TOWNSHIP OF WALL

ORDINANCE NO. 44 -1990

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WALL PERTAINING TO THE PAYMENT OF TAXES AND ASSESSMENTS AS A CONDITION TO THE ISSUANCE OF VARIOUS TYPES OF PERMITS.

WHEREAS, various types of licenses and permits are issued by the Township of Wall pursuant to applicable provisions of "The Revised General Ordinances of the Township of Wall, 1977", as amended and supplemented, pertaining to the use of property and the conduct of various types of activities upon property located in the Township; and

WHEREAS, the Township is frequently requested by developers and others to review and approve applications for various permits required by State agencies, or to act as the designated applicant or co-permittee on such State permits, in connection with the development of property in the Township, the construction of utilities in State roadways and similar activities; and

WHEREAS, the Township is obligated pursuant to Title 54 of the New Jersey Statutes to collect real property taxes and to transmit the same to various taxing entities including the Wall Township Board of Education and the County of Monmouth; and

WHEREAS, the largest portion of real property taxes paid through the Township of Wall is not retained by the Township but is paid to the aforesaid taxing authorities; and

WHEREAS, when property owners fail to pay real property taxes in a timely fashion the Township's annual budget is adversely effected due to the reserve which must be maintained for uncollected taxes and the fact that anticipated revenues cannot

exceed the percentage of taxes collected in the immediately preceding year, thereby resulting in an increased tax burden for the residents of Wall Township, the vast majority of whom pay their taxes in a timely fashion; and

WHEREAS, the township committee finds as a matter of public policy, that those property owners who seek the cooperation of the Township in facilitating the commercial use or development of their property through the issuance of licenses and permits or the approval of applications for State permits should not enjoy the benefit of the discretionary actions of the Township unless they have met their legal obligations relating to the payment of taxes in a timely fashion; and

WHEREAS, the Township Committee finds that it is necessary and appropriate; in the public interest; in the interest of sound fiscal planning; and in the interest of all the residents and taxpayers of the Township that the taking of discretionary acts by the Township should be conditioned upon the current payment of real property taxes and assessments;

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Wall in the County of Monmouth and State of New Jersey as follows:

Section 1. Chapter III, "Regulatory Ordinances", of "The Revised General Ordinances of the Township of Wall, 1977", as amended and supplemented, be and the same is hereby further amended and supplemented by the addition thereto of the following Section:

GILROY, CRAMER
& McLAUGHLIN
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

"3-17 PAYMENT OF TAXES AS PREREQUISITE TO DISCRETIONARY ACTS.

3.16.1 Definition. As used in this section, the term "discretionary act" shall mean any act of the township committee which it is requested to take on behalf of any property owner, developer or contract purchaser of property located within the Township, which rests within the sound discretion of the Township Committee and which it is not obligated by law to approve, issue or endorse. Such acts include, by way of example and not by way of limitation, the issuance of any permit or license under any ordinance of the Township which relates in any way to the use or development of any property or the conduct of any business enterprise thereon; the endorsement or approval of any application for a highway occupancy permit, road opening permit, utility opening permit, sewer extension permit; or any other permit or license issued by any other governmental agency which requires the endorsement of the township committee.

3-17.2 Payment of Taxes Required.

a. Prior to the issuance of any permit or the taking of any discretionary act by the township committee, the township clerk shall ascertain the status of real property tax and assessment payments for the property which will directly or indirectly benefit from the permit or discretionary act, and shall report such information to the township committee. The township committee shall include in any resolution adopted authorizing the taking of any such discretionary act a condition that, prior to the execution of any permit, license or endorsement or the performance of any other discretionary act, a certification be received by the township clerk from the tax collector that all real property taxes and assessments pertaining to the property directly or indirectly benefited by the discretionary act are current and that no real property taxes or assessments are then due and owing.

Section 8. All Ordinances, or parts, thereof, inconsistent with the provisions of this Ordinance, be and the same are hereby repealed to the extent of such inconsistency.

Section 9. Should any section, paragraph, clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

Section 10. This Ordinance shall take effect upon its passage and publication according to law.

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading by the Township Committee of the Township of Wall on Sept. 26, 1990 and will be further considered for final passage and adopted at the Wall Township Municipal Building, 2700 Allaire Road, Wall, New Jersey, on Oct. 10, 1990 at 8 o'clock p.m., or as soon thereafter as the matter can be reached on the agenda, at which time and place all persons interested therein shall be given an opportunity to be heard, and during the week prior to, and up to and including, the date of such meeting, copies of said Ordinance will be made available at the Clerk's office in the Township of Wall Town Hall to the members of the general public who shall request the same.

BEATRICE M. GASSNER, C.M.C.
Township Clerk