

ORDINANCE No.35-2008

ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 170,
ARTICLE IX, SUBDIVISION AND SITE PLAN REVIEW BY ADDING A NEW SECTION
LOT SURFACE DRAINAGE

WHEREAS, in order to protect against the adverse consequences of uncontrolled surface water drainage associated with land disturbances including but not limited to construction activities, a lot surface drainage permit shall be required.

NOW, BE IT ORDAINED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the following sections of the Code of the Township of Livingston shall be revised as follows:

New language is in bold and italicized and [deleted language is bracketed.]

SECTION 1. Article IX Subdivision and Site Plan review is hereby renamed to be called *Subdivision Review, Site Plan Review and Site Improvements*.

SECTION 2 § 170-72 Improvements

C. Lot Surface Drainage

1. Applicability

A lot surface drainage permit shall be required for the following development activities in a residential zone:

- A. The addition of any impervious area that is three hundred (300) square feet or greater in size, including, but not limited to the following:*
 - 1. Any addition, repair or renovation to an existing structure that involves an extension of the foundation of the existing structure by three hundred (300) square feet or greater in size; or*
 - 2. Construction of a swimming pool or tennis court; or sports court; or*
 - 3. Construction of a closed or impervious deck, patio, or accessory structure, three hundred (300) square feet or greater in size that impacts drainage, as determined by the Township Engineer. Open pervious decks (decks that have open spaces between the floor boards) are exempt as long as there is no re-grading or land disturbance associated with the open pervious deck construction; or,*
 - 4. Construction of a driveway, three hundred (300) square feet or greater in size that impacts drainage, as determined by the Township Engineer. The replacement of an existing driveway, which does not increase the footprint of the existing driveway by more than three hundred (300) square feet is exempt; or*
- B. Land disturbance or grading, except for the purposes of turf replacement where no grading is involved, of one thousand (1,000) square feet, or greater; or*
- C. Placement of more than twenty (20) cubic yards of fill, excluding mulching; or*
- D. Land disturbance or grading within five (5) feet of a property line that impacts drainage, as determined by the Township Engineer.*

2. Waiver.

Notwithstanding the foregoing, the Township Engineer may grant a waiver from the requirements of this subsection with respect to activities involving single family lots if the Township Engineer determines that the project involves less than one thousand (1,000) square feet of impervious coverage, does not affect any drainage or critical areas, and does not require any significant changes in the existing grading of the lot. Any such determination shall be made upon the basis of the construction plans, survey and such further information as may be requested from the owner of the property by the Township Engineer

If a waiver is granted, the Township Engineer shall issue a minor lot surface drainage permit, subject to the following conditions:

- A. A licensed professional engineer or architect shall provide a certification letter stating that the proposed activity or project is in accordance with the following provisions of the minor lot surface drainage permit:*
 - 1. Surface drainage waters shall be controlled in a manner that will minimize the adverse effects of such waters upon the subject property and abutting lands.*
 - 2. Soil erosion during and after development shall not increase over what naturally occurs.*

3. *The grades and/or elevation of the site shall not be significantly altered from the existing conditions.*

B. *Payment of a minor permit application fee in the amount of one hundred fifty (\$150.00) to the Township of Livingston.*

3. *Submission of Application.*

Information regarding any proposed land disturbances or grading activities shall be submitted on the form provided by the Township Engineering Department and shall be submitted to the Township Engineer or his designee for a determination of applicability.

Each land disturbance or grading activity that is determined to be eligible for a minor lot surface drainage permit shall be submitted on the application form provided by the Township Engineering Department and shall be submitted to the Township Engineering Department accompanied by three (3) signed and sealed copies of the required certification letter from a licensed professional engineer or architect which states that the proposed activity or project is in accordance with the required provisions of the minor lot surface drainage permit.

Each land disturbance or grading activity that is required to have a major lot surface drainage permit shall be submitted on the application form provided by the Township Engineering Department and shall be submitted to the Township Engineering Department accompanied by three (3) signed and sealed copies of a detailed lot surface drainage plan which shall have been prepared by a New Jersey licensed professional engineer or architect. Once approved, the applicant shall provide duplicate paper copies and an electronic version of the lot surface drainage plan to the Township Engineering Department. Time of review for applications deemed to be complete by the Township Engineer or his designee shall be a maximum of 20 business days to examine, approve or deny the application. Approval or denial of the application shall be in writing. The 20 day rule shall not apply to incomplete applications.

The fees for minor and major lot surface drainage permit applications, which partially cover the costs of site visits, review of the application and site inspections, are as follows:

A. *Minor permit application - \$150.00 for the initial submission and \$25.00 for each subsequent revision.*

B. *Major permit application - \$400.00 for the initial submission and \$75.00 for each subsequent revision.*

In all cases, the issuance of both minor and major surface drainage permits shall be prerequisites prior to the issuance of a Township building permit for development activities.

4. *Lot Surface Drainage Plan Details*

All applications for a major lot surface drainage permit shall be accompanied by a surface drainage plan and shall be submitted to the Township Engineering Department. A major lot surface drainage permit shall not be issued until the surface drainage plan is approved by the Township Engineer or his designee. No development activity for which a surface drainage plan is required may begin until such a plan has been approved and a major surface drainage permit has been issued. The issuance of a major surface drainage permit shall be a prerequisite prior to the issuance of a Township building permit for the development activity. The surface drainage plan shall be prepared by a professional engineer or architect licensed in New Jersey and shall be drawn to a scale of not less than one (1) inch equals thirty (30) feet. The surface drainage plan shall depict both existing and proposed surface drainage patterns as they affect the subject property and all abutting land and shall include the following elements:

A. *The applicable block and lot number, date, graphic scale, North arrow, zone designation, zoning requirements and the names and addresses of the property owner, the applicant and the professional who prepared the plan.*

B. *Location of the property boundaries including all lot line dimensions; front, side and rear yard setback dimensions, easements, encroachments and restrictions;*

C. *The outer limits of all areas in which any grading or filling is proposed on the subject property;*

D. *Locations, dimensions and first floor elevation of all existing and proposed structures;*

E. *Location of all driveways, sidewalks and other impervious structures;*

F. *Location of all buildings on adjoining lots;*

G. *Existing and proposed topography reflecting contour lines at one (1) foot intervals over the entire property. Topography and contour lines must extend beyond the lot property lines, if required by the Township Engineer or his designee, in order to adequately show the existing and proposed lot surface drainage conditions.*

H. *Location of all existing and proposed retaining walls with top and bottom elevations. Such elevations shall be clearly*

delineated at regular intervals on the plan, Details of all proposed retaining walls shall be provided.

- I. The layout of existing public streets and public utilities within 100 feet of the proposed development activity together with their elevations.*
- J. If any part of the property is located within the 100-year flood zone, the flood zone limits shall be shown as per the FEMA Flood Insurance Rate Map and NJDEP Flood Hazard Area Delineation.*
- K. All delineated wetlands and transition areas approved through a NJDEP letter of interpretation shall be shown by metes and bounds. The NJDEP file number shall be noted on the plan. If no wetlands exist, the plan must contain a note confirming this fact.*
- L. The location of all existing and proposed storm drainage structures, streams, watercourses, ponds, storm sewers or drainage facilities which relate to the drainage of surface waters from the subject property, The information shall include proposed methods of controlling foundation drains, sump, pump discharges, and on-site storm water, and may include grading, use of underground leaders to storm water systems or dry wells, and other similar or related methods.*
- M. The proposed location and size of all roof leader drains, footing drains and sump pump drains with invert elevations at house and outfall connections. All drains shall connect with the municipal storm drainage system whenever feasible. Location of existing storm sewer invert and flow direction at tie-in point shall be shown. If drains cannot be connected to the public system, other means, acceptable to the Township engineer or his designee, shall be provided. If dry wells are used, their location, elevations and details must be shown.*
- N. Any proposed changes in the existing surface drainage pattern which will result from the construction proposed for the subject property including any proposed changes on abutting lands.*
- O. All existing trees with trunks exceeding six (6) inches in diameter measured at a point four (4) feet above the existing ground level within the area to be disturbed as well as within ten (10) feet of the outer limits of any such area.*
- P. The applicant's engineer or architect shall certify that the proposed grading, as shown on the lot surface drainage plan, can tie into existing topographic contours on adjoining lots without an adverse grading or drainage impact and that all disturbance and grading can be limited to within the property in question.*
- Q. Any other conditions or requirements as determined by the Township Engineer or his designee.*

5. Lot Surface Drainage Plan Guidelines and Principles

- A. The following lot surface drainage guidelines and principles shall be considered in the review of any lot surface drainage plan submitted to the Township Engineering Department. This review shall be conducted by the Township Engineer or his designee:*
- B. Surface drainage plans shall be designed to control surface waters in a manner that will minimize the adverse effects of such waters upon the subject property and abutting lands.*
- C. There shall be no change in existing grade that raises the elevation of the lot within five (5) feet of a property line. Furthermore, there shall be no change in existing grade, which raises any portion of the lot within fifteen (15) feet of a property line to an elevation that is more than four (4) feet above the existing ground level at the property line. Any new grade shall be at an even slope with the toe of the slope at the ground level which exists at five (5) feet inside the property line, provided, however, that, when necessary, swales shall be created in order to control surface waters in a manner that will protect abutting lands.*
- D. Retaining walls shall be set back at a minimum of five (5) feet from any property line.*
- E. Grades steeper than 1 (vertical) to 3 (horizontal) should be avoided. Changes in elevation shall not exceed a slope of 1 (vertical) to 2 (horizontal) unless supported by retaining walls or other appropriate methods.*
- F. An area of at least ten (10) feet in width around the foundation of any building shall be graded downward, away from the foundation, in accordance with the requirements of the New Jersey Uniform Construction Code.*
- G. Roof runoff from any roofed area shall be in accordance with the New Jersey Uniform Construction Code.*
- H. Dry wells or other infiltration facilities, if required, shall be in accordance with the provisions of the New Jersey Stormwater Best Management Practices Manual - Chapter 9.3 - Standard for Dry Wells. Design of these facilities must be based on appropriate site specific tests certified by the applicant's engineer and submitted to the Township Engineer, or his designee for approval.*

- I. *No soil shall be excavated, removed, deposited or disturbed except as a result of and in accordance with the surface drainage plan approved under the terms of this chapter.*
- J. *Any proposed building, structure, grading or attendant protective measures shall not impede the flow of surface water through any watercourse.*
- K. *Any fill placed on the property shall be properly stabilized and, when found necessary depending upon existing slopes and soil types, supported by retaining walls or other appropriate methods as approved by the Township Engineer or his designee.*
- L. *The project shall be designed in accordance with the New Jersey Soil Erosion and Sediment Control Standards.*
- M. *Whenever the Township Engineer or his designee considers it necessary or appropriate, he may require that temporary measures be taken during the performance of any construction work to prevent adverse effects upon abutting lands.*
- N. *New construction on property where a previous structure has been removed shall not have the ground surface adjacent to the new structure elevated significantly above the original ground surface. Fill excavated during the course of construction of the new structure shall not be stored nor spread upon on the property for the purpose of disposal, but must be removed from the site.*

6. Certificate of Occupancy

Following the completion of construction or other development activities involving a major surface drainage permit, the owner shall submit an as-built survey of the site for the review and approval by the Township Engineer or his designee. The as-built survey must contain a sufficient amount of spot elevations, topography and contour lines to allow comparison with the approved surface drainage plan for the purpose of determining compliance with that plan. As part of the as-built survey a New Jersey licensed professional engineer must certify that the final as-built lot surface drainage provisions are in compliance with the approved lot surface drainage plan. A certificate of occupancy shall not be issued until the Township Engineer or his designee certifies that the property conforms to the approved lot surface drainage plan. The Township, at the option of the Township Engineer or his designee, may accept a bond to insure full compliance with the approved lot surface drainage plan prior to and a condition of the issuance of a certificate of occupancy. If a certificate of occupancy is issued for a property prior to full compliance with a approved lot surface drainage plan and full compliance is not effected by the date set forth in bond issued for the certificate of occupancy, then continued occupancy of such property after such date shall constitute a use of such property in violation of this chapter.

7. Maintenance

The owner of the property upon which the regulated development activity occurred, and all successors and any other person or agent in control of the property, shall maintain in good condition and promptly repair and restore all grade surfaces, structures, drains, and other elements as required under an approved surface drainage plan.

8. Enforcement

The requirements of this ordinance shall be enforced by the Township Engineer or his designee who shall inspect or require inspection of the work.

Whenever the Township Engineer or his designee finds that work is being performed or has been performed in violation of this chapter or in a manner that may jeopardize the public health or safety, the Township Engineer or his designee may issue a stop work order to halt any activity that violates this chapter or jeopardizes the public health or safety and may order remedial action as appropriate.

It shall be unlawful for any person to continue work on a property after having been served with a stop work order, except such work as the Township Engineer or his designee directs to remove a violation or to eliminate an unhealthy or unsafe condition.

The failure of an owner of property to comply with the provisions of an issued surface drainage permit and approved lot surface drainage plan for such property, including any temporary measures to be taken during the performance of construction work, shall subject the owner to a maximum fine of \$2,000.00 per violation. Each violation and each day of each violation shall constitute a separate and distinct violation thereof. The payment of a fine shall be in addition to performing the remedial action ordered to be undertaken by the Township Engineer or his designee.

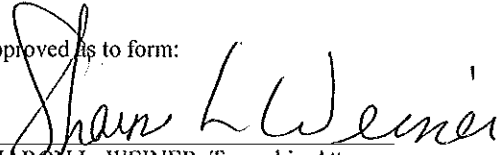
SECTION 3. Except as hereby amended, the Code of the Township of Livingston shall remain in full force and effect.

SECTION 4. This Ordinance shall take effect upon final passage and twenty days from publication in accordance with the law.


GARY S. SCHNEIDERMAN, Mayor


GLENN R. TURTLETAUB
Township Clerk

Approved as to form:


SHARON L. WEINER, Township Attorney

Introduced: 10/20/08

Adopted: 11/3/08