

TOWNSHIP OF EVESHAM

ORDINANCE NO. 43-11-98

**AMENDING LAND DEVELOPMENT ORDINANCE  
BY CREATING CHAPTER 62-1(E) AND 62-67  
AND DELETING CHAPTER 2  
OF THE EVESHAM TOWNSHIP CODE**

AS  
AMENDED  
4/6/99

WHEREAS, Chapter 2 of the Evesham Township Code requires developers of dedicated property to meet certain criteria before the Township Council of the Township of Evesham would accept said property; and

WHEREAS, Chapter 2 of the Evesham Township Code was struck down by the Superior Court for failure to comply with the provisions of N.J.S.A. 40:55D-53(J); and

WHEREAS, the Township Council of the Township of Evesham deems it in the best interests of its residents to delete Chapter 2 of the Township Code and create Chapters 62-1(E) and 62-67 of the Land Development Ordinance in order to make said provisions consistent with the ruling of the Superior Court and N.J.S.A. 40:55D-53(J), and to repeal any inconsistencies to that extent.

BE IT ORDAINED by the Township Council of the Township of Evesham in the County of Burlington and State of New Jersey, as follows:

Section One: Chapter 2 of the Evesham Township Code, entitled "Acceptance of Property", is hereby repealed in its entirety.

Section Two: Chapter 62-1(E) of the Land Development Ordinance is hereby created, as follows:

**Chapter 62-1(E)**

Any real property, whether improved or not, to be dedicated expressly or impliedly and for any purpose to the Township of Evesham shall be subject to the provisions of Chapter 62-67, and these provisions shall be met by the developer dedicating the improvement or property prior to requesting final inspection by the engineer pursuant to N.J.S.A. 40:55D-53.

Section Three: Chapter 62-67 of the Land Development Ordinance is hereby created, as follows:

**Chapter 62-67**  
**Acceptance of Property**

**A. Applicability.**

This section shall apply to all real property dedicated, expressly or impliedly and for any purpose, to the Township of Evesham after the effective date of this Ordinance.

**B. Requirements for Acceptance.**

Property dedicated by a developer as a condition of subdivision approval shall not be inspected by the Engineer or accepted by the Township until the following requirements have been met by the developer or done at his expense:

1. Submit five (5) copies of a complete survey of the property (except for streets) to be dedicated, which survey shall be performed and certified by a licensed surveyor.
2. Submit a topographic survey showing contour intervals of two (2) feet at a scale no larger than one (1) inch equaling one hundred (100) feet.
3. Submit five (5) copies of complete (as-built) plans of any improvements, except for streets, on the dedicated property.
4. Place permanent monuments of the size and shape specified in accordance with the Map Filing Law (N.J.R.S. 46:23-1 et seq.). In the case of open space, monuments shall be placed along the perimeter of the open space at all changes in direction of the property line and at each right-of-way line; where the property line is curved, monuments shall be placed at each point of curvature and each point of tangency and at each right-of-way line.
5. Submit a deed of conveyance, approved as to form, content and description by the Township Attorney. The said deed shall contain provision for the signature of the Mayor and attestation by the Township Clerk and a place for indication of the number of the ordinance described in §D and the date of its enactment on second reading. Where streets are offered for acceptance, a legal description by metes and bounds describing the center line shall be included.
6. Obtain title insurance naming the Township of Evesham as the insured party in an amount equal to the fair market value of the dedicated property; this requirement shall not pertain to streets. In the case of drainage easements not shown on or generated after the final plan is filed in the County Clerk's office and property having a fair market value of one thousand dollars (\$1,000.) or less, a title search indicating marketable title shall be sufficient, provided that said search is certified by a title insurance company authorized to do business in the State of New Jersey.

7. Submit proof that all taxes and assessments applicable to the property, except for streets, are fully paid to the end of the tax quarter following that in which acceptance occurs; however, nothing in this chapter shall be construed as granting an abatement of such taxes or assessments.

**C. Procedure Prior to Acceptance.**

1. Upon completion of the items of Section B above, the developer shall request the Township Engineer to inspect the improvements pursuant to N.J.S.A. 40:55D-53. Upon satisfactory inspection, the Developer shall obtain a written certification from the Township Engineer that all improvements required by the Planning Board have been satisfactorily installed or completed in accordance with applicable specifications.

2. When property is dedicated to the Township as a condition of subdivision approval, the Township Council after receiving a formal request for acceptance in accordance with Section C-1 above, and after determining that acceptance of the property is in the best interest of the Township, shall notify the Developer of any requirements of Section B which have not been met.

3. The Engineer's certification shall be forwarded, along with a letter, by certified mail to the Township Clerk. The letter shall either state that all requirements of this section have been fulfilled or shall request a waiver of one (1) or more of the requirements. If one (1) or more of the requirements is found by the Township Council to be unnecessary, it may be waived by the Township Council by resolution. The letter shall formally request acceptance by the Township of the dedicated property.

**D. Action by Township Council.**

1. Once the Township has received the letter required by Section C-3, the Township Council shall introduce an ordinance formally accepting and indicating the use of the dedicated property within ninety (90) days after the occurrence of compliance with all of the requirements of Sections B and C.

2. Following the passage of said ordinance, the performance bond (if there is one) for the dedicated property shall be released.

3. A record of any interest acquired by the township in any real property shall be included in the Evesham Township Real Property Registry. This record shall be in the form required by the New Jersey Division of Local Finance and shall be kept in the office of the Township Clerk.

4. All conveyances shall be recorded by the Township Clerk in the office of the County Clerk within thirty (30) days after the effective date of the ordinance accepting the property.

Section Four: All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency only.

Section Five: This Ordinance shall take effect upon final passage and publication according to law and upon filing with the Burlington County Planning Board and otherwise complying with the Municipal Land Use Law.

Adopted on second and final reading on

June 15

*Augustus J. Lombardo*  
Mayor

Attest Carmela Bonfrisco, Deputy  
Clerk