impact on woodland corridors, stream corridors, greenways and wildlife habitat.
- d. There is hereby established a presumption that each and every tree of six (6) inches of diameter or greater located within the tree protection zone or any specimen tree located anywhere on the lot shall be preserved at its location on the site. Each such tree located within the tree protection zone or each specimen tree may be removed only if the Land Use Board finds that the applicant has set forth below:
  - 1) That it is a necessity to remove trees which pose a safety hazard.
  - 2) That it is a necessity to remove diseased trees, trees infested with destructive insects liable to infect healthy trees on the subject or adjacent property or trees weakened by age, fire or other injury.
  - 3) That it is a necessity to observe good forestry practices, i.e. the number of healthy trees that a given parcel of land will support when documented by a report prepared on behalf of the applicant by a professional forester or a certified landscape architect.
  - 4) That it is a necessity for compliance with other codes such as zoning and subdivision regulations, health and other environmental ordinances.
  - 5) Other conditions which, in the judgment of the Administrative Officer (or Planning Board/Zoning Board), warrant the removal of a tree.
- e. No building permit shall be issued until the applicant has obtained approval of its tree removal permit or tree protection management plan application.

**Section 1-I SUBMISSION TO THE ENVIRONMENTAL COMMISSION; TREE REMOVAL PERMIT; VARIANCES AND WAIVERS**

- a. All development applications that involve tree removal under the terms of this ordinance shall be submitted to the Environmental Commission for its review. The Environmental Commission shall complete its review and submit a report to the decisional authority stating whether the applicant's proposal complies with the requirements of this section. Failure of the Land Use Board to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

- b. If the applicant's plan satisfies the requirements of this Chapter, the Township zoning Officer shall issue a tree removal permit. The Land Use Board, however, may alter the terms of the tree removal permit as part of its approval of the development application.
- c. In accordance with the Municipal Land Use Law and the Township Master Plan, the Land Use Board, after consultation with the Environmental Commission, may grant variances and waivers from the requirements of this section.

#### 1-1.1 PERMIT APPROVAL; TIME LIMITS

- a. Where the permit application is submitted as a part of an application for major subdivision, minor subdivision or site plan approval or other development application, the time for approval shall be governed by the time limits set forth in the MLUL.
- b. Where the application is made in connection with a residential, commercial, business or industrial lot that does not require a development approval, the Environmental Commission shall act on the application within thirty (30) days following receipt or within such additional time as is consented to by the applicant. Failure to act within thirty (30) days of its next scheduled meeting, or an extension thereof, shall be deemed to be an approval of the application and, thereafter, a tree removal permit shall be issued.
- c. Approval by default with regard to major subdivision, minor subdivision and site plan applications, shall not be deemed to be a waiver of a tree removal permit.

#### 1.1.2 DURATION OF PERMITS

Permits granted for the removal of trees under the terms and conditions of the ordinance shall run with the land, and shall remain in force and effect for the following periods of time, and not thereafter. Once the permit has expired, a new application must be submitted for review and a new permit issued

- a. If granted for a lot or parcel of land for which a building permit is required, but for which no development approval is required by the Land Use – until expiration of the building permit granted with such tree removal permit.
- b. Except as provided in paragraphs d and e below, if granted for a lot or parcel of land for which a development approval from the Land Use Board is required as a condition precedent to obtaining a building permit – until expiration of the site plan approval, or expiration of the building permit issued after such development approval, whichever is later.
- c. If granted for a lot or parcel of land for which minor subdivision is sought – one year from the date of granting such minor subdivision.
- d. If granted for a lot or parcel of land for which preliminary approval of a major subdivision is sought – until expiration of such approval.

#### 1.1-3 INSPECTION

- a. Prior to taking final action upon any application for tree removal, an inspection of the site shall be made by the Township Zoning Officer.
- b. Prior to any tree removal, all such trees shall be individually marked and areas to be cleared must be clearly identified for inspection by a municipal representative. In the case of proposed new dwelling construction on a wooded lot, the four corners of the building envelope shall be clearly staked. The municipal representative shall not enter upon contiguous and neighboring lands without permission of the property owners.
- c. The Township Zoning Officer shall periodically inspect the site throughout the duration of construction in order to ensure compliance with this ordinance. Such inspection shall be made of the site referred to in the application, and with the permission of the property owners of contiguous and neighboring lands, as well as of lands in the vicinity of the application, for the purpose of determining drainage conditions and physical conditions existing thereon.

#### 1.1.4 NOTICE OF COMMENCEMENT OF TREE REMOVAL

- a. The holder of a tree removal permit shall notify the Environmental Commission in writing at least four (4) business days in advance of when the tree removal activity will commence.
- b. The notice shall also include advice as to the manner of disposal of the removed trees.
- c. Removed dead or diseased trees shall not be turned into mulch chips and applied to the site, but shall be disposed of in a manner so as not to spread disease to other trees on site.

#### Section 1.J TREE REPLACEMENT

- a. The replacement of trees shall occur as prescribed in the following table:

DBH of Existing Tree Removed	Number of Replacement Trees (3" caliper)
Less than 6 inches	- 1
Between 6 and 12 inches	- 2
Between 12.5 and 18 inches	- 3
Between 18.5 and 24 inches	- 5
Between 24.5 and 30 inches	- 7
Between 30.5 and 36 inches	- 10
Between 36.5 inches or greater	- The equivalent of 3" Caliper trees or greater needed to equal the DBH of the removed tree

- b. All required replacement tree(s) shall be of nursery grade quality, balled and burlapped and planted on the site from which trees were removed. Relief from any portion or all of the on-site tree replacement requirement may be granted by the Land Use Board. Any relief shall be based upon practical physical difficulties and undue hardship related to conditions of the site from which the trees are to be removed. The Land Use Board shall solicit the comments and recommendations of the Township Engineer in determining whether the relief requested by the applicant shall be granted.

- c. Instances where it is not possible to replant the required number of trees, an applicant may request that the Decisional Authority permit the applicant to contribute to the township tree fund as established by this ordinance. The contribution, in lieu of planting trees, shall be an amount reasonably established by the Environmental Commission from time-to-time as the fair market value of replacement trees which meet the standards set forth in this section. No more than 75% of tree replacement may be by way of contribution.
- d. All replacement trees should be native to New Jersey.

#### **Section 1-K TOWNSHIP TREE FUND**

**1-k.1 TREE TRUST FUND.** All contributions to the Township Tree Fund pursuant to paragraph "b" above shall be deposited in a separate interest-bearing tree trust fund. All interest accrued in the tree trust fund shall become part of the fund.

#### **1-K.2 USE OF MONEY.**

- a. The Township may use revenues collected from the Tree Fund for any purpose which promotes the planting and maintenance of trees in the Township. Such activities include, but are not limited to: Planting trees in the Township rights-of-way, in Township parks and on other public lands, offering free trees to township residents at special events. In addition, this money may be used for educational pamphlets detailing the benefits of healthy trees.
- b. Funds shall not be expended to reimburse the Township for past tree planting and maintenance activities.
- c. No more than 20% of the revenues collected from the Township Tree Fund shall be expended on consultant fees necessary to develop or implement a tree planting and maintenance program.
- d. Expenditure of funds from the Township Tree Fund shall be authorized by resolution of the governing body authorizing the expenditure of funds by dedication by rider pursuant to N.J.S.A. 40A:4-39. A copy of that resolution shall be sent in duplicate to the Division of Local Government Services for the director's approval.

#### **Section 1-L FEES**

For major and minor subdivision a fee of one hundred (\$100) dollars per acre or portion thereof shall be paid for that portion of land being cleared or developed.

#### **Section 1-M APPEAL PROCEDURE**

Appeals from decisions of the Approving Authority shall be taken in accordance with the Municipal Land Use Law and the Township Land Development Ordinances. Ten (10) copies of the petition of appeal and all supporting plans and documentation must be submitted to the Township Clerk or the appeal will be deemed incomplete.



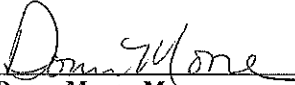
**Section 1-N VIOLATIONS AND PENALTIES**

- a. **Violations:** Any person, firm or corporation that shall violate any provisions of this chapter shall be subject to some portion or all of one or more of the following: a penalty of one thousand dollars (\$1,000.) or imprisonment for a term not exceeding ninety (90) days or community service up to but no greater than ninety (90) days, or a combination any of the above.
- b. **Continuing violations:** If the violation is continuing in nature, each day during which it continues shall constitute an additional; separate and distinct offense.
- c. **Other remedies.** No provisions of this chapter shall be construed to impair any common law or statutory course for action or legal remedy which may be otherwise provided in law or equity for any violation of this chapter.

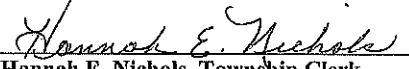
**Section 2.** Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 3.** In case any sections, articles or provisions of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other sections, articles or provision of this ordinance except insofar as the provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 4.** This ordinance shall become effective immediately upon final passage and publication as required by law.

  
Donna Moore, Mayor

Attest:

  
Hannah E. Nichols, Township Clerk

<b>Introduction:</b>	<b>July 18, 2013</b>
<b>Publication:</b>	<b>July 25, 2013</b>
<b>Second Reading:</b>	<b>August 15, 2013</b>
<b>Adoption:</b>	<b>August 15, 2013</b>
<b>Publication:</b>	<b>August 26, 2013</b>

Item 10

Ord 84-254

Establishing Right to Farm.

ORDINANCE 84-254

AN ORDINANCE ESTABLISHING THE  
RIGHT TO FARM IN COMMERCIAL  
TOWNSHIP, CUMBERLAND COUNTY

BE IT ORDAINED by the Township Committee of the Township  
of Commercial, County of Cumberland, as follows:

The Right to Farm all land where permitted by the Township  
Zoning Ordinance is hereby recognized to exist as a natural right,  
subject only to the restrictions and regulations for intensive fowl  
or livestock farms and subject to State and Township Health and  
Sanitary codes.

The Right to Farm, as it is used in this section, includes  
the use of large irrigation pumps and equipment, aerial and ground  
seeding and spraying, large tractors, numerous farm laborers and the  
application of chemical fertilizers, insecticides, and herbicides,  
all for the purpose of producing from the land agricultural products  
such as vegetables, grains, hay, fruit, fibers, wood, trees, plants,  
shrubs, flowers, and seeds. This Right to Farm shall also include  
the right to use land for grazing by animals, subject to the re-  
strictions for intensive fowl or livestock farms.

The foregoing uses and activities included in the Right to Farm,  
when reasonable and necessary for the particular farming, livestock  
or fowl production, and when conducted in accordance with generally  
accepted agricultural practices, may occur on holidays, Sundays, and  
weekdays, at night and in the day, and the noise, odors, dust and  
fumes that are caused by them are also specifically permitted as part  
of the exercise of this right. It is expressly found that whatever  
nuisance may be caused to others by such uses and activities so con-  
ducted, is more than offset by the benefits from farming to the  
neighborhood and community, and to society in general, by the pres-  
ervation and continuance of farming operations in Commercial Township  
and in New Jersey as a source of agricultural products for this and  
future generations.

TOWNSHIP OF COMMERCIAL

*Clarence G. Berry*

CLARENCE G. BERRY, MAYOR

ATTEST:

*Hannah E. Nichols*  
HANNAH E. NICHOLS, TOWNSHIP CLERK

FIRST READING: JULY 26, 1984

PUBLISHED: AUGUST 3, 1984

FINAL READING AND ADOPTION: AUGUST 30, 1984

PUBLICATION OF ADOPTION: SEPTEMBER 7, 1984

**ORDINANCE 2015-568**

**ORDINANCE OF COMMERCIAL TOWNSHIP  
Bamboo Planting Prohibited: Containment and Removal**

It is determined the bamboo plant is an invasive and not native plant and difficult to control. It can and has caused significant damage to properties in Commercial Township. The purposes of this subsection are to preserve and protect private and public property from the damaging spread of bamboo grasses and plants, to protect indigenous plants from the invasive spread of bamboo and to maintain the general welfare of the residents of Commercial Township. Any actions pertaining to this ordinance must be initiated by a complaint by the owner of an affected property.

- a.) Prohibition: No owner, tenant, or occupant of a property, or person, corporation or other entity, shall plant, install, or cause or permit the planting or installation of plant species commonly known as Running (monopodial) Bamboo or Clumping (sympodial) Bamboo, including but not limited to the following plant genera: Arundinaria, Bambusa, Chimonobambusa, Dendrocalamus, Fargesia, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella, Semiarn dinaria within 50 feet of a property line abutting an adjacent property of a different landowner, on any property in Commercial Township. In all cases, the landowner has the responsibility to contain the bamboo and prevent it from intruding on the property of another.

b.) Duty to Confine: In the event any species commonly known as Running Bamboo Clumping Bamboo is located within 50 feet of a property line and is encroaching onto the an adjacent property, on any property within Commercial Township, prior to the effective date of this prohibition, the owner and occupant of said property shall jointly and severally be required to confine such species to prevent the encroachment, spread invasion or intrusion of same onto any other private or public property or public right of way. In lieu of confining the species, the owner or occupant may elect to totally remove the bamboo from the property, and all affected properties. Failure to properly confine such bamboo shall require removal as set forth below. The cost of said removal shall be at the bamboo property owner's expense. In the case of properties gifted to the Township or in foreclosure and the property of a bank, the Township or the bank shall be responsible to prevent the encroachment of bamboo onto adjacent properties. This duty to confine shall not apply if the property owner and/or occupant can establish to the satisfaction of the Construction Official that the bamboo which is on his/her property at the time of the adoption of this ordinance originated on another property.

(c.)Removal:

(1) In the event Running Bamboo or Clumping Bamboo is present on the effective date of this prohibition and a complaint is received by the Township from the affected landowner, regarding an encroachment of any bamboo plant or root, and the Code Enforcement Officer of the Township, after observation and/or inspection, determines there is an encroachment or invasion on any

adjoining/neighboring private or public property or public right of way (herein after, "the affected property"), the Township shall serve notice to the bamboo property owner in writing that the bamboo has invaded other private or public property(s) or public right of way (s) and demand the removal of the bamboo from the affected property, and demand approved confinement against future encroachment or, in the alternative, the total removal from the bamboo property owners property. Notice shall be provided to the bamboo property owner, as well as the owner of the affected property by certified return receipt requested mail and regular mail. Within 21 days of receipt of such notice, the bamboo property owner shall submit to the Code Enforcement Officer of the Township, with a copy to owner of the affected property, a plan for the removal of the bamboo from the affected property, which plan shall include restoration of the affected property after removal of the bamboo. Within 90 days of receipt of the Code Enforcement Officers approval of the plan of removal and restoration, the removal and restoration shall be completed to the satisfaction of the Code Enforcement Officer of the Township.

- (2) If the bamboo property owner does not accomplish the removal of the bamboo from such private or public property or public right of way in accordance herewith, the township shall remove the encroaching bamboo and all cost of removal shall be reimbursed by the offending property owner. A lien may be placed against the offending property if necessary.

(3) Nothing herein shall be interpreted as limiting the rights of a private property owner to seek civil relief through a Court of proper jurisdiction, nor the institution of civil proceedings against the property parties.

(4) When an encroachment is upon public property or public right of way and the bamboo property owner and/or occupant has not complied with the written notice as set forth above, Commercial Township, at its discretion, may remove or contract for the removal of such bamboo From the Township property or public right of way. The cost of such removal shall be the responsibility of the bamboo property owner and occupant, if the occupant is responsible for the planting of the bamboo, and shall be paid or assessed by a lien against the property on which the bamboo growth originated. The cost of said removal shall include the installation of an appropriate barrier recommended by the American Bamboo Society and available from many bamboo growers to prevent further bamboo invasion.

d.) Replanting Prohibited: Any Running Bamboo or Clumping Bamboo either planted or caused to be planted or existing on the effective date of this ordinance, may not be replanted within 50 feet of the property line or replaced once such bamboo is or has become dead, uprooted or otherwise removed.

Section 2 All ordinances or portions thereof inconsistent with this ordinance are repealed to the extent of such inconsistency.



Section 3 If any portion of this ordinance is declared to be invalid by a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance which shall remain in full force and effect.

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Judson Moore, Mayor

Attest:

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Hannah E. Nichols, Township Clerk

Introduced: June 18, 2015

Publication: June 25, 2015

Second Reading: July 16, 2015

Adoption: July 16, 2015

Publication: July 23, 2015

Item 11

COMMERCIAL TOWNSHIP  
ORDINANCE 2015-567

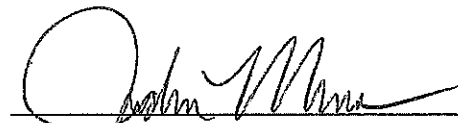
AN ORDINANCE CLOSING CERTAIN ROADWAYS TO TRUCK TRAFFIC

BE IT ORDAINED by the Township Committee of the Township of Commercial as follows:

SECTION 1. Areas closed to truck traffic

The following described roadways within the Township shall be closed to trucks having a gross weight in excess of (4) tons with the exception that on-time delivery or pickup visits, such as those made by moving vans or delivery trucks to businesses or residents within the closed area, and trucks that are driven by Township residents remaining at their personal properties shall be permitted. The areas of roadways closed are all roadways throughout Mauricetown, County roadway 676 through Haleyville and County Road 767 in Laurel Lake Roadways included the following:

1. Mauricetown-Buckshutem Road from Mauricetown bridge approach road (County Road 649) to Highland Street (County Road 676)
2. Highland Street from North Avenue (Haleyville) going east through Mauricetown to the Maurice River (park) County Road 676
3. Noble Street from Sand Plant entrance to Maurice River (County Road 744)
4. Front Street from Highland Street to South Street
5. Stable Lane
6. Second Street
7. Bacon Street
8. Bateman Street
9. South Street
10. Battle Lane (Laurel Lake) County Roadway 767

  
Judson Moore, Mayor

Attest:

  
Hannah E. Nichols, Township Clerk

Introduction:	June 18, 2015
Publication:	June 25, 2015
Second Reading:	July 16, 2015
Adoption:	July 16, 2015
Publication:	July 23, 2015

**AN ORDINANCE ENTITLED FLOOD DAMAGE PREVENTION ORDINANCE**

**SECTION 1.0**

**STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**1.1 STATUTORY AUTHORIZATION**

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Committee of the Township of Commercial of Cumberland County, New Jersey does ordain as follows:

**1.2 FINDINGS OF FACT**

- a) The flood hazard areas of the Township of Commercial are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**1.3 STATEMENT OF PURPOSE**

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

- a) Protect human life and health;
- b) Minimize expenditure of public money for costly flood control projects;
- c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) Minimize prolonged business interruptions;
- e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- f) Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**1.4 METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- b) Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

## **SECTION 2.0 DEFINITIONS**

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

**AO Zone-** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

**AH Zone-** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone

**Appeal** — A request for a review of the Township's interpretation of any provision of this ordinance or a request for a variance.

**Area of Shallow Flooding** — A designated AO or AH zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** — Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

**Base Flood** — A flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** – The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. For zones VE and V1-30 the elevation represents the stillwater elevation (SWEL) plus wave effect (BFE = SWEL + wave effect) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**Basement** — Any area of the building having its floor subgrade (below ground level) on all sides.

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

**Coastal A Zone** — The portion of the Special Flood Hazard Area (SFHA) starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated the same as V Zones/Coastal High Hazard Areas.

**Coastal High Hazard Area** — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**Development** — Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**Digital Flood Insurance Rate Map (DFIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Elevated Building** — A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor or, in the case of a building in a Coastal High-Hazard Area or Coastal A Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard and Coastal A Zones "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

**Erosion** — The process of the gradual wearing away of land masses.

**Existing Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Flood or Flooding** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

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

**Flood Insurance Study (FIS)** — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

**Floodplain Management Regulations** — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than 0.2 foot.

**Freeboard** — A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Highest Adjacent Grade** — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

**Historic Structure** — Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved State program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in States without approved programs.

**Limit of Moderate Wave Action (LiMWA)** — Inland limit of the area affected by waves greater than 1.5 feet during the Base Flood. Base Flood conditions between the V Zone and the LiMWA will be similar to, but less severe than those in the V Zone.

**Lowest Floor** — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

**Manufactured Home** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Manufactured Home Subdivision** — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**New Construction** — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

**Primary Frontal Dune** — A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

**Recreational Vehicle** — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Sand Dunes** — Naturally occurring or man-made accumulations of sand in ridges or mounds landward of the beach.

**Start of Construction** — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for

a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

**Substantial Damage** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**Variance** — A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

**Violation** — The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

## **SECTION 3.0 GENERAL PROVISIONS**

### **3.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Township of Commercial, Cumberland County, New Jersey.

### **3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard for the Township of Commercial, Community No. 340166, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:



- a) A scientific and engineering report "Flood Insurance Study, Cumberland County, New Jersey (All Jurisdictions)" dated June 16, 2016.
- b) "Flood Insurance Rate Map for Cumberland County, New Jersey (All Jurisdictions)" as shown on Index and panel(s) 34011C0330E, 34011C0331E, 34011C0333E, 34011C0334E, 34011C0337E, 34011C0339E, 34011C0341E, 34011C0342E, 34011C0343E, 34011C0344E, 34011C0353E, 34011C0361E, 34011C0363E, 34011C0426E, 34011C0427E, 34011C0428E, 34011C0429E, 34011C0431E, 34011C0432E, 34011C0433E, 34011C0434E, whose effective date is June 16, 2016.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study, maps and advisory documents are on file at the Commercial Township Municipal Building, 1768 Main Street, Port Norris, New Jersey.

### **3.3 PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Township of Commercial from taking such other lawful action as is necessary to prevent or remedy any violation.

### **3.4 ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **3.5 INTERPRETATION**

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

- a) Considered as minimum requirements;
- b) Liberally construed in favor of the governing body; and,
- c) Deemed neither to limit nor repeal any other powers granted under State statutes.

### **3.6 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Township of Commercial, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **SECTION 4.0 ADMINISTRATION**

### **4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in section 3.2. Application for a Development Permit shall be made on forms furnished by the Township and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to mean sea level to which any structure has been floodproofed.
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 5.2-2; and,
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

### **4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Zoning Officer is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

### **4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Zoning Officer shall include, but not be limited to:

#### **4.3-1 PERMIT REVIEW**

- a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 5.3 a) are met.
- d) Review all development permits in the coastal high hazard and Coastal A Zone area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.
- e) Review plans for walls to be used to enclose space below the base flood level in accordance with section 5.4-2 d).

#### **4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA**

When base flood elevation and floodway data has not been provided in accordance with section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Township shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer sections 5.2-1,

SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

**4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED**

- a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures:
  - i. verify and record the actual elevation (in relation to mean sea level); and
  - ii. maintain the floodproofing certifications required in section 4.1 c).
- c) In coastal high hazard and Coastal A Zone areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 5.4-2 a) and 5.4-2 b) i. and ii. are met.
- d) Maintain for public inspection all records pertaining to the provisions of this ordinance.

**4.3-4 ALTERATION OF WATERCOURSES**

- a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

**4.3-5 SUBSTANTIAL DAMAGE REVIEW**

- a) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
- b) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section.
- c) Ensure substantial improvements meet the requirements of sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

**4.3-6 INTERPRETATION OF FIRM BOUNDARIES**

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

**4.4 VARIANCE PROCEDURE**

**4.4-1 APPEAL BOARD**

- a) The Land Use Board as established by the Township Committee shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b) The Land Use Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Zoning Officer in the enforcement or administration of this ordinance.
- c) Those aggrieved by the decision of the Land Use Board, or any taxpayer, may appeal such decision to a court of competent jurisdiction, as provided under law.

- d) In passing upon such applications, the Land Use Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
- i. the danger that materials may be swept onto other lands to the injury of others;
  - ii. the danger to life and property due to flooding or erosion damage;
  - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. the importance of the services provided by the proposed facility to the community;
  - v. the necessity to the facility of a waterfront location, where applicable;
  - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vii. the compatibility of the proposed use with existing and anticipated development;
  - viii. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e) Upon consideration of the factors of section 4.4-1 d) and the purposes of this ordinance, the Land Use Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- f) The Township shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

#### **4.4-2 CONDITIONS FOR VARIANCES**

- a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items i.-xi. in section 4.4-1 d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e) Variances shall only be issued upon:
  - i. A showing of good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section 4.4- 1 d), or conflict with existing local laws or ordinances.

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

## **SECTION 5.0**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **5.1 GENERAL STANDARDS**

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

##### **5.1-1 ANCHORING**

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

##### **5.1-2 CONSTRUCTION MATERIALS AND METHODS**

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

##### **5.1-3 UTILITIES**

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- d) For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

##### **5.1-4 SUBDIVISION PROPOSALS**

- a) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,

- d) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

### **5.1-5 ENCLOSURE OPENINGS**

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

### **5.2 SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

#### **5.2-1 RESIDENTIAL CONSTRUCTION**

- a) For Coastal A Zone construction see section 5.4 COASTAL HIGH HAZARD AREA AND COASTAL A ZONE.
- b) New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated at or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive
- c) Require within any AO or AH zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

#### **5.2-2 NONRESIDENTIAL CONSTRUCTION**

- a) In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone (for Coastal A Zone construction see section 5.4 COASTAL HIGH HAZARD AREA AND COASTAL A ZONE). shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities:  
either
  - a) Elevated to or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive; and
  - b) Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at

least three feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or

- c) Be floodproofed so that below the base flood level plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, whichever is more restrictive, the structure is watertight with walls substantially impermeable to the passage of water;
- d) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- e) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 4.3-3 b) ii.

### **5.2-3 MANUFACTURED HOMES**

- a) Manufactured homes shall be anchored in accordance with section 5.1-1 b).
- b) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
  - i. Be consistent with the need to minimize flood damage,
  - ii. Be constructed to minimize flood damage,
  - iii. Have adequate drainage provided to reduce exposure to flood damage; and,
  - iv. Be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive.

### **5.3 FLOODWAYS**

Located within areas of special flood hazard established in section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- b) If section 5.3 a) is satisfied, all new construction and substantial improvements must comply with section 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.
- c) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

### **5.4 COASTAL HIGH HAZARD AREA AND COASTAL A ZONE**

Coastal high hazard areas (V or VE Zones) and coastal A Zones are located within the areas of special flood hazard established in section 3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

#### **5.4-1 LOCATION OF STRUCTURES**

- a) All buildings or structures shall be located landward of the reach of the mean high tide.

- b) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or subdivision.

## **5.4-2 CONSTRUCTION METHODS**

### **a) ELEVATION**

All new construction and substantial improvements shall be elevated on piling or columns so that:

- i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 4-1, whichever is more restrictive, and
- ii. With all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in section 5.4-2 d).

### **b) STRUCTURAL SUPPORT**

- i. All new construction and substantial improvements shall be securely anchored on piling or columns.
- ii. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- iii. Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, V, and Coastal A on the community's FIRM.

### **c) CERTIFICATION**

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of section 5.4-2 a) and 5.4-2 b) i. and ii.

### **d) SPACE BELOW THE LOWEST FLOOR**

- i. Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.
- ii. Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.



- (i) breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,
  - (ii) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.
- iii. If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.
- iv. Prior to construction, plans for any breakaway wall must be submitted to the Construction Code Official or Building Sub-Code Official for approval.

### **5.4-3 SAND DUNES**

Prohibit man-made alteration of sand dunes within Coastal A Zones, VE and V Zones on the community's DFIRM which would increase potential flood damage.

## **SECTION 6.0 SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

## **SECTION 7.0 ENACTMENT**

### **7.01 ADOPTION**

This Ordinance shall be effective upon adoption and shall remain in force until modified, amended or rescinded by the Township of Commercial, Cumberland County, New Jersey.

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RONALD L. SUTTON SR., MAYOR

ATTEST:

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HANNAH E. NICHOLS, TOWNSHIP CLERK

Introduction:	March 17, 2016
Publication:	March 24, 2016
Second Reading:	April 21, 2016
Adoption:	April 21, 2016
Publication:	April 28, 2016

Item 11

COMMERCIAL TOWNSHIP  
ORDINANCE 2014-559

AN ORDINANCE GRANTING RENEWED CONSENT AND PERMISSION TO  
SOUTH JERSEY GAS COMPANY TO USE THE PUBLIC STREETS TO FURNISH  
GAS FOR LIGHT, HEAT AND POWER IN THE TOWNSHIP OF COMMERCIAL

WHEREAS, South Jersey Gas Company, a corporation of the State of New Jersey, provides natural gas service to the Township of Commercial pursuant to the municipal consent first granted to South Jersey Gas Company in that certain Ordinance 59 passed June 20, 1952; and

WHEREAS, South Jersey Gas Company now seeks, pursuant to N.J.S.A. 48:3-15, the consent of the Township of Commercial to renew Section 1 of Ordinance 59 applicable to the use of the streets in the Township of Commercial by adopting the following Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY Township Committee of the Township of Commercial, County of Cumberland and State of New Jersey as follows:

Section 1. That exclusive consent and permission is hereby renewed and granted to South Jersey Gas Company to lay and construct its pipes and mains and related appurtenances and facilities within the streets, alleys, squares and public places within the Township of Commercial in the manner prescribed by N.J.S.A. 48:9-21, and subject to reasonable regulations imposed by ordinance or resolution with respect to the opening of streets and public places, subject to approval of such consent and permission by the Board of Public Utilities.

Section 2. This consent is granted for the entire geographical area of the Township of Commercial and extends to the boundaries of the Township of Commercial and shall remain in effect for a period of fifty (50) years from the date of final adoption of this Ordinance.

Section 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by any Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 4. This Ordinance shall take effect immediately upon posting, publication, final passage in the manner prescribed by law, and acceptance by South Jersey Gas Company.

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Judson Moore, Mayor

Attest:

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Hannah E. Nichols, Township Clerk

Introduction:	November 20, 2014
Publication:	December 4, 2014
Second Reading:	December 18, 2014
Adoption:	December 18, 2014
Publication:	December 24, 2014