

TOWNSHIP OF MOORESTOWN

ORDINANCE NO. 9-2015

AN ORDINANCE OF THE TOWNSHIP OF MOORESTOWN AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MOORESTOWN AND ESTABLISHING RULES AND REGULATIONS PROHIBITING ENCROACHMENTS INTO PUBLIC OPEN SPACE LAND

WHEREAS, the Township has been experiencing an increase in the number of property owners encroaching upon adjoining dedicated open spaces within the Township; and

WHEREAS, the Township Council wishes to adopt regulations concerning these issues and to better regulate and provide for enforcement and penalty measures in order to continue to conserve and preserve dedicated open spaces.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey that the following provisions of the Code of the Township of Moorestown are amended as follows:

Section 1: Section ____ “Definitions” shall be amended to include the following:

Encroachment - any unauthorized activity on Township Open Space or Township Easement, unless specifically permitted pursuant to the written terms of the easement, that causes damage or alteration to the land, vegetation, drainage, groundwater or other features thereon or restricts the use thereof, including, but not limited to, erecting buildings, playsets or other structures; constructing paved or unpaved roads, driveways, or trails; altering or building stone walls or steps; altering, filling, or piping drainage conveyances; trimming or removing trees or other vegetation; sowing plants, gardens, lawns, or landscaping; installing fences or utilities; removing boundary markers; parking vehicles or depositing automotive parts; or dumping.

Dumping – depositing materials on Township Open Space including, but not limited to debris, soil, fill, waste, trash, chemicals, pollutants, fertilizer, petroleum products, paints, tires, metal, or lumber.

Township Easement – any easement granted to the Township that restricts the use of a portion of land either by deed, ordinance, or filed map.

Township Open Space – includes any land, park, forest, wildlife management area, refuge, preserve, sanctuary, wetlands area or waterbody owned by the Township or any easement deeded to the Township.

Section 2: Following Section 1, Section 2 shall be inserted as follows:

Violations.

No person may encroach or cause another person to encroach on Township Open Space or Township Easement without the express written permission of the Township Council. Violators of this provision shall remedy any encroachment or dumping to the satisfaction of the Township Engineering Department, Public Works Department or Board of Health. If Township Open Space or Township Easement is used in violation of or contrary to the provisions of this chapter within the Township limits, without obtaining express written permission from the Township Council, the Township may also institute an action to enjoin or take any other appropriate action or proceeding to halt or remedy such encroachment.

Section 3: Following Section 2, Section 3 shall be inserted as follows:

Enforcement.

The Zoning Officer shall be responsible for enforcement of the provisions of this chapter.

For a period of 90 days following the effective date of this Ordinance, the Township shall engage in a public outreach and education program to all Township property owners concerning the adoption of this Ordinance and the Township's regulatory program concerning encroachments upon public open space land.

Following the expiration of the 90-day public outreach and education program, the Township shall proceed with enforcement of the requirements of this Ordinance.

In the event that a complaint is received by the Township regarding an encroachment, or if the Zoning Officer, by observation or inspection, determines that there is an encroachment or invasion on any adjoining public property or public right of way, the Township shall notify the property owner in writing, by way of a Notice of Violation, that a violation exists, and demand the removal of the encroachment from such public property or public right of way and the demand confinement against future encroachment by the property owner.

If the property owner does not remove or contract for the removal of the encroachment on to public property or public right of way within **45 days** of the date of Notice of Violation, the Zoning Officer shall cause a citation to be issued with a penalty up to **\$500.00** for each day the violation continues, enforceable through the Municipal Court of the Township of Moorestown.

When the Township identifies an encroachment upon public property or public right of way, following the issuance of a Notice of Violation to the property owner and the property owner's failure to timely comply with the requirements of the Notice of Violation, the Township may, at its discretion, remove or contract for the removal of the

encroachment from the Township property or public right of way, the cost of which shall be the responsibility of the property owner and shall be assessed as a lien against the property owner on which the encroachment originated.

Additional fines may be assessed by the Zoning Officer pursuant to the severity of the encroachment issue.

Section 4: Following Section 3, Section 3 shall be inserted as follows:

Penalties.

Any property owner, agent, person, contractor or corporation who violates any of the provisions of this chapter or who fails to comply with any of the requirements thereof or causes another person to violate any provisions of this chapter or who refuses reasonable opportunity to inspect any premises shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be subject to the penalty stated in Section 3 above.

Section 5: Effective Date. This ordinance shall take effect upon its final passage, adoption, and publication on the earliest date permitted by law.

Section 6: Severability. If any section, paragraph, sentence, clause, phrase, term, provision or part of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 7: Short Title. This ordinance may be cited as Ordinance No. 9-2015.