

**AGENDA
COUNCIL MEETING
315 WESTFIELD AVE., CLARK, NJ 07066
October 16, 2023
7:30 pm**

ROLL CALL:

Councilwoman Albanese _____ Councilman O'Connor _____
Councilman Hund _____ Councilman Toal _____
Councilman Mazzarella _____ Council President Smith _____
Councilman Minniti _____

PLEDGE OF ALLEGIANCE TO THE FLAG: MOMENT OF SILENCE

This meeting is in compliance with the Open Public Meetings Act (Chapter 231, P.L.1975) as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Star Ledger, Union County Hawk, Union County Local Source, and TAP into Clark, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements, the Official Website of the Township and the proper filing of said Notice. Formal action may be taken at this meeting.

COMMUNICATIONS FROM THE MAYOR AND REPORTS OF TOWNSHIP OFFICERS:

Mayor:

Township Officers: Reports given this evening will be available in the Clerk's office and on the township website www.ourclark.com

REPORT OF COUNCIL COMMITTEES:

ORDINANCES, APPROPRIATIONS AND CLAIMS:

PUBLIC HEARING ON PROPOSED ORDINANCES:

(No objections have been received in connection with the proposed Ordinances)

1. **23-28 AN ORDINANCE TO AMEND CHAPTER 48, SECTION 48-5 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED EMPLOYEE POLICY AND PROCEDURE MANUAL**
2. **23-29 AN ORDINANCE TO ADD A NEW CHAPTER 358, ENTITLED "MOTION PICTURES," TO PART II, ENTITLED "GENERAL LEGISLATION," OF THE CODE OF THE TOWNSHIP OF CLARK**

INTRODUCTION OF PROPOSED ORDINANCES:

The public hearing on each of the following ordinances will be held on November 20.

3. **23-30 AN ORDINANCE TO AMEND SECTION 33 OF CHAPTER 347 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "VEHICLES AND TRAFFIC"**
4. **23-31 AN ORDINANCE AMENDING PART II, GENERAL LEGISLATION, ADDING A CHAPTER 307, ENTITLED "PRIVATELY-OWNED SALT STORAGE FACILITIES," TO THE ORDINANCES OF THE TOWNSHIP OF CLARK**

5. **23-32 AN ORDINANCE TO AMEND ARTICLE I OF CHAPTER 306 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED “STORMWATER MANAGEMENT”**
6. **23-33 AN ORDINANCE AMENDING PART II, CHAPTER 338, ENTITLED “TREES” OF THE ORDINANCES OF THE TOWNSHIP OF CLARK**

PAYMENT OF CLAIMS:

Councilman O’Connor, Chairman of Finance Committee has reviewed the Current and Capital expenditures received and encumbered through October 11, 2023 in the amount of \$306,209.44

CITIZEN HEARING ON THE AGENDA:

Each person addressing the Council shall give their name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 5 minutes in duration.

The Public may speak on any agenda item that does not have its own public hearing

RESOLUTIONS:

7. Approving the Clark Police Department to join the Arrive Together Program and authorizing the Chief of Police to execute and deliver the Memorandum of Understanding
8. Authorizing the Chief of Police to execute and deliver the Memorandum of Understanding with the Union County Prosecutor’s Office to participate in the Municipal Task Force
9. Authorizing the Qualified Purchasing Agent to award contracts having an anticipated value in excess of \$17,500 but below the bid threshold in accordance with the P.L. 2023, c. 30
10. Authorizing the purchase and installation of equipment for two Police Vehicles through State Contracts in an amount not to exceed \$38,898.65
11. Cancelling unexpended balances in ordinances no longer needed for the purposes stated in the original capital ordinances

CONSENT AGENDA RESOLUTIONS:

12. Authorizing the Tax Collector to refund overpayment of sewer fees in the amount of \$2,285.23
13. Authorizing the Tax Collector to apply sewer account balance adjustments as credit in the amount of \$21,726.90

NEW BUSINESS ON THE CALENDAR:

PUBLIC COMMENTS:

Each person addressing the Council shall give their name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 5 minutes in duration.

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

ADJOURNMENT:

TOWNSHIP OF CLARK
Ordinance No. 23-28
Adopted _____

PH 1

Introduced: September 18, 2023 Public Hearing: October 16, 2023

**AN ORDINANCE TO AMEND CHAPTER 48, SECTION 48-5
OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED EMPLOYEE POLICY
AND PROCEDURE MANUAL**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 48, Section 48-5 of the Code of the Township of Clark is hereby amended as follows:

WHEREAS, the Township of Clark has previously adopted an Employee Policy and Procedure Manual; and

WHEREAS, the Manual was last revised February 2023 pursuant to Ordinance 23-08; and

WHEREAS, the Governing Body of the Township of Clark wishes to amend the aforesaid Ordinance and adopt a revised and updated Policy and Procedure Manual;

NOW, THEREFORE, BE IT ORDAINED as follows:

SECTION 1: Section 48-5 of the Code of the Township of Clark is hereby amended as follows:

All Township employees are subject to and shall otherwise abide by the policies and procedures set forth in the Employee Policy and Procedure Manual adopted 1996, revised 2003, 2008, 2010, 2012, 2014, 2016, 2018, 2021, January and November 2022 and February 2023 the provisions contained therein shall be fully operative regarding all aspects of employment, except to the extent that the same may conflict with or be inconsistent with such policies and procedures as may be specified in any collective bargaining agreement(s) which agreement(s) shall supersede the provisions hereof or any state or federal codes, rules or regulations which shall preempt the provisions hereof. All Township employees shall receive a copy of said revised manual upon the adoption of this Ordinance or upon the commencement of their employment as the case may be.

SECTION 2: In all other respects Section 48-5 et seq. is hereby ratified, restated and reconfirmed.

SECTION 3: Any Ordinance or parts thereof inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 4. This Ordinance shall take effect upon adoption and upon publication according to law.

PH 2

TOWNSHIP OF CLARK
Ordinance No. 23 - 29
Adopted _____

Introduced: September 18, 2023 Public Hearing: October 16, 2023

AN ORDINANCE TO ADD A NEW CHAPTER 358, ENTITLED "MOTION PICTURES," TO PART II, ENTITLED "GENERAL LEGISLATION," OF THE CODE OF THE TOWNSHIP OF CLARK

BE IT ORDAINED by the Governing Body of the Township of Clark that a new Chapter 358, entitled "Motion Pictures," be and hereby is added to Part II, entitled "General Legislation," of the Code of the Township of Clark, stating as follows:

§ 1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FILMING

The taking of still or motion pictures either on film or videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, on computers, on other electronic devices, in theaters or for institutional uses. The provisions of this chapter shall not be deemed to include the "filming" of news stories within the municipality.

MAJOR MOTION PICTURE

Any film which is financed and/or distributed by a major motion picture studio, including but not limited to the following:

- A. Universal Pictures.
- B. Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel-Aire.
- C. Paramount, including MTV Films and Nickelodeon Movie.
- D. 20th Century Fox, including Fox Searchlight.

- E. Sony/Columbia.
- F. Disney/Miramax.
- G. MGM/United Artists.
- H. Dreamworks.
- I. Any major streaming service, such as Netflix, Hulu, or Amazon Prime Video.
- J. Any film for which the budget is at least \$5,000,000.

Recurrent weekly television series programming.

PUBLIC LANDS

Any and every public street, highway, sidewalk, square, public park or playground or any other public place within the municipality which is within the jurisdiction and control of the municipality.

§ 2 Permit required.

A. No person or organization shall film or permit filming on public or on private property where such filming involves the use of public property for the operation, placement or temporary storage of vehicles or equipment utilized in such filming, including, but not limited to, any temporary structure, barricade or device intended to restrict or block off pedestrian or vehicular traffic, without first having obtained a permit from the office of the Zoning Officer, which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference to day or dates, and the hours during such day or dates that such filming will take place. Said permit must be readily available for inspection by township officials at all times at the site of the filming.

B. All permits shall be applied for and obtained from the office of the Zoning Officer during normal business hours. Applications for such permits shall be accompanied by a permit fee in the amount established by this chapter in § 10 herein.

C. If a permit is issued and, due to inclement weather or other good cause, filming does not in fact take place on the dates specified, at the request of the applicant, the Zoning Officer shall issue a new permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this permit.

§ 3 Issuance of permits.

A. No permits will be issued unless applied for at least fifteen (15) days before the requested shooting date; provided, however, that the Mayor or Business Administrator, in his or her judgment, may waive the fifteen (15)-day period if the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.

B. No permit shall be issued for filming upon public lands unless the applicant shall provide the municipality with satisfactory proof of the following:

(1) Proof of insurance coverage as follows:

(a) For bodily injury to any one person in the amount of \$1,000,000 and any occurrence in the aggregate amount of \$2,000,000.

(b) For property damage for each occurrence in the aggregate amount of \$500,000.

(2) An agreement, in writing, whereby the applicant agrees to indemnify, defend and save harmless the municipality from any and all liability, cost and expense (including without limitation, reasonable counsel fees, costs and expenses), claim, action and damages resulting from the use of public lands.

(3) The hiring of an off-duty police officer for the times indicated on the permit as per § 145-3 E

C. The hiring of a fire official to inspect the site and the equipment to be used, if deemed necessary, as required by § 8 "Copies of permit; inspections" for the times indicated on the permit as per § 161-48. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Police Department with respect thereto.

§ 4 Interference with public activity; notice of filming.

A. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets.

B. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands. Where the applicant's production activity, by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents, these parties shall be given written notice of the filming at least fourteen (14) days prior to the

requested shooting date and be informed that objections may be filed with the Municipal Clerk, said objections to form a part of applicant's application and be considered in the review of the same. Proof of service of notification to adjacent owners shall be submitted to the Construction Official within two (2) days of the requested shooting date.

§ 5 Refusal to issue permit; employment of patrolmen and electrician.

A. The Mayor or Business Administrator may refuse to issue a permit whenever he or she determines, on the basis of objective facts and after a review of the application and a report thereon by the Police Department and by other township agencies involved with the proposed filming site, that filming at the location and/or the time set forth in the application would violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.

B. Further, the Township reserves the right to require one (1) or more on-site patrolmen in situations where the proposed production may impede the proper flow of traffic, the cost of said patrolman to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be similarly required if the production company does not have a licensed electrician on staff, the cost of said on-site licensed electrician also shall be borne by the applicant as a cost of production.

§ 6 Appeals.

A. Any person aggrieved by a decision of the Mayor or Business Administrator denying or revoking a permit or a person requesting relief may appeal to the Township Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Township Clerk.

B. An appeal from the decision of the Mayor or Business Administrator shall be filed within 10 days of the decision. The Township Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The decision of the Township Council shall be in the form of a resolution supporting or reversing the decision of the Mayor or Business Administrator at the first regularly scheduled public meeting of the Township Council after the hearing on the appeal, unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted within the time required, the decision of the Manager shall be deemed to be reversed, and a permit shall be issued in conformity with the application or relief shall be deemed denied.

§ 7 Waiver of requirements of chapter by Mayor or Business Administrator.

The Mayor or Business Administrator may authorize a waiver of any of the requirements, provisions or restrictions of this chapter if it is determined that a waiver thereof may be granted without endangering the public health, safety and welfare. In determining whether to issue a waiver, the following factors should be considered:

- (1) Potential traffic congestion at the location.
- (2) The applicant's ability to remove the applicant's vehicles and equipment from the public streets or other public property.
- (3) The extent to which the applicant is requesting restrictions on the use of public streets or public parking facilities during filming.
- (4) The nature of the filming, including whether filming will take place indoors or outdoors, and the proposed hours for filming.
- (5) The extent to which the filming may affect adjoining and nearby property owners and occupants.
- (6) The Township's prior experience with the applicant, if any.

§ 8 Copies of permit; inspections.

Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Prevention Bureau or other township inspectors to inspect the site and the equipment to be used, if deemed necessary. The applicant shall comply with all safety instructions issued by the Fire Prevention Bureau or other township inspectors.

§ 9 Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Township for any lost revenue, cost or expense, such as but not limited to, parking meter revenue or other revenues that the Township was prevented from earning because of filming, or repairs to public property.

§ 10 Fees.

The schedule of fees for the issuance of permits authorized by this chapter are as follows:

- A. Basic filming permit: \$100. Where an applicant requests a waiver of the provision of § 3A which requires that the application be made at least fifteen (15) before the requested shooting date, necessitating expedited processing of a permit application but no fewer than

24 hours before the filming date, the basic filming permit fee for processing the application on an expedited basis shall be \$150

B. Daily filming fee payable in addition to the basic filming permit when filming on public property: not to exceed \$1,000 per day.

C. Daily filming fee payable for major motion picture when filming on public property: not to exceed \$4,000 per day.

D. Set-up and break-down fee payable in addition to the basic filming permit and filming fee on public property not to exceed \$500 per day.

E. Set-up and break-down fee payable for a major motion picture in addition to the basic filming permit and filming fee on public property not to exceed \$2,000 per day.

F. Fire Prevention Inspections would include, but not be limited to, tent, generator, occupancy, food set-up, including, without limitation, cooking and food truck inspections. Electrical (including, without limitation, battery) storage, gasoline storage and propane storage inspections, if needed, also may be required as per Article VII Enforcement of Uniform Fire Safety Act and fees assessed in § 161-47.

G. Filming permit for nonprofit applicants filming for educational purposes, including student films (no daily rate required): \$25.

H. Filming on private property: no daily filming fee will be imposed.

§ 11 Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

Effective Date: November 8, 2023

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

SALVATORE BONACCORSO
Mayor

Ord23/9-18 23-29NewCh358MotionPictures

		Motion to Introduce	Second	Motion to Adopt	Second	Aye	Nay	Abstain	Absent
	Albanese								
Adopted	Hund								
Adopted as Amended	Mazzarella								
Defeated	Minniti								
Tabled	O'Connor								
Withdrawn	Toal								
	Smith								
	Entire Council								
	TOTAL								

TOWNSHIP OF CLARK
Ordinance No. 23 - 30
Adopted _____

INTRO 3

Introduced: October 16, 2023 Public Hearing: November 20, 2023

**AN ORDINANCE TO AMEND SECTION 33 OF CHAPTER 347
OF THE CODE OF THE TOWNSHIP OF CLARK
ENTITLED "VEHICLES AND TRAFFIC"**

WHEREAS the Township of Clark Police Department recommends the installation of a "STOP" sign on Grandview Avenue at its intersection with Carolina Street; and

WHEREAS the Governing Body of the Township of Clark desires, pursuant to N.J.S.A. 39:4-140, to follow the recommendations of the Township of Clark Police Department to promote the health, safety, and welfare of its residents.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Clark that the following Section of Chapter 347 of the Code of the Township of Clark entitled "Vehicles and Traffic" is hereby amended in the following particulars:

SECTION 1: Article V entitled "Traffic Regulations" Section 347-33 entitled "Stop Intersections" is amended and supplemented so as to include the following:

<u>Intersection</u>	<u>"STOP" Sign on:</u>
Grandview Avenue and Carolina Street	Both sides of Grandview Avenue

SECTION 2: All other provisions of Section 347-33 remain in effect.

SECTION 3: **Inconsistent Ordinances:** Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4: **Severability:** If any clause, sentence, section or other portion of this ordinance, or the application thereof to any person or circumstance, shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

SECTION 5: **Effective Date:** This Ordinance shall take effect upon adoption and publication, according to law.

INTRO 4

TOWNSHIP OF CLARK

Ordinance No. 23 - 31

Adopted _____

Introduced: October 16, 2023 Public Hearing: November 20, 2023

AN ORDINANCE AMENDING PART II, GENERAL LEGISLATION, ADDING A CHAPTER 307, ENTITLED "PRIVATELY-OWNED SALT STORAGE FACILITIES," TO THE ORDINANCES OF THE TOWNSHIP OF CLARK

§ 307-1 Purpose.

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater. This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (i.e., privately-owned) in the Township of Clark to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 307-2 Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "De-icing materials" means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.
- B. "Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- C. "Storm drain inlet" means the point of entry into the storm sewer system.
- D. "Permanent structure" means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;

2. The design shall prevent stormwater run-on and run-through, and the fabric cannot leak;
3. The structure shall be erected on an impermeable slab;
4. The structure cannot be open sided; and
5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

E. "Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

§ 307-3 De-Icing Material Storage Requirements.

A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th, but no longer than 30 days without prior written approval from the Construction Code Official

1. Materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
2. Materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, and/or ditches or other stormwater conveyance channels;
3. Materials shall be formed in a cone-shaped storage pile;
4. All storage piles shall be covered as follows:
 - a. The cover shall be waterproof, impermeable, and flexible;
 - b. The cover shall extend to the base of the pile(s);
 - c. The cover shall be free from holes or tears;
 - d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
 - e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.
 - (1) Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used.

5. The site shall be free of all de-icing materials between April 16th and October 14th.

B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of solid deicing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15th - April 15th.

C. The property owner shall designate a person(s) responsible for operations at the site where these materials are stored, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met.

§ 307-4 Exemptions.

This ordinance does not apply to facilities where the stormwater discharges from salt storage activities are regulated under another NJPDES permit.

§ 307-5 Enforcement.

This ordinance shall be enforced by the Construction Code Official of Clark during the course of ordinary enforcement duties.

§ 307-6 Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows:

- (a) The fine for any offense which is a first repeat offense shall be \$500, plus costs; and
- (b) The fine for any offense which is a second repeat offense, or any subsequent repeat offense shall be \$2,500, plus costs.

§ 307-7 Severability.

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

§ 307-8 Effective Date.

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Effective Date: December 12, 2023

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

SALVATORE BONACCORSO
Mayor

Ord23/10-16 23-31Ch307Privately-ownedSaltStorage

		Motion to Introduce	Second	Motion to Adopt	Second	Aye	Nay	Abstain	Absent
	Albanese								
Adopted	Hund								
Adopted as Amended	Mazzarella								
Defeated	Minniti								
Tabled	O'Connor								
Withdrawn	Toal								
	Smith								
	Entire Council								
	TOTAL								

INTRO 5

Introduced: October 16, 2023 Public Hearing: November 20, 2023

**AN ORDINANCE TO AMEND ARTICLE I OF
CHAPTER 306
OF THE CODE OF THE TOWNSHIP OF CLARK
ENTITLED "STORMWATER MANAGEMENT"**

WHEREAS the New Jersey Department of Environmental Protection has offered a "streamlined" stormwater management ordinance which the Township desires to enact.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Clark, Union County, New Jersey, that the following Article I of Chapter 306 of the Code of the Township of Clark entitled "Stormwater Management" be and hereby is amended and restated in its entirety as follows:

SECTION 1: Article I of Chapter 306 of the Code of the Township of Clark entitled "Stormwater Management" be and hereby is amended by repealing its current text and restating the same as follows:

ARTICLE I Stormwater Management

§ 306-1. Scope and purpose.

A. Policy statement.

- (1) Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including Green Infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low-impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for green infrastructure, water quality, quantity, and groundwater recharge.
- (2) In addition to the proper design and construction of stormwater management facilities, continued inspection and maintenance will be required through the life of each facility. This oversight includes periodic inspection of stormwater facilities and review of operation and maintenance records kept by each property owner; including inspection logs, maintenance records, and stormwater facility location information.

B. Purpose.

- (1) This article is enacted in accordance with the Stormwater Pollution Prevention Plan (SPPP) of the Township of Clark and is enacted with the purpose to establish minimum stormwater management requirements and controls for "major development," as defined herein.

- (2) The Township of Clark is also subject to compliance with the New Jersey Municipal Stormwater Regulation Program. Under this program, the Township of Clark holds a municipal separate storm sewer system (MS4) permit that requires the municipality to have a system of oversight in place to ensure adequate long-term operation and maintenance of stormwater facilities approved but not owned or operated by it. Stormwater facilities include, among other devices and structures, stormwater management basins.
- (3) A system of oversight is achieved by the implementation of local ordinances which are required by the MS4 permit with the legal authority being derived from the Federal Clean Water Act, the New Jersey Water Pollution Control Act and the New Jersey Stormwater Management Rules. The Township's system of oversight requires collaboration with the owners or operators of stormwater facilities.
- (4) The Township of Clark also is establishing a policy for addressing stormwater management for development not meeting the criteria of major development. Design standards and design requirements not included herein may be found in a publication entitled "New Jersey Stormwater Best Management Practices Manual" (BMP Manual) that may be found at <http://www.dep.nj.gov/stormwater/bmp-manual/>.
The Stormwater Management Rules, N.J.A.C. 7:8 specify stormwater management standards that are mandatory in New Jersey for new major development. The BMP Manual was developed by the NJDEP to provide guidance to address the standards in the Stormwater Management Rules, N.J.A.C. 7:8.

C. Applicability.

- (1) This article shall be applicable to all site plans and subdivisions for developments that require either preliminary or final site plan or subdivision review:
- (2) This article shall also be applicable to all major developments undertaken by the Township of Clark.
- (3) Applicability of this ordinance to major developments shall comply with last amended N.J.A.C. 7:8-1.6, incorporated herein by reference.
- (4) This article is applicable to developments that do not otherwise meet the NJDEP's definition of Major Development.

D. Compatibility with other permit and ordinance requirements. Development approvals issued for subdivisions and site plans pursuant to this article are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this article shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This article is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§ 306-2. Definitions.

- A. For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this article clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number

include the plural number. The word "shall" is always mandatory and not merely directory. The definitions used in this ordinance shall be the same as the last amended Stormwater Management Rules at N.J.A.C. 7:8-1.2, incorporated herein by reference.

§ 306-3. Design and performance standards for stormwater management measures.

- A. This section establishes design and performance standards for stormwater management measures for major development intended to minimize the adverse impact of stormwater runoff on water quality and water quantity and loss of groundwater recharge in receiving water bodies. Design and performance standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-5, incorporated herein by reference.
- B. Minimum development design criteria. Development that does not meet the criteria of a major development shall address the requirements herein to the maximum extent practicable. At a minimum, applicants proposing such development shall document that there is no additional runoff draining to adjoining properties. Runoff from new impervious coverage shall be routed to the nearest street or municipal storm drainage system and not to adjacent properties.

§ 306-4. Solids and Floatable Materials Control Standards:

- A. Site design features identified under Section III above, or alternative designs in accordance with Section 3 above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 4.A.2 below.
 - 1. Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - i. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
 - ii. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Note that the Residential Site Improvement Standards at N.J.A.C. 5:21 include requirements for bicycle safe grates.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

- iii. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

2. The standard in 4.A.1. above does not apply:
 - i. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
 - ii. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
 - iii. Where flows from the water quality design storm as specified in the last amended Stormwater Management rules at N.J.A.C. 7:8 et seq. are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
 - b. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

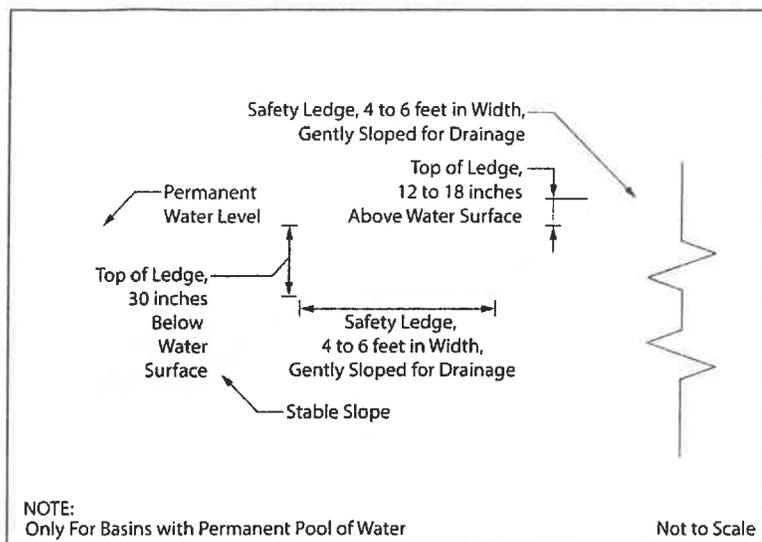
- iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- v. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§ 306-5. Safety Standards for Stormwater Management Basins:

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin. Safety standards for stormwater management measures shall comply with last amended N.J.A.C. 7:8-6, incorporated herein by reference.

B. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



§ 306-6. Requirements for a Site Development Stormwater Plan:

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 6.C below as part of the submission of the application for approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit two (2) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 6.C of this ordinance.

B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Submission of Site Development Stormwater Plan

The following information shall be required:

1. Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other

wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plans

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Section III are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- i. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- ii. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- i. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 3 of this ordinance.
- ii. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high-water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 7.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipality's review engineer, waive submission of any of the requirements in Section 6.C.1 through 6.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 306-7. Maintenance and repair.

A. Applicability. Projects subject to review as in § 306-1C of this article shall comply with the requirements of the BMP Manual - Appendix D, Section X B regarding general maintenance and Section X C regarding performance and maintenance guarantees.

B. Inspection, oversight and owner responsibilities.

(1) All developments that contain stormwater management devices within the Township are subject to the stormwater maintenance permit and periodic inspection. An annual stormwater maintenance permit is required in January of each year. Stormwater structures and devices listed herein are described in New Jersey Stormwater Best Management Practices Manual, latest edition, issued by the NJDEP and can be found on its website at <http://www.dep.nj.gov/stormwater/bmp-manual/>. The annual permit and inspection fees for each stormwater device are as follows:

- (a) Drywell up to 1,000 cf of storage: \$50.
- (b) Drywell over 1,000 cf of storage: \$250.
- (c) Vegetative swales: \$250 for the first 100 linear feet and \$50 for each additional 100 linear feet.
- (d) Infiltration basin, aboveground: \$500.
- (e) Infiltration basin, below-ground: \$750.
- (f) Detention basin, aboveground: \$500.
- (g) Detention basin, below-ground: \$750.
- (h) Wet pond: \$750.
- (i) Rain garden: \$50.
- (j) Bioretention basin: \$750.
- (k) Porous pavement/pervious surface: \$500.
- (l) Constructed wetland: \$750.
- (m) Manufactured treatment device: \$500.
- (n) Storm sewer collection system: \$50.

(2) Recordkeeping, inspection and repair guidelines and noncompliance penalties.

- (a) Quarterly maintenance records shall be submitted to the Township of Clark Clerk's office. Report forms and report guidance can be obtained in the NJDEP - NJPDES Monitoring Report Form Reference Manual (81 pp). The maintenance records for the periods of:

- [1] January 1 to March 31 must be reported no later than April 30.
- [2] April 1 to June 30 must be reported no later than July 31.
- [3] July 1 to September 30 must be reported no later than October 31.
- [4] October 1 to December 31 to be reported no later than January 31.

Note: Deficient maintenance items identified in this process must be rectified and the owner of the stormwater management facility shall complete the required repairs within 30 days of date of the report. Documentation of the repairs shall be submitted to the Township.

- (b) Mechanically treated structures which utilize filters shall have on record and be provided to the Township the requirements of the replacement of the filters as per manufacturer and the dates the filters have been replaced.

- (c) Inspections shall include but not be limited to:

- [1] Detention basin outflow structures, escape provisions as outlined in N.J.A.C. 7:8-6.2 and all components;
- [2] Vegetation;
- [3] Trash racks and overflow grates;
- [4] Embankment erosion;
- [5] Sediment removal and pond maintenance; and
- [6] Catch basin and inlet cleaning.

- (d) The owner of the stormwater management measure, immediately upon notice, shall complete repairs that may adversely affect the public's health, safety and welfare.

Note: The permittee is responsible for understanding and meeting all permit requirements. Permittees should read this entire chapter and their permit completely and thoroughly to ensure their understanding of all limitations and conditions contained therein. Submission of improperly completed monitoring report forms (MRF) is a violation of the NJPDES permit and this chapter which may result in the assessment of penalties against the permittee and associated costs.

- (3) The following requirements of N.J.A.C. 7:8-5.8 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department:

- i. If the maintenance plan identifies a person other than the property owner as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation; and

- ii. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
- (4) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- (5) Nothing in this section shall preclude the Township in which the major development is located from requiring the posting of a performance or maintenance guaranty in accordance with N.J.S.A. 40:55D-53.

§ 306-8. Violations and penalties.

- A. General penalty. Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this article shall, upon conviction thereof, be liable to the penalty stated in Chapter 1, Article III, General Penalty.
- B. NJPDES violations and recovery.
 - (1) A person who has not complied with § 306-10D, Inspection, oversight and owner responsibilities, and who, after notice, refuses to implement and maintain soil erosion control and stormwater runoff control measures and facilities in conformance with these regulations shall be subject to a fine of not more than \$1,000 or 90 days in jail, or both, plus the cost of prosecution. Each act of violation, and every day upon which any violation shall occur or continues to occur, shall constitute a separate offense. In addition, persons failing to obtain an annual stormwater maintenance permit and persons failing to provide quarterly maintenance records shall be subject to a fine of not more than \$50 and \$100 respectively.
 - (2) Repeat offenses under this chapter shall be subject to increased fines as provided for below. As used in this section, "repeat offenses" means a second or subsequent violation of the same requirement or provision of this chapter for which the person admits responsibility or is determined to be responsible. The increased fine for repeat offenses shall be as follows:
 - (a) The fine for any offense which is a first repeat offense shall be \$500, plus costs; and
 - (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$2,500, plus costs.
 - (c) In addition to other remedies under this chapter, the Township may bring an action against the owner of the property for which the violation exists for the costs incurred in cleaning up and abating the offending condition.
 - [1] Failure of owner to repair; repair by Township. If the property owner receiving notice shall not comply with the requirements of such notice, the Engineer, upon filing due

proof of service in the office of the Township Clerk, shall cause the required work to be done.

- [2] Lien. The cost of such work shall be certified by the Engineer to the Township Council, who shall examine same and, if found correct, shall cause such cost to become a lien upon the property for which such work was done, to the same extent that assessments for local improvements become liens, and such cost shall be collected in the manner provided by law for the collection of such other assessments and shall bear interest at the same rate.
 - [3] Lien to be noted on lien searches. In all searches against any lands affected by any such improvement, it shall be the duty of the Township official making such search to set out the amount due and unpaid for such repairs or improvements, if such amount appears on record. If the amount of such cost shall not yet have been reported as herein provided for, it shall be the duty of such officer to set forth on the search, in brief, a reference to repairs or improvements and the fact that notice was given to the owner to repair.
 - [4] Additional liability of owner. In addition thereto, the Township may have an action to recover such amount against the owner of such lands in any court having competent jurisdiction thereof, and a certified copy of the certificate of lien shall, in such action, be prima facie evidence of the existence of the debt due from such owner to the Township.
- (d) In addition, should an owner violate the requirements of this article on more than two occasions, the Township shall require the submission of a maintenance bond, renewable annually, in the amount to be determined by the Township Engineer, to guarantee future maintenance.

§ 306-9. Severability.

Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

§ 306-10. Effective date.

This article shall be in full force and effect from and after its adoption and any publication as required by law.

SECTION 2: Inconsistent Ordinances: Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3: Effective Date: This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date: December 12, 2023.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

SALVATORE BONACCORSO
Mayor

Ord23/ 10-16 23-32Ch306StormwaterManagement

		Motion to Introduce	Second	Motion to Adopt	Second	Aye	Nay	Abstain	Absent
	Albanese								
Adopted	Hund								
Adopted as Amended	Mazzarella								
Defeated	Minniti								
Tabled	O'Connor								
Withdrawn	Toal								
	Smith								
	Entire Council								
	TOTAL								

TOWNSHIP OF CLARK

INTRO 6

Ordinance No. 23 - 33

Adopted _____

Introduced: October 16, 2023 Public Hearing: November 20, 2023

AN ORDINANCE AMENDING PART II, CHAPTER 338, ENTITLED "TREES" OF THE ORDINANCES OF THE TOWNSHIP OF CLARK

WHEREAS, the Township of Clark desires to amend Part II, Chapter 338, entitled "Trees" of the Ordinances of the Township of Clark, to establish requirements for tree removal and replacement and penalties for noncompliance in the Township of Clark to protect the environment, public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Clark, County of Union, State of New Jersey, as follows:

Section 1. Definitions. The following definitions be and hereby amend, supplement and are added to Article IV, Section 338-13, Part II, of Chapter 338, entitled "Trees" of the Ordinances of the Township of Clark:

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

"Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this Ordinance.

"Critical Root Radius (CRR)" means the zone around the base of a tree where the majority of the root system is found. The zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a CPR of 9' (6" x 1.5').

"Diameter at Breast Height (DBH)" means the diameter of the trunk of a tree generally measured at a point four and a half feet above ground level from the downhill side of the tree.

"Hazard tree" means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or threatens public health, safety, or welfare.

"Person" means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

"Planting strip" means the part of a street right-of-way between the public right-of-way adjacent to the portion of the street reserved for vehicular traffic abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

"Street Tree" means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent (or specific distance) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian figures.

"Tree" means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

"Tree Caliper" means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

"Tree removal" means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, and improper grading and/or soil compaction around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of tree treatments intended to manage invasive species.

Approved list of replacement tree species and planting standards shall be in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey 2017 Edition or more current version. Alternative selections may be allowed with the approval of the Shade Tree Director.

Section 2. Application and Replacement Requirements. Article IV, Section 338-15, Part II, of Chapter 338, entitled "Trees" of the Ordinances of the Township of Clark, be and hereby is repealed and is replaced by the following in instead:

A. **Application Process.** Any person planning to remove a street tree with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to the Director of Public Works. No tree shall be removed

until the Director of Public Works or the Director of the Shade Tree Commission has reviewed and approved the Tree Removal Application.

B. Tree Replacement Requirements.

1. Any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under subsection D of this Section 2 of this Ordinance, shall be subject to the requirements of the Tree Replacement Requirements Table below. Applicants will be subject to and must pay when applying, an application fee as per the Tree Replacement Requirements Table below.

2. For Applicants, other than Homeowner.

Within a five-year period, any person, other than a homeowner, who removes one or more tree(s) with a DBH of 6" or more per acre, unless exempt under subsection D of this Section 2 of this Ordinance, shall be subject to the requirements of the Tree Replacement Requirements Table below.

3. For Homeowner Applicants.

Any tree removed by a homeowner shall be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet the Tree Replacement Criteria in the table below.

5. Replacement Tree(s).

Replacement tree(s) shall meet the Required Actions in Table below, and shall be planted within twelve (12) months of the date of removal of the original tree(s). Replacement tree(s) shall be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months after such tree(s) they die. Trees planted in temporary containers or pots do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Required Action	Application Fee <i>[Municipality may choose to include and determine appropriate fees.]</i>
1	DBH of 2.5" (for street trees) or 6" (for other trees) to 12.99"	Replant 1 tree in accordance with the approval the Director of Public Works or the Director of the Shade Tree Commission, with a minimum DBH of 1.5" for each tree removed.	\$30.00

2	DBH of 13" to 22.99"	Replant 2 trees in accordance with the approval the Director of Public Works or the Director of the Shade Tree Commission, with minimum DBHs of 1.5" for each tree removed.	\$30.00
3	DBH of 23"to 32.99"	Replant 3 trees with minimum DBHs of 1.5" for each tree removed.	\$30.00
4	DBH of 33"or greater	Replant 4 trees with minimum DBHs of 1.5" for each tree removed.	\$30.00

C. Replacement Alternatives.

If the Director of Public Works or the Director of the Shade Tree Commission, determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:

1. Plant replacement trees in a separate area(s) approved by the Director of Public Works or the Director of the Shade Tree Commission.
2. Pay a fee of \$375.00 per tree removed. This fee shall be placed into a fund dedicated to tree planting.

D. Exemptions.

All persons shall comply with the tree replacement standard outlined above, except in the following cases. Proper justification shall be provided, in writing, to the municipality by all persons claiming one or more of the exemptions as set forth below:

1. Residents who remove less than four (4) trees per acre that fall into category 1, 2 or 3 of the Tree Replacement Requirements Table within a five-year period.
2. Tree farms in active operation, nurseries, fruit orchards, and garden centers. The requirement of proper justification shall be met by submission of a written description certifying the active lawful operation of a tree farm, nursery, fruit orchard, or garden center and photographs substantiating same, to the satisfaction of the Director of Public Works or the Director of the Shade Tree Commission.
3. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan. The requirement of proper justification shall

be met by submission of a written description certifying that the property is used for the practice of silviculture under an approved forest stewardship or woodland management plan, copies of all such approvals thereof in writing and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Director of Public Work or the Director of the Shade Tree Commission.

4. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan. The requirement of proper justification shall be met by submission of a written description certifying that the property is subject to a New Jersey Department of Environmental Protection (NJDEP)-approved or U.S. Environmental Protection Agency (EPA)-approved environmental clean-up, or NJDEP-approved habitat enhancement plan, copies of all such approvals thereof in writing and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Director of Public Work or the Shade Tree Director.

5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife. The requirement of proper justification shall be met by submission of a written description certifying that the property is subject to approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife, copies of all such approvals and recommendations thereof in writing and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Director of Public Works or Shade Tree Director.

6. Hazard trees may be removed with no fee or replacement requirement. The requirement of proper justification shall be met by submission of a written description certifying that the trees targeted for removal are nuisance trees, photographs substantiating same and a written statement from licensed tree expert or arborist confirming such claim, to the satisfaction of the Director of Public Works or the Shade Tree Director.

Section 3. Violations and Penalties. Article IV, Section 338-16, Part II, of Chapter 338, entitled "Trees" of the Ordinances of the Township of Clark, be and hereby is repealed and is replaced by the following in instead:

The Director of Public Works or the Shade Tree Director shall enforce this Ordinance. Any person(s) who is found to be in violation of the provisions of this Ordinance shall be subject to a fine of \$875.00. The removal of a tree of significance is not subject to a fine limit, which shall be fixed by the Municipal Court of the Township of Clark in its discretion, but such fine shall in no event be less than \$875.00.

Section 4. Removal of Trees from Commercial Lots. Article V, Sections 338-17, 18 and 21, Part II, of Chapter 338, entitled "Trees" of the Ordinances of the Township

of Clark, be and hereby are repealed, and Section 338-22 be and hereby is repealed and is replaced by the following in instead:

The Director of Public Works or the Director of the Shade Tree Commission shall enforce this Ordinance. Any person(s) who is found to be in violation of the provisions of this Ordinance shall be subject to a fine of \$875.00. The removal of a tree of significance is not subject to a fine limit, which shall be fixed by the Municipal Court of the Township of Clark in its discretion, but such fine shall in no event be less than \$875.00.

Section 5. Protection of Trees in Clark Wildlife Preserve.

Any tree cut down or illegally removed in the Clark Wildlife Preserve and Habitat shall be replaced by the Township, at the cost of the offender, in accordance with Article IV, Sections 338-15(b)(4) and (5), Part II, of this Chapter 338.

Article VI, Sections 338-24, 25 and 26, Part II, of Chapter 338, entitled "Trees" of the Ordinances of the Township of Clark, be and hereby are repealed, and Section 338-27 be and hereby is repealed and is replaced by the following in instead:

Enforcement and Penalties. The Director of Public Works or the Shade Tree Director shall enforce this Ordinance. Any person(s) who is found to be in violation of the provisions of this Ordinance shall be subject to a fine of \$875.00. The removal of a tree of significance is not subject to a fine limit, which shall be fixed by the Municipal Court of the Township of Clark in its discretion, but such fine shall in no event be less than \$876.

Section 6. Inconsistency. All ordinances or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 7. Severability. Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

Section 8. Effective Date. This Ordinance shall take effect twenty (20) days following passage and publication as required by law.

Effective Date: December 12, 2023

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

SALVATORE BONACCORSO
Mayor

Ord23/10-16 23-33RevisedTreeRemoval-Replacement

		Motion to Introduce	Second	Motion to Adopt	Second	Aye	Nay	Abstain	Absent
	Albanese								
Adopted	Hund								
Adopted as Amended	Mazzarella								
Defeated	Minniti								
Tabled	O'Connor								
Withdrawn	Toal								
	Smith								
	Entire Council								
	TOTAL								

7

TOWNSHIP OF CLARK

Resolution 23-155

October 16 2023

WHEREAS the Township has been invited and desires to join the Arrive Together Program to enhance and support response to certain behavioral health crisis calls; and

WHEREAS to do so, the Township's Police Department must agree and adhere to a certain Memorandum of Understanding among the Clark PD, the Cranford PD, the Elizabeth PD, the Linden PD, the Plainfield PD, the Roselle Park PD, the Scotch Plains PD, the Union County Police, the Union County Sheriff's Office, the Westfield PD, as the Participating Police Department(s), and Trinitas Medical Center, as the Participating Mental Health Service Provider (hereinafter such Memorandum of Understanding is called the MOU"), and a certain Addendum Two to the Memorandum of Understanding among the Berkley Heights Police Department, the Clark Police Department, the Cranford Police Department, the Elizabeth Police Department, the Fanwood Police Department, the Garwood Police Department, the Hillside Police Department, the Kenilworth Police Department, the Linden Police Department, the Mountainside Police Department, the New Providence Police Department, the Plainfield Police Division, the Rahway Police Department, the Roselle Police Department, the Roselle Park Police Department, the Scotch Plains Police Department, the Springfield Police Department, the Summit Police Department, the Winfield Police Department, the Westfield Police Department, the Union Police Department, the Union County Sheriff's Department, the Union County Police Department, the Union County Prosecutor's Office, the Kean University Police Department, and the Union County Department Of Public Safety, and Trinitas Medical Center, both of which are annexed as Exhibit "A," and made a part hereof (hereinafter such Memorandum of Understanding and such Addendum Two to the Memorandum of Understanding are collectively called the "Memorandum of Understanding"); and

WHEREAS there also is an Addendum One to the Memorandum of Understanding to be executed and delivered by the Berkeley Heights Police Department, the Fanwood Police Department, the Mountainside Police Department, the New Providence Police Department, and Trinitas Medical Center, which is annexed as Exhibit "B," and made a part hereof, and which only adds such municipalities, but does not call for execution and delivery by Clark or its Police Department, and does not substantively change the Memorandum of Understanding; and

WHEREAS the Memorandum of Understanding is not a contract to be awarded by the Township for the provision or performance of any goods or services under the Local Public Contracts Law; and

WHEREAS as stated in Section XI.B. thereof, the Memorandum of Understanding does not impose, and expressly disclaims, any additional duties and responsibilities on the Township that go beyond that which already is required by existing law.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Township of Clark that the Memorandum of Understanding be and hereby is approved; and

BE IT FURTHER RESOLVED that the Chief of Police be and hereby is authorized to execute and deliver the Memorandum of Understanding.

ATTEST:

APPROVED:

 EDITH L. MERKEL, RMC
 Township Clerk

 WILLIAM F. SMITH
 Council President

Res23/10-16 155ApproveArriveTogetherMOU

		Motion	Second	Aye	Nay	Abstain	Absent
	Albanese						
Adopted	Hund						
Adopted as Amended	Mazzarella						
Defeated	Minniti						
Tabled	O'Connor						
Withdrawn	Toal						
	Smith						
	Entire Council						
	TOTAL						

8

TOWNSHIP OF CLARK

Resolution 23-156

October 16, 2023

WHEREAS the Township has been invited and desires to join the Union County Municipal Task Force to systematically combat an increase in criminal activity that is affecting Union County and the municipalities therein; and

WHEREAS to do so, the Township’s Police Department must agree and adhere to a certain Memorandum of Understanding among the Union County Prosecutor’s Office, and the Chiefs of the Union County Prosecutor’s Office, the Berkeley Heights Police Department, the Clark Police Department, the Cranford Police Department, the Elizabeth Police Department, the Fanwood Police Department, the Garwood Police Department, the Hillside Police Department, the Kean University Police Department, the Kenilworth Police Department, the Linden Police Department, the Mountainside Police Department, the Plainfield Police Department, the Rahway Police Department, the Roselle Police Department, the Roselle Park Police Department, the Scotch Plains Police Department, the Springfield Police Department, the Summit Police Department, the Union Police Department, the Union County Police Department, the Westfield Police Department and the Winfield Police Department, and the Union County Sheriff’s Department, a copy of which is annexed as Exhibit “A,” and made a part hereof (hereinafter such Memorandum of Understanding is called the “Memorandum of Understanding”); and

WHEREAS the Memorandum of Understanding is not a contract to be awarded by the Township for the provision or performance of any goods or services under the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Township of Clark that the Memorandum of Understanding be and hereby is approved.

BE IT FURTHER RESOLVED, that the Chief of Police be and hereby is authorized to execute and deliver the Memorandum of Understanding.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res23/10-16 156ApproveMunicipalTaskForceMOU

		Motion	Second	Aye	Nay	Abstain	Absent
	Albanese						
Adopted	Hund						
Adopted as Amended	Mazzarella						
Defeated	Minniti						
Tabled	O'Connor						
Withdrawn	Toal						
	Smith						
	Entire Council						
	TOTAL						

TOWNSHIP OF CLARK
Resolution 23-157
October 16, 2023

9

WHEREAS the recent changes to the Local Public Contracts Law gave local contracting units the ability to increase their bid threshold up to \$44,000; and

WHEREAS N.J.S.A. 40A:11-3a, permits an increase in the bid threshold if a Qualified Purchasing Agent is appointed as well as granted the authorization to negotiate and award such contracts below the bid threshold; and

WHEREAS Contracts between Pay-to-Play and Qualified Purchasing Agent Bid Thresholds, Sections 11 and 12 of the P.L. 2023, c. 30, known as the "Elections Transparency Act," (the Act) amend N.J.S.A. 19:44A-20.4 and 20.5, respectively, to clarify that the governing body of a municipality or county (or any agency or instrumentality thereof) may delegate the authority to award a contract having an anticipated value in excess of \$17,500 but below the increased bid threshold of a Local Public Contracts Law contracting unit with a qualified purchasing agent (i.e. a "window contract") to the QPA; and

WHEREAS N.J.A.C. 5:34-5 et seq. establishes the criteria for qualifying as a Qualified Purchasing Agent; and

WHEREAS Jennifer Kobliska possesses the designation of Qualified Purchasing Agent as issued by the Director of the Division of Local Government Services in accordance with N.J.A.C. 5:34-5 et seq.; and

WHEREAS Jennifer Kobliska was appointed on January 1, 2018 as the Qualified Purchasing Agent for the Township of Clark to exercise the duties of a purchasing agent pursuant to N.J.S.A. 40A:11-2(30), with specific relevance to the authority, responsibility, and accountability of the purchasing activity of the contracting unit; and

WHEREAS the Township of Clark desires to take advantage of the increased bid threshold and the delegation of authority to the QPA to award contracts with an anticipated value in excess of \$17,500 but below the increased bid threshold.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Township of Clark, in the County of Union, in the State of New Jersey hereby increases its bid threshold to \$44,000; and

BE IT FURTHER RESOLVED that the Qualified Purchasing Agent is hereby authorized to award contracts having an anticipated value in excess of \$17,500 but below the increased bid threshold; and

BE IT FURTHER RESOLVED that in accordance with N.J.A.C. 5:34-5.2 the Township Clerk is hereby authorized and directed to forward a certified copy of this resolution and a copy of Jennifer Kobliska's certification to the Director of the Division of Local Government Services.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res23/10-16 157AuthQPAAwardWindowContracts-IncreasedBidThreshold

		Motion	Second	Aye	Nay	Abstain	Absent
	Albanese						
Adopted	Hund						
Adopted as Amended	Mazzarella						
Defeated	Minniti						
Tabled	O'Connor						
Withdrawn	Toal						
	Smith						
	Entire Council						
	TOTAL						

TOWNSHIP OF CLARK

Resolution 23-158

October 16, 2023

10

WHEREAS the Township of Clark has availed itself of the right to purchase materials, supplies and equipment under contracts for such materials, supplies and equipment entered into on behalf of the State of New Jersey by the Division of Purchase and Property in the Department of the Treasury pursuant to N.J.S.A. 40A:11-12 and as authorized by Township Resolution 23-22; and

WHEREAS the Clark Police Department wishes to purchase and install equipment for two vehicles, one 2023 Chevrolet Tahoe and one 2023 Ford Police Utility Interceptor from an authorized vendor as follows:

Triangle Communications NJ State Contracts: #17-Fleet-00739, 00762, 00770, 00792
2362 Waldheim Avenue
Scotch Plains, NJ 07076-2152

Equipment List:

Lighting, Sirens, Cages, Mobile Radios, Console Boxes, Computer Mounts, Push Bumpers, necessary to upfit one 2023 Chevrolet Tahoe and one 2023 Ford Police Utility Interceptor

Total equipment and installation price:

Equipment for 2023 Chevrolet Tahoe \$20,504.57

Equipment for 2023 Ford Police Utility Interceptor \$18,394.08

Total amount not to exceed \$38,898.65 payable upon completion; and

WHEREAS the Business Administrator recommends the utilization of these contracts on the grounds that they meet all industry standards; and

WHEREAS the Chief Financial Officer has certified the availability of funds for these contracts in Insurance Account #T-16-56-900-103 in the amount of \$38,898.65.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of Township of Clark that it hereby authorizes the purchase and installation of equipment for two Police Vehicles as described above.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res23/10-16 158AuthPurchase-PDVehiclesEquip-StateContract

		Motion	Second	Aye	Nay	Abstain	Absent
	Albanese						
Adopted	Hund						
Adopted as Amended	Mazzarella						
Defeated	Minniti						
Tabled	O'Connor						
Withdrawn	Toal						
	Smith						
	Entire Council						
	TOTAL						

TOWNSHIP OF CLARK
Resolution 23-159
October 16, 2023

//

WHEREAS the Township of Clark has authorized various projects by ordinance; and

WHEREAS the actual expenditure for these projects was less than the appropriation; and

WHEREAS the authorization balance is no longer needed for the purpose stated in the original capital ordinance.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Township of Clark that the unexpended remaining balances in the following ordinances be canceled to Capital Fund Balance.

Bucket Truck – Public Works (17-21)	\$ 1,733.00
2018 Capital Roads Program (18-07)	\$85,000.00
Improvement of Lake Avenue (18-14)	\$49,575.51

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Unexpended

Res23/10-16 159CancelUnexpendedOrdinanceBalances

		Motion	Second	Aye	Nay	Abstain	Absent
	Albanese						
Adopted	Hund						
Adopted as Amended	Mazzarella						
Defeated	Minniti						
Tabled	O'Connor						
Withdrawn	Toal						
	Smith						
	Entire Council						
	TOTAL						

TOWNSHIP OF CLARK
Resolution 23-160
October 16, 2023

CA 12

WHEREAS in accordance with a request from the Tax Collector for authorization to refund overpayment of 2023 sewer fees; the Mayor has recommended to Council that such authorization be granted.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, that the Tax Collector is hereby authorized and directed to make the refund(s) as per the following schedule.

Sewer Refunds 2023						
REF	Acct #	Name	#	Address	Reason	Refund
23-13R	2335-0	Serrano, Carlos & Melinda	151	Lexington Blvd	duplicate payment	\$ 140.00
23-14R	793-0	Busler Living Trust	95	Meadow Road	duplicate payment	\$ 118.15
23-15R	2262-0	LB Ventures LLC	1119	Raritan Road	overpayment	\$ 25.00
23-16R	3933-7	HomeGoods Inc.	PO	Box 182438	overpayment	\$ 493.71
23-17R	665-0	Guarraci, Anthony	8	Ayers Lane	overpayment	\$ 140.00
23-18R	4418-0	Kadola, Nicholas	5	Oak Street	overpayment	\$ 140.00
23-19R	2751-0	Hoehn, Ronald	28	Prescott Turn	overpayment	\$ 20.00
23-20R	3953-0	Ruales, Maureen	197	Walnut Avenue	overpayment	\$ 140.00
23-21R	2138-0	Owsiany, Matthew	20	Cutler Place	overpayment	\$ 10.00
22-22R	1321-0	Conklin, Mark & Michelle	32	Mae Belle Drive	overpayment	\$ 587.77
22-23R	2182-1	Loreal Accounts Payable			overpayment	\$ 24.15
22-24R	466-0	Pipala, Jennifer	27	Acken Drive	overpayment	\$ 446.45
					Total Refunds	\$ 2,285.23

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res23/10-16 160SewerRefund(s)

		Motion	Second	Aye	Nay	Abstain	Absent
	Albanese						
Adopted	Hund						
Adopted as Amended	Mazzarella						
Defeated	Minniti						
Tabled	O'Connor						
Withdrawn	Toal						
	Smith						
	Entire Council						
	TOTAL						

TOWNSHIP OF CLARK
 Resolution 23-161
 October 16, 2023

CA13

WHEREAS the Tax Collector has certified that sewer utility account(s) require balance adjustments; and

WHEREAS the Business Administrator has reviewed and approved the sewer fee adjustment(s).

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Clark, County of Union, State of New Jersey, that the Tax Collector be authorized to apply the sewer account balance adjustments according to the attached schedule.

ATTEST:

APPROVED:

 EDITH L. MERKEL, RMC
 Township Clerk

 WILLIAM F. SMITH
 Council President

Res23/10-16 161SewerAdj

		Motion	Second	Aye	Nay	Abstain	Absent
	Albanese						
Adopted	Hund						
Adopted as Amended	Mazzarella						
Defeated	Minniti						
Tabled	O'Connor						
Withdrawn	Toal						
	Smith						
	Entire Council						
	TOTAL						

