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ORDINANCE 31-09

ORDINANCE OF THE TOWNSHIP OF BRICK, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 168 OF THE TOWNSHIP CODE ENTITLED "ENGINEERING STANDARDS" SO AS TO REMOVE AND REPLACE CHAPTER 168 IN ITS ENTIRETY

BE IT ORDAINED, by the Council of the Township of Brick, County of Ocean, State of New Jersey, as follows:

SECTION 1. Chapter 168 of the Code of the Township of Brick, entitled "Engineering Standards", is hereby deleted in its entirety and replaced with Chapter 168 entitled "Engineering Permits/Standards", which shall read as follows:

**§ 168-1. Engineering Permits required for Installation of Certain Improvements**

Except as otherwise provided in Chapter 245, Land Use, of the Code of the Township of Brick, none of the following categories of improvements shall be constructed or installed in the Township of Brick without first obtaining a permit from the Department of Engineering:

- A. Grading and Clearing
- B. Bulkheads/Docks/Piers
- C. Soil Removal/Filling -- Chapter 383
- D. Streets and Sidewalks (Road Openings) -- Chapter 404

The Township Engineer shall enforce the provisions of this chapter and all applicable reference chapters by issuing required permits and addressing those violations arising out of the failure of any person or entity to apply for and obtain required permits. He shall, from time to time, upon his own initiative or whenever directed by the Township, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and of the chapter. He shall report all violations and take any action deemed necessary for proper enforcement.

**§ 168-2. Application Fees, Inspections Fees, Performance Guaranties**

**A. Application Fees**

- 1. All engineering permit applications shall be accompanied by a fee as indicated on the applicable application form or as described in the applicable sections of the ordinance. The fees will be utilized for plan review, inspection and any other activity necessary to process the application.
- 2. If a permit is denied or withdrawn, no refund of fees will be permitted.

**B. Inspection Fees**

- 1. Inspection escrow accounts may be established to cover the costs of inspections for certain improvements as indicated on the applicable application forms or as described in the applicable sections of the ordinance.

**C. Performance Guaranties**

- 1. Performance guaranties may be required for certain improvements as indicated on the applicable application forms or as described in the applicable sections of the ordinance. The Township Engineer shall make a determination as to when performance guaranties are required in light of the scope and nature of the work to be completed and to calculate the appropriate amount to cover any damages to the Township.

### § 168-3. Grading and Clearing

#### A. Permit Required

The clearing of less than 10 trees over 9" in caliper, or the alteration of the existing grade on a lot in which the area of disturbance is less than two acres will require a permit from the Township Engineer or his representative and shall meet the requirements set forth in this section.

The clearing of 10 trees or more over 9" in caliper or the alteration of the existing grade on a lot in which the area of disturbance is two acres or more shall be in accordance with a plan approved by the Planning Board and shall meet the requirements of all applicable sections of the ordinance. This provision shall not apply to clearing and grading necessary for the construction of one single-family house unless that construction is incidental to an application that is otherwise before the Planning Board or the Zoning Board of Adjustment, in which case such Board may impose requirements as set forth in this Ordinance where practicable. All such applications for a single-family house are to conform to the requirements of Section 245-29 concerning submission of plot plans.

1. No tree located on a lot having a caliper of more than 9" measured at a height of 12" from the finished or existing grade level shall be removed unless such removal is approved by the Township Engineer and a grading and clearing permit is issued.
  - a. All trees to be saved should be clearly tagged and inspected by the Township Engineer or his designee, and the clearing limit line should be delineated by a snow fence or other markings per the Township Engineer's requirements prior to the issuance of the permit for clearing and grading.
  - b. For each tree over 9" in caliper that is removed, the applicant shall prepare a replanting scheme on other treeless portions of the property. The resulting amount of plantings should be 1 per every 2,000 square feet of property left without trees after the proposed clearing is completed.
  - c. The Township Engineer shall also require that if the site to be cleared does not permit the replanting of the trees that are to be cut down on the site, an off-site tract may be selected for such replanting, and a replanting plan shall be prepared by the applicant, compensating for the tree removal in an amount based on 1 tree per every 2,000 square feet of property left without trees after the proposed clearing is completed. All trees and the types of trees and the method of planting shall be in accordance with the applicable sections of the Land Use Development Regulations of the Code of the Township.
  - d. In lieu of the replanting requirement specified above, the applicant shall pay a sum to be determined by the Township for the amount of trees as in b. and c. above not replanted into a dedicated Township account designated "the Brick Township Tree Bank Account". Any funds deposited in said account shall be utilized by the Township for the express purpose of planting trees at sites and locations to be determined by the Township Engineer, upon proper authorization from the governing body.
2. Where possible, land shall be graded so that all stormwater runoff from each lot shall drain directly to the street. If impossible to drain directly to the street, it shall be drained to a system of interior yard drainage designed in accordance with the requirements of the subdivision provisions or as otherwise required by the Township Engineer. There shall be no change in grade within 5 feet of a property line. Furthermore, there shall be no change in grade greater than 3 feet within 15 feet from the property line. When necessary, a swale shall be created in order to control surface runoff in a manner that will protect abutting lands. All



grading shall be subject to inspections by the Township Engineer during, and upon completion of the construction.

3. Unless otherwise required by the Township Engineer, all tree stumps, masonry and other obstructions shall be removed to a depth of two feet below existing or finished grade, whichever is lower.
4. All soil removal or filling shall further conform to all requirements of Chapter 383 Soil Removal/Filling.
5. All fill material and/or topsoil shall conform to the requirements of Chapter 383 Soil Removal/Filling.
6. The minimum slope for lawns shall be 1.5% and for smooth, hard-finished surfaces other than roadways,  $\frac{1}{2}$  of 1% (0.5%).
7. The maximum grade for lawns within 5 feet of a building shall be 10%, and for lawns more than 5 feet from a building, 25%.
8. Retaining Walls

The Township's requirements on retaining walls shall include the following:

- a. A permit is required prior to the start of construction on any retaining wall over 30 inches tall at its highest point which was not specifically shown on an approved subdivision plan, site plan or plot plan. Each such retaining wall application shall include sealed engineering drawings, including plans, cross-sections and design calculations.
- b. As per N.J.A.C. 5:23-2.14(g), a permit is also needed from the Construction Department for the construction, reconstruction, alteration or demolition, of any retaining wall or walls which will have an impact on the foundation of a structure.
- c. An approved safety barrier shall be required in all cases where the wall is more than 30 inches tall (at the highest point), subject to the Engineer's review. Furthermore, an approved safety barrier shall be required in wall systems containing a series of two or more walls as determined in the course of the Engineer's safety review. A "safety barrier" shall be defined for the purposes of this section as an artificial barrier, not to include landscaping, which will prevent a child from penetrating through to the other side of the barrier. Specifications for safety barriers shall be as follows:
  - (1) A safety barrier shall be at least four feet high.
  - (2) A safety barrier shall be constructed of approved materials in a manner that will prevent a child from penetrating it.
  - (3) A safety barrier shall be located at the outer edge at the top of the wall along its entire length.
  - (4) In addition, in cases where a retaining wall is located close to the edge or edges of a driveway, other barriers such as guide rails may be required, subject to the Engineer's review.
- d. Upon completion of the construction of any retaining wall over 30 inches, the owner or developer may be required to submit a statement from a licensed Professional Engineer certifying that the wall was constructed in accordance with the engineering design.
9. The developer, builder or owner shall take all necessary precautions to prevent siltation of water bodies during construction. If required as a condition of an approved site plan or preliminary plat or by the Township

Engineer during construction, the developer shall provide acceptable provisions to prevent all deposition of silt or other eroded material in any watercourse. Such provisions may include, but are not limited to, construction and maintenance of siltation basins or holding ponds throughout the course of construction.

**B. Permit Fees**

1. The application fee will be as indicated on the "Application for Grading and Clearing Permit" form.
2. In addition, plan review fees and performance bonds may be required contingent upon the magnitude of the work proposed.
3. In addition to engineering fees, fees for retaining walls requiring Construction Department approval are subject to fees as required by the Construction Department fee schedule.

**C. Enforcement**

1. The Township Engineer shall enforce the provisions of this section including, but not limited to, those violations arising out of the failure of any person or entity to apply for and obtain a grading and/or clearing permit. He shall, from time to time, upon his own initiative, or whenever directed by the Township, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit. He shall report all violations and take any action deemed necessary for proper enforcement.

**D. Revocation of Permit, Violations and Penalties**

Revocation of permit. After notice and an opportunity to be heard before the Township Engineer, the permit of any person may be revoked or suspended for such period as the Township Engineer may determine for any violation of the terms hereof or the terms and conditions of any permit grant hereunder. In addition to the revocation provided for herein, any person who violates this section or any director or officer of a corporation who participates in a violation of this section shall, upon conviction thereof, be subject to a maximum fine of \$2,500.00, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.

**§ 168-4. Bulkheads/Docks/Piers**

**A. No Person, Firm or Corporation shall:**

1. Begin to or continue to dig, pump out or construct a boat basin, boat docking facility, lagoon, stream, channel, marina or other area, where natural earth is moved and water substituted therefor, in whole or in part, unless and until a engineering permit is obtained for such digging, pumping or construction, including the proper bulkheading of the said basin, facility, lagoon, stream, channel, marina or area, from this municipality, through its Township Engineer, and which engineering permit shall include the construction of bulkheading as hereinafter provided. The Township Engineer may issue said permit for and on behalf of the Township when proper application has been made therefor, proper plan thereof submitted with application and correct fee paid for engineering permit.
2. Construct a boat basin, boat docking facility, bulkhead, dock, pier, boat lift, or other water use structure, in whole or in part, unless and until an engineering permit is obtained for such construction from this municipality, through Township Engineer, and which engineering permit shall include the construction as hereinafter provided.
3. Use any boat basin, boat docking facility, bulkhead, dock, pier, boat lift, stream, lagoon, channel, marina or other area referred to in either of the



two preceding subsections, unless and until the said engineering permit therefor has been issued and has been therefor paid, and the construction of the improvement covered by the engineering permit has been completely constructed, and the said construction inspected and approved by the municipality through its Township Engineer.

4. Proceed to do any of the acts mentioned in the three preceding subsections until applicant has made a written application to the municipality, through its Engineering Department, for a permit to construct said items as applicant may desire to construct, and shall have paid the proper fees for construction.
5. Pump, truck or otherwise transport any of the sand, soil, mud or other earth dug in or from Brick Township in connection with any of the projects covered by this chapter, to any other municipality or place outside Brick Township.
6. Construct or use such a boat basin, boat docking facility, stream, lagoon, channel, marina or other area in any zone where same is not permitted by the Zoning or other ordinance or ordinances of the municipality.
7. Fail, neglect or refuse to get a use permit from Board of Adjustment or Planning Board for construction or operation, or both, where necessary under Zoning or other ordinance or ordinances of municipality.
8. Fail, neglect or refuse to get a permit from the NJDEP for the construction of any waterfront improvement, the permit of which would be required prior to issuance of an engineering permit.
9. Have the soil and water or either pumped out or removed from the basin, facility, stream, channel, marina or other area in such a manner that the surface of the area where the residue of said pumping or removal placed shall properly drain and so that such pumping or removal shall not cause or permit water to stand or pond thereon to be the cause of blocking the other drainage of lands in the immediate vicinity of such pumping, removal or placing of residue.

#### B. Plans Required

1. Two copies of plans shall be submitted to the Township Engineer to accompany any permit application for new bulkheads, docks, piers, boat lifts or the construction of any other improvement within a boat basin, boat docking facility, lagoon, stream, channel or any other water body. The plan shall be utilized to review the project for compliance with all applicable township and State requirements.
2. The Township Engineer will review the submitted documents and either disapprove or approve the submitted plan. The applicant will be notified if any revisions are required. If approved, the Township Engineer will issue a permit.
3. Each plan shall be drawn to scale (not less than 1 inch equals 50 feet), signed and sealed by a professional, as defined in N.J.S.A. 13:40-7.3, licensed to practice in the State of New Jersey or a manufacturer's construction detail illustrating products to be used (size, weight, length, etc.) for individual site conditions provided by a representative of the site contractor and shall be no smaller than 8-1/2 inches by 14 inches.
4. Plans shall include the information outlined on the Bulkhead/Dock Checklist provided with the application form.

#### C. Standards for Construction of Bulkheads, Docks, Piers and Other Structures:

1. Shallow-water or deep-water bulkheads.
  - a. Bulkheads shall be designed either for shallow-water bulkhead or deep-water bulkhead, as the case in point may necessitate.

Sheeting shall be timber, vinyl, or other acceptable material designed and installed in accordance with the manufacturer's specifications.

- b. The particular circumstances, conditions and nature of the project in question, when taken into consideration with the designs for the shallow-water bulkheads and deep-water bulkheads aforesaid, shall and will govern which type of bulkhead should and must be used in a given circumstance. If any question arises as to the type of bulkhead to be constructed in a given area, the Township shall make the final determination through its Engineering Inspector, and, upon written application, the municipality will furnish any applicant with a written determination upon the applicant filing a proper application for a permit and paying the proper fee as provided in this chapter.

2. All timber used, except as noted below, shall be new and unused Douglas fir, Southern yellow pine, cypress, cedar or oak.
3. Treated piling, wales, sheet piling, and decking shall be Douglas fir, Southern yellow pine or cypress.
4. Sheet piling shall be tongue and groove.
5. Anchor piles and anchor logs may be untreated oak or pine.
6. All piles and timber shall be to the plan dimensions shown on the designs for said items.
7. All hardware used in the construction shall be new, unused and galvanized. All such hardware shall be to the dimensions shown in the respective designs.
8. All bulkheads shall be erected true to lines and grades shown in the application for a permit and in said permit and shall be properly backfilled so they will remain firm and in place.
9. All bulkheads shall be constructed in a thoroughly good workmanlike manner.

#### § 168-5. Violations and Penalties

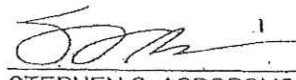
Any person, partnership, association, corporation or firm found to be in violation of this chapter shall be subject to a maximum fine of \$2,000.00, or imprisonment for a period not to exceed 90 days, or both. Each day of such violation's continuance shall be considered as a separate violation and shall be separately punishable. The penalties aforesaid shall be in addition to such other remedies as may be available to the Township of Brick in the event of a violation of this chapter.

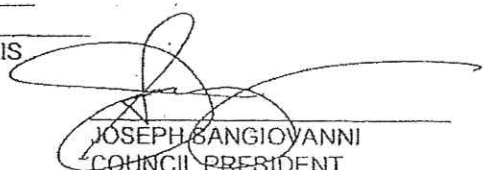
**SECTION 2.** This ordinance shall take effect after second reading and publication as required by law.

PASSED: May 12, 2009

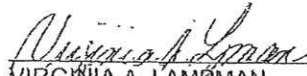
ADOPTED: May 26, 2009

SIGNED:

  
STEPHEN C. ACROPOLIS  
MAYOR

  
JOSEPH SANGIOVANNI  
COUNCIL PRESIDENT

ATTEST:

  
VIRGINIA A. LAMPMAN  
TOWNSHIP CLERK