

## ORDINANCE 2010-3

### ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING CHAPTER XXI OF THE TOWNSHIP CODE AS RESPECTS SOIL EROSION AND SEDIMENT CONTROL

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

1. Chapter XXI, Sections 21-1 through 21-12 of the Township Code are hereby amended to delete said sections and replace them with the following:

#### CHAPTER XXI SOIL AND SOIL REMOVAL

##### Article I Soil Erosion

#### 21-1 CONTROL OF SOIL EROSION AND SEDIMENTATION.

##### 21-1.1 Statutory Authorization.

This chapter is adopted pursuant to the provisions of the Soil Erosion and Sediment Control Act, Chapter 251 of the New Jersey Public Laws of 1975, N.J.S. 4:24-39 and following, and the regulations adopted thereunder. (Ord. No. 7-77 Art. 1)

##### 21-1.2 Title.

This chapter shall be known and may be cited as the "Soil Erosion, Sediment Control and Flood Prevention Ordinance of the Township of Chatham." (Ord. No. 7-77 Art. 1)

#### 21-2 PURPOSE.

To promote the public health, safety, convenience and general welfare of the Township through the protection of environmental resources by preventing floods and controlling soil erosion, sedimentation and related environmental damage resulting from, but not necessarily limited to, the disturbance of land or earth by construction activities such as those for housing, commercial, utility, highway, public works and other similar developments.

The specific purposes of this chapter are to require adequate provisions for:

- a. The protection of the water quality of streams.
- b. The prevention of danger to life and property from flooding resulting from excessive runoff and sedimentation of waterways and drainage facilities.
- c. The detention of surface waters, including both temporary and permanent measures.
- d. Maintaining the useful life of brooks, streams, ponds and lakes by preventing sedimentation.
- e. Preserving the recreational use of water bodies for swimming and fishing.
- f. Reducing public expenditures for repair and maintenance of public facilities resulting from flooding, soil erosion and sedimentation.
- g. Conserving the taxable value of property by preserving the environmental character of the Township.

(Ord. No. 7-77 Art. 2)

#### 21-3 DEFINITIONS.

As used in this chapter:

*Appeal* shall mean a request for a review of a Township function.

*Applicant* shall mean a person requesting the issuance of a land disturbance permit.

*Application* shall mean a submission meeting the requirements of a *complete application*, as hereinafter defined.

Application for development shall mean a proposed subdivision of land, site plan, conditional use zoning variance, planned unit development or construction permit.

*Approved plan* shall mean a *Plan*, as hereinafter defined, which has been reviewed and approved by the proper Township authority.

*Certification* shall mean a written and signed statement by the Township Engineer that specific construction and/or land treatment measures required by a *Plan*, as hereinafter defined, have been performed in accordance with all of the terms and conditions therefore and in accordance with *State standards*, as hereinafter defined, and the provisions of this chapter.

*Committee* shall mean the State Soil Conservation Committee is the Department of Agriculture established pursuant to N.J.S.A. 4:24-39 et seq.

*Complete application* shall mean the submission to the Township Clerk of the following: a. an application form completed and executed by the applicant; b. a *Plan*, as hereinafter defined; c. all required accompanying documents, and d. the appropriate filing fee.

*Conditional use* shall mean a land use permitted under the Land Development Ordinance of the Township of Chatham but only upon the issuance of an authorization therefore by the Township Planning Board or Zoning Board of Adjustment.

*Construction permit* shall mean a permit issued for a building or structure in accordance with the State Uniform Construction Code Act and Regulations promulgated thereunder.

*Critical area* shall mean an area which has a high potential for erosion, sedimentation or related environmental damage, or an area which has experienced such damage.

*Cut* shall mean a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface.

*Detention pond or basin* shall mean a pond, basin or other structure or measure that provides for temporary storage of storm water and which includes a spillway or other facility to release the water at a controlled rate of flow.

*Disturbance* shall mean any activity involving the clearing, excavation, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion.

*Diversion* shall mean a channel with or without a supporting ridge on the lower side constructed across or at the bottom of a slope.

*Embankment* shall mean a man-made deposit of soil, rock or other materials.

*Erosion* shall mean the detachment, wearing away or movement of soil or rock fragments by the action of water, wind, ice or gravity.

*Excavation* shall mean any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

*Existing grade* shall mean the vertical location of the existing ground surface prior to cutting or filling.

*Farm conservation plan* shall mean a plan developed in accordance with the Morris County Soil Conservation District which provides for use of land, within its capabilities and treatment, within practical limits, according to chosen use to prevent further deterioration of soil and water resources.

*Fill* shall mean a man-made deposit of soil, rock or other materials.

*Finished grade* shall mean the final grade or elevation of the ground surface conforming to a proposed design.

*Flood plain* shall mean the land bordering or adjacent to a river, stream, brook, lake, pond, swamp or other waterway which is subject to flooding as evidenced by a. observed or recorded flood events; b. alluvial soil as shown on soil maps; or c. as determined by other soil or hydraulic studies.

*Government agency* shall mean any department, commission, independent agency or instrumentality of the United States or of the State of New Jersey, and any County or other governmental unit.

*Grading* shall mean any stripping, cutting, filling or stockpiling, or any combination thereof, this term including the land in its cut or filled condition.

*Hearing body* shall mean the State Soil Conservation Committee.

*Land* shall mean any ground, soil or earth including marshes, swamps, drainage ways and areas not permanently covered by water.

*Land disturbance* shall mean any activity involving the clearing, cutting, excavation, grading, filling, storing, transporting of land or any other activity which causes land to be exposed to the danger of erosion.

*Morris County Soil Conservation District* shall mean a governmental subdivision of this State, which encompasses the Township, organized in accordance with the provisions of N.J.S. 4:24-1 and following.

*Mulching* shall mean the application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place and aid in establishing plant cover.

*Natural ground surface* shall mean the existing surface of land prior to any land disturbance.

*Permit.* See *Soil erosion and sediment control permit.*

*Person* shall mean any individual, partnership, corporation or other legal entity, including a government agency.

*Plan.* See *Soil Erosion, Sediment Control and Flood Prevention Plan.*

*Planned development* shall mean any planned development that may be permitted under the provisions of the Land Development Ordinance of the Township.

*Professional engineer* shall mean an engineer duly registered or licensed by the State of New Jersey to practice in the field of civil engineering.

*Project* shall mean any disturbance of more than 5,000 square feet of the surface area of land (1) for the accommodation of construction for which the State Uniform Construction Code would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single-family dwelling units, (2) for the demolition of one or more structures, (3) for the construction of a parking lot, (4) for the construction of a public facility, (5) for the operation of any mining or quarrying activity, or (6) for the clearing or grading of any land for other than agricultural or horticultural purposes.

*Public facility* shall mean any building; pipeline; highway; electricity, telephone, or other transmission line; or any other structure to be constructed by a public utility, municipality, county of the State or any agency or instrumentality thereof.

*Sediment* shall mean solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by erosion.

*Sediment basin* shall mean a pond, basin or other structure or measure that provides for the detention of water and the deposit of sediment.

*Site* shall mean a lot, tract or parcel of land or a combination of contiguous lots, tracts or parcels of land.

*Site plan* shall mean a plan for the development of one (1) or more lots required to be reviewed and approved in accordance with the provisions of the Site Plan Review and Approval Ordinance of the Township.

*Slope* shall mean the degree of deviation of a surface from the horizontal usually expressed in percent or degree.

*Soil* shall mean all unconsolidated mineral and organic material of whatever origin which overlies bedrock and which can be readily excavated.

*Soil erosion and sediment control permit* shall mean a permit issued pursuant to the provisions of this chapter authorizing land disturbance subject to the terms and conditions of the permit.

*Soil Erosion, Sediment Control and Flood Prevention Plan* shall mean a plan (referred to in this chapter by the term "Plan") which indicates construction and/or land treatment measures, including a schedule of the timing for their performance, to effectively prevent floods and minimize soil erosion and sedimentation. Every Plan shall meet or exceed *State standards* as hereinafter defined.

*Soils engineer* shall mean a professional engineer who is qualified by education, training and experience to practice applied soil mechanics and foundation engineering.

*Standards* shall mean *State standards*.

*State standards* shall mean standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee.

*Stripping* shall mean any activity which removes or significantly disturbs vegetated or otherwise stabilized soil surface, including clearing and grubbing operations.

*Subdivision* shall mean the division of a lot, tract or parcel of land into two (2) or more lots, tracts or parcels in accordance with provisions of the Land Subdivision Ordinance of the Township.

*Temporary protection* shall mean stabilization of erosion or sediment-producing areas of land.

*Vegetative protection* shall mean stabilization of erosive or sediment-producing areas of land by covering the soil with one (1) or more of the following: a. permanent seeding or permanent plantings producing long-term vegetative cover; b. short-term seeding or short-term plantings producing temporary vegetative cover; and c. sodding, producing areas covered with a turf or perennial sod-forming grass.

*Watercourse* shall mean a natural or artificial river, stream, brook, ditch, channel, conduit, gully, drain, culvert, ravine, wash or other waterway in which water flows in a definite direction or course, either continuously or intermittently, within a definite channel, and including any area adjacent thereto subject to inundation by reason of overflow of flood water.

*Zoning variance* shall mean any land use which may be permitted as a departure from the provisions of the Land Development Ordinance of the Township.

For the purposes of this chapter the word "shall" indicates a mandatory requirement, and the word "may" indicates a permissive action.

Any word or term not defined by this section is to be given its usual or common meaning.

(Ord. No. 7-77 Art. 3; Ord. No. 2001-017 § 1)

## **21-4 SOIL EROSION AND SEDIMENT CONTROL PERMIT REQUIRED**

No person shall within the Township undertake or commence any project within the meaning of that term as defined in Section 21-3, except a project which is exempt under the provisions of Section 21-5, without first having obtained a soil erosion and sediment control permit. (Ord. No. 7-77 Art. 4; Ord. No. 2001-017 § 1)

### **21-4A STANDARDS**

(a) The Township adopts and hereby incorporates into these rules by reference as standards for soil erosion and sediment control those standards published in the "Standards for Soil Erosion and Sediment Control in New Jersey," and identified as adopted or revised on April 12, 1999 as the technical basis for local soil conservation district certification of soil erosion and sediment control plans. Specifically, these standards include the following:

1. Vegetative Standards

Acid Soil Management, Adopted April 12, 1999  
Dune Stabilization, Revised April 12, 1999  
Maintaining Vegetation, Revised April 12, 1999  
Permanent Vegetative Cover for Soil Stabilization, Revised April 12, 1999  
Stabilization with Mulch Only, Revised April 12, 1999  
Stabilization with Sod, Revised April 12, 1999  
Temporary Vegetative Cover for Soil Stabilization, Revised April 12, 1999  
Topsoiling, Revised April 12, 1999  
Tree Protection during Construction, Revised April 12, 1999  
Trees, Shrubs and Vines, Revised April 12, 1999

2. Engineering Standards

Channel Stabilization, Revised April 12, 1999  
Conduit Outlet Protection, Revised April 12, 1999  
Detention Basin, Revised April 12, 1999  
Dewatering, Adopted April 12, 1999  
Diversion, Adopted April 12, 1999  
Dust Control, Revised April 12, 1999  
Grade Stabilization Structure, Revised April 12, 1999  
Grassed Waterway, Revised April 12, 1999  
Land Grading, Revised April 12, 1999  
Lined Waterway, Revised April 12, 1999  
Offsite Stability Analysis, Revised April 12, 1999  
Parking Lot Storage, Revised April 12, 1999  
Riprap, Revised April 12, 1999  
Rooftop Storage, Revised April 12, 1999  
Sediment Barrier, Revised April 12, 1999  
Sediment Basin, Revised April 12, 1999  
Slope Protection Structures, Revised April 12, 1999  
Soil Bioengineering, Adopted April 12, 1999  
Stabilized Construction Access, Revised April 12, 1999  
Storm Sewer Inlet Protection, Revised April 12, 1999  
Stream Crossing, Revised April 12, 1999  
Subsurface Drainage, Adopted April 12, 1999  
Traffic Control, Revised April 12, 1999  
Turbidity Barrier, Revised April 12, 1999  
Underground Detention Storage, Revised April 12, 1999

3. Copies of the standards may be obtained by contacting the Township Clerk or the State Soil Conservation Committee of any of the soil conservation districts as follows:

- i. Bergen County Conservation District
- ii. Burlington County Soil Conservation District
- iii. Camden County Soil Conservation District
- iv. Cape-Atlantic Soil Conservation (Cape May and Atlantic Counties)
- v. Cumberland County Soil Conservation District
- vi. Freehold Soil Conservation District (Middlesex and Monmouth Counties)
- vii. Gloucester County Soil Conservation District
- viii. Hudson, Essex and Passaic Soil Conservation District (Hudson, Essex and Passaic Counties)
- ix. Hunterdon County Soil Conservation District
- x. Mercer County Soil Conservation District
- xi. Morris County Soil Conservation District
- xii. Ocean County Soil Conservation District
- xiii. Salem County Soil Conservation District
- xiv. Somerset-Union Soil Conservation District (Somerset and Union Counties)

- xv. Sussex County Soil Conservation District
- xvi. Warren County Soil Conservation District

(b) Where it can be satisfactorily demonstrated by the applicant that unique or innovative control measures or procedures not specified in this chapter may be applicable to specific sites, such measures may be proposed for consideration and utilized subject to approval by the Township and the State Soil Conservation Committee. To secure such approval, a written request shall be sent to the Township and State Soil Conservation Committee describing the unique or innovative control measure or procedure and its proposed function or use on the project. Such approval may be granted only where it is determined that strict application of the standards as herein specified will not result in the most practical and effective control of soil erosion, sedimentation and stormwater damages.

## **21-5 ACTIVITIES EXEMPT FROM PERMIT**

The following projects are exempt from the provisions of this chapter:

- a. The construction of a single-family dwelling unit where such unit is not part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two (2) or more such single-family dwelling units.
- b. Land disturbance in accordance with a farm conservation plan.
- c. The planting and harvesting of crops, plants, flowers or shrubs in fields or areas devoted to such use prior to the adoption of this chapter.
- d. Road and road shoulder maintenance work performed by the Township Department of Public Works.
- e. Projects exempt from the requirements of State law.

(Ord. No. 7-77 Art. 5; Ord. No. 15-91 § 1; Ord. No. 99-027 § 1)

## **21-6 APPLICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL PERMITS.**

### **21-6.1 Jurisdiction Over Applications.**

- a. If the project subject of the application involves a conditional use, planned development, site plan, subdivision, subdivision or zoning variance, the application for soil erosion and sediment control permit shall be reviewed and acted upon by the Township Planning Board.
- b. All other applications for soil erosion and sediment control permits shall be reviewed and acted upon by the Township Engineer.
- c. In addition to the foregoing, all public facility projects shall be submitted to the Morris Soil Conservation District for review, certification and enforcement.

c. Notwithstanding the provisions of the preceding paragraph of this subsection 21-6.1, whenever the Zoning Board of Adjustment is reviewing an application for approval of a use variance pursuant to the provisions of N.J.S. 40:55D-70(d), such Board shall review and act upon any application for a soil erosion and sediment control permit, and accordingly in such cases whenever the words "Planning Board" appear in this chapter they shall be read as "Zoning Board of Adjustment."

(Ord. No. 7-77 Art. 6 § 6.01; Ord. No. 2001-017 § 1)

### **21-6.2 Application Forms.**

An applicant shall obtain application forms from the Township Clerk. The form shall require among other information the name of the applicant, the site location by street address and block and lot number, the proposed use of the site, any related applications for land use development approval and sufficient information for calculation of the filing fee required by subsection 21-6.4. The form shall also provide adequate space for approval or disapproval as well as the insertion for special provisions as terms and conditions of approval and the amount of any performance guarantee required. (Ord. No. 7-77 Art. 6 § 6.02)

### **21-6.3 Plan to Accompany Application.**

Every application for a soil erosion and sediment control permit shall be accompanied by a Plan meeting the requirements set forth in this subsection 21-6.3.

a. *The Plan.* The Plan shall comprise a map and written report (together with whatever other instruments, writings, drawings, plans or specifications are necessary or appropriate under the circumstances) which fully and adequately describe both temporary and permanent measures to be employed to control, minimize and protect against soil erosion, sedimentation and flooding from a proposed land disturbance, taking into account the particular nature and characteristics of the land, the surrounding area, the watercourses, the land disturbance and the development involved. The Plan shall cover all stages and aspects of the proposed land disturbance and planned development from grading, stripping, excavation and other site preparation through and including both finished grade and the installation of permanent improvements. It shall accordingly include a timing schedule or schedules indicating both: 1. the anticipated starting and completion dates of each step in the land disturbance and development sequence and the time of exposure of each land area prior to the completion of effective erosion and sediment control measures, and 2. the sequence of installation of planned erosion and sediment control measures as related to the disturbance and development sequence referred to in paragraph 1. above, including anticipated starting and completion dates of such installations.

The Plan shall include a soil map prepared by the Natural Resources Conservation Service upon which the proposed development shall be superimposed. The soil boundaries shall also be shown on the Plan.

b. *General Conditions.*

1. It shall be the responsibility of the applicant to design his project so as to maintain as nearly as possible in its present state and condition any stream, watercourse, swale, floodplain, wetland, swamp, pond or lake.
2. The maintenance or repair of any of the above or of drainage facilities damaged or otherwise adversely affected by reason of the applicant's project shall be the responsibility of the applicant. Such maintenance or repair work shall be promptly performed.
3. It shall be the responsibility of the applicant to promptly remove sediment from any stream or watercourse, pond, lake, or drainage facility resulting from the applicant's project.
4. No person shall block, impede the flow of, alter or construct any structure or deposit any material or thing or commit any act which will affect normal or flood flow in any stream or watercourse without having obtained a soil erosion and sediment control permit and, where required, prior approval from the Morris County Soil Conservation District or other State agency.
5. All drainage or stormwater facilities proposed by the applicant or to be utilized by the applicant, including the discharge area, shall have the capacity to transport runoff from the drainage area as if such area were fully developed in accordance with the Master Plan and Land Development Ordinance of the Township.
6. An objective of the Plan shall be to maximize groundwater recharge and to minimize runoff, as well as the retention of sediment to the maximum extent feasible.

c. *Soil Erosion and Sediment Control Measures.* Soil erosion and sediment control measures shall as a minimum utilize and meet standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee.

In addition, to the extent applicable in particular situations, the following measures or considerations shall be incorporated in the Plan:

1. The smallest practicable area of land shall be disturbed at any one time during development and the duration of such disturbance shall be kept to a practical minimum.
2. Whenever feasible, natural vegetation and the natural ground surface shall be retained and protected.

3. Temporary vegetative protection, plant cover or mulching, or a combination thereof, shall be used to protect erosion areas during development.
  4. Diversions and outlets, both temporary and permanent, shall be constructed or installed to accommodate the runoff caused by the changed soil and surface conditions during and after development.
  5. Disturbed soil shall be stabilized as quickly as practicable.
  6. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped and removed by the use of debris basins, sediment basins, desilting basins, silt traps or other acceptable methods.
  7. Whenever feasible, development shall preserve natural features and existing grades, thereby keeping grading, stripping and excavation to a minimum.
  8. Adequate provisions shall be made to minimize surface water from damaging slopes and embankments. Diversions may be utilized for this purpose.
  9. Fill shall be placed and stabilized so as to minimize erosion and shall not encroach on watercourses closer than one hundred (100) feet unless specifically approved.
  10. During grading operations, approved methods for dust control shall be exercised.
  11. During grading, excavation and other construction activities, slopes and embankments shall be stabilized by mulching with straw sprayed with an asphalt mixture, or jute matting staked in position, or a seeding with vegetative types consistent with the current Standard for Temporary Vegetative Cover for Soil Stabilization, 7-1, or a combination of the foregoing, or other acceptable method.
  12. Permanent (final) vegetative protection, plant cover, lawn or ground cover, and mechanical erosion control devices and measures shall be installed or constructed and completed as soon as practicable.
  13. Permanent improvements, such as pavement, catch basins, curbs and the like, shall be installed or constructed and completed as soon as practicable.
  14. Permanent detention ponds shall be constructed whenever feasible to temporarily retain the increased runoff resulting from modifications to the land. Such detention facilities shall conform with the New Jersey Soil Erosion and Sediment Control, except where adverse site conditions prevent the practical construction of such facilities and such requirement is waived by the Township Engineer. The Township Engineer shall approve all plans for detention facilities and such plans shall also be approved by the County of Morris and agencies of the State of New Jersey when required.
- d. *Qualifications of Preparer of Plan.* The Plan shall be prepared by a professional engineer or soil engineer and shall be signed and sealed by the person who prepared it.  
(Ord. No. 7-77 Art. 6 § 6.03; Ord. No. 2001-017 § 1)

#### **21-6.4 Fee to Accompany Application.**

Every application for a soil erosion and sediment control permit, or substantively revised application as determined by the Township Engineer, shall be accompanied by a fee payable to the Township in the amount of one hundred fifty (\$150.00) dollars, provided, however, that if the application is made in connection with an application for the development of land pursuant to the Land Development Ordinance of the Township of Chatham then no separate application fee shall be required for the soil erosion and sediment control permit as the application will be processed as a part of the application for the development of land and will be subject to the technical review fees provided by subsection 30-17.1b of the Land Development Ordinance of the Township of Chatham. (Ord. No. 7-77 Art. 6 § 6.04; Ord. No. 15-91 § 2; Ord. No. 97-039 § 1; Ord. No. 2001-017 § 1)

#### **21-6.5 Application Procedure.**

The Township shall carry out the provisions of N.J.S.A. 4:24-43, -44, -45.

(a) No project shall be undertaken by any person, partnership, or corporation, or other private agency unless the applicant has submitted to the Township with local jurisdiction a plan for soil erosion and sediment control for such project, and the plan has been certified by the Township as conforming to the standards promulgated by the State Soil Conservation Committee. The plan shall provide for the control of soil erosion and sedimentation and utilize the standards for soil erosion and sediment control adopted by the Committee.

(b) A complete application for a soil erosion and sediment control permit shall be filed with the Township Clerk.

1. If the application is within the jurisdiction of the Township Planning Board, the applicant shall file seven (7) copies of the application form accompanied by thirteen (13) copies of the Plan and any other required documents.

2. If the application is within the jurisdiction of the Township Engineer, the applicant shall file six (6) copies of the application form accompanied by six (6) copies of the Plan and any other required documents.

3. All applications within the jurisdiction of the Planning Board shall be filed at least twenty-one (21) days before a monthly meeting of the Board at which formal action is taken, provided that no applications shall be accepted by the Township Clerk more than twenty-eight (28) days prior to the date of the meeting selected to meet such twenty-one (21) day requirement.

4. Upon receiving an application within the jurisdiction of the Planning Board, the Township Clerk shall note the date of submission on all copies of the application form, shall retain one (1) copy of the application form together with one (1) copy of the Plan and any other accompanying documents, shall forward one (1) copy of the application form together with one (1) copy of the Plan and any other accompanying documents to the Township Engineer, and shall deliver four (4) copies of the application form together with ten (10) copies of the Plan and any other accompanying documents to the Secretary of the Planning Board. The Township Clerk shall also forward one (1) copy of the application form together with one (1) copy of the Plan and any other accompanying documents to the Township Environmental Commission.

5. Upon receiving an application within the jurisdiction of the Township Engineer, the Township Clerk shall note the date of submission on all copies of the application form, shall retain one (1) copy of the application form together with one (1) copy of the Plan and any other accompanying documents, shall forward one (1) copy of the application form together with one (1) copy of the Plan and any other accompanying documents to the Planning Board for informational purposes, and shall deliver four (4) copies of the application form together with four (4) copies of the Plan and any other accompanying documents to the Township Engineer.

(c) No project shall be undertaken by any person, partnership, or corporation, or other private agency unless the applicant has submitted to the Township a plan for soil erosion and sediment control for such project, and the plan has been certified by the Township as conforming to the standards promulgated by the State Soil Conservation Committee. The plan shall provide for the control of soil erosion and sedimentation and utilize the standards for soil erosion and sediment control adopted by the Committee.

(d) Approval by a municipal officer or agency for an application for development for any project shall be conditioned upon certification by the Township for a plan for soil erosion and sediment control.

(e) The Township shall review all soil erosion and sediment control plans submitted with a complete application and provide the applicant with a written notice indicating that:

1. The plan was certified.
2. The plan was certified subject to the attached conditions, or
3. The plan was denied certification with the reasons for the denial stated.

(f) The Township shall include in the notice of certification on the certified plan the following clause: "This certification is limited to the controls specified in this plan. It is not authorized to engage in the proposed land use unless such use has been previously approved by the municipality or other controlling agency."

(g) The Township shall furnish the municipal planning board a copy of the certification or denial including all conditions and statements.

(h) The Township shall grant or deny certification within 30 days from submission of a complete application. The Township may be granted an additional 30-day review period through mutual written agreement with the applicant. Failure of the Township to grant or deny certification within such period of such extension thereof shall constitute certification.

(j) The Township shall require a new submission of the plan and application when a major revision is made.(Ord. No. 7-77 Art. 6 § 6.05; Ord. No. 2001-017 § 1)

#### **21-6.6 Incomplete Applications.**

a. Whenever it appears subsequent to submission to the Township Clerk that an application is incomplete, the Secretary of the Planning Board or the Township Engineer, as the case may be, shall promptly notify the applicant of the deficiencies, but if such notice is not given to the applicant within twenty-eight (28) days after submission the application shall be deemed to be complete.

b. Whenever an incomplete application is supplemented so as to make it complete, the period of the time limitation set forth in subsection 21-7.3 shall commence to run from the date when the application becomes complete.

(Ord. No. 7-77 Art. 6 § 6.06)

#### **21-6.7 Time of Submission of Application.**

Whenever an applicant is seeking one (1) or more related approvals for a project from the Township Planning Board, Zoning Board of Adjustment or Township Engineer, the application for a soil erosion and sediment control permit shall be submitted as directed by the Planning Board or Township Engineer at the time when the status of the related approval or approvals will permit the application for a soil erosion and sediment control permit to be properly evaluated. Premature submission of an application for a soil erosion and sediment control permit constitutes grounds for denial of the application accompanied by a direction for resubmission at an appropriate time. (Ord. No. 7-77 Art. 6 § 6.07; Ord. No. 2001-017 § 1)

### **21-7 ACTION ON APPLICATIONS.**

#### **21-7.1 Review of Applications.**

a. Applications for soil erosion and sediment control permits within the jurisdiction of the Planning Board shall be reviewed by the Planning Board and the Township Engineer. The Township Engineer shall furnish comments on the application to the Planning Board within fourteen (14) days after the submission of the application unless the Planning Board advises the Township Engineer of a longer period of time for his review. The Planning Board may refer an application to the Morris County Soil Conservation District, the Township Environmental Commission or any other qualified governmental agency or agencies or consultants for review and comments within a period of time indicated by the Planning Board.

b. Applications within the jurisdiction of the Township Engineer shall be reviewed by the Township Engineer. An application may be referred by the Township Engineer to the Morris County Soil Conservation District or any other qualified governmental agency or agencies or consultants for review and comments within a period of time indicated by the Township Engineer.

c. The purpose of every review shall be to determine whether or not the application, Plan and any other accompanying documents meet the standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee and any higher standards established by this chapter.

(Ord. No. 7-77 Art. 7 § 7.01; Ord. No. 2001-017 § 1)

### **21-7.2 Approval of Applications.**

- a. An application within the jurisdiction of the Planning Board shall be approved by the Planning Board if upon review the Board determines that the application meets the standards referred to in subsection 21-7.1. An application within the jurisdiction of the Township Engineer shall be approved by the Township Engineer if upon review he determines that the application meets such standards.
  - b. In the event that an application does not meet the standards referred to in subsection 21-7.1, the Planning Board or the Township Engineer, as the case may be, may approve the application subject to the imposition of terms and conditions which will provide for compliance with such standards. Any such terms and conditions shall be endorsed upon or attached to the application before approval is granted.
  - c. Other special terms and conditions may be imposed upon an application by the approving authority in order to assure proper implementation of the Plan in accordance with the intent and purposes of this chapter and may include fixing the time schedule for exposure of land areas and for the construction and installation of improvements or the taking of other measures to prevent soil erosion sedimentation and flooding and may require that such work be completed prior to any site development work.
  - d. All terms and conditions imposed by the Planning Board or Township Engineer, as the case may be, shall become a part of the approved Plan for all purposes of the provisions of this chapter.
  - e. As to every application which is approved, the approving authority shall endorse thereon the amount of the performance guarantee required pursuant to the provisions of subsection 21-8.1 of this chapter.
  - f. If an application is disapproved, the reason for disapproval shall be endorsed upon or attached to the application.
  - g. As soon as any application has been reviewed and acted upon, three (3) copies of the application with endorsements or attachments shall be forwarded to the Township Clerk. The Township Clerk shall promptly notify the applicant in writing of the action taken by the Planning Board or Township Engineer, as the case may be, indicating whether the application was approved as submitted, approved subject to attached conditions, or denied for reasons stated. In cases of approval, the Township Clerk shall also notify the applicant of the amount of the performance guarantee required to be furnished to the Township.
  - h. The Township Clerk shall also notify the Township Environmental Commission of action taken by the Planning Board on applications within its jurisdiction.
- (Ord. No. 7-77 Art. 7 § 7.02)

### **21-7.3 Time Limitations.**

- a. The Township Planning Board or Township Engineer, as the case may be, shall approve or disapprove the application for a soil erosion and sediment control permit within a period of thirty (30) days after the submission of a complete application to the Township Clerk, unless by mutual agreement in writing between the applicant and the reviewing authority the period of thirty (30) days is extended for an additional period of thirty (30) days.
- b. Failure to approve or disapprove a complete application within such period or such extension thereof shall constitute approval of the application, and the applicant shall be entitled to the issuance of a soil erosion and sediment control permit by the Township Clerk as though the application had been approved pursuant to the provisions of subsection 21-7.2 in the form in which the application was submitted.
- c. For purposes of this subsection, a major revision by the applicant of the Plan accompanying the application shall constitute a new submission of an application by the applicant.
- d. The provisions of this subsection shall not relieve an applicant of the obligation to furnish a performance guarantee as required by subsection 21-8.1, nor shall the provisions of this

subsection relieve an applicant of any other obligation imposed by this chapter upon a person to whom a soil erosion and sediment control permit is issued.

(Ord. No. 7-77 Art. 7 § 7.03; Ord. No. 2001-017 § 1)

#### **21-7.4 Notification of Morris County Soil Conservation District.**

Immediately following action by the Township Planning Board or Township Engineer, as the case may be, pursuant to subsection 21-7.2, whether such action constitutes approval or disapproval, the Township Clerk shall forward one (1) of the three (3) complete applications received from the Planning Board or Township Engineer to the Morris County Soil Conservation District, together with such other information as the District may require.

In the event that an applicant obtains approval by inaction under the provisions of subsection 21-7.3, the Township Clerk shall obtain from the Planning Board or Township Engineer, as the case may be, two (2) complete applications, and the Township Clerk shall forward one (1) complete application to the Morris County Soil Conservation District, together with a statement of approval by inaction and such other information as the District may require. (Ord. No. 7-77 Art. 7 § 7.04)

### **21-8 ISSUANCE OF PERMITS**

#### **21-8.1 Requirement for Performance Guarantee.**

a. Following approval of an application for a soil erosion and sediment control permit and prior to the issuance of the permit, the applicant shall furnish the Township with a performance guarantee in an amount specified by the Township Planning Board or Township Engineer on the approved application or as fixed by the Township Engineer in the event of approval by inaction as provided in subsection 21-7.3.

b. A performance guarantee shall not be required to exceed one hundred twenty (120%) percent of the total cost of the improvements and measures called for by the approved Plan, as the total cost thereof shall be estimated by the Township Engineer.

c. The performance guarantee shall set forth the date or dates on or before which the improvements are to be constructed or installed or on or before which specified measures are to be taken.

d. The performance guarantee shall provide that if the Township shall obtain injunctive relief pursuant to the provisions of Section 21-12 of this chapter against the person to whom the soil erosion and sediment control permit issued, funds necessary to effect compliance with such relief shall be immediately available to the Township.

e. The performance guarantee shall also assure the payment of all inspection fees for the project as required by subsection 21-9.5.

f. The performance guarantee may be in the form of a surety bond issued by a surety company authorized to do business in New Jersey, or the applicant may elect to deposit funds with the Township by certified check, such funds to be held in a separate interest-bearing account pursuant to a cash deposit agreement between the Township and the applicant. All performance guarantees shall be subject to approval by Township Attorney as to form, sufficiency and execution. Performance guarantees shall be released as provided in subsection 21-10.3.

(Ord. No. 7-77 Art. 8 § 8.01; Ord. No. 2001-017 § 1)

#### **21-8.2 Issuance of Permit.**

Upon receipt of an approved application, or upon approval by reason of inaction as provided in subsection 21-7.3 and the receipt of a performance guarantee meeting the requirements of subsection 21-8.1, the Township Clerk shall issue a soil erosion and sediment control permit to the applicant. The Township Clerk shall attach to the permit a copy of the

complete application as approved, including the Plan and all accompanying documents. (Ord. No. 7-77 Art. 8 § 8.02; Ord. No. 2001-017 § 1)

## **21-9 PERFORMANCE OF WORK.**

### **21-9.1 General.**

A person to whom a soil erosion and sediment control permit has been issued shall be responsible for the performance of all work in strict conformity with the approved Plan and all terms and conditions thereof, including the time schedule for exposure of land areas and for the construction and installation of improvements or the taking of other measures to prevent soil erosion, sedimentation and flooding. (Ord. No. 7-77 Art. 9 § 9.01; Ord. No. 2001-017 § 1)

### **21-9.2 Inspections by Township Engineer.**

a. The Township Engineer shall inspect every project for which a soil erosion and sediment control permit has been issued. The Township Engineer shall be responsible for enforcing compliance with the permit and the provisions and requirements of this chapter.

b. To assist in making inspections, a copy of the soil erosion and sediment control permit to which is attached a complete copy of the application with the accompanying Plan and other documents as well as any terms and conditions imposed by the approving authority shall be kept at the site at all times during construction.

c. Generally, inspections shall be conducted at the following times:

1. Prior to any construction or measures, in order to check details of location and field conditions.
2. Intermittently during construction and vegetative protection measures.
3. After completion of all construction and establishment of vegetation.
4. At least three (3) times during the maintenance period.
5. At other times as may be necessary because of unsatisfactory conditions.

d. The Township Engineer shall bring to the attention of the person to whom a soil erosion and sediment control permit has been issued, or to his agent in charge of work at the site, any deviations from the approved Plan and any other violations of this chapter in order that such deviations and violations may be immediately corrected.

(Ord. No. 7-77 Art. 9 § 9.02; Ord. No. 2001-017 § 1)

### **21-9.3 Stop Work Orders.**

When in his judgment the circumstances warrant such action, the Township Engineer may issue a stop work order to a person to whom a soil erosion and sediment control permit has been issued or to his agent in charge of work at the site. Thereupon, until all deviations from the approved Plan and any other violations of this chapter have been corrected, no work shall be carried on at the site except such work as is necessary to effect such correction. If such deviations and violations are not promptly corrected, the Township Engineer shall bring the matter to the attention of the Township Administrator for appropriate action by the Township. (Ord. No. 7-77 Art. 9 § 9.03; Ord. No. 2001-017 § 1)

### **21-9.4 Minor Modifications.**

When deemed necessary or appropriate by reason of conditions arising in the field during the course of the performance of work, the Township Engineer may order or approve amendments, changes or modifications of a minor nature in an approved plan. (Ord. No. 7-77 Art. 9 § 9.04)

### **21-9.5 Inspection Fees.**

In the event that the soil erosion and sediment control permit was issued in connection with the approval of an application for the development of land pursuant to the Land Development Ordinance of the Township of Chatham, no separate fee shall be required for the inspection of work performed pursuant to the permit by reason of the inspection fee provisions of subsection 30-17.6 of the Land Development Ordinance of the Township of Chatham.

In the event that the soil erosion and sediment control permit was not issued in connection with the approval of an application for the development of land pursuant to the Land Use Ordinance of the Township of Chatham, then there shall be no inspection fee for the initial inspection of work performed pursuant to the permit. If more than one (1) inspection of a property is required to be made by the Township Engineer by reason of a failure to comply with the terms and conditions of the permit, then the owner of the property shall pay to the Township an inspection fee for each additional inspection, which fee shall be in accordance with the schedule of inspection fees established and from time to time amended by the Township Committee pursuant to the provisions of subsection 30-17.6 of the Land Development Ordinance of the Township of Chatham. All fees for any additional inspections shall be paid to the Township prior to the issuance of a certification of completion of work in accordance with subsection 21-9.6 of this chapter. (Ord. No. 7-77 Art. 9 § 9.05; Ord. No. 15-91 § 3; Ord. No. 2001-017 § 1)

#### **21-9.6 Certificate of Completion.**

- a. When the Township Engineer finds that all construction or installation work and all measures required under an approved Plan have been fully performed in accordance with all the terms and conditions thereof, the Township Engineer shall issue a certification to that effect.
- b. The Township Engineer shall deliver five (5) copies of every such certification to the Township Clerk, who shall retain one (1) copy and forward one (1) copy to each of the following: the person to whom the soil erosion and sediment control permit was issued, the Township Construction Official, the Secretary of the Township Planning Board, and the Morris County Soil Conservation District.
- c. No Certificate of Occupancy shall be issued for any building or structure which is part of a project for which a soil erosion and sediment control permit has been issued until the aforementioned certification has been received by the Township Construction Official.  
(Ord. No. 7-77 Art. 9 § 9.06; Ord. No. 2001-017 § 1)

### **21-10 MAINTENANCE OBLIGATION AND MAINTENANCE GUARANTEE.**

#### **21-10.1 Maintenance Obligation.**

The person to whom a soil erosion and sediment control permit has been issued and the subsequent owners of the property subject of the permit shall be responsible for and shall maintain all construction and installation work and measures performed pursuant to the permit in good order for a period of two (2) years following the issuance of the certification by the Township Engineer as provided in subsection 21-9.6. (Ord. No. 7-77 Art. 10 § 10.01; Ord. No. 2001-017 § 1)

#### **21-10.2 Maintenance Guarantee.**

Following the issuance of the certification under subsection 21-9.6, the person to whom the soil erosion and sediment control permit was issued, or if such person is no longer the owner of the land comprising the project then the current owner or owners, shall furnish the Township with a maintenance guarantee in an amount of fifteen (15%) percent of the total cost of the improvements and measures called for by the approved Plan, as the total cost thereof shall be estimated upon completion by the Township Engineer. The maintenance guarantee shall meet the other requirements established by subsection 21-8.1 for performance guarantees, and it shall guarantee the payment of inspection fees in accordance with subsection 21-9.5 during the maintenance period. The maintenance guarantee shall be released by the Township at the end of the two (2) year period provided that the maintenance obligation set forth in subsection 21-10.1 has been fulfilled. (Ord. No. 7-77 Art. 10 § 10.02; Ord. No. 2001-017 § 1)

#### **21-10.3 Release of Performance Guarantee.**

Upon the acceptance of a maintenance guarantee in accordance with the provisions of this section, the Township shall release the performance guarantee furnished in accordance with the provisions of Section 21-8. (Ord. No. 7-77 Art. 10 § 10.03)

#### **21-11 APPEALS.**

(a) Any person who claims to be aggrieved by any decision or action of the Township Planning Board or Township Engineer in the administration of the provisions of this chapter may appeal to the Township Committee. The procedure followed with respect to such appeal shall be as set forth in Section 8 of the Municipal Land Use Law, N.J.S.A. 40:55-17.

(b) The State Soil Conservation Committee may, on its own motion or at the request of any person aggrieved of any action by the District, review the decision of the District and make whatever determinations it deems appropriate in the matter. Any person aggrieved of any decision of the District shall have ten days to appeal to the State Soil Conservation Committee or the District Board of Supervisors, which shall schedule a hearing and make a determination within 45 days of the petition for review. Any person against whom a stop-construction order is issued by the District shall also have the right to appeal to the State Soil Conservation Committee or to the District Board of Supervisors. Requests for appeal shall be addressed to:

Secretary, State Soil Conservation Committee  
PO Box 330  
Trenton, NJ 08625

District Board of Supervisors  
Morris County Soil Conservation District  
Courthouse  
P.O Box 900  
Morristown, NJ 07960

(c) The committee shall appoint and utilize the hearing office procedures of the Department of Agriculture for fact-finding and recommendations to the committee.

(d) The committee shall send a written notice to the appellant of hearing, stating:

- 1) The application number
- 2) Details of how decisions aggrieves appellant
- 3) Date, time and place of hearing

#### **21-12 PENALTIES AND INJUNCTIVE RELIEF.**

a. If any person violates any of the provisions of this chapter, any of the standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee, or any standard established by this chapter, or if any person fails to comply with the provisions of an approved Plan, or any terms or conditions imposed by the municipal authority approving such Plan, the Township may institute a civil action in the Superior Court of New Jersey for injunctive relief to prohibit and prevent such violation or violations and the court may proceed in a summary manner.

b. Any person who violates any of the provisions of this chapter, any of the standards for soil and sediment control in New Jersey as promulgated by the State Soil Conservation Committee, or any standard established by this chapter, and any person who fails to comply with the provisions of an approved Plan, or any terms or conditions imposed by the municipal authority approving such Plan shall be liable to a penalty of not less than twenty-five (\$25.00) dollars nor more than three thousand (\$3,000.00) dollars to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 and following). The Superior Court, County Court, County District Court and Municipal Court shall have jurisdiction to enforce the Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

(Ord. No. 7-77 Art. 12)

2. Severability.

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

3. Effective Date.

This ordinance shall take effect in accordance with law.

Introduced: March 11, 2010

TOWNSHIP OF CHATHAM, COUNTY OF  
MORRIS, STATE OF NEW JERSEY

Adopted: March 25, 2010

Attest:

BY: \_\_\_\_\_  
Nicole Hagner, Mayor

\_\_\_\_\_  
Gregory J. LaConte, Deputy Clerk

\#307832 v3 - Chatham Tp - SESC Ord