

June 14, 2016 – REGULAR SESSION

President Schroth called the meeting to order at 7:53 p.m. and read the Open Public Meetings Statement:

Almighty God who holds the fate of Man and Nation, we most humbly beseech thee to bless these deliberations, and these thy servants, that they may act with wisdom and understanding for the good of our community and thy greater glory. Amen.

Flag Salute

The notice requirements provided for in the “Open Public Meetings Act” have been satisfied. Notice of this meeting was properly given in a notice which was transmitted to the Times of Trenton and the Trentonian, filed with the Clerk of the Township of Ewing and posted in the Ewing Township Municipal Complex, all on the 4th day of January, 2016.

THE PUBLIC WILL HAVE AN OPPORTUNITY TO ADDRESS THE COUNCIL DURING THE “STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC” SEGMENT OF THE MEETING. MEMBERS OF THE PUBLIC ARE REQUESTED TO SIGN IN ON SHEET PROVIDED IN THE FRONT OF THE ROOM. ALL QUESTIONS AND COMMENTS FROM THE PUBLIC WILL BE DIRECTED TO THE COUNCIL PRESIDENT. WHEN ADDRESSING THE COUNCIL, PLEASE GIVE YOUR NAME AND YOUR ADDRESS.

THE COUNCIL INVITES AND ENCOURAGES PARTICIPATION BY THE PUBLIC IN ITS MEETINGS, HOWEVER A MEMBER OF THE PUBLIC MAY UTILIZE FIVE MINUTES OF TIME FOR REMARKS AND QUESTIONS, UNLESS OTHERWISE ENGAGED IN A DIALOGUE WITH A MEMBER OF THE COUNCIL. ANY FURTHER REMARKS OR QUESTIONS BEYOND THE TIME LIMIT MUST BE AUTHORIZED BY THE PRESIDENT OF THE COUNCIL.

ROLL CALL

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| ▪ Mr. Baxter – Present | Jim McManimon, Administrator |
| ▪ Ms. Keyes-Maloney - Present | Maeve Cannon, Attorney |
| ▪ Ms. Steward – Present | Kim Macellaro, Municipal Clerk |
| ▪ Ms. Wollert - Present | |
| ▪ President Schroth - Present | |

STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC FOR ITEMS NOT ON THE AGENDA

There were no questions or comments from members of the Public.

BILLS LIST

1. The Clerk read (Resolution #16R-113) A Resolution Authorizing the Chief Financial Officer to Pay Bills in the Amount of \$652,496.12 and to Pay Supplemental Bills per Resolution #16R-13 in the Amount of \$13,646.77

There were no questions or comments from Council or the Public. Ms. Keyes-Maloney then moved the Resolution, seconded by Mr. Baxter. President Schroth asked for a roll call.

ROLL CALL

- | | |
|-------------------|-----|
| Mr. Baxter | YES |
| Ms. Keyes-Maloney | YES |
| Ms. Steward | YES |
| Ms. Wollert | YES |
| President Schroth | YES |

All items listed under Consent Agenda, are considered routine by the Township Council and will be enacted by one motion in the form listed below. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and considered separately. There will be one motion for all items listed.

CONSENT AGENDA

The Clerk read the Consent Agenda: (Resolution #16R-114/)

1. Approval of Agenda Session Minutes for April 26, 2016; Approval of Regular Session Minutes for April 26, 2016
2. A Resolution Authorizing the Conduct of an On Premise Merchandise Raffle Sponsored by the Sunshine Foundation
3. A Resolution Authorizing the Conduct of an Off Premise 50/50 Cash Raffle Sponsored by St. Francis Medical Center
4. A Resolution Authorizing the Conduct of an Off Premise Merchandise Raffle Sponsored by St. Francis Medical Center

There were no questions or comments from Council or the Public. Ms. Steward then moved the Resolution, seconded by Ms. Wollert. The Council President asked for a roll call.

ROLL CALL

Ms. Wollert	YES
Ms. Steward	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
President Schroth	YES

ALCOHOLIC BEVERAGE CONTROL MATTERS

1. The Clerk read (Resolution #16R-115) A RESOLUTION AUTHORIZING THE APPROVAL FOR RENEWAL OF 2016-2017 EWING MUNICIPAL LIQUOR LICENSES

President Schroth stated that as we discussed during the Agenda Session, this is for the renewal of approximately 25 liquors licenses within Ewing Township. These establishments have all been vetted through our police departments. Any complaints or issues with these license holders have all been addressed. This is a fairly routine matter.

There were no questions or comments from Council or the Public. Ms. Keyes-Maloney then moved the Resolution, seconded by Ms. Steward. The Council President asked for a roll call.

ROLL CALL

Ms. Steward	YES
Ms. Keyes-Maloney	YES (with the exception of Trenton Elks Lodge #105, which she abstained on)
Mr. Baxter	YES
Ms. Wollert	YES
President Schroth	YES

2. The Clerk read (Resolution #16R-116) A RESOLUTION AUTHORIZING THE APPROVAL FOR RENEWAL OF 2016-2017 EWING MUNICIPAL LIQUOR LICENSE FOR AMPHORA RESTAURANT, LLC t/a ERINI'S RESTAURANT WITH CONDITIONS

President Schroth stated that as discussed during the Agenda Session, this is a specific resolution for the renewal of a liquor license at Amphora Restaurant. It is being handled separately because there are particular conditions that have been placed on their

operation, their license, stemming from some matters and issues that had arisen back from approximately 2010. He asked for any questions from Council or the Public.

There were no questions or comments from Council or the Public. Ms. Wollert then moved the Resolution, seconded by Mr. Baxter. The Council President asked for a roll call.

ROLL CALL

Mr. Baxter	YES
Ms. Wollert	YES
Ms. Keyes-Maloney	YES
Ms. Steward	YES
President Schroth	YES

The Clerk stated that we added an item from our Agenda Session which is:

3. The Clerk read (Resolution #16R-117) A RESOLUTION AUTHORIZING THE APPROVAL FOR RENEWAL OF 2016-2017 EWING MUNICIPAL LIQUOR LICENSE FOR TWO PETER'S, INC., D/B/A CAPITAL RESTAURANT WITH CONDITIONS

President Schroth stated that as discussed during the Agenda Session, this is an application by Two Peter's to expand the operation of their liquor establishment of 12:00 midnight, which we previously placed a condition on, to 2:00 a.m. with last call being at 1:30 a.m. with the two conditions being previously imposed: 1) not selling packaged goods; and 2) following the township ordinances with regard to the serving of alcoholic beverages in the morning hours. He asked for any questions from Council or the Public.

There were no questions or comments from Council or the Public. Ms. Steward then moved the Resolution, seconded by Ms. Wollert. The Council President asked for a roll call.

ROLL CALL

Ms. Wollert	YES	
Ms. Steward	YES	
Mr. Baxter		NO
Ms. Keyes-Maloney	YES	
President Schroth	YES	

ORDINANCE(S) FOR FIRST READING AND INTRODUCTION

NONE FOR THIS MEETING

ORDINANCE(S) FOR SECOND READING, PUBLIC HEARING AND FINAL ADOPTION

1. The Clerk read (Ordinance #16-10) AN ORDINANCE OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, NEW JERSEY APPROVING APPLICATION FOR FINANCIAL AGREEMENT

WHEREAS, 1573 Parkside Avenue Urban Renewal, LLC (the "Entity") is the redeveloper of a portion of the area known as Block 186, Lot 1 and Block 193.06, Lots 2 and 9 (collectively, the "Project Area"), which is an area designated by the Township of Ewing (the "Township") as an area in need of redevelopment; and

WHEREAS, the Entity is to redevelop the Project Area by constructing thereon a project consisting of 25 two bed residential units and 25 three bed residential units that will be offered for rent, one unit of which will be utilized as a manager's office and for student amenities (the "Project"); and

WHEREAS, the Entity submitted to the Mayor of the Township (the "Mayor") an application (the "Application"), which is on file with the Township Clerk, to make payments to the Township in lieu of taxes in connection with the Project; and

WHEREAS, the Entity also submitted to the Mayor a form of financial agreement (the "Financial Agreement"), a copy of which is attached as Exhibit 19 to the Application, establishing the rights, responsibilities and obligations of the Entity; and

WHEREAS, the Mayor submitted the Application and Financial Agreement to the Township Council with her recommendation for approval, a copy of which recommendation is on file with the Township Clerk; and

WHEREAS, the Township Council has determined that the Project represents an undertaking permitted by the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF EWING, NEW JERSEY AS FOLLOWS:

Section 1. The Application and Financial Agreement are hereby approved.

Section 2. The Mayor is hereby authorized to execute the Financial Agreement substantially in the form attached as Exhibit 19 to the Application, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.

Section 3. The Clerk of the Township is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the Township upon such document.

Section 4. This ordinance shall take effect in accordance with applicable law.

President Schroth said that this was discussed during the Agenda Session and obviously at the First Reading of this Ordinance this is to put in place a financial agreement with regard to Payment In Lieu Of Taxes (PILOT) by the new housing development at the old channel 52 that is for college housing. President Schroth asked for a motion to open the public hearing.

Mr. Baxter made a motion to open the Public Hearing, seconded by Ms. Keyes-Maloney. It was agreed by unanimous voice vote. There were no questions or comments from Council or the Public. Mr. Baxter made a motion to close the Public Hearing, seconded by Ms. Keyes-Maloney. It was agreed by unanimous voice vote. Ms. Steward then moved the Ordinance, seconded by Ms. Keyes-Maloney. President Schroth asked for a roll call.

ROLL CALL

Ms. Keyes-Maloney	YES	
Ms. Steward	YES	
Mr. Baxter	YES	
Ms. Wollert		ABSTAIN
President Schroth	YES	

- 2. The Clerk read (Ordinance #16-11) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO REPLACE CHAPTER 195, FLOOD DAMAGE PREVENTION, WITH A NEW FLOOD DAMAGE PREVENTION ORDINANCE AS REQUIRED FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM**

WHEREAS, pursuant to N.J.S.A. 40:48-1 et seq., the State of New Jersey delegates responsibility to local governments to adopt regulations governing the public health, safety and general welfare; and

WHEREAS, pursuant to 44 C.F.R. § 60.3, the Federal Emergency Management Agency (“FEMA”) requires municipalities to ensure that floodplain management regulations meet or exceed the minimally required standards for participation in the National Flood Insurance Program (“NFIP”); and

WHEREAS, the New Jersey Department of Environmental Protection (“NJDEP”), in accord with FEMA directives, has requested that the Township replace its existing Flood Damage Prevention Ordinance with an updated, model ordinance, which includes the adoption of a revised Flood Insurance Study (“FIS”) and Flood Insurance Rate Map (“FIRM”) and Digital Flood Insurance Rate Map (“DFIRM”) and applicable panel numbers by July 20, 2016; and

WHEREAS, municipalities that fail to enact said revised flood damage prevention ordinance by July 20, 2016, are subject to suspension from participation in NFIP; and

WHEREAS, NJDEP has reviewed and approved the Township's proposed Flood Damage Prevention Ordinance; and

WHEREAS, the Township's adoption of the updated Flood Damage Prevention Ordinance is in the public interest as failure to enact this ordinance will suspend the Township's participation in NFIP.

BE IT ORDAINED, by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1 CHAPTER 195. FLOOD DAMAGE PREVENTION is hereby amended as follows:

Article I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

§195-1. 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 Council of the Township of Ewing, County of Mercer, New Jersey does ordain as follows:

§195-2. FINDINGS OF FACT.

- A. The flood hazard areas of the Township of Ewing 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.

§195-3. 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.

§195-4. 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.

Article II. Terminology

195-5. 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 Ewing Township Construction Official's or his designee's interpretation of any provision of this ordinance or a request for a variance to the Zoning Board of Adjustment. An appeal as provided herein shall not include objections to the scientific or technical determinations as contained in the FIRM or FIS report, including, without limitation, objections to base flood elevations, base flood depths, regulatory floodways, or SFHA zone designations or boundaries. Objections to or appeal of the scientific or technical determinations contained in the FIRM or FIS report shall be made to the Federal Emergency Management Agency.

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 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 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:

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

Flood Insurance Rate Map (FIRM) — 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:

- (1) 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;
- (2) 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;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved State program as determined by the Secretary of the Interior; or
 - (b) 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.

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:

- (1) 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
- (2) 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.

Article III. General Provisions

§195-6. LANDS TO WHICH THIS ORDINANCE APPLIES.

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

§195-7. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard for the Township of Ewing, Community No. 345294, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- A. A scientific and engineering report "Flood Insurance Study, Mercer County, New Jersey (All Jurisdictions)" dated July 20, 2016.
- B. "Flood Insurance Rate Map for Mercer County, New Jersey (All Jurisdictions)" as shown on Index and panels 34021C0111F, 34021C0112F, 34021C0113F, 34021C0114F, 34021C0116F, 34021C0117F, 34021C0118F, 34021C0119F, 34021C0138F, 34021C0202F, 34021C0206F, 34021C0207F, whose effective date is July 20, 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 Township of Ewing Construction Office located at 2 Jake Garzio Drive, Ewing, NJ 08628.

§195-8. 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 be subject to the penalties set forth in Chapter 1, General Provisions, Article III, General Penalty, of the Code of the Township of Ewing, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Township of Ewing, from taking such other lawful action as is necessary to prevent or remedy any violation.

§195-9. 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.

§195-10. 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.

§195-11. 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 Ewing, 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.

Article IV. Administration

§195-12. 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 §195-7. Application for a Development Permit shall be made on forms furnished by the Township of Ewing Construction Official or designee 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:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed.
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in §195-18(B); and,
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§195-13. ENFORCEMENT.

The Construction Official, or his designee, is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

§195-14. POWERS AND DUTIES OF CONSTRUCTION OFFICIAL.

Duties of the Construction Official shall include, but not be limited to:

A. Permit review.

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) 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.
- (3) 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 §195-18(D)(1) are met.
- (4) Review all development permits in the Coastal A Zone area of the area of special flood hazard to determine if the proposed development alters the terrain or sand dunes so as to increase potential flood damage.

- (5) Review plans for walls to be used to enclose space below the base flood level in accordance with §195-19(B)(4).
- B. Use of other base flood and floodway data. When base flood elevation and floodway data has not been provided in accordance with § 195-7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official 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 §195-18(A) and §195-18(B), SPECIFIC STANDARDS, RESIDENTIAL AND NONRESIDENTIAL CONSTRUCTION.
- C. Information To Be Obtained And Maintained.
- (1) 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.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) verify and record the actual elevation (in relation to mean sea level); and
 - (b) maintain the floodproofing certifications required in §195-12(3).
 - (3) In Coastal A Zone areas, certification shall be obtained from a registered professional engineer or architect that the provisions of §195-19(B)(1) and §195-19(B)(2)(a) and (b) are met.
 - (4) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- D. Alteration Of Watercourses.
- (1) 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.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.
- E. Substantial Damage Review.
- (1) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
 - (2) 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.
 - (3) Ensure substantial improvements meet the requirements of §195-18(A), SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and §195-18(B), SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.
- F. 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 §195-15.

§195-15. VARIANCE PROCEDURE.

- A. Appeals board.
- (1) The Zoning Board of Adjustment as established by Council of the Township of Ewing shall hear and decide appeals and requests for variances from the requirements of this ordinance.
 - (2) The Zoning Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.
 - (3) Those aggrieved by the decision of the Zoning Board of Adjustment, or any taxpayer, may appeal such decision to the court of competent jurisdiction according to law.
 - (4) In passing upon such applications, the Zoning Board of Adjustment, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;

- (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location, where applicable;
 - (f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) 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,
 - (k) 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.
- (5) Upon consideration of the factors of §195-15(A)(4) and the purposes of this ordinance, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

- (1) 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 (a)-(k) in §195-15(A)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) 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.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (c) 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 §195-15(A)(4), or conflict with existing local laws or ordinances.
- (6) 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.

§195-16. SUBJECT MATTER LIMITATIONS TO REVIEW AND APPEAL. The Construction Official and Zoning Board of Adjustment are not authorized to hear objections to the scientific or technical determinations as contained in the FIRM or FIS report, including, without limitation, objections to base flood elevations, base flood depths, regulatory floodways, or SFHA zone designations or boundaries. Objections to or appeals of the scientific or technical determinations contained in the FIRM or FIS report shall be made to the Federal Emergency Management Agency.

Article V: Provisions For Flood Hazard Reduction

§195-17. 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:

A. Anchoring.

- (1) 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.
- (2) 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.

B. Construction materials and methods.

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

C. Utilities.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- (4) 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.

D. Subdivision proposals.

- (1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- (2) 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;
- (3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

E. 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.

§195-18. SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in §195-7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in section §195-14(B), USE OF OTHER BASE FLOOD DATA, the following standards are required:

A. Residential Construction.

- (1) For Coastal A Zone construction see section §195-19 COASTAL A ZONE.

- (2) 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;
 - (3) 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.
- B. Nonresidential construction. 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 §195-19 COASTAL A ZONE) shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, either
- (1) 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
 - (2) 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
 - (3) 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;
 - (4) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - (5) 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 §195-14(C)(2)(b)
- C. Manufactured homes.
- (1) Manufactured homes shall be anchored in accordance with §195-17(A)(2).
 - (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
 - (a) Be consistent with the need to minimize flood damage,
 - (b) Be constructed to minimize flood damage,
 - (c) Have adequate drainage provided to reduce exposure to flood damage; and,
 - (d) 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.
- D. Floodways. Located within areas of special flood hazard established in §195-7 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:
- (1) 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.
 - (2) If §195-7(A) is satisfied, all new construction and substantial improvements must comply with §§ 195-17, 18 and 19, PROVISIONS FOR FLOOD HAZARD REDUCTION.
 - (3) 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.

§195-19. COASTAL A ZONE.

Coastal A Zones are located within the areas of special flood hazard established in §195-7. These areas may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces; therefore, the following provisions shall apply:

A. Location of structures.

- (1) All buildings or structures shall be located landward of the reach of the mean high tide.
- (2) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or subdivision.

B. Construction methods.

(1) Elevation.

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

- (a) 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,
- (b) 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 §195-19(B)(4).

(2) Structural support.

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

- (3) Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of §195-19(B)(1) and §195-19(B)(2)(a) and (b).

(4) Space below the lowest floor.

- (a) 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.
- (b) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 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.
- (c) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

- (d) Prior to construction, plans for any breakaway wall must be submitted to the Construction Code Official or Building Sub-Code Official for approval.
- C. Sand dunes. Prohibit man-made alteration of sand dunes within Coastal A Zones on the community's DFIRM which would increase potential flood damage.

Flood Damage Prevention

Terminology

Definitions.

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

APPEAL

~~A request for a review of the Water Management Director's interpretation of any provision of this chapter or a request for a variance.~~

BASE FLOOD (ONE HUNDRED YEAR FLOOD)

~~The flood having a one percent 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.~~

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.~~

~~[Amended 11-11-1998 by Ord. No. 98-12]~~

ELEVATED BUILDING

~~A nonbasement building built, in the case of a building in an area of special flood hazard, to have the top of the elevated floor or, in the case of a building in a coastal high hazard area, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers) or shear walls parallel to the flow of the water; and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" shall also include a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.~~

~~[Amended 11-11-1998 by Ord. No. 98-12]~~

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

~~The official report provided, in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.~~

FLOOD or FLOODING

~~A general and temporary condition of partial or complete inundation of normally dry areas from:~~

~~The overflow of inland or tidal waters; and/or~~

~~The unusual and rapid accumulation or runoff of surface waters from any source.~~

FLOODPLAIN MANAGEMENT REGULATIONS

~~Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance or 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.~~

~~[Added 11-11-1998 by Ord. No. 98-12]~~

FLOODWAY

~~The channel and portions of the floodplain adjoining the channel that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.~~

HISTORIC STRUCTURE

~~Any structure that is:~~

~~[Added 11-11-1998 by Ord. No. 98-12]~~

~~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;~~

~~Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;~~

~~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~~

~~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.~~

LOWEST FLOOR

~~The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable 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 nonelevation design requirements.~~

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 connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.~~
~~[Amended 11-11-1998 by Ord. No. 98-12]~~

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION

~~A parcel (or contiguous parcels) of land divided into two 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 this chapter.~~

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.~~

~~[Added 11-11-1998 by Ord. No. 98-12]~~

RECREATIONAL VEHICLE

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

[Added 11-11-1998 by Ord. No. 98-12]

SPECIAL FLOOD HAZARD AREA (SFHA)

Floodplain delineated on the FIRM as A to V Zones.

START OF CONSTRUCTION (for other than new construction or substantial improvements under the Coastal Barrier Resources Act)

Includes substantial improvement and shall mean the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start shall mean either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure.

STRUCTURE

A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally aboveground.

[Amended 11-11-1998 by Ord. No. 98-12]

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal 50% of the market value of the structure before the damage occurred.

[Added 11-11-1998 by Ord. No. 98-12]

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50% 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

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 chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

General Provisions

Purpose.

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

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;

- (3) ~~To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;~~
- (4) ~~To minimize prolonged business operations;~~
- (5) ~~To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges, located in areas of special flood hazard;~~
- (6) ~~To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blighted areas;~~
- (7) ~~To ensure that potential buyers are notified that property is in an area of special flood hazard; and~~
- (8) ~~To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.~~

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

- (9) ~~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 actions or in flood heights or velocities;~~
- (10) ~~Requiring that uses vulnerable to floods, including facilities which service such use, be protected against flood damage at the time of initial construction;~~
- (11) ~~Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel floodwaters;~~
- (12) ~~Controlling filling, grading, dredging and other development which may increase flood damage; and~~
- (13) ~~Preventing or regulating the construction of flood barriers which unnaturally divert floodwaters or which may increase flood hazards in other areas.~~

~~Applicability:~~

~~This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Township of Ewing.~~

~~Basis for establishing areas of special flood hazard.~~

~~[Amended 3-13-2001 by Ord. No. 01-04]~~

~~The areas of special flood hazard are identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study for the Township of Ewing," dated June 6, 2001; such study, with accompanying Flood Insurance Rate Maps and Flood Boundary Maps, is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Ewing Township Municipal Building.~~

~~Compliance with regulations:~~

~~No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.~~

~~Abrogation and greater restrictions:~~

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

~~Interpretation:~~

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

~~Considered as minimum requirements.~~

~~Liberally construed in favor of the governing body.~~

~~Deemed neither to limit nor repeal any other powers granted under state statutes.~~

~~Warning and disclaimer of liability.~~

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

~~Administration~~

~~Development permits.~~

~~A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 195-4. Application for a development permit shall be made on forms furnished by the Water Management Director 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 and drainage facilities; and the location of the foregoing.~~

~~Specifically, the following information is required:~~

- ~~(14) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.~~
- ~~(15) Elevation in relation to mean sea level to which any structure has been floodproofed.~~
- ~~(16) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 195-11B.~~
- ~~(17) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~

~~Enforcement.~~

~~The Water Management Director is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.~~

~~Powers and duties of Water Management Director.~~

~~Duties of the Water Management Director shall include, but not be limited to:~~

- ~~(18) Review all development permits to determine that the permit requirements of this chapter have been satisfied.~~
- ~~(19) 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.~~
- ~~(20) 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 § 195-14D are met.~~

~~Uses of other base flood data. When base flood elevation and floodway data has not been provided in accordance with § 195-4, Basis for establishing areas of special flood hazard, the Water Management Director 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 § 195-14A, Residential construction, and § 195-14B, Nonresidential construction.~~

~~Information to be obtained and maintained. The Water Management Director shall also:~~

- ~~(21) 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.~~
- ~~(22) For all new substantially improved floodproofed structures:
 - ~~(a) Verify and record the actual elevation (in relation to mean sea level).~~
 - ~~(b) Maintain the floodproofing certifications required in § 195-9B(3).~~
 - ~~(c) Maintain for public inspection all records pertaining to the provisions of this chapter.~~~~

~~Alteration of watercourses. The Water Management Director shall also:~~

- ~~(23) Notify adjacent communities and the (state coordinating agency) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.~~
- ~~(24) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.~~

~~Interpretations of FIRM boundaries. The Township Engineer shall also 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 § 195-12.~~

~~Variances.~~

~~Appeals Board.~~

- ~~(25) The Construction Appeals Board as established by the Township of Ewing shall hear and decide appeals and requests for variances from the requirements of this chapter.~~
- ~~(26) The Construction Appeals Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Water Management Director in the enforcement or administration of this chapter.~~
- ~~(27) Those aggrieved by the decision of the Water Management Director or any taxpayer may appeal such decision to a court of competent jurisdiction.~~
- ~~(28) In passing upon such applications, the Construction Appeals Board shall consider all technical evaluations, all relevant factors and all standards specified in other sections of this chapter, including, without limitation, the following:
 - ~~(a) The dangers that materials may be swept onto other lands to the injury of others.~~
 - ~~(b) The danger to life and property due to flooding or erosion damage.~~
 - ~~(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.~~
 - ~~(d) The importance of the services provided by the proposed facility to the community.~~
 - ~~(e) The necessity to the facility of a waterfront location, where applicable.~~
 - ~~(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.~~~~

- (g) ~~The compatibility of the proposed use with existing and anticipated development.~~
- (h) ~~The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program of that area.~~
- (i) ~~The safety of access to the property in times of flood for ordinary and emergency vehicles.~~
- (j) ~~The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.~~
- (k) ~~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.~~
- (29) ~~Upon consideration of the factors of § 195-12A(4) and the purposes of this chapter, the Construction Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.~~
- (30) ~~The Water Management Director shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.~~

Conditions for variances.

- (31) ~~Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Subsection A(4)(a) through (k) have been fully considered. As the lot size increases beyond ½ acre, the technical justification required for issuing the variance increases.~~
- (32) ~~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.~~
[Amended 11-11-1998 by Ord. No. 98-12]
- (33) ~~Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~
- (34) ~~Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- (35) ~~Variances shall only be issued upon:~~
 - (a) ~~A showing of good and sufficient cause;~~
 - (b) ~~A determination that failure to grant the variance would result in exceptional hardship to the applicant; and~~
 - (c) ~~A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, increased nuisances, fraud on or victimization of the public as identified in Subsection A(4), or conflict with existing local laws or this chapter.~~
- (36) ~~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.~~

Flood Hazard Reduction

General standards:

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

Anchoring:

- (37) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (38) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not 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.

Construction materials and methods:

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

Utilities:

- (41) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (42) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
- (43) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (44) 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.

Subdivision proposals:

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

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

~~other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.~~

~~Specific standards.~~

~~In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 195-4, Basis for establishing areas of special flood hazard, or in § 195-11B, Use of other base flood data, the following standards are required:~~

~~Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.~~

~~Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:~~

- ~~(49) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.~~
- ~~(50) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.~~
- ~~(51) 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 § 195-11C(2).~~

~~Manufactured homes:~~

- ~~(52) Manufactured homes shall be anchored in accordance with § 195-13A(2).~~
- ~~(53) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.~~

~~Floodways. Located within areas of special flood hazard established in § 195-4 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:~~

~~[Amended 11-11-1998 by Ord. No. 98-12]~~

- ~~(54) Encroachments, including fill, new construction, substantial improvements and other development, are prohibited, unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~
- ~~(55) If § 195-13C(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 195-13, General standards.~~
- ~~(56) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 0.2 foot at any point.~~

Section 2. 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 3 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 4 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

STATEMENT

This is an Ordinance Amending the Revised General Ordinances of the Township of Ewing in the County of Mercer, to replace Chapter 195, Flood Damage Prevention, with a new flood damage prevention ordinance as required for participation in the National Flood Insurance Program.

Adopted:

President Schroth said that as discussed during the Agenda Session, Counsel explained this ordinance at length and in detail. This is updating our maps to comply with FEMA and we have a deadline to have this done by July 20th. If we don't do it by that time, we would not be able to participate in the program or our residents wouldn't be able to. He asked for questions from members of Council. There were none. He asked for a motion to open the public hearing.

Ms. Steward made a motion to open the Public Hearing, seconded by Ms. Wollert. It was agreed by unanimous voice vote. There were no questions or comments from Council or the Public. Mr. Baxter made a motion to close the Public Hearing, seconded by Ms. Keyes-Maloney. It was agreed by unanimous voice vote. Ms. Wollert then moved the Ordinance, seconded by Ms. Steward. President Schroth asked for a roll call.

ROLL CALL

Ms. Steward	YES
Ms. Wollert	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
President Schroth	YES

3. The Clerk read (Ordinance #16-12) AN ORDINANCE ADDING CHAPTER 251 TO THE REVISED GENERAL MUNICIPAL ORDINANCES OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, TO PROHIBIT SMOKING ON PUBLIC PROPERTY

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, State legislation that once prohibited municipalities from more proscriptive local smoking laws that differed from the State standards has now been repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63; and

WHEREAS, N.J.S.A. 2C:33-13b also provides that the owner and/or operator of a public place, such as public parks and recreational areas, may prohibit smoking on such property; and

WHEREAS, the Township of Ewing recognizes the health and safety risks posed by smoking and finds that it is within the public interest to prohibit smoking in public buildings and on certain portions of public property, such as structures found on public parks and recreation areas; and

WHEREAS, the Mayor and Council of Ewing have determined that it is of particular public interest as it relates to preventing Ewing's youth from being exposed and succumbing to the temptations of experimenting with tobacco products; and

WHEREAS, the Township of Ewing also finds that the appearance of parks and recreation areas can be enhanced and the limited resources of the Township's Department of Public Works can be conserved if smoking is banned within certain areas of its parks and recreational spaces, thereby keeping such areas free of the litter typically generated by the smoking of cigarettes, such as cigarette butts, ashes and packaging.

NOW, THEREFORE BE IT RESOLVED, by the Council of the Township of Ewing, that the Code of the Township of Ewing be amended to include a new Chapter 251 “Smoking” as follows:

Section 1

§251-1. Definitions. As used in this chapter, the following words shall have the following meanings:

ENCLOSED FACILITY shall mean all space between a floor and a ceiling, that is enclosed on all sides by solid walls or windows and extending to the outer perimeter walls of a structure.

PARKS AND RECREATIONAL FACILITIES shall include all public parks, playgrounds, ball fields, publicly owned or leased by the Township of Ewing and all property owned or leased by the Township of Ewing upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle.

MUNICIPAL BUILDINGS shall include all structures owned, leased, rented and/or operated by the Township of Ewing, and/or occupied by Township of Ewing employees and used for official business of the Township of Ewing.

SMOKING shall include the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

STRUCTURES shall mean, but is not limited to, refreshment stands, playground equipment, bleachers, baseball diamond dugouts, pools, pool shade structures and pavilions.

§251-2. Prohibition of smoking in certain public places; signs.

A. Smoking shall be prohibited in all Municipal Buildings as defined herein. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted at each Municipal Building entrance and within each closed area or structure where smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

B. Smoking shall be prohibited within a one hundred (100) foot radius of any entrance to any Municipal Building. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted both on the building and at the one hundred (100) foot perimeter of the entrance of all Municipal Buildings where smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

C. Smoking shall be prohibited within one hundred (100) feet of any enclosed facilities and other structures located within all parks, playgrounds, sports fields and recreational properties, owned, leased or operated by the Township of Ewing or by the Ewing Township Recreation Commission. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted in all areas regulated by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited at the designated area. The sign shall also indicate that violators are subject to a fine.

D. Smoking shall be prohibited in any vehicle owned, leased, operated by or registered to the Township of Ewing.

§251-3. Enforcement.

The enforcement authority of this chapter shall be the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the Township of Ewing.

§251-4. Violations and penalties.

Any person who violates any provision of this chapter shall be subject to a fine of not less \$50 nor more than \$100 for the first offense, not less than \$100 nor more than \$250 for a second offense; and not less than \$250 nor more than \$500 for each subsequent offense. Any municipal employee found in violation of this chapter may also be subject to discipline in accordance with the provisions of the Township of Ewing's policies and procedures.

§251-5. Smoking Prohibited if otherwise restricted by law.

No provision in this Ordinance shall be construed or interpreted to allow smoking where it is otherwise restricted by other laws.

Section 2 If any section of provision of this ordinance shall be invalid in any court the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3 All ordinances or parts of ordinances to inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4 This ordinance shall take effect after final passage and upon publication as provided by law.

Section 5 Upon the effective date of this ordinance, the Township Clerk's Office is hereby instructed to immediately forward a certified copy of this ordinance to the Township of Ewing Police Chief and Municipal Judge.

STATEMENT

This Ordinance prohibits smoking in all Township buildings and vehicles and in specified areas in Township parks and other Township owned properties.

President Schroth said that as discussed during the Agenda Session this Ordinance is part of a Green Team initiative. It gets them 10 pts. toward their Silver Certification. It prohibits smoking within 100 ft. of Township Buildings and other structures including stands, soccer games, baseball games and parks and other outdoor township facilities. President Schroth asked for questions from Council. There were none. He asked for a motion to open the Public Hearing.

Mr. Baxter made a motion to open the Public Hearing, seconded by Ms. Steward. It was agreed by unanimous voice vote. There were no questions or comments from Council or the Public. Ms. Keyes-Maloney made a motion to close the Public Hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. Ms. Keyes-Maloney then moved the Ordinance, seconded by Ms. Steward. President Schroth asked for a roll call.

ROLL CALL

Ms. Steward	YES
Ms. Keyes-Maloney	YES
Mr. Baxter	YES
Ms. Wollert	YES
President Schroth	YES

NEW BUSINESS

- 1. The Clerk read (Resolution #16R-118) A RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87**

President Schroth asked if there were any questions from members of Council. There were none. He then asked for questions from members of the public. There were none.

President Schroth asked for a motion to adopt the resolution. Ms. Wollert then moved the Resolution, seconded by Mr. Baxter. President Schroth called for a roll call.

ROLL CALL

Mr. Baxter	YES
Ms. Wollert	YES
Ms. Keyes-Maloney	YES
Ms. Steward	YES
President Schroth	YES

2. The Clerk read (Resolution #16R-119) A RESOLUTION SUPPORTING A-536/S-2107 TO CLARIFY VOLUNTEER POSITION DO NOT IMPACT RETIREMENT BENEFITS FOR PUBLIC EMPLOYEES

President Schroth said that as discussed during the Agenda Session, Counsel discussed at length that this allows paid employees of the fire department to retire and continue on as volunteers without the 180-day gap in time that had been previously imposed, without this affecting pensions. President Schroth asked if there were any questions from members of Council. There were none. He then asked for questions from members of the public. There were none.

Mr. Baxter then moved the Resolution, seconded by Ms. Wollert. The Council President called for a roll call.

ROLL CALL

Ms. Wollert	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
Ms. Steward	YES
President Schroth	YES

3. The Clerk read (Resolution #16R-120) A RESOLUTION AUTHORIZING THE EXECUTION OF A LICENSE AGREEMENT FOR TEMPORARY CONSTRUCTION

President Schroth said that this authorizes the use of a particular area where a new Walgreens is being constructed for the storage and housing of equipment during that construction project. President Schroth asked if there were any questions from members of Council. There were none. He then asked for questions from members of the public. There were none.

Ms. Steward then moved the Resolution, seconded by Mr. Baxter. The Council President asked for a roll call.

ROLL CALL

Mr. Baxter	YES
Ms. Steward	YES
Ms. Keyes-Maloney	YES
Ms. Wollert	YES
President Schroth	YES

CLOSED SESSION

(None for this Meeting)

ADJOURNMENT

There being no further business President Schroth called for a motion to adjourn. Mr. Baxter so moved seconded by Ms. Keyes-Maloney. The meeting was adjourned at 8:08 p.m.