

1 **AN ORDINANCE TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT**
2 **AND TO PROMOTE ENVIRONMENTAL JUSTICE (draft of June 21, 2012)**

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25 **RECITALS:**

26 1. WHEREAS the New Jersey Constitution provides in Article I, ¶ 1 that: "All
27 persons are by nature free and independent, and have certain natural and unalienable
28 rights, among which are those of enjoying and defending life and liberty, of acquiring,
29 possessing, and protecting property, and of pursuing and obtaining safety and happiness";
30 and

31 2. WHEREAS, N.J.S.A. 40:48-2 provides that: "Any municipality may make and
32 enforce such ordinances, regulations, rules and by-laws not contrary to the laws of this
33 state or of the United States, as it may deem necessary and proper for the good
34 government, order and protection of persons and property, and for the preservation of the
35 public health, safety and welfare..."

36 3. WHEREAS, the New Jersey Department of Environmental Protection
37 (NJDEP) was established in 1970, N.J.S.A. 13:1B-1, et seq., to protect the natural and
38 human environment by regulating certain human activities that may directly or indirectly
39 impact the environment;

40 4. WHEREAS, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1, et seq.,
41 provides the legal and public policy foundation for municipalities to "guide the
42 appropriate use or development of all lands in this State" in a manner which will promote
43 the public health, safety, morals and general welfare, and to "secure safety from fire,
44 flood, panic and other natural and man-made disasters," to "promote the establishment of
45 appropriate population densities and concentrations that will contribute to the well-being

46 of persons, neighborhoods, communities and regions and preservation of the
47 environment,”to “promote the conservation of...open space, energy resources and
48 valuable natural resources in the State and to prevent urban sprawl and degradation of the
49 environment through improper use of land,” among other goals and purposes; and

50 5. WHEREAS, to protect public health, counties and municipalities are
51 empowered to establish Boards of Public Health, N.J.S.A. 26:3A2-1, et seq.

52 6. WHEREAS, to enhance and protect human health and the environment and to
53 ensure a sustainable environment, for the benefit of all populations, municipal decision-
54 makers need accurate information about the current status of the determinants of human
55 health and the environment, the impacts of each proposed action, including impacts on
56 the determinants of health and the environment, and how those determinants will be
57 impacted by municipal decision making; and

58 7. WHEREAS, the methods for enhancing and protecting the environment and
59 human health and the gathering of such information includes the “Environmental Impact
60 Statement” and the “Environmental Commission,” N.J.S.A. 40:56A-1, et seq.; and

61 8. WHEREAS, in many communities, indicators of public health, such as lung
62 disease, diabetes, cancers, and other infirmities, are worsening, particularly for vulnerable
63 populations, including but not limited to infants, children, elderly, ailing and disabled,
64 persons of low income or subject to socioeconomic “stressors” of race, ethnicity, and
65 other aspects of the “social determinants of health,” as defined by the World Health
66 Organization; and

67 9. WHEREAS some communities or neighborhoods are disproportionately
68 burdened by public health and environmental problems that result from the
69 disproportionate cumulative impact of numerous individual impacts and stressors,
70 including poverty, blight, poor walkability, unavailability of open space and healthy
71 food, degraded air and water, contaminated lands and buildings and other sources of
72 hazardous exposures; and

73 10. WHEREAS, many potential adverse impacts to human health and the
74 environment, especially to vulnerable populations, result from the cumulative impact of
75 numerous individual impacts and stressors, many of which when evaluated in isolation
76 may not appear to present a threat to human health and the environment; and

77 11. WHEREAS, it is entirely feasible for a new action to have an overall positive
78 impact on human health and the environment, either through the inherent attributes of the
79 action itself, through accompanying offsetting beneficial subprojects or through replacing
80 a more-damaging existing project; and

81 12. WHEREAS many environmental and public health problems can be prevented
82 through due diligence, effective planning and enforcement of existing laws carried out
83 with the explicit goal of reducing potential adverse cumulative impacts on human health
84 and the environment; and

85 13. WHEREAS, municipalities and communities therein need policy tools to
86 protect residents from potential adverse cumulative impacts on public health and the
87 environment, to promote actions that improve human health and the environment, and to

88 promote Environmental Justice, as that standard of decision-making is defined and
89 clarified in Presidential Executive Order 12898 and its progeny, including
90 State of New Jersey Executive Order #96 (February 18, 2004), and State of New Jersey
91 Executive Order #131 (February 5, 2009); and

92 14. WHEREAS, the Local Redevelopment and Housing Law (LRHL), N.J.S.A.
93 40A:10A-1, et seq., provides for the designation of “blighted areas” or “areas in need of
94 redevelopment,” which designations authorize the taking of private property for transfer
95 to a designated “redeveloper” for redevelopment purposes; and

96 15. WHEREAS, the beneficial purposes of the LRHL sometimes lead to the
97 designation of properties or neighborhoods as “in need of redevelopment” without
98 sufficient regard for the detrimental impacts of such designations on areas of lower
99 income, people of color, ethnic minorities, the elderly or other highly exposed and
100 vulnerable populations.

101 16. WHEREAS, also pursuant to the LRHL initiatives, vulnerable populations
102 may be uprooted and displaced without adequate attention to, or compensation for,
103 replacement housing and property.

104 17. WHEREAS, other actions and decisions of the township [city] [borough] ,
105 including the revaluation and assessment of property for taxation purposes, may also
106 inadvertently have a disproportionately negative impact on communities of low income,
107 ethnic minorities, or people of color; and

108 THEREFORE, to protect human health and the environment, and to promote
109 principles of Environmental Justice to the fullest extent permitted by law, the [township]
110 [city] [borough] of ANYTOWN hereby adopts this ORDINANCE TO PROTECT
111 PUBLIC HEALTH AND THE ENVIRONMENT AND TO PROMOTE
112 ENVIRONMENTAL JUSTICE.

113 **1.0 DECLARATION OF POLICY**

114 The following shall be established as the public health, safety and environmental
115 policy of the township [city] [borough] of ANYTOWN:

116 A. The environment is the subject of a public trust that must be promoted,
117 protected and administered for the benefit, safety and happiness of all township [city]
118 [borough] residents, present and future, regardless of income, race, ethnicity or national
119 origin.

120 B. In furtherance of this public trust, the township [city] [borough] has a fiduciary
121 duty to promote beneficial improvements in and prevent potential adverse cumulative
122 impacts to public health and the environment, which includes the early identification of
123 risks and the rendering of decisions in recognition of such risks.

124 C. Therefore, the township [city] [borough] will develop laws, policies and plans
125 to promote and protect the public trust interests of all citizens and residents, to foster
126 healthy communities, to create and maintain a healthy, viable environment for current and
127 future generations, and to become a model of environmental sustainability.

128 D. In furtherance of these policies, the township [city] [borough] further commits
129 to:

130 1. Ensure the fair and equal treatment of all residents, regardless of races, culture
131 or income with respect to potential adverse cumulative impacts on the environment and
132 public health resulting from development or redevelopment or other projects or activities,
133 and enforcement of laws, regulations, policies, and actions in a manner consistent with
134 principles of Environmental Justice; and

135 2. Take appropriate action to improve public health and the environment, and to
136 prevent, reduce or mitigate potential adverse cumulative impacts on public health and the
137 environment when such threats are already occurring or are reasonably foreseeable, and
138 that may be contributed to by development applications, redevelopment initiatives, new
139 projects, new activities, and other government action.

140 3. Encourage proposals for development or redevelopment, or new projects or new
141 activities, that will preferably improve, or at the very least not contribute to further
142 potential adverse cumulative impacts to, public health and/or the environment, nor impose
143 or worsen disproportionate cumulative impacts on people of color, ethnic minorities, or
144 residents with low income, and to withhold approval of such proposals that fail to meet
145 these standards, frequently referenced as Environmental Justice factors, to the extent
146 permitted by governing law.

147 4. Identify, avoid, prevent and, wherever possible, eliminate disproportionate
148 cumulative environmental burdens and pollution imposed on low-income communities
149 and communities of color pursuant to standards of Environmental Justice.

150 5. Enhance, protect and preserve the environment for the benefit of all present and
151 future residents, regardless of race, income, ethnicity or national origin.

152 6. Provide complete and accurate information on potential human health and
153 environmental impacts associated with municipal decisions.

154 7. Examine reasonable alternatives to a proposed development or redevelopment
155 or new project or new activity and select the alternative with the greatest overall benefit
156 or, if an overall benefit is not reasonable or feasible, the least harmful cumulative impact,
157 on human health and the environment, including the alternative of not undertaking the
158 development or redevelopment project or activity, wherever authorized by law and
159 practicable to do so.

160 8. Promote public participation and transparent decision-making as critical to
161 identifying risks to health and the environment and to selecting alternatives that remedy,
162 avoid or minimize such risks.

163 **1.0-2 IMPLEMENTATION OF POLICY**

164 **A. Environmental Impact Statement (EIS):**

165 1. Each redevelopment initiative pursuant to the Local Redevelopment and
166 Housing Law (LRHL), N.J.S.A. 40A: 12A-1, et seq., and each application for approval of
167 a development or subdivision approval, or for approval of other new project or new

168 activity, shall include preparation and submission by the applicant of an Environmental
169 Impact Statement (EIS), as an integral part of its application for approval or designation,
170 pursuant to the standards and criteria in this ordinance and the principles of
171 Environmental Justice.

172 2. The EIS shall accompany the application or redevelopment initiative
173 throughout the review process and shall be an official part of the record and subject to
174 such public hearing and notice as authorized by law.

175 3. Each EIS shall satisfy the informational requirements set forth in this
176 ordinance, including those items identified in the Checklist in order for an application or
177 approval of a redevelopment initiative to be declared complete for review, public notice
178 and hearing, provided an applicant may request and receive relief from any EIS
179 informational requirement that is deemed unduly burdensome or unnecessary for the
180 decision at issue.

181 4. A minimum of five (5) conforming copies of the EIS shall be forwarded to the
182 Environmental Commission, the Office of the Public Advocate, and the Board of Public
183 Health at the earliest possible opportunity, and the same shall be posted on a readily
184 accessible Internet webpage or website.

185 5. In the event that the applicant or proponent fails to submit a reasonably
186 complete EIS, subject to the right of the applicant to be excused from any informational
187 requirement in the EIS that is unduly burdensome or not necessary for the decision at
188 issue, the Planning Board or Zoning Board of Adjustment, as the case may be (hereafter

189 “land use board or other entity”) may dismiss the application or terminate the initiative
190 without prejudice, such that the applicant may re apply with adequate information.

191 6. The EIS shall address each item in the Checklist, and such other requirements
192 as the board shall designate from time to time, subject to reasonable waiver opportunities.

193 7. The EIS shall incorporate by reference relevant portions of the most recent
194 Natural Resource Inventory or Environmental Resource Inventory or such other official
195 documents or plans or studies as may be developed by the Environmental Commission or
196 the municipal planning department, provided the same is sufficiently current, including
197 but not limited to:

198 a. the municipal Master Plan, as prepared and adopted pursuant to N.J.S.A.
199 40:55D-28, et seq., provided, however that

200 b. the information so incorporated remains timely and accurate as to each item
201 incorporated, and

202 c. provided further that the incorporated sections shall be made a physical part of
203 the EIS such that a reader will have access to all relevant information in one publication
204 or on the Internet in one place.

205 8. The application shall supply not less than five (5) copies of the EIS for public
206 review at a convenient location, such as the public library or municipal building, to be
207 determined by the reviewing land use board or other entity, and one electronic copy in
208 PDF format, to be placed prominently on the township's [city's] [borough's] website.

209 9. The informational requirements of the EIS shall generally follow the standards
210 of the National Environmental Policy Act (NEPA) and the regulations of the Council on
211 Environmental Quality (CEQ) for preparation of an Environmental Impact Statement
212 (EIS), pursuant to Section 102(2)C, 42 U.S.C. Sec. 4321, et seq., except that the
213 applicant may be excused from any unduly burdensome or irrelevant requirements, which
214 request to the reviewing agency or entity shall be promptly determined after notice to and
215 consultation with the Environmental Commission, and which determination will not be
216 unreasonably withheld. However, under no circumstances will the applicant be excused
217 from the requirement to address determinants of health.

218 10. The EIS shall include and provide a detailed statement and analysis of:

219 a. a “baseline” description of the current public health and environmental
220 conditions of the community in which the site is located, including explicit analysis of
221 potential cumulative adverse impacts on human health and/or the environment that burden
222 the community, and the potential effects on the community of the proposed development
223 or redevelopment or initiative, project or activity under the LRHL , including:

224 (1) any impacts that may contribute to benefits or improvements in public health
225 and/or the environment, and

226 (2) any impacts that may cause potential adverse cumulative impacts on public
227 health and/or the environment; and

228 (3) any impacts which, when evaluated in isolation, may be considered acceptable
229 but when viewed in combination with the current state of the environment and public

230 health, prior or planned development and ongoing activities or reasonably foreseeable
231 activities, may contribute to potential adverse cumulative impacts on the environment or
232 public health, especially to highly exposed and vulnerable populations;

233 (4) any mitigation measures that may offset in whole or in part any existing or
234 future impacts that may cause or contribute to a threat of harm to human health or the
235 environment,

236 (5) any potential adverse cumulative impacts which cannot reasonably be avoided
237 should the proposed application or project be approved as filed, taking into account
238 practicable and feasible mitigation measures, including mitigation that may offset existing
239 impacts through a “net impact” assessment;

240 (6) any reasonable alternatives to the proposed development project or
241 redevelopment initiative or new project or new activity or portion thereof, including
242 identification and consideration of alternatives which do not require such development or
243 redevelopment approvals or which can be effectuated with a greater positive contributing
244 impact or a lesser negative contributing impact on public health and the environment,
245 including the implementation of offsite remediation or mitigation through a “net impact”
246 assessment while taking into account the goals of the community as set forth in relevant
247 planning documents, including but not limited the municipal master plan;

248 (7) any irreversible potential adverse cumulative environmental and/or public
249 health impacts and commitments of resources which cannot feasibly be avoided if the
250 preferred development application is approved; and

251 (8) any potential adverse cumulative environmental and public health impacts that
252 may disproportionately affect areas of low income, people of color, or ethnic minorities
253 or may otherwise contravene the principles of Environmental Justice as summarized in
254 Executive Order No. 12898 and as updated;

255 11. Because the EIS shall have substantive legal effect, it follows that:

256 a. a failure of the applicant or proponent to select an alternative which, as
257 identified in the EIS, is practicable and feasible, reasonably affordable, and either more
258 beneficial or less potentially harmful to the environment and public health shall be a basis
259 for rejection of the development application; or

260 b. the land use board or other agency reviewing the application may condition its
261 approval on the applicant agreeing to such mitigation measures as will promote benefits
262 and reduce potential adverse cumulative impacts on the environment and/or communities
263 of low income, people of color, or ethnic minorities, taking into account all reasonable
264 costs and benefits of same.

265 12. An application for a development or redevelopment project or activity deemed
266 “inherently beneficial” as a matter of law, N.J.S.A. 40:55D-4 (as amended by L.2009, c.
267 146), may be excused from this EIS requirement or any portion thereof, upon request of
268 the applicant for same and a determination being made that the development qualifies as
269 “inherently beneficial,” except that such development may not be excused from the
270 requirement to address determinants of health.

271 **B. Measuring Progress**

272 1. To measure progress toward the goal of maintaining a healthy, viable
273 environment for current and future generations, and to enable analyses of cumulative
274 impacts, the township [city] [borough] will, subject to budgetary limitations and priorities,
275 develop and publish an Environmental and Health Conditions inventory at the level of the
276 census block group or at the level of the smallest unit of U.S. census geography for which
277 data are available, to be published within twelve (12) months from the effective date of
278 this ordinance, and to be updated and published with the annual budget report every year
279 thereafter, unless such Environmental and Health Conditions inventory is included within
280 the township's [city's] [borough's] Environmental Resource Inventory or Natural
281 Resource Inventory or other such published assessment of same.

282 2. The inventory will include at least these items on the Checklist, as set forth in
283 the definitions section of this ordinance.

284 3. The preparation of this inventory may be assigned to the Planning Board or the
285 Environmental Commission or the Board of Health, individually, jointly or cooperatively.

286 4. The inventory shall be incorporated in the EIS.

287 **C. Evaluating New Projects: The Checklist**

288 New development or redevelopment projects, and new projects and activities, will
289 be evaluated by the land use board for their potential effect on existing conditions, using
290 the Checklist and inventory of existing conditions in the affected neighborhood or
291 community, and specific impacts of the proposal on Checklisted items.

292 1. A Health Impact Assessment will be completed for any proposed action that
293 could positively or negatively contribute to altering the determinants of health, except to
294 the extent that such an assessment is part of the EIS or other published source. The cost of
295 such assessment will be borne by the owners of the proposed projects, to the extent
296 permitted by law.

297 2. The Checklist and Health Impact Assessment will evaluate whether the
298 proponent of a project can show that the proposal will contribute to improving, not
299 worsening or worsening potential adverse cumulative impacts on public health and/or the
300 environment.

301 3. Municipal decisions will be revisited periodically, at intervals no less frequent
302 than whenever the Health Impact Assessment is updated, to evaluate whether prior
303 decisions have produced the results anticipated or predicted, and if remedial actions are
304 necessary.

305 **D. Monitoring Existing Facilities**

306 1. Subject to budgetary limitations, the township [city] [borough] shall provide for
307 monitoring existing facilities and activities for compliance with and enforcement of this
308 ordinance.

309 2. Monitoring results will be made available on paper in the local public library
310 and prominently on the township's [city's] [borough's] website.

311 **E. Remedial Actions**

312 1. In any communities within the township [city] [borough] that are
313 disproportionately burdened by pollution, or are particularly vulnerable to harm, the
314 township [city] [borough] will work to improve existing conditions by promoting impacts
315 that may contribute positively to, and reducing and eliminating impacts that may
316 contribute negatively to potential adverse cumulative impacts on the determinants of
317 health to the fullest extent practicable and authorized by law.

318 2. In furtherance of this objective, the township [city] [borough] will annually
319 solicit the findings and recommendations of the Board of Health, the Environmental
320 Commission, and interested community organizations, including but not limited to houses
321 of worship, advocacy groups, and members of the general public, and will hold public
322 hearings thereon.

323 **F. Definitions**

324 **1. Communities:**

325 Means discrete areas of a municipality, such as neighborhoods, housing
326 developments or subdivisions, public housing projects or other predominantly residential
327 sectors that generally share certain commonly-held characteristics, such as geographic
328 proximity, lower income, race or ethnicity within a particular area.

329 **2. Cumulative impacts**

330
331 The cumulative impact of an action refers to the impact of the action which if
332 evaluated in isolation may seem to be insignificant but which when combined with past,

333 present, and reasonably foreseeable future actions contributes to a potential adverse
334 impact on the environment and determinants of health as those determinants are
335 recognized by the U.S. Department of Health and Human Services.

336 Adverse cumulative impacts on human health and the environment means the total
337 adverse impact on public health and/or the environment resulting from all individual
338 impacts and stressors from all sources combined, even where some or all individual
339 impacts in isolation may cause no adverse impact or an acceptable adverse impact, taking
340 into account all factors and stressors that may contribute to that total adverse impact,
341 including the existence of sensitive or highly exposed populations and other determinants
342 of health.

343 **3. Determinants of Health**

344 The determinants of health include:

- 345 a. The natural environment, such as plants, weather, or climate change
- 346 b. The as-built environment, such as buildings or transportation,
347 worksites, schools, and recreational settings, housing, homes, and neighborhoods.
- 348 c. Exposure to toxic substances and other physical hazards
- 349 d. Physical barriers, especially for people with disabilities
- 350 e. Aesthetic elements, such as good lighting, trees, or benches
- 351 f. Availability of resources to meet daily needs, such as educational and job
352 opportunities, living wages, or healthful foods
- 353 g. Social norms and attitudes, such as discrimination

- 354 h. Exposure to crime, violence, and social disorder, such as the presence of trash
- 355 i. Social support and social interactions
- 356 j. Exposure to mass media and emerging technologies, such as the Internet or cell
- 357 phones
- 358 k. Socioeconomic factors, such as race, ethnicity, and concentrated poverty
- 359 l. Quality schools
- 360 m. Transportation options
- 361 n. Public safety
- 362 o. Residential segregation based on characteristics such as income, ethnicity, or
- 363 race
- 364 p. Disproportionate impact

365 **4. The Environment**

366 The environment includes the natural, built and social environments, and including
367 the determinants of health for neighborhoods and communities, and impacts on
368 associations and cultural values.

369 **5. The Checklist**

- 370 a. **Air:** air pollution sources, including existing background conditions
- 371 b. **Water:** includes water discharge sources, stormwater controls and
- 372 management, point sources and nonpoint sources of water pollution
- 373 c. **Land:** includes soils, farmland, woodlands, wetlands, open space, recreational
- 374 space, landscapes and viewsapes

- 375 d. **Quality of life:** includes, smells, dust, smoke, vapors, gases, noise, vibration,
376 glare, heat, rodents, mosquitoes, other vectors; presence or absence of trees and
377 other vegetation
- 378 e. **Waste:** includes industrial waste, waste facilities, sewage, litter
- 379 f. **Urban design:** includes consideration of walkability, dangerous intersections,
380 barriers dividing neighborhoods, pedestrian safety, visual blight, empty lots,
381 abandoned structures, traffic congestion,
- 382 g. **Environmental Justice:** includes the principles set forth in presidential
383 Executive Order No. 12898 and as further clarified in relevant updates and
384 implementing publications of the U. S. Environmental Protection Agency (EPA)
385 regarding the disproportionate or disparate negative impact of diverse
386 governmental decisions and initiatives including but not limited to decisions
387 respecting pollution discharge permits, development applications and
388 redevelopment initiatives and other governmental action which may impact
389 neighborhoods or communities of low income or people of color or ethnic
390 minorities, and vulnerable populations therein
- 391 h. **The Applicant:** includes review of its compliance record with respect to
392 assurances provided by the applicant in other or prior applications and with
393 existing laws or regulations protecting the environmental and public health, or
394 conditions for the receipt of tax abatements and any other municipal gratuities or
395 inducements which may be relevant to the decision at issue.

396 If the applicant for the proposed development, or redevelopment, or project or
397 activity asserts that jobs will be created, then the applicant will provide the
398 following information: (1) how many jobs will be created, with what job titles,
399 paying what wages, with what benefits, over what period of time; (2) whether the
400 jobs will be unionized; (3) what percentage of such jobs will be filled from within
401 the township [city] [borough]; (4) for its existing workforce, the number of
402 employees, their job titles, their wages, their benefits, whether they are unionized,
403 and their zip code of residence.

404 **i. Health status and health-determining factors.** Cancer incidence, prevalence,
405 and deaths. Asthma incidence, prevalence, and deaths. Diabetes incidence and
406 prevalence. Autism incidence, and prevalence. Low-birth-weight births.
407 Premature births. Age distribution of the population. Racial and ethnic
408 characteristics of the population. Distribution of per-capita income and family
409 income. Single-parent households. Condition of housing stock. Employment
410 statistics. Proportion of children being raised in poverty. Percent of the
411 population that voted in the last 3 general elections.

412 **6. Inherently Beneficial:**

413 Means a project, facility, development or redevelopment which has been declared
414 by courts of competent jurisdiction or by legislation to inherently serve the public good
415 such that certain regulatory impediments should be minimized in order to promote or
416 facilitate such project, development or redevelopment, and which include but are not

417 necessarily limited to child care facilities, lower income or subsidized housing, group
418 homes for the disabled, schools, hospitals, homes for the aged, assisted living facilities,
419 places of worship, and renewable energy facilities, but shall not include certain public
420 facilities of a non residential or industrial nature, such as sewage treatment plants or cell
421 tower installations.

422 **7. Net Impact Assessment:**

423 Means a mode or methodology for quantifying or calculating the overall
424 environmental and health impact of an activity through such action as authorizing an
425 applicant to offset certain increases in impacts on-site by making or offering to make
426 additional and increased reductions of the same impacts offsite, provided that such net
427 impact assessment or offsets will not be authorized to trade off the environment or public
428 health of one community or neighborhood for the benefit of another, if doing so may
429 create or contribute to undue concentrations of impacts known as “hot spots” in the
430 impacted area

431 **2.0. Effectiveness date:**

432 This ordinance shall take effect no sooner than the ninetieth (90) day after the
433 publication of notice of the enactment of this Ordinance, except that the Governing Body
434 and other affected boards shall, upon enactment, take such steps as necessary to
435 commence the process of implementing this ordinance immediately after the date of
436 effectiveness.

437 **3.0 Severability:**

438 If any portion, clause, or section or subsection of this ordinance is determined by a
439 court of competent jurisdiction to be unlawful, ultra vires or unenforceable, it is the
440 intention of the township [city] [borough] that the remaining portions remain and be
441 severed from the portion struck down by the court.