

ORDINANCE #1030

AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY ADOPTING AND CODIFYING THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF OCEANPORT

WHEREAS, the Mayor and Council of the Borough of Oceanport in the County of Monmouth, New Jersey, caused Chapter 250 titled "Land Use Procedures", Chapter 336 titled "Subdivision of Land", and Chapter 390 titled "Zoning" of the Code of the Borough of Oceanport, as republished, approved, adopted, ordained and codified on September 18, 2008, of the 2008 Revised General Ordinances of the Borough of Oceanport, to be amended, supplemented compiled, revised and embodied in a codification known as "The Land Development Ordinance of the Borough of Oceanport."

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF OCEANPORT IN THE COUNTY OF MONMOUTH, NEW JERSEY, AS FOLLOWS:

Section 1: The land development ordinances of the Borough of Oceanport in the County of Monmouth, New Jersey, as codified in Chapter 390, are hereby adopted as "The Land Development Ordinance of the Borough of Oceanport" (Chapter 390 or LDO).

Section 2: All the provisions of Chapter 250 titled "Land Use Procedures" (adopted December 16, 1976 and as further amended), Chapter 336 titled "Subdivision of Land" (adopted December 3, 1970 and as further amended), and Chapter 390 titled "Zoning" (amended in its entirety 12-18-1975 and as further amended) of the Code of the Borough of Oceanport, adopted as noted and as republished by the Mayor and Council of the Borough of Oceanport of the 2008 Revised General Ordinances of the Borough of Oceanport, as amended, are hereby repealed and replaced with "The Land Development Ordinance of the Borough of Oceanport" (Chapter 390 or LDO).

Section 3: The Municipal Clerk of the Borough of Oceanport, pursuant to law, shall cause to be published by title this Adopting Ordinance in a newspaper of general circulation in the Borough of Oceanport. Sufficient copies of Chapter 390, the Land Development Ordinance of the Borough of Oceanport, shall be maintained in the office of the Municipal Clerk for inspection by the public at all times during the Borough's posted office hours. The enactment and publication of this Adopting Ordinance coupled with availability of copies of the LDO for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the LDO for all purposes.

Section 4: Copies of the LDO are available through the online CodeBook or a printed copy may be purchased from the Municipal Clerk upon the payment of a fee to be set by resolution of the Council which may also arrange by resolution the procedures for the periodic supplementation thereof.

Section 5: Each section of the LDO and every part of each section is an independent section or part of a section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

Section 6: The purpose of the LDO is to update the Borough of Oceanport's land development ordinances by placing, in one cohesive document, all of the land development ordinances adopted since 1970 as well as a number of proposed ordinances that have been under consideration for several years. The LDO reconciles inconsistencies in the current land development ordinances, consolidates sections and places similar requirements in related articles, and is consistent with the Municipal Land Use Law (MLUL) and New Jersey Residential Site Improvement Standards (RSIS).

Section 7: The LDO is hereby organized as follows:

Article I.	General Provisions
Article II.	Definitions
Article III.	Zoning Districts
Article IV.	General Regulations
Article V.	Conditional Uses
Article VI.	Performance Standards
Article VII.	Design Standards
Article VIII.	Subdivision Layout
Article IX.	Soil Erosion And Sediment Control
Article X.	Planning Board Establishment and Rules
Article XI.	Development Application Review Procedures
Article XII.	Application Submission Requirement and Checklists
Article XIII.	Fees, Guarantees and Off-Tract Improvements
Appendices.	Schedule I Permitted Uses
	Schedule II Bulk and Coverage Controls
	Schedule III Minimum Habitable Floor Area Per Family
	Zoning Map

The following is a summary of the significant changes in the LDO:

- Codification of several chapters related to Land Use and Zoning to provide a more user friendly and updated LDO
- Acknowledgement of Fort Monmouth zone districts
- Zoning Map update to reflect Fort Monmouth zone districts
- Additional and clarification of non-conformity regulations
- Updated definitions
- Add Viewshed protection regulations
- Update and addition of design standards
- Swimming pool regulations clarification
- Accessory use and structure regulations update
- Conditional use update

Section 8: An updated Zoning Map of the Borough of Oceanport is attached to this Adopting Ordinance.

Section 9. This Adopting Ordinance shall take effect immediately upon final passage and publication thereof according to law.

APPROVED ON FIRST READING

DATED: November 5, 2020

JEANNE SMITH

Clerk of the Borough of Oceanport

ADOPTED ON SECOND READING

DATED: December 3, 2020

JEANNE SMITH

Clerk of the Borough of Oceanport

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____.

JOHN F. COFFEY, II
Mayor

**Oceanport Borough
Monmouth County, New Jersey**

**Land Development Ordinance
(LDO)**

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Article I. General Provisions

§ 1. Title

This chapter is derived from a comprehensive ordinance regulating and limiting the uses of land and the uses and locations of buildings and structures; regulating and restricting the height and bulk of buildings and structures and determining the area of yards and other open spaces; regulating and restricting the density of population; dividing the Borough of Oceanport, Monmouth County, New Jersey into zoning districts for such purposes; adopting a map of said Borough showing boundaries and the classification of such districts; establishing an official map for said municipality; establishing rules, regulations and standards governing the subdivision and development of land within the Borough; establishing a Planning Board; and prescribing penalties for the violation of its provisions.

The short form by which this chapter may be known shall be the Land Development Ordinance (LDO) of the Borough of Oceanport.

§ 2. Authority

- A. This ordinance is adopted pursuant to *N.J.S.A. 40:55D-1 et seq.*, commonly known as the Municipal Land Use Law, which confers the power to regulate the use of lands within its jurisdiction upon New Jersey municipalities.
- B. This ordinance is also based upon the duly recognized police powers of a municipality and is an exercise of the same.

§ 3. Purpose

- A. This chapter is adopted in order to promote and protect the public health, safety, and general welfare and in the furtherance of the following specific objectives:
 - 1. Ensure the coordinated development of the Borough in accordance with its Master Plan.
 - 2. Limit congestion in streets: to limit congestion in the public streets and so protect the public health, safety, convenience, and the general welfare by providing for off-street parking of motor vehicles and for the loading and unloading of commercial vehicles.
 - 3. Provide for adequate light and air.
 - 4. Protect against hazards: to provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and the general welfare.
 - 5. Regulate intensity of use: to regulate the intensity of use of lots and to determine the area of open spaces surrounding buildings necessary to provide adequate light

and air privacy and convenience of access to property and to protect the public health.

6. Regulate location of buildings: to establish building lines and the location of buildings designated for residential, commercial, manufacturing, or other uses within such lines.
7. Establish standards of development: to fix reasonable standards to which buildings or structures shall conform.
8. Ensure the conservation and protection of open space and natural features.
9. Promote orderly development: to protect the character and maintain the stability of residential, business and manufacturing areas within the Borough, and to promote the orderly and beneficial development of such areas.
10. Preserve and enhance the community character and small-town feel.
11. Protect and renew natural resources and create man-made resources that aid in flood protection and resiliency.
12. Bolster multi-modal travel opportunities.
13. Promote complementary commercial uses in redevelopment areas including Fort Monmouth and Monmouth Park.
14. Offer conveniently located public facilities and make them available to all segments of the community.
15. Ensure a high quality of life for all residents.

§ 4. Conformity with the Master Plan

- A. The Borough Council affirms by its adoption of this chapter that it has received and reviewed the Land Use and Housing Elements of the Borough of Oceanport Master Plan, as duly adopted by the Borough Planning Board, and that this chapter is substantially consistent with the recommendations and provisions of those elements.
- B. The statement of objectives, principles, assumptions, policies, and standards contained in the Oceanport Borough Master Plan is adopted by reference and shall be considered applicable to this chapter.
- C. All future amendments to this chapter shall be made only after a review of the Land Use and Housing Elements of the Master Plan and in conformity with its statement of objectives, principles, assumptions, policies, and standards.

§ 5. Interpretation of Standards

The provisions of this Ordinance shall be held to be the minimum requirements for the protection of the public health, safety, and welfare. Where this Ordinance imposes a greater restriction than is imposed and required by other provisions of the Code of the Borough of Oceanport, county, state, or federal government, the provisions of this Ordinance shall control. Where such other laws, ordinances, rules, regulations, or resolutions require greater restrictions than are imposed by this Ordinance, the provisions of such other laws, ordinances, rules, regulations, or resolutions shall control.

§ 6. Prohibited Uses

All uses not expressly permitted in this Ordinance are hereby prohibited.

§ 7. Time of Compliance

All applicable requirements shall be met at the time of erection, enlargement, alteration, moving or change in use of the principal use and shall apply to the entire structure or structures whether or not the entire structure or structures were involved in the erection, enlargement, alteration, moving or change in use.

§ 8. Permits required.

1. No building shall hereafter be erected, constructed, reconstructed, moved, extended, converted, altered or demolished unless the owner or contractor shall first obtain a zoning permit from the Zoning Official in accordance with the further provisions of this article.
2. No building shall hereafter be erected, constructed, reconstructed, moved, extended, converted, altered or demolished unless the owner or contractor shall first obtain a building permit from the Construction Official in accordance with the further provisions of this article.
3. When an application for a proposed structure or structures does not meet the requirements of this chapter, the Zoning Official or his duly authorized assistant shall refuse to issue a zoning or permit, stating the reasons for said denial, which shall be a part of the public record. The applicant may appeal to the Planning Board.

§ 9. Continuation of existing uses.

If at the time of the enactment of this chapter any building is being used or any building is being constructed or altered and is completed within six months thereafter in a manner or for a purpose which does not conform with requirements of this chapter, but which is not prohibited by any other existing ordinance of the Borough of Oceanport, such use, manner or purpose may be

continued, nor shall any change of title or of right to possession affect such continuation of an existing use.

§ 10. Regulation of nonconforming uses.

A. Continuation.

1. Any use, located either within a building or other structure, or on the land, which was lawful immediately prior to the effective date of this chapter but which became non-conforming by virtue of this chapter may be continued so long as the use is continued without abandonment, including subsequent sales of the property.
2. Any building which was lawful immediately prior to the effective date of this chapter but which became non-conforming by virtue of this chapter may be continued or reconstructed if declared to be substandard by any building, housing or related code or authority of the Borough provided that it shall comply with the area regulations of the district in which it is located and reconstruction of the building is commenced within one year.
3. Any lot which was lawful at the time of its creation, but which is non-conforming by virtue of this chapter, may be continued to be used for the use existing at the time the lot became non-conforming. Any subsequent use of the lot which requires variances from the provisions of this chapter shall be governed by the Planning Board.

B. Expansion of non-conforming uses, buildings, or structures.

1. The expansion of non-conforming uses, buildings, or structures shall be governed by the following rules:
 - a. A non-conforming use shall not be expanded, enlarged, or increased in any way without the grant of a variance by the Planning Board.
2. No structural alterations may be made to any building or structure which is itself non-conforming or which contains a non-conforming use unless:
 - a. The alteration is ordered by a public official to eliminate a hazardous condition, or
 - b. The alteration reduces the extent of non-conformity of the building or structure.

C. Abandonment.

1. A non-conforming use of land or of a building shall be presumed to have been abandoned if the active use of the land or building is discontinued through inactivity or when there is by an apparent act or failure to act on the part of the tenant or owner to reinstate such use. .

D. Change in use.

1. A non-conforming use shall not be changed to any use other than a conforming use.
2. Any non-conforming use which has been changed to a conforming use shall not be changed back again into a non-conforming use.

E. Certificate of non-conformity.

1. The owner of any non-conforming building, use, structure, or lot may apply to the Zoning Officer for a certificate of non-conformity within one (1) year of an ordinance change making such building, use, structure, or lot non-conforming.
2. The Zoning Officer shall issue a certificate of non-conformity only upon the presentation of satisfactory evidence that the non-conforming building, use, structure, or lot was lawful prior to enactment of this chapter.
3. The owner of any non-conforming building, use, structure, or lot may apply to the Planning Board for certification of a non-conformity if such non-conformity is more than one (1) year from an ordinance change making such building, use, structure or lot non-conforming.
4. The burden of proof shall be entirely upon the owner or developer.

Article II. Definitions

§ 11. Language Interpretations.

- A. For the purposes of this chapter, certain words shall have the meaning assigned to them as follows. The following definitions are intended to interpret and clarify word usage in the Borough of Oceanport Unified Development Ordinance and not necessarily intended to be used to interpret or clarify word usage in other portions of the Code of the Borough of Oceanport. When words are used in the Unified Development Ordinance but are not defined herein, then definitions used in the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*, as applicable, shall control and be utilized to interpret and clarify word usage.
1. Words in the present tense include the future. The singular form of a word includes the plural form, and the plural form of a word includes the singular form.
 2. The word "building" includes "structure" and any part thereof.
 3. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," "constructed for," "altered for," "converted for," "rented for," "leased for," or "occupied for".
 4. The word "person" includes an individual, corporation, limited liability company, partnership, incorporated association, or any similar legal entity.
 5. The words "includes" or "including" shall not limit the term to the specified examples but is intended to extend their meaning to all other instances of like kind and character.
 6. The words "shall" and "will" are mandatory and not discretionary, and the word "may" is permissive.
 7. The feminine gender includes the masculine gender and vice versa.

§ 12. Definitions.

The following words and phrases shall have the meaning given in this section when applied to the entire chapter.

Access- A way or means of approach to provide physical entrance to a property.

Accessory Building or Structure- A building or structure which is detached from a principal building or structure on the same lot and which is customarily incidental and subordinate to the principal building or structure. Any accessory building attached to the principal building shall be considered part of the principal building.

Accessory Private Utilities – Services related to sewage treatment, water supply, gas, electric, telephone, and cable television that are exclusively used by the owners or occupants of the property.

Accessory Use- A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building, located on the same lot with the principal use.

Acre- 43,560 square feet.

Addition, Structural- A structure added to the original structure at some time after the completion of the original structure. Any additions to the supporting members of a building, such as walls, columns, beams, girders, posts, or tiers.

Adjacent Property- A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land provided, however, that lots which are separated by a public street shall not be considered adjacent.

Administrative Officer- An official of the Borough of Oceanport who is appointed by the Borough Council for the purpose of enforcing certain provisions of this chapter.

Adult Day Care – A service that provides a coordinated program of social activities, transportation, meals, personal care and therapeutic activities to persons eighteen (18) years or older with diminished physical or cognitive abilities for not more than eighteen (18) hours in any one day for compensation.

Age-Restricted Development - A residential development including accessory buildings and required or permitted social, cultural and recreational facilities requiring at all permanent residents to be 55 years or 62 years of age or older, as the case may be, in each dwelling and prohibiting any temporary resident from being less than 19 years of age, as permitted by law, and conforming to 24 CFR Part 100 Subpart E, Housing for Older Persons, implementing the federal Fair Housing Amendments Act of 1988, as it may be amended or superseded.

Agriculture- The production, keeping or maintenance; for sale, lease, or personal use; of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Air Pollution- The presence of contaminants in the atmosphere in concentrations that preclude its normal dispersive ability and that interfere directly or indirectly with a person's health, safety, or comfort or with the full use and enjoyment of their property.

Aisle- The traveled way by which cars enter and depart parking spaces.

Alley- A public or private street primarily designed to serve as secondary access to the side or rear of a property whose frontage is on another street.

Alteration, Structural- Any change in either the supporting members of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

Anchor Tenant- The major store or stores within a shopping center. For the purpose of this chapter, a store which occupies at least twenty percent (20%) of the gross square footage of the building shall be considered an anchor tenant.

Applicant- The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land, and who is submitting an application under this chapter.

Application for Development- The application form and all accompanying documents required by this chapter for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, waiver of site plan, interpretation, change of use or direction of the issuance of any permit required herein, or any and all approvals otherwise required under the Municipal Land Use Law, *N.J.S.A. 40:55D- 1 et seq.* (to be liberally construed)

Assisted Living Facility – An establishment licensed by the NJ Department of Health and Senior Services to provide a coordinated array of supportive personal and health services, available 24 hours per day, to residents who have been assessed to need help with the activities of daily life, including residents who require formal long-term care.

Automobile- A self-propelled free moving vehicle, with four (4) or more wheels, primarily for conveyance on a street or roadway.

Automobile Sales- The use of any building, land area or other premise for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreation vehicles and including any warranty repair work and other repair service conducted as an accessory use.

Automobile Boat or Trailer Sales Area- An open area other than a street, used for the display, sale or rental of new or used motor vehicles, motor or sail boats and/or trailers in operable condition and where no repair work is done.

Automobile Wash- Any building or premises or portions thereof used for washing automobiles.

Average Daily Traffic (ADT) - The mean number of cars per day that pass over a given point.

Awning- A roof-like projection from the wall of a building, usually made of cloth, canvas, or similar material, which provides shade or decorative accent to a window or door.

Basement- A space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6.5) feet.

Berm- A mound of earth, at least three (3) feet in height, which is used to shield and screen areas from view or to control the direction of water

Bicycle Lane- A lane at the edge of a roadway which is reserved and designed for the use of bicycles.

Bicycle Path- A pathway designed to be used by bicyclists.

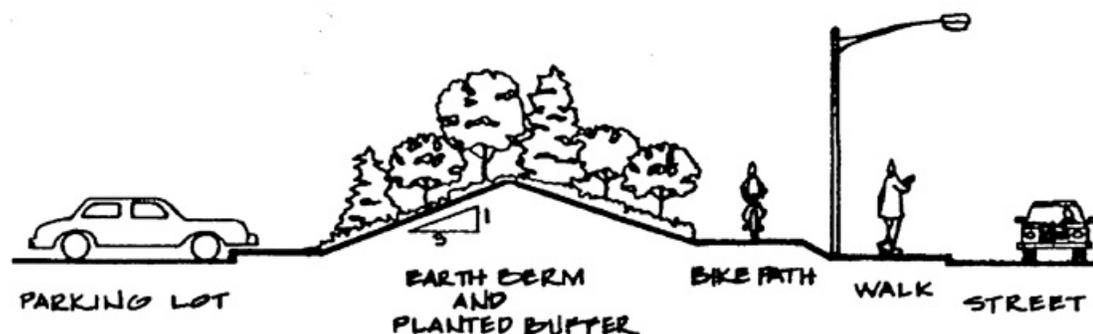
Board of Adjustment- See Planning Board.

Board of Jurisdiction – The Planning Board that has approval and denial powers over an application for development.

Boarder- An individual other than a member of the family occupying the dwelling unit or a part thereof who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

Boarding House- A dwelling or part thereof, in which lodging is provided by the owner or operator to four (4) or more boarders or as families, are housed or lodged for hire with or without meals. A rooming house or a furnished room house shall be deemed a boardinghouse.

Figure 12.1, Berm



Buffer- A landscaped strip of land used to visually separate one use from another or from a street. Buffers also serve to shield or block noise, lights, and other nuisances.

Building- A combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

Building Area- The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

Building Coverage- The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot, divided by the entire area of the lot.

Building Height- The vertical distance as measured by the crown of the road of the improved street on which it fronts at the midpoint of the lot to the highest point of the structure, excluding such appurtenances, including chimneys; flagpoles; fire towers; steeples; tanks; water towers; hotel and motel ornamental towers or spires; communications, radio or television towers, masts and aerials; or necessary mechanical appurtenances and permanent and partially enclosed grandstand facilities. On a corner lot the building height shall be measured from that street which is to be regarded as the front of the building.

Building Setback Line- A line drawn parallel to a street line or lot line and drawn through the point of a building nearest to the street line or lot line. The term "required setback" means a line that is established a horizontal distance from the street line or lot line and beyond which a building or part of a building is not permitted to extend toward the street line or lot line.

Bulk Standards – Standards and controls that establish the maximum size of building and structures on a lot and the buildable area within which the building may be located, including area, coverage, setback, height, parking, and yard or other requirements affecting the physical placement of buildings and structures on a lot. [Ord. O.5.08, 4/7/08]

"c" Variance- A variance prescribed by *N.J.S.A. 40:55D-70c*.

Caliper- The diameter of a tree trunk measured in inches, six (6) inches above ground level for trees four (4) inches in diameter or less, and measured twelve (12) inches above ground level for trees greater than four (4) inches in diameter. The tree diameter is also $\frac{7}{22}$ of the circumference, measured at the points on the tree noted above.

Canopy- A roof-like cover, open to the elements on all sides, e.g. a cover which is used to protect a walkway, seating area or outdoor equipment such as gasoline pumps.

Carport- A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides.

Cartway- That area of a street within which vehicles are permitted, including travel lanes and parking areas but not including curbs, sidewalks, or swales.

Cemetery- Property used for the interring of the dead.

Change of use- Any use which is not substantially the same as the previous use of a building or land.

Channel- The bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

Channelization- The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Child Care Center – A facility for the purpose of providing custodial care of persons meeting the definition of ‘childcare center’ as contained within *N.J.S.A. 30:5B-3(b)*, as it may be amended or superseded.

Church- A building or groups of buildings which by design and construction are primarily intended for the conducting of organized religious services.

Classification- The determination as to whether a plan is a minor or major subdivision and/or site plan.

Clear Cutting- The removal of the majority of standing trees on a lot or portion of a lot.

Clinic- An establishment where patients are admitted for examination and treatment by one (1) or more physicians, dentists, psychologists, or social workers and where patients are not usually lodged overnight.

Club- A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

Cluster Development- A development technique that concentrates buildings in specific areas of the site to allow for the remaining land to be used for recreation, common open space, and for the preservation of environmental or historic features.

College- An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

Commercial Message- Any sign wording, logo, figure, symbol, color, illumination, fixture, projection, or other representation or image that directly or indirectly, names, advertises, references or calls attention to a business product, service, or other commercial activity. (to be liberally construed)

Commercial Use- Any activity carried out for pecuniary gain and/or other commercial purpose.

Commercial Vehicle- Any motor vehicle licensed by the state as a commercial vehicle.

Common Open Space- An open space area within or related to a site designated as a development and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures

and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

Communications Tower – Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term shall include the structure and any support thereof.

Community Association- A homeowner's association organized to own, maintain, and operate common facilities and open space and to enhance and protect their common interests.

Community Facility- A building, structure, recreational device, service system, or other facility generally available to and/or operated for the benefit of residents, whether public or private; including but not limited to swimming pools, tennis courts, bicycle paths, sewage treatment plants, drainageways, municipal buildings, police or fire station, schools, and similar facilities.

Community Residence for the Developmentally Disabled- Any community residential facility licensed pursuant to *N.J.S.A. 30:11B-1 et seq.*, providing food, shelter, and personal guidance, under such supervision as required, to not more than fifteen (15) developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act" *N.J.S.A. 26:2H-1 et seq.* In the case of such community residence housing mentally ill persons, such a residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the New Jersey Department of Human Services. *See* Developmentally Disabled Person and Mentally Ill Person.

Community Residence for the Terminally Ill - Any community residential facility operated as a hospice program providing food, shelter, personal guidance, and health care services, under such supervision as required, to not more than 15 terminally ill persons.

Community Shelter For Victims of Domestic Violence- Any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by the New Jersey Department of Human Services, pursuant to *N.J.S.A 30:40-1-14*, providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than fifteen (15) persons who have been the victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

Completeness- A determination as to whether an application contains all information required by this chapter and contained on the applicable submission checklist.

Comprehensive Personal Care Home – A facility which is licensed by the Department of Health and Senior Services pursuant to *N.J.A.C. 8:36*, et seq. to provide room and board and to assure that assisted living services are available when needed, to four or more adults unrelated to the proprietor, but not to include a boarding or rooming house as defined in *N.J.S.A. 55:13B-3(a)* and *-3(h)*, respectively. [Ord. O.17.08, 10/6/08]

Concept Plan- An informal presentation and attendant documentation of a proposed subdivision or site plan which is without legal standing, but which is intended to allow the applicant to receive suggestions from the Planning Board and/or Development Review Committee.

Conditional Use- A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as contained in this chapter, and upon the issuance of an authorization therefor by the Planning Board.

Condominium- A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Condominium Association- The community association which administers and maintains the common property and common elements of a condominium.

Contiguous- Next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous.

Contractor Facilities – A use either for office or for storage of equipment and materials necessary to the conduct of any contracting business and which is conducted entirely within an enclosed building.

Conventional Development- Development other than planned or cluster development.

Corner Lot- *See* Lot, Corner.

Council- The Borough Council of the Borough of Oceanport, said organization being the elected governing body of the municipality.

Country Club- A land area and building(s) containing recreational facilities, clubhouse and customary accessory uses, open only to members and their guests for a membership fee.

County Planning Board- The Planning Board of the County of Monmouth.

Coverage- *See* Lot Coverage or Building Coverage.

Crown- The branches and foliage of a tree; the upper portion of a tree.

Cul-de-sac- The turnaround at the end of a dead-end street.

Curb- A stone, bituminous or Portland cement concrete, or wood, etc. border usually marking the edge of the roadway or paved area.

"d" Variance- A variance prescribed by *N.J.S.A. 40:55D-70d*.

Days- Calendar days, including weekends and holidays.

Deciduous- Plants that drop their leaves before becoming dormant in winter.

Decks- A permanent construction, usually of wood, raised off the ground and connected to the primary building, having no roof or walls but with railings, and which may have direct access to the ground surface and the primary building; A deck is not calculated as impervious surface for the purposes of calculating lot coverage requirements.

Dedication- Gift or donation of property by the owner to another party.

Density- The permitted number of dwelling units per gross acre of land to be developed.

Design Standards- The standards contained herein which set forth the specifications of required improvements.

Detention Basin (Pond)- A constructed or natural water collector facility designed to collect surface and/or sub-surface water in order to impede its flow and to release the same gradually, at a rate not greater than that prior to development of the property, into natural or constructed outlets.

Developer- The legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, tenant, or other persons having enforceable proprietary interests in such land. (to be liberally construed)

Development- The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation, landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the Municipal Land Use Law or this chapter.

Development Fee- Money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*, as it may be amended or superseded, and utilized to provide affordable housing.

Development Review Committee- A committee, appointed by the Planning Board and containing such officials as are prescribed in this chapter, which is charged with the task of performing an initial review on certain development applications for the purpose of helping to determine completeness, providing advice to applicants, and determining when an application is ready for listing on a Planning Board agenda. The Committee shall function as prescribed in this chapter.

Developmentally Disabled Person- A person who is developmentally disabled as defined by N.J.S.A. 30:11B-2.

Direct Illumination- A means of lighting a sign or other object by means of a light source located within or directly on the object to be lit.

District- A part, zone, or geographic area within the municipality within which certain zoning or development regulations apply.

Dormitory- A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery, or other similar institutional use.

Drainage- The removal of surface water or groundwater from land by drains, grading, or other means.

Drainage and Utility Rights-of-Way- The lands required for the installation and maintenance of stormwater and sanitary sewers, water pipes or drainageways and other utilities.

Drainageway- Any natural or artificial watercourse, trench, ditch, swale, or similar depression into which surface water flows.

Drip Line- The perimeter line on the ground measured from the outermost edge of the vertical plane established by the branches of a tree.

Driveway- A paved or unpaved area used for ingress or egress of vehicles and allowing access from a street to a building or other structure or facility. The driveway shall be an improved surface that starts at the driveway apron and is composed of asphalt, concrete, pavers, gravel, or other hard durable material. Loose materials such as stone and gravel shall have edge restraint to minimize the lateral migration of the material. The restraint shall be durable material, such as pressure treated wood, composite lumber, concrete, granite or brick curbing or metal.

Drop Manhole- A manhole provided for inspection and maintenance of sewers where an incoming sewer is higher than the outgoing sewer.

Duplex- *See Dwelling, Two-Family.*

Dwelling- Any building or portion thereof designed or used exclusively as the residence of sleeping place of one or more persons, except a mobile home as otherwise provided herein.

- 1) Dwelling, One-Family- A detached building occupied or intended for occupancy as separate living quarters exclusively for one family or one household, with direct access from the outside and further provided with separate cooking, sleeping and bathroom facilities for the exclusive use of the occupants of the unit.

- 2) Dwelling, Two Family – A building occupied or intended for occupancy as separate living quarters for two families or two households, with direct access from the outside for each and further provided with separate cooking, sleeping and bathroom facilities for the exclusive use of the occupants of each. The separation of units can be either horizontal or vertical.
- 3) Dwelling, Multiple-Family – A building occupied or intended for occupancy as separate living quarters for more than two families or more than two households, with direct access from the outside or through a common hall and further provided with separate cooking, sleeping and bathroom facilities for the exclusive use of the occupants thereof. This definition includes rental facilities, condominiums, and cooperatives.
- 4) Dwelling, Senior Citizen- A dwelling unit which is restricted to occupancy by households of two (2) or less persons in which at least one (1) member is age sixty-two (62) or older.
- 5) Dwelling, Stacked Townhouse – A multi-family dwelling that is designed and occupied exclusively as the residence of one housekeeping unit where each dwelling has at least two full floors for occupancy between one or more common vertical fire walls and one horizontal fire floor to at least four other such dwellings all housed in the same structure.
- 6) Dwelling, Townhouse – A dwelling a minimum of two stories in height that is designed and occupied exclusively as the residence of one housekeeping unit, with no other dwelling above or below them and attached by means of one or more common vertical fire walls to at least two other such dwellings all housed in the same structure.

Easement- A grant of one (1) or more of the property rights by the property owner to and/or for use by the public, a corporation or another person or entity.

Eating and Drinking Places- Retail establishments selling food and drink for consumption on the premises, including lunch counters and refreshment stands selling prepared food and drink for immediate consumption.

Elevation- 1), A vertical distance above or below a fixed reference level, or 2) a flat scale drawing of the front, rear, or side of a building.

Encroachment- Any building, structure, or obstruction in, or on, a delineated floodway, right-of-way, or adjacent land.

Environmental Assessment- A written report which analyzes the effect of a development upon the environment.

Environmental Advisory Committee- The Borough of Oceanport Environmental Advisory Committee.

Environmental Constraints- Features, natural resources, or land characteristics that are sensitive to improvements and which may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or which may limit the amount of development which is possible.

Essential Service- The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, or underground, surface or overhead gas, electrical, steam or water or other transmission systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, light stations, telephone lines, hydrants and other similar equipment and accessories therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety or general welfare.

Equalized Assessed Value- assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections *N.J.S.* 54:1-35a through 54:1-35c.

Erosion- The detachment and movement of soil or rock fragments by water, wind, ice, and gravity.

Evergreen- Plants which have green leaves all year long.

Existing Use- The use of a lot or structure at the time of the enactment of a zoning ordinance.

Facade- The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Family- One (1) or more individuals occupying a dwelling unit and living as one (1) housekeeping unit.

Family Day Care Home- An accessory use provided in a private residence approved by the New Jersey Division of Youth and Family Services or an organization with which the Division contracts for family day care in which child care services are regularly provided to no less than three (3) nor more than five (5) children for a period of time of no less than fifteen (15) hours per week nor more than eighteen (18) hours within a single day. The limitation on the number of children for whom day care service is provided shall not include children who are (a.) legally related to the service provider or (b.) who are being cared for as part of a cooperative agreement between parents for the care of their children by one (1) or more of the parents where no payment for the care is being provided.

Fence- An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Final Approval- The official action of the Planning Board taken on a preliminarily approved subdivision or site plan, after all conditions and requirement have been met, and the

required improvements have been installed or guarantees properly posted for their installation, or approval has been conditioned upon the posting of such guarantees.

Finished Elevation- The completed elevation of the land surface of a site after final grading.

Flood Fringe Area- That portion of the flood plain outside of the floodway.

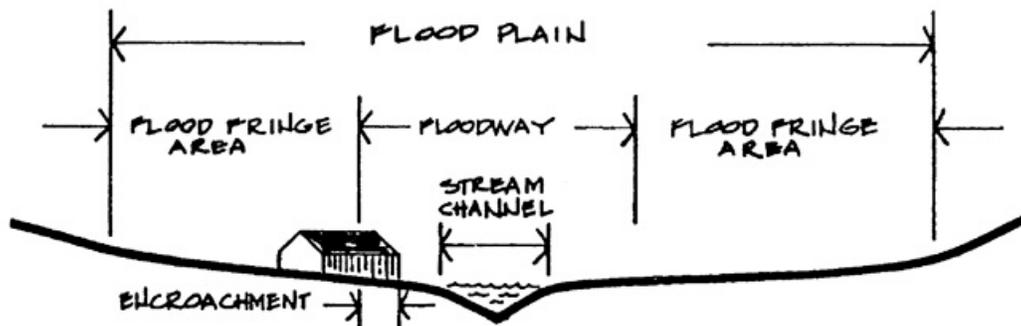


Figure 12.2, Flood Plain Cross-Section

Flood Plain- The stream channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater. The flood plain is made up of the floodway and the flood fringe.

Floodway- The channel of a natural stream or river and portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river, in accordance with Federal Emergency Management Agency (FEMA) regulations.

Floor Area, Gross (GFA)- The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six and one-half (6.5) feet.

Floor Area, Net (NFA)- The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

Floor Area Ratio- The sum of the area of all floors of buildings or structures compared to the total area of the site.

Footcandle- The unit used to measure lumens (the density of light) per square foot.
[Footcandle = lumens/area].

Forester, Professional- A person who has a B.S. degree from a four-year School of Forestry accredited by the Society of American Foresters.

Frontage- That side of a lot abutting on a street; the front lot line.

Front Lot Line- *See* Lot Line, Front.

Front Yard- *See* Yard, Front.

Funeral Home- A building licensed and used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Garage, Private- An accessory building or part of a main building used principally for the storage of motor vehicles as an accessory use, when the storage space does not exceed that permitted in the schedule.

Garage, Public- A building or part thereof, other than a private garage, used for the storage, care or repair of motor vehicles for profit, including any sale of motor vehicle accessories.

Gasoline Station- Any area of land including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may include facilities used or designed to be used for polishing, greasing, washing or otherwise cleaning or servicing such motor vehicles or making minor repairs.

General Business- Includes all uses defined in the following categories: retail services or trade, business services, personal services, and professional offices.

General Development Plan- A comprehensive plan for the development of a planned unit development.

Glare- The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Government Agency- Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, Borough, authority, district, or other governmental unit.

Grade- The degree of rise or descent of a sloping surface. *See* Slope.

Green Building Strategies- Strategies that minimize the impact of development on the environment, enhance the health, safety and well-being of residents by producing

durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and the availability of community services. [Ord. 0.3.10, 2/22/10]

Gross Floor Area- See Floor Area, Gross.

Gross Leasable Area- The total floor area for which the tenant pays rent, and which is designed for the tenant's occupancy and exclusive use. Where specific data is unavailable, this shall be assumed to be ninety percent (90%) of the gross floor area.

Ground Cover- Grasses or other plants grown to keep soil from eroding.

Gutter- A shallow channel usually set along a curb or the pavement edge of a road for the collection and transport of runoff.

Habitable Floor Area- The sum of the gross horizontal areas of a floor or several floors of a building measured between the inside face of exterior walls or from the center line of walls separating two dwelling units and having a minimum clear ceiling height of 7 ½ feet. Any cellar, basement, garage space, porch or breezeway is not to be included as habitable floor area.

Halfway House- A profit or nonprofit boarding home, rest home, or other home for the sheltered care of persons which, in addition to providing food and shelter to four (4) or more persons unrelated to the proprietor, also provides any personal care or service beyond food, shelter and laundry.

Half Story- The vertical distance between a floor and the roof with a ceiling height of not less than 7 ½ feet for no more than ⅓ of the floor area of the next floor below that is accessed by a fixed stairway and shall have an egress window which is acceptable to the Construction Official.

Height- See Building Height.

Heliport- An area, either at ground level or elevated on a structure, licensed, or approved for the landing and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Historic Site- Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which have been formally designated in the master plan, or state or national registers of historic places as being of historical, archaeological, cultural, scenic or architectural significance.

Home Occupation- A lawful occupation constituting, either partially or fully, the livelihood of a person, which is conducted in that person's principal residence as an accessory use. Home occupations are permitted conditionally only when they conform to the appropriate specific standards of this chapter.

Homeowners Association- An association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space and facilities. *See* Community Association.

Hospital- A type of health care facility whether private profit or non-profit, or institutional, principally engaged in providing short term acute and sub-acute medical treatment for disease or trauma to persons licensed pursuant to N.J.A.C. 8:43G, as it may be amended or superseded.

Hotel- A building containing a minimum of 50 lodging units for transients. Each lodging unit shall contain less than 300 square feet, including bathroom and closet space.

Housekeeping Unit- One (1) or more persons living together in one (1) dwelling unit on a non-seasonal basis and sharing living, sleeping, cooking and sanitary facilities on a non-profit basis.

Impervious Surface- Any material with an infiltration rate less than one inch per 120 minutes.

Impervious Coverage- A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. Such surfaces include but are not limited to buildings, driveways (including gravel), streets, parking lots, swimming pools, tennis courts, concrete pavers, brick pavers and any other structures that meet the above definition. Decks that contain a minimum of 1/8 inch gap between decking boards and that have pervious base material under the deck shall not be considered impervious coverage. An area equal to 350 square feet for use of a vehicle turnaround area on a residential lot shall not be considered impervious coverage and in accordance with Section 26D of this ordinance

Inclusionary Development- A development containing both affordable units and market rate units. This term includes, but is not limited to new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

Indirect Illumination- A means of lighting a sign or other object by means of a light source which is located beyond the object to be lit but which is directed or reflected upon it.

Industrial Park- A tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, and aesthetics.

Industrial Property- Any lot or parcel of land containing an industrial use or building of such uses as may be defined in this chapter.

Industry- Those fields of economic activity including forestry, fishing, hunting, and trapping; mining; construction; manufacturing; transportation, communication, electric, gas, and sanitary services; and wholesale trade.

Infill Development - The development of a new building on a vacant lot which is located within a built-up area.

Infrastructure- Facilities and services for the support of industrial, commercial, institutional, and residential activities including water, sewerage, streets, communications, utilities, public facilities such as schools, parks, fire houses, and libraries.

Inn- A commercial facility usually limited to the housing and feeding of transients.

Island- In street design, a raised area, usually curbed, which is placed to guide traffic, separate lanes, or used for landscaping, signage, or lighting.

Interested Party- In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; or, in a civil proceeding, any person, whether residing within or outside the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this chapter, or whose rights to use, acquire, or enjoy property under this chapter, or any other law of this Municipality, State, or of the United States have been denied, violated, or infringed by an action or a failure to act under this chapter.

Intersection- Where two (2) or more roads cross at grade.

Items of Information – A syllable, symbol, logo, initial, abbreviation, an unbroken group of numbers; or each word in a registered trademark or service mark. [Ord. O.24.10, 12/6/10]

Junk- Scrap, waste, reclaimable material, or debris.

Junkyard- The use of more than 200 square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of other vehicles or machinery or parts thereof.

Land- Ground, soil or earth including structures on, above or below the surface.

Land Use- A description of how land is occupied or utilized.

Land Use Plan- That portion of the Oceanport Borough Master Plan which shows the existing and proposed location, extent and intensity of development of land to be used now or in the future for varying types of residential, commercial, industrial, institutional and other public and private purposes or combination of purposes.

Landfill- *See* Sanitary Landfill.

Landscape- The addition or retention of lawns, trees, plants, and other natural and decorative features to the land.

Landscape Architect- An individual certified as a Landscape Architect by the State of New Jersey.

Loading Space- An off-street space or berth used for the temporary loading or unloading of commercial vehicles.

Long Term Care Facility - An establishment or distinct part of an establishment licensed by the NJ Department of Health and Senior Services as a long-term care facility, for those persons requiring continuous nursing and medical attention; skilled nursing facility; continuing care facility.

Lot- A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit. Includes the word "plot" and is a piece, parcel, tract or plot of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, and having not less than the minimum area required by this chapter for a lot in the zone in which such lot is situated and having the required frontage on a street.

Lot Area- The total area within the property lines of a lot, exclusive of any area within a street right-of-way.

Lot, Corner- A lot or parcel of land abutting upon two (2) or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees. Each corner lot shall have two (2) front yards, one (1) side yard and one (1) rear yard. A corner lot shall have a primary and a secondary front yard. The primary front yard shall be along the street frontage which the house faces.

Lot Depth- The distance measured from the front lot line to the rear lot line. The minimum lot depth shall apply over no less than eighty percent (80%) of the required lot width.

Lot Frontage- The length of the front lot line measured at the street right-of-way line.

Lot Line, Front- The lot line separating a lot from a street right-of-way.

Lot Line, Rear- The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side- Any lot line other than a front or rear lot line.

Lot, Minimum Area of- The smallest lot area established by this chapter on which a use or structure may be located in a particular district.

Lot Width- The horizontal distance between the side lines of a lot measured an equal distance from the front lot line at the minimum required building setback line.

Maintenance Guarantee- Any security acceptable to the governing body to ensure the maintenance of duly approved improvements installed by the developer after the final inspection of the improvements and in accordance with this chapter.

Major Site Plan- Any site plan not classified as a minor site plan.

Major Subdivision- Any subdivision not classified as a minor subdivision.

Mall- 1), A shaded walk or public promenade; or 2), A shopping center where stores front on both sides of a pedestrian way which may be enclosed or open.

Manufacturing- Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

Marquee- A roof-like structure projecting over the door of a theater or other building.

Master Plan- A comprehensive long-range plan of Oceanport Borough intended to guide the growth and development of the Borough which includes analyses, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and land use and which shall have been adopted by the Planning Board.

Median- That portion of a divided roadway separating the traveled ways of traffic proceeding in opposite directions.

Mentally Ill Person- A person who is afflicted with a mental illness as defined in *N.J.S.A.* 30:4-23, but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

Minor Site Plan- A development plan of one or more lots which proposes new development within the scope of development specifically permitted by ordinance, does not involve planned development, any new street or extension of an off-tract improvement which is to be prorated pursuant to *N.J.S.A.* 40:55D-42, and contains the information required pursuant to § 390-10B.

Minor Subdivision- A subdivision of land for the creation of not more than two (2) lots (one (1) new lot and the remaining parcel), provided that such subdivision does not involve: (a.) a planned development; (b.) any new street, or the provision of any off-tract improvement otherwise required for water, sewer, drainage, or a similar purpose; and (c.) contains the information reasonably required in order to make an informed determination as to whether the requirements established by this chapter for approval of a minor subdivision have been met. The limit as to the maximum number of lots in a minor subdivision shall include all lots created from the same tract or tracts within the previous five (5) years, which shall be certified to by the applicant.

Mixed-Use Building – A building combining non-residential uses on at least the ground floor with multi-family dwellings on upper floors.

Motel- *See* Hotel.

Mulch- A layer of wood chips, dry leaves, straw, hay, or other material placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, and to aid plant growth.

Multifamily housing development- For the purposes of establishing facilities for the collection or storage of source separated recyclable materials in new multifamily housing developments, "multifamily housing development" means a building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings.

Municipal Agency- The Planning Board or Borough Council or any other agency created by or responsible to the municipality when acting pursuant to *N.J.S.A. 40:55D-1 et seq.*

Municipal Engineer- A professional engineer, licensed by the State of New Jersey, and appointed by the Borough Council to represent the Borough's engineering interests. *See* Planning Board Engineer.

Municipal Planner- A professional planner, licensed by the State of New Jersey, and appointed by the Borough Council to represent the Borough's planning interests. *See* Planning Board Planner.

Neighborhood- An area of the community with characteristics that distinguish it from other community areas and which may include distinct ethnic or economic characteristics, schools, or social clubs, or boundaries defined by physical barriers such as major highways and railroads or natural features such as rivers.

Noise- Any undesired audible sound, as defined by the Code of the Borough of Oceanport.

Non-conforming Building - A building which in its design or location upon a lot does not conform to the regulations of this chapter for the zone in which it is located.

Non-conforming Lot- A lot of record existing at the date of the passage of this chapter which does not have the minimum width or depth or contain the minimum area for the zone in which it is located.

Non-conforming Sign- Any sign which was lawful prior to the adoption, revision, or amendment of this chapter, but which fails to conform to the present requirements of this chapter by reason of such adoption, revision, or amendment.

Non-conforming Use- A use of a building or of land that does not conform to the regulations of the ordinance for the zone in which it is located.

Nuisance- An interference with the enjoyment and use of property.

Nursery- Land or greenhouses used to raise flowers, shrubs, and plants for sale.

Nursing Home- A facility that is licensed by the Department of Health and Senior Services to provide health care, under medical supervision and continuous nursing care for 24 or more consecutive hours to two or more patients who do not require the degree of care and treatment which a hospital provides and who, because of their physical or mental condition, require continuous nursing care and services above the level of room and board. [Added 6-23-1997 by Ord. No. 693; amended 9-18-2008 by Ord. No.851]

Occupancy or Occupied- The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.

Occupant- The individual or individuals in actual possession of a premises.

Occupation- Gainful employment in which an individual engages to earn compensation for the necessities of life.

Office- A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

Office Building- A building used primarily for conducting the affairs of a business, profession, service, industry or government or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

Office, Medical – A building or portion of a building principally engaged in providing services for health maintenance, diagnosis (including testing) and treatment of human diseases, pain or other physical or mental condition of patients by physicians or other licensed health care professionals, solely on an outpatient basis, but not to include a behavioral health care center. No overnight patients shall be kept on the premises. Examples of medical offices shall include but not be limited to general physicians, dentists, chiropractors, psychologists, cardiologists, radiologists, and other various specialists.

Office Park- A development on a tract of land that contains a number of separate office buildings, supporting uses and open space and which is designed, planned, constructed, and managed on an integrated and coordinated basis.

Offsite- Located outside the lot lines of the lot in question but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way.

Off-tract- Not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

Onsite- Located on the lot in question.

On-tract- Located on a property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

Open Space- Any parcel or area of land or water essentially unimproved and set aside, dedicated, and designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

Open Space, Common- Land within or related to a development, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

Ordinance- A municipally adopted law or regulation.

Outbuilding- A separate accessory building or structure not physically connected to the principal building.

Outdoor Storage- The keeping, in an unroofed area of any goods, junk, material, merchandise, or unregistered vehicles in the same place for more than twenty-four (24) hours.

Overhang- (1.) The part of a roof or wall which extends beyond the facade of a lower wall; or (2.) the portion of a vehicle extending beyond the wheel stops or curb.

Parapet- The extension of the main walls of a building above the roof level.

Parcel- A lot or tract of land.

Parking Area- Any public or private land area designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

Parking Lot- An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

Parking Space, Off-Street- A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way. An area either within a structure or in the open exclusive of driveways, access drives and fire lanes, except that nothing shall prohibit private driveways for dwelling units from being considered off-street parking areas, provided that no portion of such public

driveway within the right-of-way line of the street intersected by such driveway shall be considered an off-street parking space.

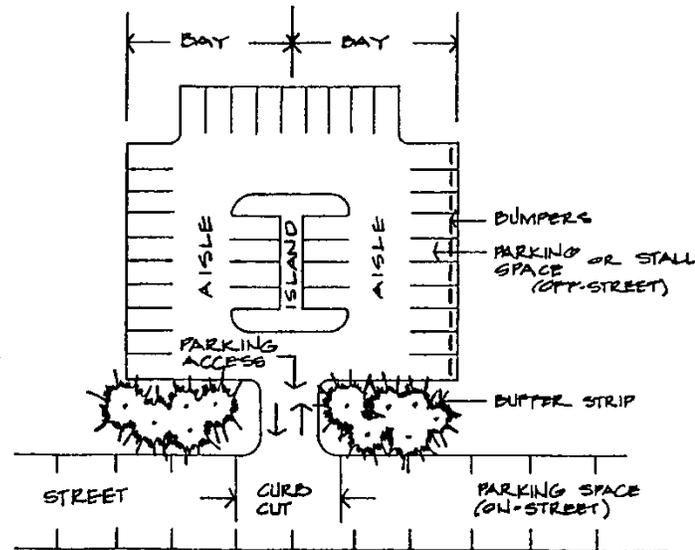


Figure 12.3, Parking Lot

Parks and Playgrounds- Those municipally owned lands which the Mayor and Council have dedicated to the public and which may be used by the public for their physical and mental recreation, including any activity sponsored by a nonprofit corporation or association which has as its objectives the promotion of the health, safety, needs and personal welfare of the community.

Pavement- (1) Brick, stone, bituminous or portland cement concrete, etc. placed on the surface of the land; (2) That part of a street having an improved surface.

Performance Guarantee- Any security that may be accepted by a municipality as a guarantee that improvements required as part of an application for development will be satisfactorily completed.

Permeability- A rating of the ability of a substance to allow water to pass through the openings or intersects.

Permit- Any permit in writing as issued by a designated Borough official or by a county, state, or federal agency, or any other applicable permit.

Permitted Use- Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Pervious Surface- Any material that permits passage of stormwater through the material.

Person- A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, and all political subdivisions or any agency or instrumentality thereof.

Personal Services- Establishments primarily engaged in providing services involving the care of a person or his or her agent.

Place of Religious Worship- A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

Planned Commercial Development – An area of a minimum contiguous or non-contiguous size as specified herein to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses or both and any residential and other uses incidental to the predominant use as may be permitted herein.

Planned Unit Development (PUD)- An area of a minimum contiguous size, as specified by this chapter, to be planned and developed as a single entity containing one (1) or more residential clusters or planned unit residential developments, and which may include one (1) or more public, quasi-public, or commercial areas in such ratios of nonresidential uses to residential uses as permitted by this chapter.

Planning Board- The duly designated planning board of Oceanport Borough. Pursuant to N.J.S.A. 40:55D-25, the Planning Board shall also carry out all of the functions and duties carried out by a Zoning Board of Adjustment. Accordingly, the powers of the Planning Board shall incorporate those provided in accordance with N.J.S.A. 40-55D-69 et seq.,

Planning Board Engineer- A professional engineer, licensed by the State of New Jersey, and appointed by the Borough Planning Board to represent its engineering interests. *See* Municipal Engineer.

Planning Board Planner- A professional planner, licensed by the State of New Jersey, and appointed by the Borough Planning Board to represent its planning interests. *See* Municipal Planner.

Plat- A map or maps of a subdivision or site plan.

Porch- An unenclosed platform with or without a roof, usually attached to or part of and with direct access to or from a building.

Potable Water- Water suitable for drinking purposes.

Portable On-Demand Storage Structures- Any container, storage unit, shed-like container, fabric “tent-like” or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building

other than an accessory building or shed complying with all building codes and land use requirements.

Preliminary Approval- The conferral of certain rights prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

Preliminary Floor Plans and Elevations- Architectural drawings prepared during early and introductory stages of the design of a project, illustrating in a schematic form its scope, scale, and relationship to its site and immediate environs.

Preliminary Subdivision or Site Plan- A plan indicating the proposed layout of a development and related information that is submitted for preliminary subdivision or site plan approval.

Principal Building- A building in which is conducted the principal use of the lot on which it is located.

Principal Use- The main purpose for which a lot or building is used.

Professional Office- The office of a member of a recognized profession and/or an administrative or executive office including, but not limited to, architecture, medicine, dentistry, engineering, law, planning, accounting, insurance, and real estate.

Property Line- *See* Lot Line.

Recreation, Active- Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment, and taking place at prescribed places, sites, or specialized fields.

Recreation Facility- A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

Recreation, Passive- Any leisure time activity not considered active, including such activities as walking and bird watching.

Recreational Vehicle- A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recycling Area- Space allocated for the collection and storage of source separated recyclable materials.

Rehabilitation Center - An establishment providing subacute care for persons transitioning from an in-patient hospital status to independent living or recovery from surgery, debilitation, or serious illness.

Religious Institution – A building, together with its accessory buildings and uses, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

Research Laboratory- An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development as an extension of an investigation with the objective of creating end products.

Resource Extraction Operation- The removal of natural resources by means of mining, drilling, or other extractive techniques from the surface or subsurface of the land. For the purposes of this chapter, natural resources shall include sand, gravel, minerals, or any other inorganic material but shall exclude materials regulated by the New Jersey Board of Public Utilities.

Restaurant- An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Retail Services- Establishments providing services or entertainment, as opposed to products, to the general public.

Retail Trade or Sales- Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Retaining Wall- A structure erected between lands of different elevation to protect structures and/or to prevent the erosion of earth from the upper slope.

Retention Basin (Pond)- A constructed or natural water collector used for the permanent storage of runoff with no outlet provided.

Rezone- To change the zoning classification of particular lots or parcels of land.

Right-of-way- A strip of land acquired by reservation, dedication, forced dedication, proscription or condemnation and intended to be occupied or occupied by a road, sidewalk, railroad, electric transmission line, oil or gas pipeline, water line, sanitary storm sewer or other similar use.

Sanitary Landfill- A site for solid waste disposal.

Satellite Dish Antenna or Satellite Antenna- A parabolic reflector antenna which is designed for the purpose of receiving signals from and/or transmitting signals to a transmitter relay located in planetary orbit.

Scenic Area- The natural features of an open area which are visually significant, or geologically or botanically unique.

Scenic Easement- An easement the purpose of which is to limit development in order to preserve a view or scenic area.

School- Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

School, Elementary- Any school licensed by the State and which meets State requirements for elementary education.

School, Private- Any building or group of buildings the use of which meets State requirements for primary, secondary, or higher education and which use does not secure a major part of its funding from any governmental agency.

School, Secondary- Any school licensed by the State and which is authorized to award diplomas for secondary education.

School, Vocational- A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.

Screening- A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Sedimentation- The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a product of erosion.

Selective Cutting- The removal of larger trees on an individual basis while leaving trees of a lesser size.

Self-Service Storage Facility- A structure containing separate storage spaces of varying sizes, leased, or rented as individual storage units.

Services- Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations.

Sewage - All effluent carried by sewers whether it is sanitary sewage, industrial wastes, or storm water runoff.

Sewerage- The entire system of sewage collection, treatment, and disposal.

Shopping Center – Any commercial development consisting of a group of permitted principal uses developed as a single entity and containing at least 50,000 square feet of floor area and at least five acres of land area.

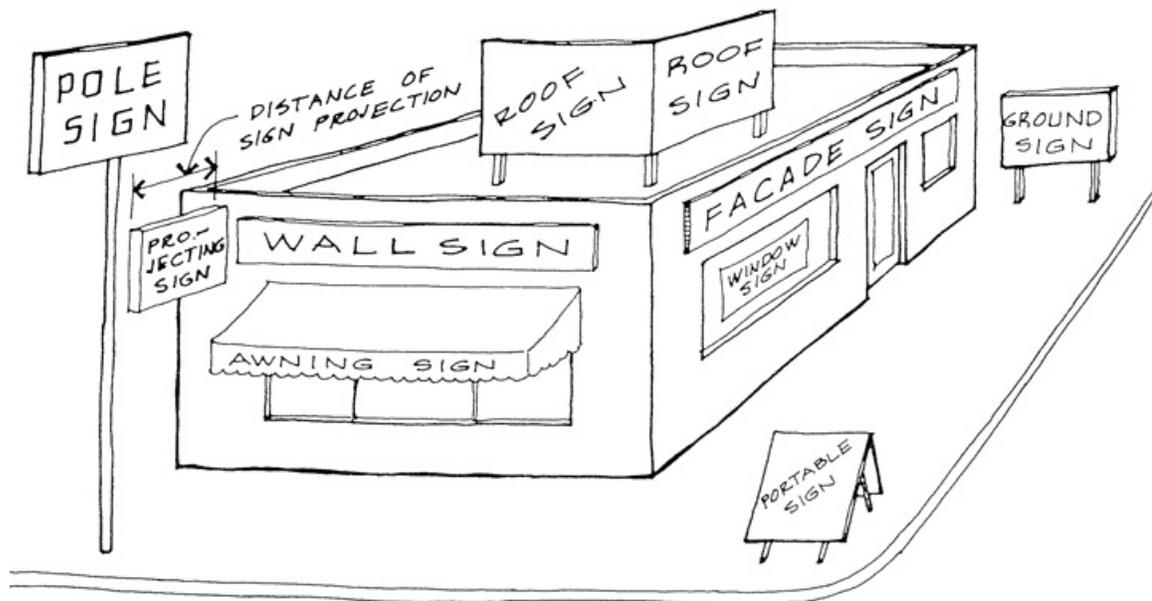
Side Yard- See Yard, Side.

Sidewalk- A paved or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.

Sight Triangle Easement- A triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign - Any object, device, display, mural or structure, or a part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. This definition shall specifically include any building or part of a building, including walls and facades used for such purposes and shall further include banners, pennants, flags, and similar attention attracting devices. (to be liberally construed)

Figure 12.4, Sign Types



Sign, Animated or Moving- Any sign or part of a sign which changes physical position by any movement or rotation, or which gives the visual impression of such movement or rotation.

Sign Area, Gross Surface Area Of- The entire area within a single continuous perimeter enclosing the extreme limits of such sign.

Sign, Awning- A sign that is mounted or painted on or attached to an awning that is otherwise permitted by this chapter.

Sign, Banner- A sign which may or may not contain a message constructed of cloth, canvas, plastic, or other flexible material typically suspended or hung by cord, string, or rope from a structure.

Sign, Billboard- A type of off-premise sign, whether on- or off-premises, greater than ten (10) square feet in area, attached or affixed to a structure, erected principally or in large part to serve as a means of displaying said sign.

Sign, Business – An on-premises sign which directs attention for purposes of promoting a business, commodity, service, industry, or other activity which is sold, offered or conducted on the premises on which such sign is located or to which it is affixed.

Sign, Canopy- A sign that is mounted or painted on or attached to a canopy that is otherwise permitted by this chapter.

Sign, Changeable Copy- A sign that is designed so that the message on the sign can be easily and periodically altered.

Sign, Channel Letter - a three-dimensional graphic element such as a letter, number or other character with an individual structure and separate illumination that, when combined with other like characters, makes up a sign presentation. Each letter is usually made using aluminum sheeting or acrylic.

Sign, Commercial – Any sign which directs attention for purposes of promoting any business, commodity, service, or industry for transactional purposes.

Sign, Development – A sign designating the name of a subdivision of residential homes, whether single-family or multi-family, attached or detached or an apartment complex; or a sign identifying an entire group of buildings in an office or industrial park.

Sign, Directional- Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit".

Sign, Directory – A sign designed for the use of motorists and pedestrians within the interior of a site or commercial or industrial complex which is intended to direct such persons to individual buildings or tenants in multi-tenanted office or industrial parks and shopping centers; or, identify tenants in a single building.

Sign, Facade- *See* Sign, Wall.

Sign, Freestanding- Any non-movable sign not affixed to a building.

Sign Height – The highest spot at any one point on the sign measured from the average grade level at the base of the sign.

Sign, Illuminated- A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign. *See* Direct Illumination and Indirect Illumination.

Sign, Incidental – A sign to convey information to the general public that has a purpose secondary to the use of the lot on which it is located. Examples include, but are not limited to "No Parking", "No Trespassing", "Loading Zone", "Telephone", "Danger High Voltage" and "Rest Room" or other similar information such as the hours of operation or credit cards honored at the establishment.

Sign, Internal – Any sign erected, constructed, or maintained inside of a building and visible from outside the building, whether illuminated or non-illuminated.

Sign, Marquee- A changeable copy sign associated with a movie or performing arts theater.

Sign, Official – A sign, symbol or device, erected, constructed or maintained by the Federal, State, county or local government or any agency thereof, for the purpose of informing or guiding the public or for the protection of the public health, safety and welfare.

Sign Permit – A specialized form of zoning permit specifically for signs issued by the Zoning Officer in accordance with the provisions of this Ordinance.

Sign, Portable – A sign not permanently attached to the ground or other permanent structure in a manner considered non-permanent under the Uniform Construction Code or which is located or attached to a trailer, on wheels, or other similar attachment such that the sign may be moved from place to place, either within the lot or to another location.

Sign, Projecting- A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

Sign, Real Estate – A sign of an owner of real property or of a licensed real estate broker indicating that a property is available for a new owner or tenant.

Sign, Residential- A sign located in a district zoned for residential purposes that does not contain any commercial message except for goods or services legally offered on the premises on which the sign is located.

Sign, Roof – A sign that is mounted on the roof of a building or which is wholly dependent upon a building's roof for support and which projects above the parapet of a building with a flat roof, the cornice line of a building with a gambrel, gable, or hip roof, or above the division between the upper and lower slopes of a building with a mansard roof.

Sign, Temporary – A sign which is not permanently attached to a building structure or permanently affixed to a freestanding structure and which is erected for a limited period of time in compliance with the provisions of this chapter.

Sign, Trespassing or Warning – An incidental sign indicating no trespassing or no fishing and/or hunting or for dangerous or hazardous conditions.

Sign, Vehicle- A type of portable commercial sign affixed or painted on a motor vehicle or trailer and parked at a location conspicuous to the traveling public for a period in excess

of 48 continuous hours, where the design elements and use characteristics of said vehicle or trailer provide evidence that its primary purpose is to serve as a means of displaying and conveying such signage as a commercial message.

Sign, Wall – A sign fastened to or painted on the facade of a building or structure in such manner that the facade becomes the supporting structure for, or forms the background surface of the sign, and which does not extend more than twelve (12) inches from the supporting facade.

Sign, Window – An internal sign that is affixed to the interior of a window or supported in such a manner as to be readily visible from the exterior of the building.

Single-Family Dwelling- *See Dwelling, Single-Family.*

Site- Any plot or parcel of land or combination of contiguous lots or parcels of land.

Site Plan- A development plan of one (1) or more lots on which is shown: (1), the existing and proposed conditions of the lot, including but not limited to topography, vegetation, drainage, flood plains, marshes, and waterways; (2), the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures, signs, lighting, and screening devices; and (3), any other information that may be reasonably required in order to make an informed determination concerning the adequacy of the plan in accordance with the requirements of this chapter. *See Major and Minor Site Plan.*

Sketch Plan- *See Concept Plan.*

Slope- The degree of deviation of a surface from the horizontal, usually expressed in percent, degrees, or ratio. *See Grade.*

Solar Farm – An installation or area of land in which a collection of photovoltaic solar panels is set up in order to generate, collect, and store electricity at an utility scale operation.

Specimen Tree- A tree with a diameter of twenty-four (24") inches or greater; or a unique, rare, or otherwise specifically selected plant or tree which most typically represents a whole class or group, specifically in shape, form, historical importance, or any other characteristics which may be designated as such by the Borough.

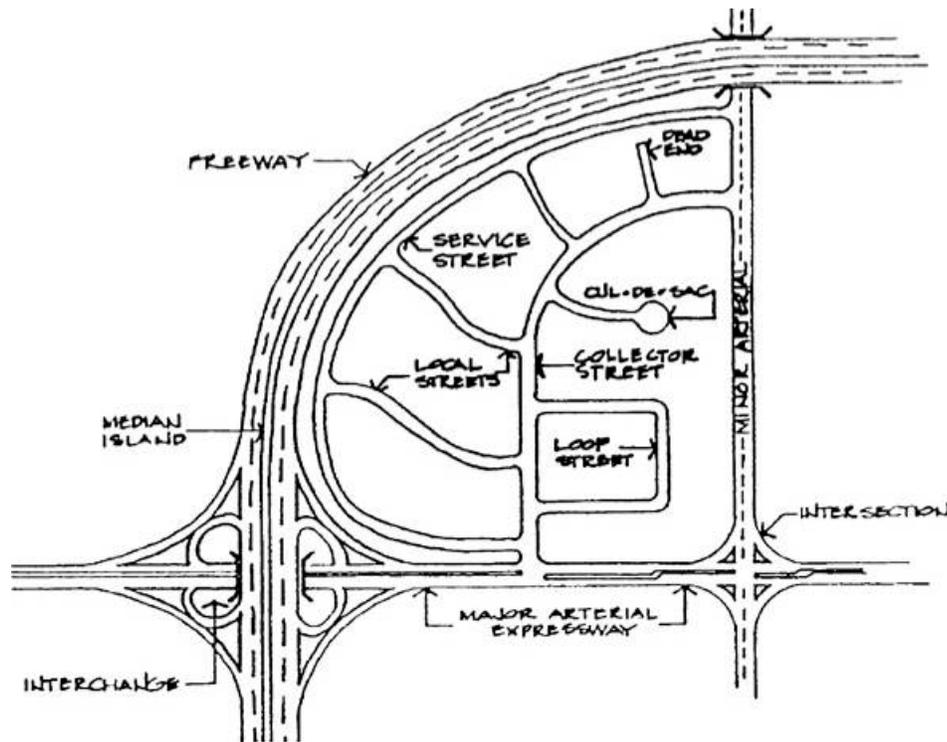


Figure 12.5, Street System

Story- The vertical distance from top to top of two successive tiers of beams or finished floor surfaces, and for the topmost story, from the top of the floor finish to the top of the ceiling joists, or where there is no ceiling, to the top of the roof rafters. "Story" is defined as habitable space and does not include a ground-floor garage or storage area that is less than seven feet 11 inches.

Street- Any street, avenue, boulevard, road, parkway, viaduct, drive or other way: (1.) which is an existing state, county, or municipal roadway; or (2.) which is shown upon a plat approved pursuant to law, or (3.) which is approved by other official action as provided by the Municipal Land Use Law, or (4.) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between such street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, paving areas and other areas within the street lines.

Street, Collector- A street which collects traffic from local streets and connects with minor and major arterials.

Street, Cul-De-Sac- A street with a single common ingress and egress and with a turnaround at the end.

Street, Dead End- A street with a single common ingress and egress and without a turnaround at the end.

Street, Line- The edge of the existing or future right-of-way, whichever may result in the widest right-of-way, as shown on the adopted Master Plan or Official Map, forming the dividing line between the street and a lot.

Street, Local- A street designed to provide vehicular access to abutting property and to discourage through traffic.

Street, Major Arterial- A street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterials.

Street, Minor Arterial- A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

Structure- A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water including, among others, buildings, stadiums, gospel and circus tents, reviewing stands, grandstands, platforms, staging and observation towers, radio towers, water tanks, trestles, piers, wharves, open sheds, decks, open and covered porches, coal bins, shelters, fences, helicopter landing pads and signs.

Structure, Temporary - A structure that has no footing or foundation, no permanent floor, and does not have all of the normal structural components of a structure designed for permanent occupancy of humans or goods.

Subdivision- The division of a lot, tract, or parcel of land into two (2) or more lots, tracts, parcels, or other divisions of land for sale, or development. The following shall not be considered subdivisions within the meaning of this chapter if no new streets are created: (1), divisions of land found by the Planning Board or Development Review Committee to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size; (2), divisions of property by testamentary or intestate provisions; (3), divisions of property upon court order, including but not limited to, judgements of foreclosure; (4), consolidation of existing lots by deed or other recorded instrument; and (5), the conveyance of one (1) or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the Administrative Officer to conform to the requirements of this chapter and are shown and designated as separate lots, tracts, or parcels on the municipal tax map. The term subdivision shall also include the term re-subdivision. *See* Major and Minor Subdivision.

Swimming Pool- A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an

above-surface pool, having a depth of more than twenty-four (24) inches, designed, used and maintained for swimming and bathing. A hot tub or spa is not considered a swimming pool.

Swimming Pool Accessory – Facilities customarily associated with and is subordinate and incidental to both above- and below-ground swimming pools, such as a pump, heater, filtration system, etc.

Swimming Pool, Commercial – A swimming pool that is operated for profit and open to the public or to a limited number of members and their guests, upon payment of an hourly, daily, weekly, monthly, annual, or other fee, or operated as a service rendered by a hotel, motel or apartment development whose units are rented to transient or permanent residents.

Swimming Pool, Private – A swimming pool located on a single-family lot with a residence on it and used as an accessory to the residence, and said pool is utilized with no admission charges and not for the purposes of profit.

Tenant- An occupant of land or premises who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owner and with the owner's consent.

Thinning- The removal of undesirable, competitive, diseased, or damaged trees so as to cultivate and improve the development of remaining trees on the lot.

Topography- The configuration (relief) of the surface of a portion of the earth showing natural and artificial features thereon; including, but not limited to, contours, structures, hydrography, and vegetation.

Tot Lot- An improved and equipped play area for small children usually up to elementary school age.

Tract – An area, parcel, piece of land, or property consisting of one or more lots that is the subject of an application for development.

Trailer- A structure on wheels, capable of being towed or hauled by another vehicle for recreation or other equipment.

Tree- Any woody perennial plant usually having one (1) main stem or trunk and a more or less definitely formed crown, and which has the potential based on its genus and species to grow to a height of ten (10) feet or more.

Tree Diameter- The width of a tree, equal to 7/22 of the circumference, measured four and a half (4.5) feet above the ground.

Tree Protection Zone- That portion of a lot outside of the disturbance zone.

Tree Removal- The cutting down of a tree, the transplanting of a tree to a site other than that under development, or the infliction of damage to a tree which is of such severity as to show evidence within a period of two (2) years of irreparable harm leading to the ultimate death of a tree. Examples of said serious damage include, but are not limited to: damage inflicted to the root system by machinery, storage of materials, and soil compaction; changing the natural grade above or below the root system and around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; paving with concrete, asphalt, or other impervious material within such proximity as to be harmful to the tree.

Tree Root Area - The area under a tree extending from the trunk to the drip line.

Trip- A single, one-way vehicle movement to or from a property or study area.

Use- The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

Use, Accessory- *See* Accessory Use.

Use, Conditional- *See* Conditional Use.

Use, Existing- *See* Existing Use.

Use Variance- *See* Variance, Use.

Used Car Lot- Any place out of doors where two or more motor vehicles in operating condition are displayed or offered for sale.

Utility Service / Facility or Structure- Establishments engaged in the generation, transmission and/or distribution of electricity, gas, or steam, including water and irrigation systems and sanitary systems used for the collection and disposal of garbage, sewage, and other wastes.

Variance- A departure from the terms of this chapter authorized by the appropriate municipal agency in accordance with the *N.J.S.A. 40:55D-1 et seq.*

Variance, Use- *See* "d" variance.

Vehicle, Motor- A self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

Wall- (1.) The vertical exterior surface of a building; or (2) the vertical interior surfaces which divide a building's space into rooms.

Warehouse- A building used primarily for the storage of goods and materials.

Water Course- Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

Wetlands- An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; provided, however, that the delineation of the wetland shall use a three parameter approach involving hydrology, soils, and vegetation which shall be acceptable to the New Jersey Department of Environmental Protection and Energy or the U.S. Army Corps of Engineers, whichever shall have primary jurisdiction.

Wrecking Establishment- A facility where the salvage from demolished structures is stored out of doors and is available for resale or reuse.

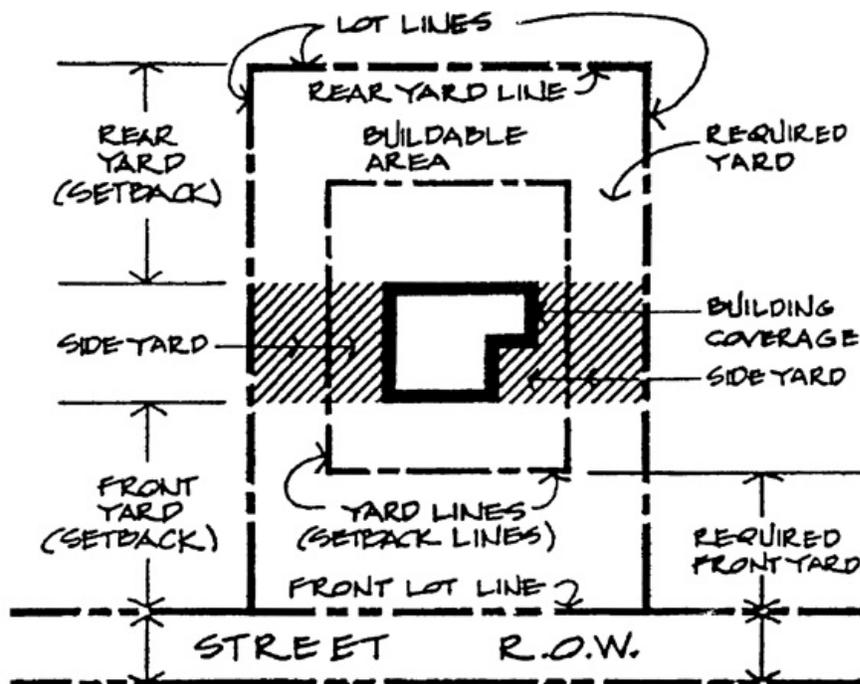


Figure 12.6, Yards and Lot Lines

Yard- An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter.

Yard, Front- An open space extending the full width of the lot between the principal or accessory building and the street line and measured perpendicular to the street line. Such front yard shall be unoccupied and unobstructed from the ground upward except as may

be specifically provided in this chapter. In the case of a corner lot, each yard with frontage on a street shall be considered a front yard.

Yard, Rear- A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the rear lot line. Such rear yard shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter. In the case of a corner lot, only one rear yard shall be provided.

Yard, Side- A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular to side lot line. Such side yard shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter. In the case of a corner lot, not more than one (1) side yard shall be provided.

Zero Lot Line- The location of a building on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line.

Zone- A specifically delineated area or district in a municipality within which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

Zoning- The dividing of a municipality into districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

Zoning Board of Adjustment- *See Planning Board.*

Zoning Map- The map or maps which are a part of the zoning ordinance and delineate the boundaries of zone districts.

Zoning Officer- The municipal official designated to enforce certain provisions of this chapter.

Article III. Zoning Districts

§ 13. Effect and establishment of zoning districts.

A. Effect of this chapter.

1. This chapter shall be applicable to the regulation of the use of all land and structures within the Borough of Oceanport.
 - a. The provisions of this chapter shall be held to be the minimum requirements (or the maximum, when so specified). Where this chapter imposes a greater restriction than is imposed and required by other provisions of law or by other rules, regulations or resolutions, the provisions of this chapter shall control. Where other laws, rules, regulations, or resolutions require greater restrictions than are imposed by this chapter, the provisions of such laws, rules, regulations, or resolutions shall control.
 - b. The standards established by this chapter shall be applied uniformly within each zoning district to each class or kind of structure or land. Only uses which are specifically provided for by the regulations of any district shall be permitted in that district unless authorized by the Planning Board pursuant to this chapter.
 - c. Upon the effective date of this chapter, no building shall hereafter be used, erected, altered, converted, enlarged, added to, moved or reduced, nor shall any lands be subdivided, developed, or redeveloped in any manner except in conformity with the standards provided herein, as applied to the zoning district in which the building or land is located.
 - d. Upon the effective date of this chapter, all buildings and land which are not in full conformity with the standards provided herein, as applied to the zoning district in which the building or land is located, shall be deemed to be non-conforming and shall be subject to the provisions of this chapter.

B. Establishment of zoning districts and zoning map.

1. The following zoning districts are hereby created and all land within the Borough of Oceanport shall be placed in one of these districts by designation on a zoning map, as described below.

- R-1: Residential Single-Family
- R-2: Residential Single-Family
- R-3: Residential Single-Family
- R-4: Residential Single-Family
- R-5: Residential Single-Family and Two-Family

- R-7.5: Residential Single-Family
- R-M: Residential Multifamily
- RMO: Residential Multiple-Family Development (fee simple owner)
- RMW: Residential Multiple-Family Waterfront
- B-1: Professional and Office
- B-2: General and Recreational Commercial
- V-C: Village Center (retail commercial)
- VC-AH: Village Center-Affordable Housing Overlay
- I: Industrial
- MPAR-AH: Monmouth Park Age-Restricted Affordable Housing Overlay
Inclusionary Zone
- FM-GT: Fort Monmouth – Green Tech Campus
- FM-HC: Fort Monmouth - Horseneck Center
- FM-MU: Fort Monmouth – Education/Mixed-Use Neighborhood

2. Zoning map. The boundaries of these zoning districts are established on a map entitled, “Zoning Map of the Borough of Oceanport”, dated September 11, 1996, last revised November 3, 2020 which accompanies this ordinance and is incorporated herein.

- a. The Zoning Map is on file in the office of the Borough Clerk.
- b. Ordinance No. 980 adopted 10-19-2017: Block 65, Lot 1 on tax map of the Borough, commonly known as 222 Monmouth Boulevard. The zoning district map and the zoning ordinance of the Borough are hereby amended to incorporate and reflect the Redevelopment Plan, and, to the extent provided in the Redevelopment Plan, are superseded thereby. [Added 10-19-2017 by Ord. No. 980]

C. Interpretation of boundaries.

- 1. The boundaries between zoning districts are, unless otherwise indicated, either the center lines of streets or railroad rights-of-way, municipal boundary lines, property lines existing at the time of the zoning map adoption or amendment, or lines parallel or perpendicular thereto. Distances not specifically indicated shall be determined by the scale of the map.
- 2. Where a district boundary line divides a lot existing at the time of adoption of this chapter, the regulations applicable to the least restrictive district shall extend over the portion of the lot in the more restrictive district for a distance of not more than twenty (20) feet.

D. Notice of proposed change to classification or boundaries of zoning districts.

- 1. Notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the

Master Plan by the Planning Board pursuant to Section 76 of P.L.1975, c.291 (C.40:55D-89), shall be given at least 10 days prior to the hearing by the Municipal Clerk to the owners of all real property as shown on the current tax duplicates, located, in the case of a classification change, within the district and within the State within 200-feet in all directions of the boundaries of the district, and located, in the case of a boundary change, in the State within 200-feet in all directions of the proposed new boundaries of the district which is the subject of the hearing.

2. A notice pursuant to this Section shall state the date, time and place of the hearing, the nature of the matter to be considered and an identification of the affected zoning districts and proposed boundary changes, if any, by street names, common names or other identifiable landmarks, and by reference to lot and block numbers as shown on the current tax duplicate in the municipal Tax Assessor's office.
 - a. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or their agent in charge of the property, or (2) mailing a copy thereof by certified mail and regular mail to the property owner at their address as shown on the said current tax duplicate.
 - b. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200-feet of the boundaries of the district which is the subject of the hearing, may be made in the same manner as to a corporation, in addition to notice to unit owners, co-owners, or homeowners on account of such common elements or areas.
3. The Municipal Clerk shall execute affidavits of proof of service of the notices required by this Section, and shall keep the affidavits on file along with the proof of publication of the notice of the required public hearing on the proposed zoning ordinance change. Costs of the notice provision shall be the responsibility of the proponent of the amendment.
4. Protest. Notice of the hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the Master Plan by the Planning Board pursuant to Section 76 of P.L.1975, c.291 (C.40:55D-89), shall be given prior to adoption in accordance with the provisions of Section 2 of P.L.1995, c.249 (C.40:55D-62.1). A protest against any proposed amendment or revision of a zoning ordinance may be filed with the Municipal Clerk, signed by the owners of 20% or more of the

area either (1) of the lots or land included in such proposed change, or (2) of the lots or land extending 200-feet in all directions therefrom inclusive of street space, whether within or without the municipality. Such amendment or revision shall not become effective following the filing of such protest except by the favorable vote of two-thirds (2/3) of all the members of the governing body of the municipality.

§ 14. Schedule of regulations.¹

- A. Except for the Borough overlay districts, the restrictions and controls intended to regulate development in each district are set forth in the attached schedules, which are supplemented by other sections of this chapter. The Fort Monmouth Reuse (FMR) district regulations can be via the following link and are incorporated into this ordinance only by reference as the Borough does not have zoning authority in this district area: <https://www.fortmonmouthnj.com/developer-information/land-use-regulations>.
- B. Village Center-Affordable Housing Overlay Inclusionary Zone (VC-AH)
1. Purpose: The Borough adopts this ordinance to advance the following objectives: To address its affordable housing unmet need obligation, the Borough shall implement a Village Commercial Affordable Housing Overlay Inclusionary Zone Ordinance that creates a realistic opportunity for housing in the Borough that is affordable to low- and moderate-income households. This Ordinance establishes the Village Commercial Affordable Housing Overlay Inclusionary Zone and permits the creation of multi-family housing within the Village Commercial Zone provided that such housing complies with a required inclusionary set-aside requirement and with the requirements of this ordinance. The form of development shall be consistent with the goals, objectives, and general design principles of the East Main Street Urban Design + Resiliency Plan Element of the Borough Master Plan.
 2. Location. The Village Commercial Affordable Housing Overlay Inclusionary District is applicable to the following parcels:

Block 88, Lot 34

Block 88, Lot 35

Block 101, Lot 1

Block 101, Lot 2

Block 101, Lot 3

1. ¹ The schedules for permitted land uses, bulk/coverage controls and minimum habitable floor area are provided at the end of the Land Development Ordinance as appendices.

Block 101, Lot 4

Block 101, Lot 5

Block 101, Lot 6

Block 101, Lot 7

Block 101, Lot 8

Block 101, Lot 9

Block 121, Lot 3.01

Block 121, Lot 4

3. Permitted uses. The following uses shall be permitted in the Village Commercial Affordable Housing Overlay Inclusionary District:

a. Inclusionary multi-family development provided:

- 1) The minimum percentage of very low, low- and moderate-income housing shall be fifteen percent (15%) of the total number of dwelling units for rental affordable units and twenty percent (20%) of the total number of dwelling units for for-sale affordable units.
- 2) In any multi-family development having five (5) or more residential units, at least one (1) unit must be established as affordable to low- and moderate-income households;
- 3) All affordable units produced must comply with the Borough's Affordable Housing Ordinance

b. Mixed-use development provided inclusionary multi-family dwellings are provided. The following non-residential uses are permitted in the mixed-use development on the first floor;

- 1) Restaurant;
- 2) Bar;
- 3) Brewery;
- 4) Offices;
- 5) Retail;
- 6) Museum;

- 7) Gallery;
 - 8) Houses of Worship;
 - 9) Recreation services such as a health club;
 - 10) Personal services such as laundry cleaning and salons;
 - 11) Uses similar to those permitted above as determined by the Planning Board.
4. Accessory Uses Permitted. The following accessory uses, and structures shall be permitted in the VC-AH District provided they are located on the same premises as the principal use or structure to which they are accessory and are located in the rear yard:
- a. Accessory uses on the same lot with and customarily incidental to, any of the above permitted uses.
 - b. Surface parking area and garages.
5. Development Standards
- a. Maximum density: 20 dwelling units per acre
 - b. Principal Building Setbacks
 - i. Front Yard: 0 feet minimum and 15 feet maximum from front lot line
 - ii. Maximum Side Yard: 10 Feet
 - iii. Rear Yard 0 Feet
 - c. Accessory Building Setbacks
 - i. Maximum Side Yard: 10 Feet
 - ii. Maximum Rear Yard: 10 Feet
 - d. Maximum Principal Building Height: 3 Stories / 38 Feet
 - e. Maximum Accessory Building Height: 20 feet
 - f. Maximum Building Coverage: 65%
 - g. Maximum Impervious Surfaces: 80%
6. Design Standards
- a. Building Design.
 - i. Buildings shall be required to incorporate high-quality architectural features that are characteristic of and complimentary to significant buildings reflecting the traditional architecture within downtown centers in the region. The applicant for any development shall demonstrate such design by providing examples of and comparisons with existing high-quality architecturally significant buildings.
 - ii. If more than one primary structure is proposed, the architecture of each primary structure shall be compatible but different from one another in terms of style, materials, and layout.

- iii. All HVAC and mechanical equipment shall be adequately screened from view.
 - b. Front-loaded townhouses are prohibited.
 - c. Recreational/Social Amenities. Developments shall be required to include both interior and exterior common areas devoted to recreational, social, and similar functions for residents and their guests, as set forth below:
 - i. At least 40 square feet per dwelling unit shall be devoted to interior common areas, such as but not limited to meeting rooms, community centers, fitness centers, indoor recreational areas, lounges, libraries, etc. Areas such as hallways, stairs, elevators, entrance lobbies, storage, mail areas, mechanical space or office space and similar areas shall not count towards meeting this requirement.
 - ii. At least 40 square feet per dwelling unit shall be devoted to exterior common areas, such as but not limited to recreational areas, gardens, courtyards, plazas, decks, patios, etc. Such areas may be located at grade level, on building terraces or on the roof of the building. Lawn and landscaped areas shall not count towards meeting this requirement unless such areas are specifically designed to be part of the aforementioned features.
 - d. Parking shall be located in the side or rear yards only.
7. Affordable Housing. All residential development shall be required to include affordable housing as a component. The following requirements shall apply:
- a. The minimum percentage of very low, low- and moderate-income housing shall be fifteen percent (15%) of the total number of dwelling units for rental affordable units and twenty percent (20%) of the total number of dwelling units for for-sale affordable units.
 - b. Very low, low and moderate-income housing shall be constructed and rented in accordance with the Council on Affordable Housing rules at N.J.A.C. 5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low, low and moderate income housing, provided a minimum of 13% of the affordable units are very low income units at 30% of the median income and 37% of the affordable units are low income units with the 50% balance of units allowed at moderate income; bedroom distribution; range of affordability; pricing and rent of units; affirmative marketing; 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract.
 - c. The Borough designated Affordable Housing Administrator shall be responsible to affirmatively market, administer and certify the occupant of each affordable unit, with all administrative costs to be paid by the Developer.

- C. Monmouth Park Age-Restricted Affordable Housing Overlay Inclusionary Zone (MPAR-AH)
1. Purpose: The Borough adopts this ordinance to advance the following objectives: To address its affordable housing unmet need obligation, the Borough shall implement a Monmouth Park Age- Restricted Affordable Housing Overlay Inclusionary Zone Ordinance that creates a realistic opportunity for housing in the Borough that is affordable to low- and moderate-income households. This Ordinance establishes the Monmouth Park Affordable Housing Overlay Inclusionary Zone, and permits the creation of multi-family housing only upon the complete cessation of live horse racing activity of any kind at Monmouth Park Racetrack provided that such housing complies with a required inclusionary set-aside requirement and with the requirements of this ordinance.
 2. Location. The Monmouth Park Age-Restricted Affordable Housing Overlay Inclusionary District is applicable to Block 122, Lot 28.
 3. Permitted uses. The following uses shall be permitted in the Monmouth Park Age-Restricted Affordable Housing Overlay Inclusionary District:
 - a. Inclusionary multi-family development provided:
 - i. The minimum percentage of very low, low- and moderate-income housing shall be fifteen percent (15%) of the total number of dwelling units for rental affordable units and twenty percent (20%) of the total number of dwelling units for for-sale affordable units.
 - ii. In any multi-family development having five (5) or more residential units, at least one (1) unit must be established as affordable to low- and moderate-income households;
 - iii. All affordable units produced must comply with the Borough's Affordable Housing Ordinance;
 - iv. All residential units are age-restricted in accordance with the definition provided in the Borough's Affordable Housing Ordinance; and
 - v. Inclusionary multi-family residential development is only permitted upon the cessation of live horse racing activity of any kind at Monmouth Park Racetrack.
 - b. Accessory Uses Permitted. The following accessory uses, and structures shall be permitted in the MPAR-AH District provided they are located on the same

premises as the principal use or structure to which they are accessory and are located in the rear yard:

- i. Accessory uses on the same lot with and customarily incidental to, any of the above permitted uses.
 - ii. Surface parking area and garages.
- c. Development Standards
- i. Maximum density: 12 dwelling units per acre
 - ii. Maximum Building Coverage: 65%
 - iii. Maximum Impervious Surfaces: 80%
 - iv. Townhouses
 1. Maximum Height: 45 feet or 3 stories
 2. Maximum dwelling units in one building 8
 3. Rear-Loaded Townhouses:
 - a. Minimum distances from front facade to private streets:
 - b. Building to sidewalk: 14 feet
 - c. Building to curb: 21 feet
 - d. Minimum distance from garage facade to curb, edge of alley pavement or edge of sidewalk: 20 feet
 - e. Minimum distances for side facades:
 - i. Building to building 28 feet
 - ii. Building to private street 15 feet
 - v. Apartments
 1. Maximum Height: 45 feet or 3 stories
 2. Maximum dwelling units in one building: 36
 3. Minimum Building setbacks:
 - a. Building to building: 30 feet
 - b. Building to private street: 16 feet
 - c. Building to parking area or driveway: 15 feet
 4. For each affordable apartment, in addition to any storage areas contained within the apartment, there shall be provided 300 cubic feet of storage in a conveniently accessible area either within the apartment building or in a separate building where storage will not constitute a fire hazard and where belongings can be kept locked and separated from the belongings of other occupants.
- d. Design Standards
- i. Building Design.
 1. Buildings shall be required to incorporate high-quality architectural features that are characteristic of and complimentary

- to other significant multi-family buildings reflecting the traditional architecture within the Borough. The applicant for any development shall demonstrate such design by providing examples of and comparisons with existing high-quality architecturally significant buildings.
2. If more than one primary structure is proposed, the architecture of each primary structure shall be compatible but different from one another in terms of style, materials, and layout.
 3. All HVAC and mechanical equipment shall be adequately screened from view.
 4. Front-loaded townhouses are prohibited.
 5. Recreational/Social Amenities. Developments shall be required to include both interior and exterior common areas devoted to recreational, social, and similar functions for residents and their guests, as set forth below:
 - a. At least 40 square feet per dwelling unit shall be devoted to interior common areas, such as but not limited to meeting rooms, community centers, fitness centers, indoor recreational areas, lounges, libraries, etc. Areas such as hallways, stairs, elevators, entrance lobbies, storage, mail areas, mechanical space or office space and similar areas shall not count towards meeting this requirement.
 - b. At least 40 square feet per dwelling unit shall be devoted to exterior common areas, such as but not limited to recreational areas, gardens, courtyards, plazas, decks, patios, etc. Such areas may be located at grade level, on building terraces or on the roof of the building. Lawn and landscaped areas shall not count towards meeting this requirement unless such areas are specifically designed to be part of the aforementioned features
 6. Parking shall be located in the side or rear yards only.
4. Affordable Housing. All residential development shall be required to include affordable housing as a component. The following requirements shall apply:
- a. The minimum percentage of very low, low- and moderate-income housing shall be fifteen percent (15%) of the total number of dwelling units for rental affordable units and twenty percent (20%) of the total number of dwelling units for for-sale affordable units.
 - b. Very low, low and moderate-income housing shall be constructed and rented in accordance with the Council on Affordable Housing rules at N.J.A.C. 5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low, low and moderate income housing, provided a minimum of 13% of the affordable units are very low income units at 30% of the median income and 37% of the

affordable units are low income units with the 50% balance of units allowed at moderate income; bedroom distribution; range of affordability; pricing and rent of units; affirmative marketing; 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract.

- c. The Borough designated Affordable Housing Administrator shall be responsible to affirmatively market, administer and certify the occupant of each affordable unit, with all administrative costs to be paid by the Developer.

Article IV. General Zoning Regulations

§ 15. Lot Regulations.

- A. Lot width. The minimum lot width shall be measured at the building setback line. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street, either street may be deemed the street upon which the property fronts.
- B. Visibility at intersections. At the intersection or interception of two or more streets, no hedge, fence, or wall higher than 2 ½ feet above gutter grade, nor any obstruction to vision other than a post not exceeding one foot in diameter, shall be permitted on any lot within the triangular area formed by two intersecting gutter lines bounding said lot, or the projection of such lines, and by a line connecting a point on each gutter line located 25 feet from the intersection of the street line.
- C. Visibility on horizontal curves. On any street containing a horizontal curve, the sight distance along any chord of less than 200 feet shall be visually clear, that is, the area formed by such a chord and the horizontal curve shall be kept clear of all structures and vegetation.

§ 16. Height Regulations.

- A. Permitted exceptions.
 1. The following may be erected in excess of the height limitations stipulated elsewhere in this chapter; provided, however, that a setback of one (1) foot from all front, side, and rear lot lines shall be provided for each additional two (2) feet of height of such structures in excess of the established maximum height limitations as established in this chapter.
 - a. Chimneys and cupolas not to exceed five (5) feet in height;
 - b. Flagpoles;
 - c. Fire towers;

-
- d. Steeples;
 - e. Tanks;
 - f. Water towers;
 - g. Communications, radio or television towers, masts, and aerials;
 - h. Necessary mechanical appurtenances and permanent and partially enclosed grandstand facilities.
2. No tower shall be used as a place of habitation or for tenant purposes.
 3. No signs, nameplate, display, or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank, or other structure which extends above the maximum height limitations.
- B. Elevated Structures.
1. Existing Structures. The maximum principal height for existing structures that are unaltered and elevated to comply with the Borough's Flood Damage Prevention Ordinance are permitted a maximum height of 40 feet. The structures may only be elevated to the minimum height that provides for compliance with the ordinance.
 2. New Structures. All new or elevated structures shall comply with the following requirements:
 - a. Structures that are built on conventional concrete or concrete block foundations shall provide a maximum exposed foundation of 40 inches.
 - i. Siding treatment shall be extended downward to cover any foundation in excess of 40 inches. If stone or landscaped terraces are utilized to cover the foundation area in excess of 40 inches, those structures shall be located no closer than ten (10) feet from the property line.
 - b. Structures that are built on piling or piers type foundations shall enclose the entire foundation with a finished architectural treatment, such as stone, masonry, framed lattice, framed louvers or siding to enclose the entire foundation.
 - i. Landscape terraces may be utilized to enclose the foundation pilings or piers provided the structure is set back a minimum of ten (10) feet from the property line.

§ 17. Yard Exceptions.

A. General.

1. Required yards shall be open to the sky, unobstructed except for the ordinary projection of parapets, windowsills, doorposts, and ornamental fixtures which may not project more than six (6) inches into such yards.
2. Nothing in this chapter shall prevent the projection of a cornice over any required yard.
3. Chimneys or flues associated with the principal structure may be erected within a rear yard or side yard, provided that they do not exceed twenty (20) square feet in footprint area.
4. In residential districts, a porch one story in height can project not more than six (6) feet into the front yard and not more than five (5) feet into the side yard but in no instance nearer than ten (10) feet to a side lot line and 24 feet to the front lot line (except R-M Districts).

B. Front yard.

In residential districts, no principal building shall be nearer to the street line of any street than five (5) feet of the average alignment of the existing principal buildings within 200 feet of each side of the lot on the same block. Buildings utilized for comparison shall be located on the same side of the street as the principal building and in any event not violate the minimum front yard setback.

C. Side yard of a corner lot.

1. The side street setback lines of any existing corner lot platted on the Borough's Tax Maps shall not be less than $\frac{1}{2}$ of the depth of the minimum front yard required on any adjoining lot fronting on a side street.
2. Any corner lot delineated by subdivision after the adoption of this chapter shall provide a side yard setback line no less than the minimum required front yard.
3. Not more than one (1) side yard shall be provided.

D. Waterfront properties.

1. In residential districts, no principal building shall be nearer to the mean high waterline than two (2) feet of the average alignment of the existing principal buildings along 200 feet of each side of the lot on the same block. This shall not apply in the RMW District. [Amended 2-18-2016 by Ord. No. 962]

§ 18. Number of Principal Buildings Per Lot Restricted. [Amended 1-20-1977 by Ord. No. 396; 2-18-2016 by Ord. No. 962]

There shall be not more than one principal dwelling on each residential lot in any R District except in the R-M District, RMO District, RMW District, and the R-5 District (two-family dwellings).

§ 19. Accessory Structures.

- A. Attached accessory structures in all residential districts.
1. When an accessory structure is attached to the principal building, it shall comply in all respects with the yard requirements of this chapter applicable to the principal building.
 2. A deck is not considered an accessory structure if it is located within five (5) feet of the principal building.
- B. Erection of accessory structure. No accessory structure is to be erected prior to the start of construction for the principal building.
- C. Location of accessory structure. No accessory structure is permitted in the front yard except: [Amended 3-21-2013 by Ord. No. 912]
- a. Flagpoles;
 - b. Waterfront properties. Sheds no greater than ten (10) feet by twelve (12) feet and ten (10) feet in height that meet the required side yard setbacks for an accessory structure.
- D. Height of accessory building. No accessory building shall exceed fifteen (15) feet or one (1) story in height.
- E. Alternative energy sources, such as wind turbines and solar farms are not permitted. [Added 3-21-2013 by Ord. No. 912]
- F. Improvements shall not be placed or constructed within the Borough's right-of-way that is without curbing, i.e. sprinkler heads, decorative mailbox columns, pillars, fencing and any curbing, specialty or otherwise, such as Belgian block, not part of an approved development plan, a Borough road-improvement program or a public right-of-way without written permission from the Borough Council. Such items that are placed in the Borough public right-of-way shall not be the responsibility of the Borough should they be damaged, whether it be by snow plowing or otherwise. [Added 3-21-2013 by Ord. No. 912]
- G. Accessory Private Utilities
1. Accessory private utilities include generators, air condition units, oil tanks and other similar private utilities that service the structures.

2. The setback for replacement utilities is permitted in the footprint of the existing private utility but no closer to the property line than the setback distance of the existing utility.
3. New utilities for a dwelling existing at the time of the ordinance adoption shall be no closer than five (5) feet from the property line or the location of the current utility whichever is furthest from the property line.
4. The minimum setback of a utility for a newly constructed dwelling shall meet the setbacks required for the principal structure.
5. Adequate screening of the utility shall be provided with a fence or plantings or combination thereof.

H. Radio, Television and Microwave Antennas. [Amended 10-16-1986 by Ord. N. 530]

1. In residential zones, including the R-1 through R-5, R-M and RMO Zones, the following antenna structures shall be permitted as accessory structures to a principal residential structure. No such antenna structures may serve more than one residential lot unless the supporting structure conforms to the minimum regulations on the lot on which it is located and no connecting cables cross property other than that owned by the persons served by the antenna.
 - a. Two conventional television and/or radio antenna structures attached to a building, provided that they do not exceed the height limitations for the zone by more than fifteen (15) feet. Antenna structures operated by holders of a Federal Communications Commission Amateur Radio License may exceed the height limitations for the zone by 35 feet. Such antennas which exceed twenty (20) feet above the point of attachment to the building shall be built to withstand winds of 75 miles per hour.
 - b. Freestanding, noncommercial, mast- or pole-type radio and/or television antenna structures and one tower-type radio and/or television antenna structure, provided that they shall only be placed in the rear yard area, shall be located no closer than fifteen (15) feet to any property line and may exceed the height limitations for the zone by not more than fifteen (15) feet. In the event that any rear yard area shall be contiguous with the front yard area of an adjoining lot, such antenna structure shall be placed in a side yard subject to compliance with the setback and screening requirements otherwise contained in this chapter. Antenna structures operated by holders of a Federal Communications Commission Amateur Radio License may exceed the height limitations for the zone by 35 feet. Such structures over twenty (20) feet in height shall be built to withstand winds of 75 miles per hour.
 - c. One satellite dish antenna structure erected on a secure ground-mounted foundation, provided that it shall only be placed in the rear yard, shall

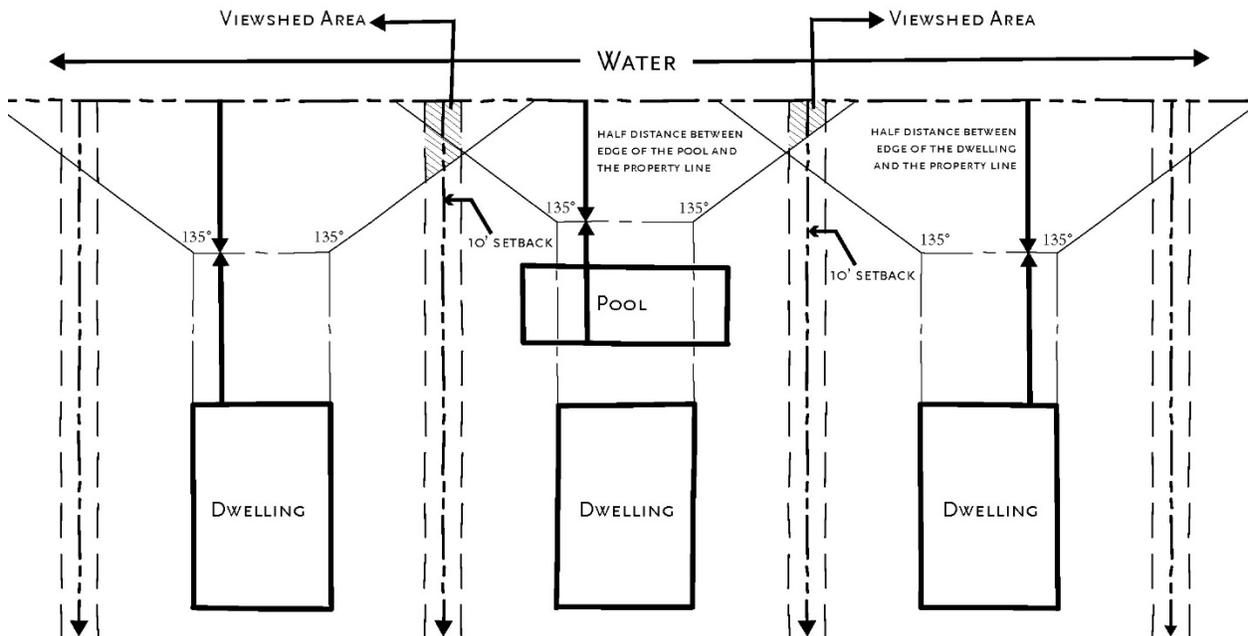
conform to the setbacks for a principal structure in the zone and shall not exceed twelve (12) feet in height or twelve (12) feet in diameter. In the event that any rear yard area shall be contiguous with the front yard area of an adjoining lot, such antenna structure shall be placed in a side yard subject to compliance with the setback and screening requirements otherwise contained in this chapter. Any wires or connecting cables shall be buried underground, unless the antenna is located immediately adjacent to and mounted no more than seven (7) feet from the structure being served. Each such structure shall be screened by fencing not to exceed six (6) feet in height, other structures and/or non-deciduous plantings of sufficient number and height to obstruct any clear view of the antenna from any adjacent conforming residential property, any residential zone or any public street.

2. In the B-1, B-2, V-C, and I Zones, the following antenna structures shall be permitted as accessory structures to a principal use, other than a residential use, on the same lot. No such antenna structures may serve more than one lot unless the supporting structure conforms to the minimum regulations on the lot on which it is located and no connecting cables cross property other than that owned by the person served by the antenna: [Amended 6-23-1997 by Ord. No. 693]
 - a. Conventional television and/or radio antenna structures attached to each building, provided that no antenna structure shall exceed the height limitations for the zone by more than fifteen (15) feet. Such structures which exceed twenty (20) feet above the point of attachment to the building shall be built to withstand winds of 75 miles per hour.
 - b. Freestanding, conventional, noncommercial radio and television antenna structures, provided that such antenna structures shall only be placed in the rear yard, shall adhere to setback and yard requirements for accessory structures in the particular zone but in no case shall be closer than fifty (50) feet to any residential property line or zone boundary or closer than fifteen (15) feet to any other property line, and shall not exceed the height limitations for the zone by more than fifteen (15) feet. Such structures over twenty (20) feet in height shall be built to withstand winds of 75 miles per hour.
 - c. Satellite dish antennas. Such antenna structures shall be erected on a secure ground-mounted foundation located in the rear yard or may be mounted on a flat roof provided that it is no higher than fifteen (15) feet above the roofline and is concealed from public view. No antenna structure shall exceed twelve (12) feet in diameter. Ground-mounted antenna structures shall conform to the setbacks for a principal structure in the zone, shall not exceed twelve (12) feet in height and shall in no case be located closer than fifty (50) feet to a residential property line or zone boundary. Wires or connecting cables for ground-mounted antenna shall be buried underground. Each ground-mounted antenna shall be screened

by fencing, other structures and/or non-deciduous plantings of sufficient number and height to obstruct any clear view of the structure from any adjacent conforming residential property, any residential zone or any public street.

§ 20. Viewshed Protection.

- A. There shall be no structure or plantings placed greater than four (4) feet in height located within ten (10) feet of the side property line within the defined viewshed area. The viewshed area is defined as that area encompassing a space measured from half the distance between the rear façade of a principal building or the pool water edge (closest to the rear façade) and the mean high water line or the property line at the water's edge, whichever is closest, at a 135-degree angle starting at the projection of the plane of the side facades of the principal structure to the rear property line of the property and adjacent properties.



§ 21. Permitted Uses General Regulations.**§ 21.1 Recreation Facilities.****A. Indoor recreational uses.**

1. Such uses shall be conducted entirely within an enclosed structure and include amusement centers, bowling alleys, skating rinks, movie theaters and similar places of amusement.
2. There shall be no offensive noise or vibration. Such elements may be emitted only in accordance with the performance standards set forth herein.

B. Outdoor recreational uses.

1. Such uses shall include golf courses, ice skating rinks, swimming pools, tennis courts and horse racing tracks and similar outdoor recreational uses.
2. No building shall be located within 200 feet of any boundary of a residential zone.
3. There may be permitted retail sales which are customarily accessory to the principal use.
4. Unenclosed recreational facilities shall be located not less than 200 feet from any boundary of a residential zone, except where greater distances are otherwise required herein, and shall be effectively screened from adjoining residential use.
5. Illuminated signs and other lights shall be directed away or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.
6. No public address system shall be permitted which is audible at any property line between the hours of 10:00 p.m. and 8:00 a.m.

§ 21.2 Utility Services, Facility or Structure

A. Such uses include electric substations, transformers, switches, and auxiliary apparatus serving a distribution area, and water pumping stations except sewer pumping stations. Such uses shall be subject to the following regulations:

1. Such facility shall not be located in a residential zone.

2. The location, design and operation of such facilities shall not adversely affect the character of the surrounding area.
3. Adequate fences, barriers and other safety devices shall be provided on the premises and shall be landscaped in accordance with the provisions of §390-24.
4. Noise emitted from electric substations shall not be greater than permitted in accordance with the standards set forth in Chapter 267.

§ 21.3 Community Facilities.

- A. Such facility, in the opinion of the governing body, is necessary to serve the surrounding residential area where it is not possible to serve such area from a facility located in a non-residential district.
- B. Such facility shall be located on a major traffic street, unless no other site is available, and shall be so located as to draw a minimum of vehicular traffic to and through residential streets.

§ 21.4 Commercial and Industrial Uses.

- A. General. Commercial and industrial uses in nonresidential districts when abutting a residence district or a waterway shall be screened from such districts or waterway in accordance with §390-24.
- B. Industrial establishments. In addition to meeting the minimum yard and lot coverage requirements, uses in the I District shall be subject to the following regulations:
 1. The side or rear yard setback from the nearest property line for accessory buildings shall be waived in such cases as the side or rear property line abuts a railroad right-of-way or siding.
 2. No building, storage area, or parking or loading area shall be located within 100 feet of the boundary of a residential zone. Ingress and egress to each lot shall be provided by not more than two driveways, each not less than 20 feet nor more than 30 feet in width . No driveway shall be located within 200 feet of the intersection of two public streets. [Amended 12-21-1989 by Ord. No. 597]
 3. Each use located in this zone shall provide truck loading and unloading facilities on the same lot and in other than the front yard or setback area so as to permit the transfer of goods in other than a public street.
 4. All industrial activities or processes shall take place within an enclosed building. Incidental storage shall be effectively screened from any public street or adjacent residential zones by fencing or landscaping.
 5. Prior to the issuance of a building permit or the change of type of manufacturing in this zone, the applicant shall submit evidence to the Construction Official that

the proposed industrial operation complies in all respects with the regulations and standards of the various agencies of the State of New Jersey.

6. All buildings in this zone shall be connected to a source of public water supply by means of a service line having a minimum inside diameter of six (6) inches, and adequate sewage disposal shall be provided, subject to the approval of the state and local Boards of Health.

§ 21.5 Multi-Family Residential Uses.

- A. **General Requirements.** Any multifamily development, including those which contemplate the sale of fee-simple units, shall be substantially in accordance with the Master Plan and shall consider the surrounding land features of the area, including but not limited to residences; schools; parks; other reservations of open spaces; location, width and grade of streets and location and arrangement of parking spaces; local and regional business areas and shopping centers; densities proposed for surrounding areas; and other such features as shall contribute to the harmonious development of the area, with due regard to the character of the neighborhood and its peculiar suitability for this type of use.
- B. The proposed development shall be constructed in accordance with an overall plan and shall be designed as a unified architectural unit with appropriate landscaping.
 1. If the development of multifamily units is to be carried out in stages, each stage shall be so planned that the foregoing requirements and the intent of the Land Development Ordinance shall be fully complied with at the completion of any stage.
 2. The developer shall assure the provision of required improvements by means of a proper performance guaranty in the form of a bond or the deposit of funds or securities in escrow to cover the cost of the improvements. The work shall be performed in accordance with all requirements and the approved plans.
 3. The materials used for exterior construction shall be of a permanent nature requiring minimal maintenance and subject to Planning Board approval.
- C. The area shall be adaptable to the existing roadway network and community character, being located in relation to major thoroughfares, streets, shopping or other facilities, and as far as possible shall have within or through it no major thoroughfare or other physical feature which will tend to destroy the neighborhood or community cohesiveness.
- D. R-M zoning district bulk requirements.
 1. There shall be a setback from other residential zones which the area abuts of not less than 100 feet.
 2. There shall be a setback from the ultimate right-of-way of each street on which the area abuts which shall be not less than 75 feet in depth.

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- E. RMO zoning district bulk requirements.
1. Area of tract. Not less than twenty (20) acres.
 2. Building Coverage. Not more than 25% of the land area may be occupied by buildings.
 3. Dwelling units per acre. There shall be no more than an average of six dwelling units per gross acre. There shall be no more than an average of seven units per developable acre. For the purpose of this subsection, the term “developable” shall mean those areas included within the site which are suitable for development and do not lie within any floodplain area. “Developable area” also means that area included within the site which is an integral part of the site design, including but not limited to structures, parking areas, access driveways, walkways, recreation areas, common areas, open spaces and any other area devoted to the aesthetic considerations conducive to the development. [Amended 5-15-1980 by Ord. No. 443]
 4. Habitable Area. No dwelling units shall contain less than 1,250 square feet of habitable floor area.
 5. Bedrooms. No dwelling units shall contain more than two (2) bedrooms.
 6. Height of building. No building shall exceed the height of 30 feet or two stories (exclusive of basement), whichever is greater, as measured in accordance with the height definition pursuant to Section 390-12. [Amended 12-21-1989 by Ord. No. 597]
 7. There shall be a setback from the ultimate right-of-way of each public street on which the site abuts which shall be not less than 75 feet, except that the setback from existing Pleasant Place shall be not less than 30 feet, and provided that the provisions of the landscape planting requirements for buildings and parking areas in accordance with this chapter are met.
 8. There shall be a setback from the right-of-way of any railroad of not less than 30 feet, and provided that the provisions of the landscape planting requirements for buildings and parking areas in accordance with this chapter are met.
 9. There shall be a setback from any residential parcel not committed to an RMO use of not less than 30 feet, and provided that the provisions of the landscape planting requirement for buildings and parking areas in accordance with this chapter are met.
 10. There shall be a setback requirement from any cartway of 26 feet in front, twenty (20) feet in the rear and fifteen (15) feet on either side.
 11. There shall be no minimum setback requirements to other residential land uses except as indicated in this subsection F of Section 21.5.
- F. Distance between buildings.

1. In the layout of multifamily units on a lot or tract of land, the following minimum distances shall be maintained:
 - a. For the RMO district only, between any building or portion thereof designed for residential use and any other structure designed as a dwelling unit: 40 feet.
 - b. Between all main buildings and detached accessory buildings: 40 feet.
 - c. Between the ends of all buildings, where walls are parallel to each other: 40 feet.
 - d. Between the ends of all buildings, where walls are parallel to each other and driveways are introduced in order to reach parking areas: 50 feet.
 - e. From the front façade of a structure to the front or rear of an opposite structure, where walls are parallel: 70 feet.
 - f. From the rear façade of a structure to the rear façade of an opposite structure, where walls are parallel: 60 feet.
 - g. From the front façade of a building to the side wall of an adjoining building, where walls are parallel: 40 feet.
 - h. There shall be no minimum side yard setback requirements except those stipulated in all subsection F of Section 21.5 where fee-simple sales developments are proposed by the developer.
 2. The term “parallel” as used in this section shall include the meaning “approximating or approaching parallel position,” but in any event the deviation from true parallel shall not exceed 20°, provided that, in the event of cluster-type development, the distance shall be as approved by the Planning Board in its site plan approval.
 3. In the RM district, there shall not be more than twelve (12) building units per structure.
 4. In the RMO district, there shall not be more than eight (8) building units per structure. There shall be a horizontal break of at least four feet in the façade at least every four units in a row.
- G. Parking.
1. Parking areas shall be so placed as not to interfere with any recreation or service area and shall not be less than 25 feet from residential property lines or ultimate right-of-way lines.

2. In the RMO district, parking areas shall not contain more than ten (10) parking spaces in a row without a landscape island intervening.
 3. In the RMO district, parking is not permitted within the cartway.
- H. Service. Areas for loading and unloading delivery trucks and other vehicles and for the servicing of refuse collection, fuel and other service shall be so arranged that they may be used without blockage or interference with the use of accessways or automobile parking facilities.
- I. Access. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the development without undue congestion to or interference with normal traffic flow. The Planning Board shall satisfy itself as to the adequacy of the thoroughfare to carry the additional traffic engendered by the apartment as well as to the street frontage of the proposed district.
- J. Utilities. All buildings within the development shall be served by a public sanitary sewage disposal system and public water supply or available public utilities. All utility lines shall be placed underground.
- K. Lighting facilities provided shall be arranged in a manner which will protect the highway and neighboring properties from unreasonable direct glare or hazardous interference of any kind. Lighting facilities shall be required where deemed necessary for the safety and convenience of residents.
- L. Landscaped planting shall be provided around buildings, parking areas and otherwise required by this chapter, as well as along the perimeter of land occupied by a multifamily development. Such plantings shall consist of non-deciduous plant material at least six (6) feet in height at planting and providing screening equal to 60% coverage of the planting area.
- M. Open space. The developer shall be required, where possible, to preserve or incorporate natural features such as woods, streams and open space areas which add to the overall cohesive development of the area. However, all conditions deemed hazardous by the Planning Board, including natural feature hazards, are to be eliminated, or all precautions deemed appropriate by the Planning Board to reduce the hazard are to be provided by the developer.
- N. Recreation. The developer shall provide community areas, laundry facilities, playgrounds, tot-lots, and other services necessary for the comfort and convenience of residents.
- O. Homeowners' association for the RMO district. The developer shall present to the governing body of the Borough for its approval a declaration of covenants, conditions and restrictions whereby the Borough will be assured of the homeowners' association's responsibility and rights for such things as, but not limited to, trash and garbage collection, snow removal, cartway maintenance, animal restrictions and building

modifications. Prior to said Borough approval, the developer shall be responsible for the implementation and continuation of the items of maintenance set forth above. The homeowners' association shall satisfy the criteria set forth in N.J.S.A. 40:55D-43 and, among other things, shall also satisfy the following criteria:

1. Such association shall be organized as a nonprofit corporation prior to the sale of any dwelling unit.
 2. The association and any property owned by it shall be free of all liens and encumbrances.
 3. Membership in such association shall be mandatory as to all unit owners.
 4. All restrictions pertaining to utilization of open space shall be permanent in nature.
 5. The association shall be responsible for the payment of liability insurance and all local taxes, as well as responsible for the maintenance of all facilities owned by it.
 6. The association, its bylaws and rules and regulations shall be subject to the approval of the governing body of the Borough of Oceanport.
- P. An operator-manager or other responsible representative of the landlord should be in residence at all times.
- Q. Fire walls shall be provided between adjacent units, running to the roof.
- R. Trash and garbage collection. The owners of any apartment complex shall provide for daily collection of garbage from central points. Central points shall be located internally to the site so as not to be visible from any public street. They shall be effectively screened by a fence and/or hedge at least six feet high and not more than 40% open.
- S. Heating. Before construction, the developer must produce an affidavit from a heating engineer certifying that each dwelling unit can maintain an inside temperature of 70°F with an outside temperature of -10°F.
- T. Storage. The developer shall provide an additional space of a minimum of 500 usable cubic feet for each multifamily dwelling unit separate from the normal closet space for the storage of items not necessary to everyday living requirements and where personal belongings and effects may be stored under lock and separated from the belongings and effects of other occupants.
- U. Boats and trailers. No outside parking or storage is permitted.
- V. An easement shall be granted to the Borough providing for access for emergency vehicles for ingress and egress over the aforementioned roadways.
- W. **Multi-Family Waterfront (RMW) Development Criteria.**

1. Area of tract. The minimum tract area shall be the entirety of the RMW zone; no subdivision shall be permitted. This shall not preclude dedication of land or easements for public right-of-way, public access, or other public purpose.
2. Maximum density. The maximum gross density for the tract shall be 11 dwelling units per acre. Notwithstanding, the maximum number of dwelling units on a tract shall be 20 dwelling units.
3. Bulk building requirements.
 - a. Building setbacks.
 - 1) Front yard setback: two-story building, 25 feet; three-story building, 35 feet.
 - 2) Side yard setback: 10 feet.
 - 3) Rear yard setback: 25 feet.
 - 4) Mean high-water line setback: 150 feet.
4. Building height.
 - a. Where off-street parking is located beneath the building; the maximum building height shall be four (4) stories or 45 feet (parking level constitutes a story).
 - b. Where off-street parking is not located beneath the building; the maximum building height shall be three (3) stories or 35 feet.
5. Building coverage. Not more than 25% of the tract area may be occupied by buildings.
6. Impervious coverage. Not more than 75% of the tract may consist of impervious cover.
7. The front of residential buildings shall be oriented toward public or private streets or open water.
8. Architectural styles must be compatible with the turn of the century racetrack/seaside village theme. Architectural styles must not be mixed in the same building. The use of detailing, such as window shutters on upper floors, is recommended and encouraged where appropriate to the architectural style. Blank walls will not be allowed.
 - a. Vinyl siding shall be prohibited.
9. Circulation.

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- a. Vehicle access to residential buildings shall take place at the rear of the buildings.
 - b. Sidewalks shall be provided on both sides of each private or public street or drive.
 - 1) Sidewalks shall have a minimum width of four feet.
 - c. A public walkway shall be provided along the waterfront of the Oceanport Creek.
 - 1) A public easement of twenty (20) feet in the width shall be provided for the walkway.
 - 2) The public walkway shall have a minimum width of ten (10) feet.
10. Planting and buffer requirements.
- a. A ten (10) foot buffer shall be provided along the side and rear yards.
 - b. Planted buffers shall consist of a mix of evergreen trees, deciduous trees and ornamental trees and shrubs.
 - c. All parking shall be screened from adjacent residential properties and public/ private streets and drives. Screening shall consist of an evergreen hedge or shrubs at a minimum planting height of four feet. A fence may be used in lieu of plantings.
 - d. Shade trees shall be provided in all uncovered off-street parking areas at a ratio of one tree per three parking spaces.
11. Lighting.
- a. Adequate lighting to ensure safe pedestrian and vehicle travel shall be provided.
 - b. All light fixtures shall be shielded with a ninety (90) percent cutoff.
 - c. Site lighting shall meet the standards in the IESNA Lighting Handbook, 9th edition or as may be amended, for maintained illuminance values for parking lots – basic (figure 61) and average maintained illuminance level for pedestrian ways (figure 63).
 - d. The maximum height of light fixtures shall be 16 feet.
12. Parking.

- a. Surface parking and individual residential garages shall not be visible from public streets.
 - b. Parking may be provided beneath or as the first story of any structure.
 - c. Parking setback.
 - 1) Side or rear yard abutting a nonresidential or mixed use: 10 feet.
 - 2) Side or rear yard abutting open water: 30 feet.
 - 3) Front yard where off-street parking is located beneath the building: not less than the setback of the front façade for the principal building.
 - 4) Front yard where off-street parking is not located beneath the building: 50 feet.
 - d. Residential parking shall be provided pursuant to the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21).
13. Affordable housing contribution.
- a. Twenty percent of the dwelling units developed shall be affordable dwelling units.
 - b. The affordable dwelling units shall meet all applicable regulations of the Council on Affordable Housing and the Uniform Housing Affordability Control rules (N.J.A.C. 5:80-26 et seq.), including but not limited to bedroom distribution, income distribution, and affordability controls.

X. Collection of Storage of Recyclable Materials in Multifamily Housing.

1. There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the municipal recycling coordinator, and shall be consistent with the district recycling plan adopted pursuant to section 3 of P.L. 1987, c.102 (*N.J.S.A. 13:1E-99.13*) and any applicable requirements of the municipal master plan, adopted pursuant to section 26 of P.L. 1987, c.102.

2. The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
3. The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins, or containers.
4. The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.
5. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
6. Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

§ 22. Off-street Parking.

A. Off-street parking.

1. Every use, activity, or structure, in all zoning districts, shall provide sufficient space for access and off-street standing, parking, circulation, unloading, and loading of motor vehicles in a quantity equal to not less than the sum of all applicable standards as provided for in this Section.
2. The provisions of this Section shall be complied with each time a non-residential use or structure is expanded or changed.
3. Number of Parking Spaces: The number of off-street parking spaces required for non-residential uses shall be as set forth in Table 1.

Table 1: Off-Street Parking Requirements	
Uses¹	Minimum Off-Street Parking Spaces Required
Bowling Alley	Five (5) spaces for each alley

Churches, Synagogues, other Places of Worship, Community Buildings, Country Clubs, Social Halls, Lodges, Fraternal Organizations or Similar Uses	One (1) space for each three (3) permanent seats. When individual seats are not provided one (1) space for every 75 square feet of floor area occupied by all principal and accessory structures. ²
Medical Office	One (1) space per 200 square feet of gross floor area
Assisted Living Facility or Nursing Home	One (1) space for every three (3) beds
Manufacturing, Industrial and General Commercial not specified herein	One (1) space for each 1,000 square feet of floor area, plus one (1) space for each four (4) employees in the shift with the maximum number of workers
General Office	Four (4) spaces for every 1,000 square feet of gross floor area
Restaurant, Bar and Nightclub	One (1) space for every three (3) seats
Retail Store	Five (5) for every 1,000 square feet of floor area
Wholesale Establishment or Warehouse	One (1) for every two (2) employees in the maximum shift. The total parking area shall not be less than 20% of the building floor area.

1. For any other use not specified in Table 1, the minimum number of parking required shall be guided by the number of persons employed in said use and the number of person expected to visit or patronize the use.

2. Parking for churches, synagogues, and houses of worship. The number of required off-street parking spaces may be eliminated or reduced if there exists, within 500 feet of the church, synagogue or house of worship, public or private parking lots containing a sufficient number of off-street parking spaces to satisfy the requirements of Table 1. The church, synagogue or house of worship must provide the difference if the number of parking spaces in the private or public lots is below the number required by Table 1. Any spaces provided in public or private lots must be shown to be available for worshippers on the day or days of greatest use.

4. The use of “paper” streets as parking areas to meet the required parking shall be prohibited.
5. Minimum distance and setback. Off-street parking and loading facilities for four (4) or more parking spaces in the B, V-C or I District shall not be closer than ten (10) feet to a property located in a residential district or is comprised of a residential use or any street right-of-way.
6. Commercial Vehicles and Equipment in Residential Zones. Commercial vehicles and equipment, except for one pickup or panel truck with up to a three-fourths ton capacity

rating, parked in a residential zone shall be kept in an enclosed garage, except when engaged in delivery or pickup.

7. Parking in the Front Yard for Non-Residential Uses. Off-street parking is not permitted within the first fifteen (15) feet of any front yard.
8. No parking for non-residential uses shall be provided within five (5) feet of any structure.
9. Shared Parking.
 - a. Required off-street parking may be provided on a lot other than the lot which generates the parking demand provided that, at the closest point, the lots are within three hundred (300) feet of each other and that the remote parking lot is permanently controlled by the owner of the lot containing the parking generator.
 - b. For mixed-use developments, a shared parking approach to the provision of off-street parking shall be permitted following the methodology described in the publication Shared Parking (Urban Land Institute and Barton Aschman Associates, Inc., Urban Land Institute, 1984).
10. Trailers and Recreational Vehicles
 - a. Trailers for such equipment as boats, jet skis, and other recreational equipment shall not be parked within 25 feet of the curb or edge of right-of-way.
 - b. No trailer or recreational vehicle shall be parked on any street for the purpose of repair or storage. Any such trailer or recreational vehicle undergoing major repair shall be kept within a building and shall not during such period of repair be used by any person as a dwelling or sleeping place.
 - a. A recreational vehicle may be parked on any parcel provided that:
 - i. Such vehicle is not permitted to be parked in the front yard.
 - ii. Such vehicle is unoccupied.
 - iii. The length of such vehicle, including hitch, does not exceed 24 feet.
 - iv. In a residential district, not more than one such vehicle shall be permitted on a lot per dwelling unit.
 - v. Screening shall be as required in §390-24.
11. Garages. No living quarters shall be permitted in any garage building.
12. Carports. Carports are prohibited.

§ 23. Off-Street Loading for Non-Residential Uses.

- A. In any district, in connection with every building group or part thereof hereafter erected and having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing or commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such buildings off-street loading berths or unloading berths as follows:
1. 10,000 to 49,999 square feet of gross floor area: One (1) loading space.
 2. For each additional 100,000 square feet of gross floor area: One (1) loading space.

§ 24. Buffer Area Requirements for Non-Residential Uses

- A. Within any zone in which a nonresidential, indoor, or outdoor recreational use or multi-family use abuts a residential use or zone, a minimum fifty-foot (50) buffer shall be provided. Buffer areas shall be contiguous with residential property lines and shall be of uniform width.
- B. Non-residential uses which abut a residential use shall provide screening in the form of a fence or hedge at least six (6) feet high and not more than 40% open.

§ 25. Fences and Walls.

- A. Fences.
1. Residential fences may be no higher than four (4) feet in the front yard and six (6) feet in the side or rear yard.
 2. The fence material shall not be substantially dangerous. This interpretation is meant to include barbed wire but is not limited thereto.
 3. No fence shall be erected in a front yard of any lot in a residential zone or along a public right-of-way unless the fence is less than 50% solid. Such fence shall be no closer than one foot to the Borough road, street and/or right-of-way in accordance with the definition of "streets" appearing in §390-12.
 4. No fence shall be erected on any lot within 25 feet from the intersection of two or more public rights-of-way more than 2 ½ feet in height. [Amended 11-16-2000 by Ord. No. 738]
 5. All fences must be constructed with the face or finished side away from the property and the structural side toward the interior.
 6. Stone and masonry walls are not considered to be fences and are prohibited.

§ 26. Driveways.

- A. No driveway shall be within five (5) feet of a side property line or within fifteen (15) feet of a rear property line for newly constructed or substantially reconstructed dwellings.
- B. Residential driveways shall be limited to 24 feet wide for garages that face the street and may transition to 36 feet wide starting at a point 24 feet from the dwelling.
- C. Driveways for side-entry garages and rear-yard garages shall be limited in width to that for a single-car garage in the front yard area.
- D. Residential properties with greater than 100 feet of frontage on a single street shall be permitted up to a total of two driveways; otherwise only a single driveway is permitted.
- E. A driveway apron shall be provided at the intersection of all driveways with the public roadway. The apron shall be made of concrete when it abuts or may in the future abut a concrete sidewalk; otherwise, asphalt or suitable paver materials may be utilized. The apron shall extend a minimum of six (6) feet from the edge of the road or the back edge of the sidewalk, whichever is greater. Construction details are to be approved by the Borough Engineer.
- F. On-street parking shall only be on streets where it is permitted and then only on the paved portion on the roadway. Parking shall not occur on unimproved surfaces such as dirt, grass, stone, or similar surfaces.
- G. Turnaround areas.
 1. Properties that front on the following roads shall provide on the property a means, such as a “K-turn” area, for vehicles to turn around within the property boundaries prior to exiting the property:
 - a. Monmouth Road.
 - b. Eatontown Boulevard.
 - c. Monmouth Boulevard.
 - d. Branchport Avenue.
 - e. Port Au Peck Avenue (Wolf Hill Avenue to Comanche Drive).
 - f. Shrewsbury Avenue (Monmouth Boulevard to Branchport Avenue).
 - g. Monmouth Boulevard (Myrtle Avenue to Branchport Creek Bridge).
 - h. Main Street.

2. The K-turnaround shall be at least 28 feet deep, including the driveway width. The turnaround area shall be at least five (5) feet off of the side property line and fifteen (15) feet off the rear property line.

§ 27. Portable On-Demand Storage Structures.

- A. A portable on-demand storage structure may be utilized as a temporary structure within the Borough when in compliance with the standards of this section. Any use of such structures within the Borough not in compliance with this subsection shall be unlawful and subject to fines and penalties as permitted under this Code.
- B. Use of a portable on-demand storage structure shall only be permitted where a permit has been issued by the Borough Zoning Officer.
 1. Applications for the permitted use of a portable on-demand storage structure may be obtained from the Zoning Officer, and the application shall be submitted when completed by the party requesting use of a portable on-demand storage structure on that form provided by the Code Enforcement Officer to the Code Enforcement Officer with a sketch showing the location of the structure on the site and detailing the distance of trailers from other buildings, fire hydrants, Fire Department connections and/or utilities.
 2. All portable on-demand storage units shall be placed in driveways unless otherwise approved by the Zoning Officer but in no case shall the portable on-demand structure be located in the street or right-of-way.
 3. An application fee of \$20 shall accompany the form requesting such permission. Failure to obtain permission for placement of such temporary structure shall result in the issuance of an after-the-fact permit with a fee set at 10 times the amount of a permit issued prior to erection of such structure \$200.
- C. Length of time structures may be on property; extensions.
 1. A portable on-demand storage structure may be located as a temporary structure on property within the Borough for a period not exceeding 30 days in duration from time of delivery to time of removal in circumstances where a construction permit for the property has not been issued. Where exceptional circumstances exist, the Code Enforcement Officer may alter the permit to extend the time where these structures may be permitted on property.
 2. In such circumstances where a construction permit has been issued for the property, the portable on-demand storage structure may be located as a temporary structure on property for a period not exceeding 90 days, with the right to three thirty-day extensions if deemed necessary and appropriate by the Code Enforcement Office. In no event may a portable on-demand storage structure be

located on property for a period in excess of 180 days in any twelve-month period. Extensions beyond the 180 days may be granted by the Borough Council. The property owner seeking said extension must apply to the Council at the time that the last thirty-day extension is applied for.

- D. No more than two portable on-demand storage structures may be located on a specific piece of property within the Borough at one time; such structures shall be individually limited to the duration time period established herein.
- E. No portable on-demand storage structures located within the Borough shall contain toxic or hazardous materials.

§ 28. Signs.

- A. Sign permits. Permits shall be required and shall be procured from the Zoning Officer for all signs greater than three (3) square feet in area. "Area", as applied to the size of any sign, shall mean the maximum projected area of the shape which encloses the sign structure, device, or representation. A sign permit shall not be required for temporary real estate signs and political signs provided they are removed within 10 days of the election.
- B. Residential districts. The following types of signs are permitted in all residential districts and as follows:
 - 1. Single-family and two-family dwellings. Signs bearing the name of the person(s) residing on the premises, provided that the signs shall not exceed two (2) square feet in area and the top edge of the sign shall not be more than five (5) feet above grade level and, if illuminated, shall be non-flashing, and further provided that the lighting unit shall be attached to the sign, shall contain no more than 100 watts of illumination per side and shall have a proper shield so that the rays of illumination shall not project beyond the area of the sign.
 - 2. For multiple-family dwellings, a single identification sign not exceeding twelve (12) square feet in area and indicating only the name and address of the building and the name of the management may be displayed, provided that on a corner lot two such signs (one facing each street) shall be permitted.
 - 3. Signs of schools, churches, parish houses or other institutions of a similar public or semipublic nature may be erected and maintained, provided that:
 - a. The size of any such sign is not in excess of 24 square feet.
 - b. Not more than one such sign is placed on a property, unless such property fronts upon more than one street, in which event two such signs may be erected, one on each frontage.
 - 4. Lease, sale, or open house signs [Amended 7-15-1993 by Ord. No. 637; 6-5-2003 by Ord. No. 762; 4-16-2009 by Ord. No. 861]

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- a. Temporary signs pertaining to the lease or sale of the same lot or building on which it is placed, provided that the above signs shall not exceed eight (8) square feet in area, shall not be illuminated and shall not project beyond the property lines. All temporary signs shall be removed within 180 days from the date installed. In no case shall real estate signs indicate property sold, foreclosed or bank owned.
 - b. In addition to the signs permitted under Subsection A(4)(a) of this section, there shall also be permitted three (3) temporary signs advertising an open house in connection with the sale of any residential dwelling, subject to the following restrictions:
 - 1) One (1) sign only shall be placed on the lot or building being sold and two directional signs may be placed off site. Directional signs may be placed in the public right-of-way barring they do not block a site triangle, but shall not be placed on private property owned by another person without the owner's written permission.
 - 2) The signs hereby authorized shall not be larger than 18 inches by 24 inches, and the top of each such sign shall not be higher than 42 inches above the ground, which includes anything tied to the sign such as balloons or other materials that could obstruct views for traffic safety. If the open house is being conducted by a real estate licensee, all signs shall contain the name, business office address and telephone number of such real estate licensee.
 - 3) The open house may be for either the public or realtors only.
 - 4) The sign shall be placed only on the day of the open house and shall be removed immediately upon the conclusion of the open house. Both signs shall contain the day of the week on which the open house is being conducted.
 - 5) No "Open House" sign shall be illuminated.
 - 6) Any violation of these restrictions shall be subject to a penalty per sign as set forth in Chapter 1, §1-15, General penalty, and each day that a violation continues shall be considered a separate and specific violation and not as a continuing offense.
5. Development signs.
- a. The size of any sign shall not be in excess of 40 square feet.
 - b. Not more than two (2) signs shall be placed upon any property, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.

- c. Any such sign shall be removed by the developer within 30 days of the final sale.
- 6. Artisans’ signs. Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided that:
 - a. The size thereof is not in excess of twelve (12) square feet.
 - b. Such signs are removed promptly upon completion of the work.
- C. Non-Residential Signs. Signs identifying and advertising non-residential uses are permitted in B, V-C, VC-AH, and I Districts in accordance with the following regulations: [Amended 6-23-1997 by Ord. No. 693]

- 1. Maximum size of sign square feet or percent of wall area, whichever is less.

Type of Sign	Square Feet	Percent of Wall Area*
Non-illuminated	20	10
Illuminated, but non-flashing	10	5
*Includes windows and door area on which or in which the sign or signs are displayed.		

- 2. Projection of signs. No sign shall project more than fifteen (15) inches from the wall of any building.
- 3. Interference with traffic safety. No sign shall be so placed as to interfere with a highway, traffic light, traffic vision or similar safety factors.
- 4. Number of signs. Only one (1) sign shall be permitted on one façade of a building for each use, business, person or activity coming within the provisions of this section; provided, however, that in no case shall the total area of signs advertising or calling attention to a business on any one premises exceed 30% of the wall surface, including window and door area of the building located on the premises.
- 5. Height of sign. No part of any sign shall extend above the top or beyond the ends of the wall surface on which it is placed; no sign, except such directional devices as may be required by federal aeronautical authorities, shall be placed, inscribed or supported upon the roof of any building, and no sign shall be placed so as to interfere with the opening of an exit door or to obstruct any window opening to a room to be used for dwelling purposes.
- 6. Freestanding signs.
 - a. Freestanding signs shall be limited to one per establishment.

- b. No portion of any such sign shall be no more than ten (10) feet above the ground.
 - c. The area of any individual freestanding sign shall not exceed six (6) square feet.
 - d. No portion of a shopping center freestanding sign shall be no more than twenty (20) feet above the ground. The area of any one side of such sign shall not exceed 100 square feet. The location and orientation of such sign shall be shown on the site plan. At no time shall there be more than two (2) freestanding signs per shopping center.
 - e. In the case of a group of business uses other than a shopping center, on a lot held in single and separate ownership, a single freestanding sign including individual signs identifying different establishments may be erected on a common backing, provided that the total area of one side of the sign does not exceed twenty (20) square feet. The structural backing for all such signs shall be uniform, and no sign may extend in any direction beyond the outside edge of the backing. No portion of any such backing shall be more than twenty (20) feet above the ground.
7. Billboards. No billboards shall be permitted within the limits of the Borough.

§ 29. Raising of Animals.

The raising and keeping of reptiles, poultry, swine, horses, goats, cows, or other large mammals, except as necessary to the permitted principal use in a B-2 District, is prohibited. Any building housing said animals shall be located at least 100 feet from any property line.

§ 30. Recyclable Materials Storage.

Materials designated in the Borough of Oceanport Recycling Ordinance, Chapter 325, Articles II and III, shall be separated from other solid waste by the generator, and a storage area for recyclable material shall be provided as follows:

A. For each subdivision application for 50 or more single-family units, the applicant shall provide a storage area of at least 12 square feet within each dwelling unit to accommodate a four-week accumulation of mandated recyclable, including but not limited to newspaper, glass bottles, aluminum cans and tin and bimetal cans. The storage area may be located in the laundry room, garage, basement, or kitchen.

B. For each subdivision application for 25 or more multifamily units, the applicant shall provide a storage area of at least three square feet within each dwelling unit to accommodate a one-week accumulation of mandated recyclables, including but not limited to newspaper, glass bottles, aluminum cans and tin and bimetal cans. The storage area may be located in the laundry room, garage, basement, or kitchen. Unless recyclables are collected on a weekly basis from each

dwelling unit, one or more common storage areas must be provided at convenient locations within the development.

§ 31. Swimming Pools.

A. Application for permit.

1. Application for permits for the construction and maintenance of any swimming pool, as defined, shall be made to the Zoning Official and Construction Official by the owner of the property upon which it is to be constructed or by the contractor who will construct the same.
2. The application shall be accompanied by duplicate sets of plans, specifications, and plot plans of the property. The plot plan shall show the location of the proposed pool on the property, together with any proposed accessory buildings or structures. The plot plan shall also show the location, type and height of fencing or enclosure as may be required. Such plot plan shall further indicate if the proposed pool will be higher than the existing grade of the property and, if so, by how much.
3. No permit will be issued until a Borough Construction Official has inspected the premises upon which the pool will be constructed.
4. It shall be unlawful to establish or construct a swimming pool without first obtaining a permit in the manner hereinafter prescribed.
5. No construction permit shall be required for a wading pool.

B. Types of pools. The following are types of pools:

1. Permanent in-ground.
2. Permanent above-ground: Above-ground pools, equipped with fences, built above the top level of the pool.
3. Temporary above-ground: Above-ground pools, not equipped with fences, built above the top level of the pool.
4. "Wading pool" shall mean and include artificially constructed pools not designated or used for swimming, with a maximum area not exceeding 120 square feet and a maximum water depth not exceeding 12 inches.
5. A spa or hot tub is not considered to be a swimming pool.

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- C. Lighting. All lighting fixtures for a private swimming pool shall be installed so as to comply with all applicable safety regulations and shall be shielded so as to prevent any direct beam of light from shining on any adjoining property.
- D. Electric lines. No overhead electric lines shall be carried across any swimming pool or wading area.
- E. Location. An outdoor private swimming pool shall be located not less than ten (10) feet from the side or rear of the residence on a building lot as measured from the edge of the pool water, nor shall such pool be located less than ten (10) feet from any property line. No pool, pool fence or pool accessory shall be located in a front yard.
- F. Drainage. If in the opinion of the Construction Official a drainage problem may be created by the construction of a pool, a drainage plan shall be furnished by the applicant. Such plan must be prepared by a licensed engineer and show contours at one-foot intervals. Such plan shall include the property upon which the pool will be installed and all adjacent properties. The initial plan and the final as-built plan shall be presented to the Borough Engineer for their review and approval. All engineering fees shall be borne by the applicant.
- G. Location of pool accessory structure. The pool accessory structure shall not be located less than ten (10) feet from any side or rear property line.
- H. Pool Fencing.
1. Permanent in-ground pools shall be surrounded entirely by a fence, with no opening greater than two-inch square and capable of holding a live load of 250 pounds between posts located not more than eight (8) feet apart; provided, however, that the side(s) of the residence may serve as part of the enclosure. The fence shall be located not less than six (6) feet from the closest edge of the pool. Fences shall at least be four (4) feet in height and, if made of wire, must be of the chain-link type. All supporting structures shall be on the inside of the fence.
 2. Permanent aboveground pools constructed with an attached fence at least four (4) feet in height above ground level and capable of holding a live load of 250 pounds between posts located not more than eight (8) feet apart shall need no additional fencing.
 3. Temporary aboveground pools, when not in use, must be emptied or covered with a suitable protective covering securely fastened or locked in place, unless enclosed by a fence meeting the requirements for a permanent underground pool.
 4. Waterfront properties.
 - a. With regard to waterfront properties on which the swimming pool is located between the dwelling and the waterfront, no fence shall be

required to enclose that side of the swimming pool, which is parallel to the river, provided that:

- 1) The entire waterfront of the property contains a bulkhead, extending from sideline to sideline;
 - 2) The height of the bulkhead for its entire length is not less than four (4) feet measured from the river bottom, thereby creating an effective barrier; and
 - 3) Both side fences aligned perpendicular to the bulkhead extend not less than 24 inches beyond the water side of the bulkhead.
- b. As to all other waterfront properties, the swimming pools shall be enclosed as provided in Subsection H1 of this section.
5. Gates in fencing. Any opening or openings in the fence to afford entry to the pool shall be equipped with a gate similar to the fence and shall extend from not more than two inches above the ground to the height of the fence. The gate shall be of a self-closing type, opening outwardly only. In the case of an aboveground pool where a ladder is required for entry and exit, a method must be provided for such ladder to be locked in the up position and must be so locked at all times when the pool is not in use.

§ 32. Pet Store, Kennel or Shelter.

- A. Any person who keeps or operates or proposes to establish a kennel, a pet shop or a shelter shall apply to the Municipal Clerk or other official designated to license animals in the municipality where such establishment is located, for a license entitling him to keep or operate such establishment.
- B. The application shall describe the premises where the establishment is located, the purpose or purposes for which it is to be maintained and shall be accompanied by the written approval of the local municipality.
- C. All licenses issued for a kennel, pet store or shelter shall state the purpose for which the establishment is maintained, and all licenses shall expire on the last day of December of each year, and be subject to revocation by the Borough on recommendation of the Department of Health or the local board of health for failure to comply with rules and regulation of the state department or local board governing the same, after the owner has been afforded a hearing by either the state department or local board, except as provided in N.J.S.A. 4:19-15.8c.
- D. The Borough may issue a license for a pet shop that permits the pet shop to sell pet supplies for all types of animals, including cats and dogs; however, no license shall be permitted allowing the sale of either cats or dogs at pet shops throughout the Borough.

- E. Preexisting pet shops, operating contrary to the provisions of this section, shall be grandfathered as preexisting nonconforming uses.

§ 33. V-C Zone Development Criteria.

- A. Purpose. This zone encompasses the Borough's downtown area and was created to enhance the image and vitality of the Village Center by encouraging mixed use infill development with strong pedestrian elements. In order to ensure that the Village Center (V-C Zone) be a visually attractive area, the following development criteria shall be applied:
- B. General lot and building design criteria.
1. Any principal commercial building may contain more than one use and/or organization. Any lot may contain more than one principal structure, provided that each principal structure is located in a manner which will allow the possibility of subdividing the lot in a manner that each structure and resulting lot would conform to the zoning and subdivision requirements, including frontage on a public street.
 2. All building walls facing a street or residential district line or municipal park shall be suitably finished for aesthetic purposes, which shall not include unpainted or painted cinder block or concrete block walls. Preferred building materials include brick, wood, stone, or other natural materials.
 3. No merchandise, products, waste equipment or similar material or objects shall be displayed or stored outside.
 4. All mechanicals must be screened.
 5. Design techniques should result in the creation of individual storefronts along the front and sides and rear (if required) to visually appear to be a quaint, long-established, neighborhood business district.
 6. Roofline breaks. Rather than a uniform two- or three-story block of buildings, the roofline should be used to waiver between one-, two- and three-story buildings, giving the feel of a streetscape that has evolved over many years.
 7. Architectural styles must be compatible with the "Turn of the Century Racetrack/Seaside Village" theme. Architectural styles must not be mixed in the same building. The use of detailing, such as window shutters on upper floors, small-paned storefront windows and entrance door side windows or decorative

framing, is recommended and encouraged where appropriate to the architectural style. Blank walls will not be allowed.

B. Design Standards

1. Landscaping and lighting.

- a. All portions of the property not utilized by buildings or paved surfaces shall be landscaped with a combination of fencing, shrubbery, lawn area, ground cover, contours, existing foliage and the planting of conifers and/or deciduous trees native to the area in order to either maintain or reestablish the tone of the vegetation in the area and lessen the impact of the structures and paved areas. The established grades on any site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting, as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated.
- b. Perimeter strips consisting of a landscape screen shall be provided between off-street parking areas and adjoining properties. The perimeter strip shall be composed of plants and trees arranged to form both a low-level and a high-level screen. The high-level screen shall consist of trees planted with specimens of at least four (4) feet in height and planted at intervals which will provide an overlapping foliage screen at maturity with a minimum mature height of fifteen (15) feet. The low-level screen shall consist of shrubs or hedges planted at an initial height of not less than two feet and spaced at intervals of not less than five (5) feet. The low-level screen shall be placed in alternating rows to produce a more effective barrier. All plants not surviving two growing seasons after planting shall be replaced. Perimeter strips shall be a minimum of ten (10) feet wide and shall be protected by permanent curbing.
- c. Landscaping and buffer plan should be submitted for Planning Board site plan review showing what will remain and what will be planted, indicating names of plants and trees and dimensions and approximate time of planting.
- d. There shall be at least one trash and garbage pickup location provided by each building. It shall be a totally enclosed container located in a manner to be obscured from view from parking areas, existing residential uses, or municipal parks by a masonry enclosure.

2. Lighting. For all uses within the district, adequate lighting to ensure safe pedestrian and vehicular travel shall be provided. The following standards shall apply:

- a. Light fixtures shall be Hexagonal Lantern Series L24 luminaire, 175 MH, as manufactured by Lumec.
 - b. Poles shall be R90 Traditional Steel Pole (black), 16 feet high, as manufactured by Lumec. Pole shall come equipped with 120-V duplex receptacle at top and double banner arm. Poles and light fixtures shall be spaced at one hundred-foot intervals.
3. Sidewalks.
- a. Sidewalks must be a minimum of fifteen (15) feet in width.
 - b. Concrete pavers shall be used and shall be 3-1/8 inches in thickness where used in driveways, roadways and driveway aprons; 2-1/8 inches in thickness where used in sidewalks having a minimum compressing strength of 8,000 psi; a water absorption maximum of 5% and shall meet or exceed ASTM Specifications C936-82.
 - c. Subbase in sidewalk areas shall consist of crushed concrete, six inches thick, topped with one-inch quarry dust. Subbase in driveways, roadways and driveway aprons shall consist of concrete subbase six inches thick.
 - d. The concrete pavers shall be installed tightly together on the bedding course with joints not exceeding 1/8 inch. Joints shall be filled with sand or quarry dust, as approved by the Borough Engineer.
 - e. Pavers must have a border on all sides.
4. Granite block curb.
- a. Granite block shall consist of rectangular paving stones, with slit faces and edges, made from granite complying with ASTM C615, 10 inches tall by four to five inches deep by six to eight inches wide. The Borough Engineer can supply manufacturers.
 - b. Concrete shall be air-entraining portland cement in accordance with ASTM Specification C-94, proportioned to have a minimum compressive strength of 4,000 psi at 28 days (AC1318).
 - c. Set block to provide six-inch curb face with five-eighths-inch mortar joint grooved. Construction detail shall be approved by the Borough Engineer.
5. Signs.
- a. Permits required. No person, firm or corporation shall hereafter erect, re-erect, construct, or structurally alter a sign or sign structure without a permit first having been issued by the Construction Official. If it appears that the proposed sign is in compliance with all requirements and laws, the

permit shall be issued, but should the work authorized under the permit not be completed within a year after the date of issuance, the permit shall become null and void.

- b. All nonconforming signs in effect as of the date of the adoption of this amendment to the Zoning Ordinance shall be replaced, remodeled, or otherwise brought into conformance or removed within three years of the effective date of this chapter.
- c. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign.
- d. No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights. All luminous signs, indirectly illuminated signs, and lighting devices shall contain only lights emitting light of constant intensity. All bare incandescent light sources and immediately adjacent reflecting surfaces shall be shielded from view.
- e. Exposed neon tube in any form is prohibited.
- f. Channel letter signs are prohibited.
- g. Solid backlighted letters are permitted (those lighted by a source concealed by the letter, reflecting off the surface of the letter).
- h. Signs shall have no symbol, logo or lettering exceeding 18 inches in height.
- i. Only one wall sign per establishment shall be permitted unless the establishment has frontage on more than one side or two finished fronts.
- j. The total area for all signage on the first floor shall not exceed two square feet for each linear foot of the building frontage attributable to the particular business or businesses which the sign will identify or 50 square feet, whichever is less.
- k. The total area for wall signage on the second floor shall not exceed one square foot for each linear foot of the building frontage attributable to the particular business or businesses which the sign will identify or 50 square feet, whichever is less.
- l. One awning sign shall be permitted for each window or door of the façade covered by the awning. Any sign (logo and/or lettering) on an awning shall not exceed 25% of the exterior surface of the awning. There shall be no other specific restriction on the size or height of the lettering or logo.
- m. All awnings on a structure must be of the same color.

- n. Awnings must be fastened to the façade of the building and not supported from the ground; awnings shall not extend more than seven feet from the façade; and no portion of the awning shall be nearer than eight feet to the ground.
 - o. An establishment may have both wall and awning signage.
 - p. No window sign shall be affixed to the exterior of the window. All exterior signs shall be classified as wall signs.
 - q. The only window signs permitted are those permanently painted onto the glass, stating the name of or nature of the business. Said window sign shall not exceed 30% or 100 square feet, whichever is less, of the area of the window.
 - r. No more than three colors should be used and should match either the background or trim color of the structure the sign serves.
 - s. Free standing signs are prohibited.
6. Public spaces. To add to the charm of the streetscape, public spaces (parks, greens, commons, squares, plazas) can enhance the ambiance and add further diversity to the mix of uses found there. The park area could be used as the focal point of the neighborhood, providing a haven of rest and relaxation. A fountain, gazebo or clock or a kiosk that communicates that happenings of the community could be done as a pocket park.

§ 34. Trimming or Removal of Public Trees shall be in accordance with Chapter 371-2.

Article V. Conditional Uses

§ 35. Communications Towers.

A. Applicability.

- 1. All communications towers within the Borough of Oceanport shall be subject to these regulations, except as provided in Subsections A(2) and (3) below.
- 2. This section shall not govern any tower that is under 35 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- 3. Lawful, preexisting, nonconforming towers, and antennas, as hereinabove described, shall be entitled to the protections and limitations available to lawful, preexisting, nonconforming structures.

- B. Locations permitted. A communications tower shall be a permitted conditional use in all zones within the Borough of Oceanport, subject to the following conditions:
1. Communication towers shall only be permitted on property owned, leased, or otherwise controlled by the Borough of Oceanport.
 2. No communication tower shall be erected or operated within the Borough except pursuant to a resolution of approval adopted by the Mayor and Council of the Borough of Oceanport and a license or lease approved by the same.
 3. No communication tower shall be erected or operated on property owned or operated by the Board of Education or in any park or other recreation facility.
 4. No communication tower shall stand more than 100 feet for a single carrier, 125 feet for two carriers and 130 feet for three or more carriers.
 5. No communication tower shall be erected or operated within a fall zone, which shall be established such that the tower is set back 150% of the height of the tower from any adjoining lot line or non-appurtenant building.
 6. In the event any communication tower shall be abandoned or not operated for a period of one year, the same may be removed, at the option of the Borough of Oceanport, at the sole expense of the operator.

Article VI. Performance Standards

§ 36. Applicability.

- A. Prior to construction and operation. Any application for a building permit for a use which shall be subject to performance standards shall be accompanied by a sworn statement by the owner of the subject property that said use will be operated in accordance with the performance standards set forth herein.
- B. Continued compliance. Continued compliance with conformance standards is required, and enforcement of continued compliance with these performance standards shall be by the Code Enforcement Officer.
- C. Determination of violation. The Code Enforcement Officer shall investigate any purported violation of performance standards and, if there is reasonable ground for the same, shall notify the Mayor and Council of the occurrence or existence of a probable violation thereof. The Mayor and Council shall consider the alleged violation. If, after public hearings on due notice, the Mayor and Council finds that a violation occurred or exists, such violation shall be terminated as provided in Subsection D following.
- D. Termination of violation. All violations as ascertained in accordance with Subsection C above shall be terminated within 30 days of the decision of the Mayor and Council or

shall be deemed a separate violation for each day following and subject to fines as set forth herein, except that certain uses established before the effective date of this chapter and nonconforming as to performance standards shall be given a reasonable time in which to conform therewith as determined by the Mayor and Council.

§ 37 Regulation of nuisance elements.

- A. Definition of elements. No land or building in any district which shall be used or occupied for any purpose shall be operated in such a manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; noise or vibration; smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare or other substance, condition or element in such amount as to adversely affect the surrounding area or premises, provided that any use permitted by this chapter may be undertaken and maintained if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.
- B. Location where determinations are to be made for enforcement of performance standards. The determination of the existence of any dangerous and objectionable elements shall be made:
1. At the point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances and for smoke and other forms of air pollution.
 2. At or beyond the property lines of the use creating such elements for noise, vibration, glare, and odors, wherever the effect is greatest.

§ 38 Standards to be enforced.

- A. Fire and explosion hazards. All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire-suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws and regulations shall also apply.
- B. Radioactivity or electrical disturbance. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment located beyond the property of the creator of such disturbance. All applicable federal regulations shall be complied with.
- C. Vibration. No vibration shall be permitted which is detectable without instruments at the points of measurement specified in §37 B.
- D. Glare. No direct or sky-reflected glare shall be directly in a neighbor's property, whether from floodlights or from high- temperature processes such as combustion or welding or

otherwise, so as to be visible at the point of measurement specified in § 37 B. This restriction shall not apply to signs otherwise permitted by the provisions of this chapter.

- E. Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable, at the property line of the zone lot from which they are emitted, without instruments.

Article VII. Design Standards

§ 39. Off-Street Parking and Loading for Non-Residential Uses.

- A. Every off-street parking space shall be provided with direct access to a street by means of an aisle way, driveway or similar paved, dustless, all weather surface. Parking spaces may not be stacked one behind another without such direct vehicular access. The parking space is intended to be sufficient to accommodate the exterior extremities of a vehicle, whether wheel blocks are installed within the parking space to prevent the bumper from overhanging one end of the space.
- B. Each parking space shall be constructed of either a bituminous or Portland cement concrete surface, laid over a compacted gravel or crushed stone base course as per Borough standards.
- C. The width and length of each parking space shall be measured perpendicular to each other regardless of the angle of the parking space to the access aisle or driveway. Each parking space shall not be less than eighteen (18) feet in length, nor less than nine (9) feet in width, provided however that:
 - 1. Where the proposed use is likely to involve the circulation of shopping carts within the parking area, the width of the parking space shall be not less than ten (10) feet.
 - 2. Parking for the Disabled. Spaces shall be in close proximity to the main entrance of the building and the number, location, size and marking of such spaces, shall conform to the design requirements required by the State of New Jersey "Barrier Free Design" (*N.J.S.A. 52:32 12*).
- D. The width of an access aisle shall not be less than the following, however, where the angle of parking is different on both sides of the aisle, the larger aisle width shall prevail:

<u>Angle of Parking</u>	<u>One Way Aisle</u>	<u>Two Way Aisle</u>
90°	22 feet	24 feet
60°	18 feet	24 feet
45°	15 feet	24 feet

- i. All entrance and exit driveways shall be located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site, and to minimize conflict with the flow of traffic.
- ii. Any exit driveway or driveway lane shall be so designed in profile and grading and located to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway that is immediately outside the edge of the road right-of-way.

J. Off-street loading.

1. The loading berth required in each instance shall be not less than twelve (12) feet in width, 35 feet in length and fourteen (14) feet in height.
2. Off-street loading shall be either a bituminous or Portland cement concrete surface laid over a compacted gravel or crushed stone base course as per the standards of the Borough Engineer.
3. The standard off-street loading berth shall be provided only in a side or rear yard and shall be screened from the view of public streets and adjacent residential uses or districts.
4. Off-street loading areas shall not be used for the collection of trash or refuse.

§ 40. Sidewalks.

1. Sidewalks are generally required in all multi-family residential and commercial developments and in other areas where pedestrian circulation may be anticipated.
2. In conventional developments, sidewalks shall be placed in the right-of-way, parallel to the cartway, unless an exception has been permitted to preserve topographical or natural features, to provide visual interest, or unless the applicant shows that an alternative pedestrian system provides safe and convenient circulation.
3. In planned developments, sidewalks may be located away from the road system to link dwelling units with other dwelling units, the street, and onsite activity centers such as parking areas and recreational areas. They may also be required parallel to the street for safety and other reasons.
4. Sidewalks shall be constructed according to the specifications set forth below:
 - a. Sidewalks shall be a minimum of five (5) feet wide and four (4) inches thick except at points of vehicular crossing where they shall be at least six

(6) inches thick. At vehicular crossings, sidewalks shall be reinforced with 6 x 6 #10 WWF reinforcement or an equivalent.

- b. Concrete sidewalks shall be Class B concrete, having a twenty-eight (28) day compressive strength of 3,700 p.s.i.

§ 41. Plantings, Buffer and Tree Protection Standards

A. Street Trees.

1. Street trees shall be planted at a ratio of one (1) tree at least every 50 feet. Such trees shall be at least 2.5" caliper.
2. The location of such new plantings or replacements shall be such that, wherever possible, conflict or interference with existing overhead or underground utilities or other facilities will be avoided.
3. A shade tree easement shall be granted to the Borough for the purpose of providing adequate room for the planting of shade trees along public streets where such an area does not exist within the dedicated right-of-way.
4. Street tree type. Tree type may vary depending on overall effect desired but as a general rule, all trees shall be large deciduous trees except as needed to achieve special effects.
5. Maintenance of all trees and other plantings, including the removal of trees, within a shade tree easement shall be the responsibility of the property owner.
6. No property owner shall be permitted to cut down or otherwise remove a shade tree within a shade tree easement without first securing the permission of the Borough in accordance with Chapter 371-2

B. General Requirements for Landscaping. The following general requirements shall apply to the installation and design of landscapes and shall be the minimum necessary to promote aesthetic and pleasing views and the general welfare:

1. All land areas not covered with buildings, parking, or other impervious surfaces shall be landscaped with suitable materials. Landscaping shall consist of trees, shrubs, ground cover, perennials, and annuals singly or in combination and may include inanimate materials such as rocks, water, sculpture, art, walls, fences, and paving materials.
2. A landscape design shall be provided as part of site plan and subdivision submissions in accordance with the provisions of this ordinance. Every applicant for subdivision or site plan approval shall comply with the minimum standards as set forth in this section.

3. The Board may require additional landscaping beyond the requirements herein in order to create a desirable visual environment and an appropriate landscaping scheme for the site given the existing conditions and the proposed development.
 4. Where an application for development is for a residential subdivision only, the minimum standards shall apply only to street trees and to common open space, storm water management facilities and areas proposed to be dedicated to the public; however, additional plantings or landscaping elements shall be required in the subdivision where necessary for climate control, reduce energy consumption, to create privacy, and to screen ground-mounted utilities.
 5. All landscape plants shall be typical in size and weight for their species and shall conform to the standards of the American Association of Nurserymen for quality and installation.
 6. All plants shall be tolerant of specific site conditions. The use of indigenous species is strongly encouraged. No plant may be installed that is listed as an invasive alien species in NJDEP's Overview of Nonindigenous Plant Species in New Jersey (February 2004), as it may be amended or superseded.
 7. Landscape screening is required to visually buffer all trash enclosures, above ground propane tanks, utility boxes, ground-mounted HVAC equipment and other similar structures.
 8. Plants with pervasive root systems shall not be located where they may cause damage to drainage pipes or other underground utilities and storm water management facilities and should generally be planted no closer than ten (10) feet measured horizontally from such underground utility.
- C. Design Guidelines. The following guidelines shall be followed in the design of landscaping and streetscape plans.
1. In the design of a landscape plan, plantings shall be provided in the varieties, quantities, and site locations necessary to:
 - a. Reduce glare and reflection;
 - b. Buffer noise and objectionable views;
 - c. Complement or improve upon existing landscaping on adjoining properties;
 - d. Provide moisture retention, soil stabilization, wind breaks and air purification;
 - e. Moderate ground surface, building and stream water temperatures; and
 - f. Provide seasonal color variety.

2. In the landscape design of sites, areas shall be designated for retaining existing trees and the replacement of trees cleared from the site.
3. Landscaping shall be located to provide effective climatic control. The east and west walls of a building should be the most heavily vegetated to shade for summer sun and the north to northwest area for winter prevailing winds. The southerly facing side of a building should be shaded from summer sun but open for solar gain during the winter.
4. Plant's susceptibility to disease, their colors, textures, shapes, blossoms, and foliage characteristics shall be considered in the overall design of a landscape plan.
5. Local soil conditions and water availability shall be considered in the choice of landscaping.
6. In the design process, the eventual maturity of the plant shall be considered for its effect on circulation patterns, solar access, site lighting, drainage, emergency access and relationship to buildings and the streetscape.

D. Buffers and Berms.

1. Landscaping buffers are required to minimize and visually screen any adverse impacts or nuisances on a site or from any adjacent area. Berms may be used to achieve buffering effects in accordance with the regulations herein.
2. General requirements. Landscape buffers shall consist of a combination of deciduous trees, conifers, shrubs, berms, and if appropriate, fences or walls in sufficient quantities and sizes to perform their necessary screening function.
3. Buffers may be installed in required yard areas.
4. Buffers shall be continuous except for access drives as approved by the Board of Jurisdiction. Storm water management facilities, parking, dumpster enclosures, accessory buildings or above ground structures, and similar encroachments shall not be permitted in the required buffer area.
5. Evergreen trees shall not be less than six (6) feet height when planted, and the lowest branches shall be not more than one (1) foot above the ground.
6. The height of the landscaped screen shall be measured in relation to the elevation of the edge of the parking and loading area. Where the landscaped screen is lower than the elevation of the parking or loading area, either the required height of the screen shall be increased equal to the difference in elevation or the parking or loading area shall be moved to allow the plantings to be located in an area with a similar elevation as the parking or loading area.

7. Plant densities and structure requirements. The density of plantings and the requirements for structures shall vary with the width of the buffer in accordance with the following and Table 2:
 - a. Any buffer fifteen (15) feet or less in width shall incorporate a fence or wall into the landscape design. The fence or wall shall be located on the side of the buffer with the most intensive use.
 - b. Fences and walls may be used to reduce the required width of and number of plants in the buffer.

Table 2 Minimum Plant Density for Buffers

Required Buffer Width	Minimum Number of Required Plant Types per 100 Lineal Feet			
	Large or Medium Trees	Small or Ornamental Trees	Evergreens and Conifers	Shrubs
15 feet ⁽¹⁾	3	4	9	20
20 feet	4	6	10	24
25 feet	5	8	15	30
40 feet	6	9	18	36
50 feet	8	12	24	48
75 feet	10	15	30	60

⁽¹⁾ - Buffers of this width or less shall incorporate an opaque fence or wall.

8. Berm Specifications.
 - a. Berms shall be sufficiently high to hinder the view of the lower half of passenger vehicles parked in private parking lots provided for the convenience of customers or employees of a business establishment.
 - b. Berms shall not exceed a slope of one foot of rise for each three feet of run (1:3).
 - c. Any berm in excess of two (2) feet in height above the toe of the slope shall be adequately irrigated.
 - d. Continuous berms shall be avoided. Berms should be overlapped to provide buffering of any sight line perpendicular to the right-of-way. Berm overlapping should also be designed in locations to aid in site drainage.
 - e. Berms shall have a minimum topsoil cover of six (6) inches in depth.

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- E. Stormwater Facilities. Stormwater management areas including retention and detention basins, drainage ditches and swales shall be landscaped in accordance with the standards in this subsection.
1. The screening of outfall structures and emergency spillways from public view is of particular importance in the landscape design. This may involve integration of these areas as aesthetic landscape features, naturalized wetland areas, or active and passive recreation areas, in addition to their stormwater management function.
 2. Detention and retention facilities should be located in cleared areas where reasonably feasible.
 3. Basins designed as naturalized wetland areas shall be planted with a fringe of wetlands plants such as sedges, rushes, and forbs. The ground should be seeded with a wildflower or wet meadow grass mix but in certain circumstances may require sod or hydroseeding to stabilize the basin slopes. All plants shall be tolerant of typical flood plain and wetland conditions.
 4. Planting other than wildflowers and grasses shall not be located within ten (10) feet of low flow channels to facilitate drainage.
 5. Provisions for emergency access as well as general maintenance of the basins shall be reviewed by the Board of Jurisdiction. Plantings shall be designed to disguise yet not hinder vehicular access.
 6. All basin structures shall be designed to blend into the landscape in terms of construction materials, color, grading and planting.
- F. Parking and Loading Area Landscaping. The objectives of the landscape architectural treatment of all parking areas shall be to provide for safe and convenient movement of vehicles, to limit pedestrian/vehicular conflicts, to limit paved areas, to provide for screening from public right-of-way and buildings, to reduce the overall visual impact of parking lots, and to provide shade and reduce heat island effects. All non-residential parking lots and residential parking lots in excess of five (5) spaces shall conform to the following requirements:
1. The minimum width of landscape islands shall be eight (8) feet on the side of parking spaces and ten (10) feet between parking bays. If sidewalks are incorporated through the long axis of the landscape islands, their width shall be added to these requirements. Where the parking lot design will result in pedestrians cutting perpendicularly through landscape islands, sidewalks shall be installed at regular intervals through its short axis.
 2. Landscape islands shall be planted with a combination of deciduous trees, evergreen and deciduous shrubs, and ground cover at the rate of six (6) large or

medium trees, four (4) small or ornamental trees and sixty (60) shrubs per one hundred (100) lineal feet along the long axis of the island.

3. Parking and loading areas shall be screened by a combination of berms, hedges, fences, or walls. The minimum screening height at planting shall be three (3) feet and shall have a height of at least four (4) feet within three (3) years of installation. Loading dock areas shall be screened with shrubs a minimum height of six (6) feet at planting and shall achieve a height of at least ten (10) feet five (5) years after installation.
4. Parking lot lighting should be sited within landscape islands, however, without hindering necessary lighting coverage.
5. No more than twenty (20) parking spaces shall be placed in one row of parking without an intervening landscape island.

G. Site Protection and General Planting Requirements.

1. Topsoil preservation. Topsoil moved during the course of construction shall be redistributed on all re-graded surfaces so as to provide at least four (4) inches of even cover to all disturbed areas of the development and shall be stabilized by seeding or planting.
2. Removal of debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials, or other debris shall be removed from the site and disposed of in accordance with New Jersey Department of Environmental Protection regulations. No tree stumps, portions of tree trunks or limbs shall be buried anywhere in the development. All dead or dying trees, standing, or fallen, shall be removed from the site. If trees and limbs are reduced to chips, they may, subject to approval of the Borough Engineer, be used as mulch in landscaped areas, provided they have been properly composted.
3. Protection of existing plantings. Maximum effort should be made to save specimen plants. No material or temporary soil deposits shall be placed within four (4) feet of shrubs or within the dripline of the trees designated to be retained on the preliminary and/or final plat.
4. Slope plantings. Landscaping of the area of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than 3:1 shall be planted with ground covers appropriate for the purpose and soil conditions, water availability, and environment.

H. Planting Specifications.

1. All shade and street trees shall have a minimum caliper of two and one half (2.5) inches.

2. All ornamental and flowering trees shall have a minimum height of six (6) to eight (8) feet.
 3. All evergreen trees shall have a minimum height of six (6) feet.
 4. Shrubs shall have a minimum planting size no less than fifteen (15) inches in height. Ground cover shall have a minimum two (2) inch diameter pot.
 5. Trees and shrubs shall be of nursery-grown stock and shall be insect and disease free. Plants should be well-formed and healthy nursery-grown stock. The root ball should be inspected to ensure that it is undamaged and contains good quality soil and that it encompasses the entire root system.
 6. The quality and size of plants, spread of roots, and size of balls shall be measured and determined in accordance with AANI Z60.1-1986 (or current addition) "American Standard for Nursery Stock" as published by the American Association of Nurserymen, Inc.
 7. All plant material shall be guaranteed by the contractor to be in a vigorous growing condition. Provisions shall be made for a growth guarantee of at least two (2) years for trees and a minimum of two (2) growing seasons for shrubs. Replacement of dead or diseased material shall be made at the beginning of each planting season. All replacements shall have a guarantee equal to that stated above.
- K. Tree Management Plan and Tree Replacement. The purpose of this section is to establish protective regulations for trees within the Borough of Oceanport in order to control problems of flooding, soil erosion, air and noise pollution; to protect the public health, safety and welfare of the citizenry of the Borough; and to promote quality development in the Borough. The intent of this section is to encourage the protection of the greatest number of trees within the tree protection zone and of large specimen trees throughout the Borough, regardless of location.
1. Disturbance zone defined. That portion of a lot covered by existing or proposed buildings, structures, or improvements and within a certain distance around same as noted below:
 - a. House or building - Twelve (12) feet from foundation wall.
 - b. Garage - Eight (8) feet from foundation wall.
 - c. Pool/ Cabana - Twelve (12) feet from foundation wall.
 - d. Driveway/ sidewalk - Five (5) feet
 - e. Septic fields - Ten (10) feet
 - f. Underground utility - Five (5) feet

- g. Paved parking/drive aisle - Five (5) feet
 - h. Shed - Five (5) feet
 - i. Improvement (other) - Five (5) feet
2. **Applicability.** With the exceptions as set forth in this Section, no person shall cut or remove, or cause to be cut or removed, any tree with a diameter of eight (8) inches or greater upon any lands in the Borough unless the cutting or removal is accomplished in accordance with the provisions of this Section. At the time of a minor subdivision, preliminary major subdivision or site plan application submitted pursuant to this chapter, a Tree Protection Management Plan shall be submitted if there are ten (10) or more total non-specimen trees, or one (1) or more total specimen trees, cut or removed or proposed to be cut or removed during development. The provisions of this Section shall be applicable to all property owners in the Borough, or their designees, with the following exceptions:
- a. When the property in which the tree(s) are located is in excess of one (1) acre and the owner or his designee has submitted an application to the Oceanport Borough Planning Board or Zoning Board, as the case may be, for subdivision or site plan approval. For the purposes of calculating one (1) acre in a subdivision application, the total area of all lots shall be considered.
 - b. Any cultivated tree growing on property actually being used as a nursery, orchard, or Christmas tree farm.
 - c. Any tree cut or removed for agricultural use of lands when operated in accordance with a farm conservation plan approved by the local Soil Conservation Service District or tree management plan prepared by a NJDEP approved forester (see sub-paragraph -3, herein).
 - d. Any tree, which in the opinion of the Borough constitutes an immediate threat to the health or safety of the general public.
 - e. Any tree that is dead or diseased.
 - f. Pruning and removal of trees by utility companies to provide for line clearance of underground and overhead utilities.
 - g. The standards contained herein shall be considered the minimum standards to be met and maintained. Standards established by other Borough ordinances, or by state and federal rules and regulations shall apply where those standards are more restrictive than the standards set forth herein.

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- m. In the review of the application, the following factors shall be considered in deciding whether to recommend approval, approval with conditions or denial, of the Tree Protection Management Plan:
- 1) Impact on the growth of remaining trees;
 - 2) Impact on existing drainage patterns;
 - 3) Impact on soil erosion or increased dust;
 - 4) Impact on the vegetative screening between adjacent land uses;
and
 - 5) Impact on woodland corridors, stream corridors, greenways, and wildlife habitat.
- e. There is hereby established a presumption that each and every tree of eight (8) inches of diameter or greater located within the tree protection zone or any specimen tree located anywhere on the lot shall be preserved at its location on the site. Each such tree located within the tree protection zone or each specimen tree may be removed only if the Board of Jurisdiction finds that the applicant has set forth:
- 1) That it is necessary to remove trees which pose a safety hazard to pedestrian or vehicular traffic or threatens to cause disruption of public services.
 - 2) That it necessary to remove trees which pose a safety hazard to a building.
 - 3) That it is necessary to remove diseased trees, trees infested with destructive insects liable to infect healthy trees on the subject or adjacent property, or trees weakened by age, fire, or other injury.
 - 4) That it is necessary to observe good forestry practices, i.e., the number of healthy trees that a given parcel of land will support when documented by a report prepared on behalf of the applicant by a professional forester or a certified landscape architect.
 - 5) That it is necessary for the reasonable development of the site pursuant to other provisions of this ordinance.
 - 6) Other conditions which, in the judgment of the Planning Board/Zoning Board, warrant the removal of a tree.
- f. No building permit shall be issued until the applicant has obtained approval and fulfilled any conditions attached thereto of its Tree Protection Management Plan application. Such approval or approval with

conditions may be included in the actions of the Board in approving a site plan or subdivision application.

6. Planting of new trees and replacement of trees.
 - a. Where the Board determines that it is impossible to retain trees in the tree protection zone, or any specimen tree as defined by this Section, due to cutting, filling, or other construction activity, the applicant shall replant one (1") inch of new tree diameter for every four (4") inches of existing tree diameter removed. Replacement trees should be shown on the Tree Protection Management Plan for review. New replacement trees should have a minimum diameter of two and one-half (2.5) inches measured six (6) inches above the ground. Replanting should be done according to the standards specified by the American Nurserymen's Association.
 - b. Criteria for the selection of new trees. When an applicant is required to replace trees as described above, the applicant should replace the trees with the same species that were removed or, with the approval of the Board of Jurisdiction, choose other tree species, preferably native to the region. In selecting replacement trees, the following positive criteria should be used. These guidelines should also be followed in choosing trees proposed to be retained or cleared.
 - 1) Species longevity;
 - 2) Native to the area;
 - 3) Hardiness (wind firmness, climate requirements, characteristics of soil to hold tree);
 - 4) Resistance to insect and disease attack and to pollution;
 - 5) Aesthetic values (autumn, coloration, type of flowers or fruit, form characteristics);
 - 6) Low maintenance and care (pruning, etc.);
 - 7) High wildlife values;
 - 8) Climate protection of pedestrians, vehicles, and buildings;
 - 9) Size at maturity;
 - 10) Effect of soil retention and erosion control; and
 - 11) Value as a noise buffer.

§ 42 Lighting for Non-Residential Uses.

- A. All parking areas and walkways thereto and appurtenant passageways and driveways serving commercial, public, office, multi-family residential or other uses having common off-street parking and/or loading areas shall be adequately illuminated for security and safety purposes. The lighting plan in and around the parking areas shall provide for non-glare lights focused downward.
- B. Standards for illumination.
1. Site lighting shall meet the standards in the IESNA Lighting Handbook, 9th edition or as may be amended, for maintained illuminance values for parking lots – basic (figure 61) and average maintained illuminance level for pedestrian ways (figure 63).
 2. The minimum level of lighting in any portion of the parking lot shall be not less than one-quarter (0.25) foot candles. The average level of lighting within the parking lot shall be not less than one-half (0.5) foot candles. The maximum level of lighting in any portion of the parking lot shall be not greater than two (2) foot candles.
 3. The minimum level of lighting along any portion of walkway not part of a parking lot shall be not less than one-half (0.5) foot candles. The maximum level of lighting along any portion of walkway not part of a parking lot shall be not greater than two (2.0) foot candles.
 4. The level of lighting at all intersections between access drives and streets shall be not less than one (1.0) foot candles.
 5. The maximum level of lighting on any non-residential site in the Borough shall be fifteen (15) footcandles for specific uses where visual tasks are performed or where security is a concern.
 6. The maximum level of lighting on any residential site in the Borough shall be ten (10) footcandles for specific uses where visual tasks are performed or where security is a concern.
 7. The maximum illumination provided on any site shall not exceed the minimum illumination by more than a ratio of 10 to 1.
- C. All lighting fixtures shall be shielded so that all light is contained on the subject property and does not spill over to adjacent properties. Any outdoor lighting shall be shown on the lighting plan in sufficient detail to allow a determination of the effects upon adjacent properties, traffic safety and overhead sky glow. The objectives of these specifications are to minimize undesirable off-premises effects. To achieve these requirements, the intensity of such light sources, the light shielding, and similar characteristics shall be subject to site plan approval.

D. Lighting standards shall not exceed a height of twenty (20) feet in non-residential districts. Bollard lighting is encouraged for pedestrian walkways.

§ 43 General Design Requirements for Non-Residential Uses.

A. General design requirements for all non-residential districts are as follows:

1. No merchandise, products, waste equipment, or similar material or objects shall be displayed or stored outside.
 - a. Outdoor Display. Display of merchandise for sale or rent may occur outdoors under the following requirements:
 - 1) Placement and hours of display shall be shown on a site plan.
 - 2) No entries or exits may be blocked or any display placed within five feet of any such entry or exit.
 - 3) Any carriers or containers of merchandise must be compatible in design and color scheme to the adjacent building elements
 - 4) Any signage must be printed and similar in design and copy to interior signage
 - 5) All outdoor displays must be portable or movable
 - 6) The storage and display of products under canopies which do not contain sprinklers shall be prohibited.
2. All buildings in a development shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes.
3. The established grades on the site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas.
4. Trash enclosures must be enclosed behind an opaque fence or wall at least five (5) feet in height, with an opaque self-closing gate. The exterior finish material of the trash enclosure and gate must be compatible with that of the exterior of the principal structure. Trash enclosures shall not be within ten (10) feet of any other structures.

§ 44. Signs.

- A. Purpose and Intent. The purpose of this section is to encourage the effective use of signs as a means of communication, to maintain an aesthetically pleasing environment and the Borough's ability to attract economic development and growth, to protect and improve pedestrian and vehicular safety, to minimize the potential adverse effects of signs on nearby public and private property, to protect the expressive rights of all persons within the scope of applicable law and to enable the fair and consistent application of the regulations contained herein.

Design standards. The guidelines for the design of signs are contained in this sub-section. Any relief required from this sub-section shall be pursuant to *N.J.S.A. 40:55D-51*.

1. Signs should strengthen the architectural diversity of the municipality's buildings. Signs which obscure or are of a different architectural style than the building's architecture should be avoided. Signs should be integrated with a building's architecture in terms of form, materials, color, and size.
2. Signs should be appropriate for the era in which the building was constructed.
3. Signs should not alter the way in which a building functions.
4. Designers should strive for creativity in the form and variety of signage within the size limitations set forth herein.
5. Designers are strongly encouraged to include symbols, images, and other graphic objects to convey the type of establishment using the sign.
6. The typeface used to represent words should convey the character of the establishment and the era of the building.
7. Contrast. The contrast of a sign's lettering and symbols with its background should be disparate to convey legibility.
8. The background of internally illuminated signs should not be lighted but only the individual letters, logos, or symbols that convey the sign's message.
9. The provisions of this section shall not apply to the municipal, county, state, or federal government.

Article VIII. Subdivision Layout

§ 45. General standards.

- A. The subdivision plat shall conform to design standards that will encourage good development patterns within the municipality. Where either or both an Official Map or/and a Master Plan has or have been adopted, the subdivision shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on an officially adopted Master Plan or Official Map shall be considered in approval of subdivision plats. Where no Master Plan or Official Map exists, streets and drainage and rights-of-way shall be shown on the final plat, in accordance with N.J.S.A. 40:55D-3 to 40:55D-7 and shall be such as lend themselves to the harmonious development of the Borough and enhance the public welfare in accordance with the following design standards.

§ 46. Streets.

- A. The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets.
- B. Subdivisions abutting state and/or county highways may be required to provide a marginal service road or reverse frontage with a buffer strip for planting or some other means of separation of through and local traffic, as the Planning Board may determine appropriate.
- C. All arterial, major, and secondary streets shall be designed in accordance with the proposals contained in the Master Plan of the Borough of Oceanport. The design and location of collector, minor and marginal access streets shall be determined by the Planning Board in its review of the application and shall be related to the size and location of the tract being subdivided with streets designed so as to conform to the "Schedule of Street Design Standards" appended to and part of this chapter. The enumerated standards are to be construed as minimum standards and may be increased in special cases where, because of high traffic volumes, steep grades or other such reasons, the Planning Board determines that such action is necessary.
- D. Where land strips are created between marginal service roads and state and/or county highways, such land strips shall be dedicated to the Borough of Oceanport at the time of the dedication of the marginal service roads.
- E. Subdivisions that adjoin or include existing streets that do not conform to widths as shown on the Master Plan or Official Map or the street-width requirements of this chapter shall dedicate additional width along either one or both sides of said road. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated. The additional dedicated width when improved shall have a foundation course which shall be constructed of bituminous stabilized base material six inches thick. The wearing surface shall be constructed of two inches of bituminous concrete from the center line of said

- road to the newly installed curbs and blended into the existing pavement on the opposite side of the center line. The new cross section for the existing road shall be constructed so as to provide a parabolic contour constructed to the satisfaction of the Borough Engineer.
- F. Dead-end streets (cul-de-sac) shall not be longer than 600 feet and shall provide a turnaround at the end with a radius of not less than 50 feet and tangent whenever possible to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround shall be provided, and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
 - G. No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name. Proposed street names shall be submitted to the Planning Board for approval.
 - H. Four-way (cross) intersections involving minor or collector streets shall be avoided.
 - I. Street jogs with center-line offsets of less than 125 feet shall be avoided.
 - J. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
 - K. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 70°. T-intersections shall not enter the same street, regardless of direction of entry, with less than 125 feet between center lines.
 - L. Changes in grade shall be connected by vertical curves sufficient to provide adequate sight distance.
 - M. No municipal services shall be required of the Borough of Oceanport on a street or in connection with a facility until said street or such facility incidental to the service is completed in accordance with the requirements of this chapter.

§ 47. Blocks.

- A. Block length and width or acreage within boundary roads shall be such as to accommodate the size of lot required in the area by the applicable zoning district and to provide for convenient access, circulation control and safety of street traffic.
- B. Blocks shall not be in excess of 1,500 feet long. In blocks over 1,000 feet long, pedestrian walkthroughs may be required through the block in locations deemed necessary by the Planning Board. Such walkways shall be 10 feet wide and be straight from street to street.
- C. For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.

§ 48. Lots.

- A. Lot dimensions and area shall not be less than the requirements of the applicable zoning district.
- B. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- C. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra-width line, and all setbacks shall be measured from such line.
- D. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, topographic irregularities, erosion conditions or similar circumstances, the Planning Board may, after adequate investigation, withhold approval of such lots.
- E. All grading of the subdivision shall be in accordance with the final plan.
- F. Only those trees shall be removed as shall be necessary to permit construction of streets, driveways, lawns and dwellings and other authorized structures.
- G. Five (5) percent of the gross land area of any tract being subdivided as a major subdivision shall be allocated for public use for recreational facilities, such public use area to be in such location and improved as to grading and seeding in such manner as shall be acceptable to the Planning Board. This requirement may be waived by the Planning Board where, because of the peculiar conditions pertaining to this land or its location, such requirement is deemed by the Planning Board to be impracticable or may affect undue hardship. Such waiver shall be upon such reasonable terms and conditions in lieu of such requirements as shall be prescribed by the Planning Board.
- H. Flag lots are not permitted. [Added 4-2-2015 by Ord. No. 945]

§ 49. Public use and service areas.

- A. Easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least fifteen (15) feet wide and located in consultation with the companies of municipal departments concerned.
- B. Where a subdivision is traversed by a watercourse, drainage right-of-way, channel or street, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.

- C. Natural features such as trees, brooks, hilltops, and views shall be preserved whenever possible in designing any subdivision containing such features.
- D. Any land shown on the Master Plan as proposed for park, playground, school site or other public use may be designated and reserved for such use.

§ 50. Design of residential units.

- A. Purpose: In order to preserve and assure the harmonious relationship of residential units to the comprehensive neighborhood pattern, and to prevent undue similarity of design which may lead to undue impairment of the stability and value of residential units and produce neighborhood degeneration and blight with attendant deterioration of conditions affecting the health, safety, morals and general welfare of the inhabitants thereof and the Borough at large, no major subdivision shall be approved until the planned construction (including front, side and rear elevations) of residential units has been reviewed and approved by the Planning Board in accordance with the standards enumerated below or unless a waiver of these requirements has been granted by the Planning Board, as provided for elsewhere in this chapter.
- B. The residential unit shall be of such character, quality or architectural design and construction materials as will assure that:
 - 1. The proposed structure will be in keeping with the general character of the area in which it is located.
 - 2. The proposed structure will have a harmonious relationship to the surrounding residential units within 500 feet thereof.
 - 3. The proposed structure will have a harmonious relationship to the comprehensive community plan.
 - 4. The proposed structure is not likely to produce any of the harmful effects which lead to neighborhood degeneration and blight with attendant deterioration of conditions affecting the health, safety, morals, and general welfare of the Borough at large.
- C. The front facade for each residential unit shall be substantially different from the front facade of any existing or planned residential unit within three lots in either direction on the same side of the street from any portion of the above-described lots; in the case of corner lots, from the side and rear elevations of any existing or planned residential unit or any other corner lot at the same street intersection. To be deemed substantially different, the facade or side and rear elevation thereof, as the case may be, must be different in at least three of the following five respects:

1. The relative location of a garage, if attached, a portion, if any, of any other such structural appurtenance with respect to the residential unit itself.
2. The relative location or type of windows and doors.
3. The type or pitch of the roof.
4. The type or color of siding material.
5. The type of roofing material, or the color thereof, or the pattern.

Article IX. Soil Erosion And Sediment Control

§ 51. Soil Erosion and Sediment Control Plan Required; Exceptions.

- A. No site plan shall be approved, no street shall be constructed, no changes shall be made in the contour of the land and no grading, excavating or removal or destruction of topsoil, trees or other vegetative cover of the land shall be commenced by any developer until such time that a plan for soil erosion and sediment control has been processed and approved by the Borough Planning Board or there has been a determination by the Planning Board that such plans are not necessary. Soil erosion and sediment control plans are not required in the following instances:
1. Disturbances of five thousand (5,000) square feet or less of the surface area of the land,
 2. Construction of structures for which a building permit would not be required under the Standard Building Code of the State of New Jersey,
 3. Single-family dwellings which are not part of a subdivision, and
 4. Agricultural use of land when operated in accordance with a conservation plan approved by the local Soil Conservation District, or when it is determined by the local Soil Conservation District that such agricultural pursuits will not cause excessive erosion and sedimentation.
- B. No subdivision, site plan or land development plan shall be approved unless:
1. There has been a plan approved by the Planning Board that provides for soil erosion and sediment control consistent with this section and an improvement bond (or other acceptable security) has been deposited with the Borough in the form of an escrow guarantee which will ensure installation and completion of the required improvements in accordance with Borough specifications, or
 2. There has been a determination by the Borough Planning Board that a soil erosion and sediment control plan is not necessary.

§ 52. Minimum Standards and Specifications.

Soil erosion and sedimentation control measures used to control erosion and reduce sedimentation shall, as a minimum, meet the standards and specifications for soil erosion and sediment control as adopted for use by the Monmouth County Soil Conservation District. The Borough Engineer shall ensure compliance with the appropriate specifications, copies of which are on file at the Municipal Building of Oceanport Borough and are available from the Soil Conservation District.

§ 53. Procedures.

- A. Procedures for applications for soil erosion and sedimentation control permits.
1. As part of the site plan and/or subdivision review process, or for any land development plan, or for any other activity requiring a soil erosion and sedimentation control permit, a plan shall be submitted which clearly shows on a suitable map the location of the proposed action, the total area of the development, the total amount of earthwork in cubic yards, existing topography, the location of flood plains, wetlands, and any other information required by the Planning Board. The plan shall be prepared by a licensed professional engineer, land surveyor, architect, professional planner, or landscape architect and shall conform to the submission requirements noted below.
- B. Plan review and action.
1. Where a soil erosion and sediment control plan is required, the applicant shall submit such plan to the Administrative Officer in accordance with the provisions of this chapter. If the plan is submitted concurrent with and as part of a site plan or subdivision approval, the Planning Board shall either approve or disapprove of said plan within the same time period as permitted the concurrent development application by the Municipal Land Use Law. Any extension of this time period agreed to in writing by the applicant for the development application shall include the same time period extension of the soil erosion and sediment control plan. If the plan is not submitted concurrent with and as part of a site plan or subdivision approval, the Planning Board shall either approve or disapprove of said plan within sixty (60) days of receipt by the Administrative Officer of said plan unless, by written mutual agreement between the Planning Board and the applicant, the said sixty-day period is extended for an additional period up to thirty (30) days. Approval by the Planning Board shall constitute authorization for issuance of a soil erosion and sediment control permit. The failure of the Planning Board to either approve or disapprove said plan within the time as provided for above shall constitute approval of said plan by the Planning Board. For purposes of this section, a major revision of the plan by the applicant shall constitute a new submission.
 2. The Administrative Officer shall provide the applicant with written notice of such approval or disapproval, a copy of which decision, stating the name of the applicant, the location of the site [designated both by street address and by lot and block number(s)] and the proposed use of the land, shall be sent to the Monmouth County Soil Conservation District along with other information as requested by the said District.
- C. Performance guarantee required. Prior to the issuance of a building permit, the developer shall have filed with the Borough a performance guarantee computed by the Borough Engineer at one hundred twenty percent (120%) of the construction cost to insure the installation of such uncompleted soil erosion and sediment control measures on or before

an agreed date. Construction costs should be based on prices obtained for government contracts. Such performance guarantee may be in the form of a performance bond which shall be issued by a bonding or surety company approved by the Borough Solicitor; a certified check, returnable to the developer after full compliance; or any other type of surety approved by the Borough Solicitor. The performance guarantee shall be approved by the Borough Solicitor as to form, sufficiency, and execution. Such performance guaranty shall run for a period to be fixed by the Planning Board.

D. Inspection and approval of soil erosion and sediment control measures.

1. Prior to and during construction, all soil erosion and sediment control measures shall be subject to inspection and approval by the Borough Engineer, who shall be notified by the developer at least forty-eight (48) hours prior to the start of construction.
2. When all of the necessary and appropriate soil erosion and sediment control measures have been completed, the developer shall notify the Planning Board in writing, by certified or registered mail, of the completion of the aforesaid soil erosion and sediment control measures and shall send a copy thereof to the Borough Engineer. The Planning Board shall then direct and authorize the Borough Engineer to inspect all of the aforesaid soil erosion and sediment control measures. The Engineer shall, thereupon, file a written report to the Planning Board. Said report shall be detailed and shall indicate either approval, partial approval, or rejection. If said soil erosion and sediment control measures, or any portion thereof, shall not be approved or shall be rejected by the Borough Engineer, said report shall contain a statement of reasons for such non-approval or rejection. Where said report indicates partial approval of said soil erosion and sediment control measures, it shall indicate the cost of the soil erosion and sediment control measures for which approval is rejected or withheld. Where partial approval is granted, the developer may be released from all liability pursuant to its performance guarantee bond, except for that portion adequately sufficient to secure the soil erosion and sediment control measures not yet approved.
3. No approval for occupancy of any building shall be granted unless all needed soil erosion control measures have been completed or substantially provided for in accordance with this chapter. The developer shall bear the final responsibility for the installation and construction of all required soil erosion and sediment control measures according to the provisions of this chapter.
4. The developer shall immediately prior to the release of the performance guarantee, unless relief is granted by the Planning Board, post with the Borough a maintenance guarantee for a period not to exceed two (2) years in an amount not to exceed fifteen percent (15%) of the cost of the improvement or of the permanent installation.

5. Whenever sedimentation is caused by stripping vegetation, regarding or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense. All such work shall be done immediately.
6. Maintenance of all drainage facilities and watercourses within the development is the responsibility of the developer until the final facilities are accepted by the Borough or such other entity as approved by the Borough Council.
7. It is the responsibility of the developer doing any action on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way during the pendency of the activity, to return it to its original or equivalent condition after such activity is completed.
8. Maintenance of drainage facilities or watercourses, including public drainageways originating and completely on private property, is the responsibility of the landowner to their point of open discharge at the property line or at a communal watercourse within the property.

§ 54. Soil Erosion and Sediment Control Plan Contents and Requirements.

A. General plan contents.

At a minimum, the soil erosion and sediment control plan shall contain:

1. Plans and specifications of soil erosion and sediment control measures in accordance with the New Jersey Soil Erosion and Sediment Control Act.
2. A time schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective soil erosion and sediment control measures. A sequence of construction is to be included on the plan showing major items of construction and the installation of various sediment control devices.
3. The County Soil Conservation District requires the Borough to obtain from the applicant the following for transmittal to the County District:
 - a. A database summary sheet for any basins to be installed.
 - b. For sites over 5 acres and for mining operations, a Request for General Permit Authorization for Stormwater Discharge shall be completed and submitted by the applicant with a \$200.00 check made out to the "Treasurer, State of New Jersey" prior to the release of final plans by the Borough.
 - c. Copies of any HEC II studies (diskettes) should be submitted, if applicable.

B. General design principles.

1. The following principles are effective in minimizing soil erosion and sedimentation and shall be included, where applicable, in the soil erosion and sediment control plan:
2. Stripping of vegetation, regarding or other development shall be done in such a way that it will minimize soil erosion.
3. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
4. The disturbed area and the duration of exposure shall be kept to a practical minimum.
5. Temporary seeding and/or mulching shall be used to protect exposed critical areas during development.
6. Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development.
7. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of sediment basins or other methods acceptable to the Borough Engineer.
8. Diversions and sediment basins shall be constructed prior to any on-site grading or disturbance of existing surface material.
9. Banks and beds of temporary and permanent watercourses shall be stabilized.

C. Grading and drainage practices.

In order to provide more suitable sites for building and other physical features, improve surface drainage and control erosion, the following requirements shall be met:

1. The yards of every structure shall be graded to secure proper drainage away from buildings and disposed of it without ponding, and all land within a development shall be graded to drain and dispose of surface water without ponding, except where approved by the Planning Board. Minimum five percent (5%) slopes for ten (10) feet away from structures shall be required.
2. All drainage provisions shall be of such design as to collect on-site runoff and carry surface waters to the nearest practical street, storm drain or natural watercourse. Where drainage swales are used to deliver surface waters away from buildings, the swales shall be sodded and shall be of such slope, shape and size as conform with specifications of the Borough.

3. Concentration of diffused natural water flow shall only be permitted in swales or watercourses.
 4. Excavations and fills.
 - a. No excavation shall be made with a cut face steeper in slope than one and one-half (1.5) horizontal to one (1.0) vertical [sixty-six percent (66%)], except as approved by the Borough Engineer when handled under special conditions.
 - b. No fill shall be placed which creates any exposed surface steeper in slope than two (2.0) horizontal to one (1.0) vertical [fifty percent (50%)], except as approved by the Borough Engineer when handled under special conditions.
 - c. Adequate provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.
 - d. Retaining walls or cribbing shall be required where needed to prevent the surface of excavations or fills from exceeding at any point the maximum allowable slope.
 - e. Excavations shall not be made so close to property lines as to endanger adjoining property without supporting and protecting the face of the excavation.
 - f. No fill shall be made so as to cause settlement, sliding or erosion of the soil.
 - g. No fill shall be made or placed adjacent to the bank of a channel so as to create bank failure or sliding.
 - h. Slopes steeper than three (3.0) feet horizontal to one (1.0) foot vertical will need to be stabilized by means other than topsoil and seeding. Other requirements will govern basins and stormwater channels.
- D. Design standards.

Standards and specifications for measures used in the soil erosion and sediment control plan shall be in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey, adopted by the Monmouth County Soil Conservation District or by future standards and specifications adopted by the Soil Conservation District. Copies shall be on file at the office of the Monmouth County Soil Conservation District and the Municipal Building of Oceanport Borough.

Article X. Planning Board Establishment and Rules**§ 55. Establishment and Composition of the Planning Board****A. Establishment.**

A Planning Board is hereby created for the purposes set forth in this chapter and for such other duties as may from time to time be assigned to it by the Borough Council. The Planning Board shall consist of nine (9) members and up to four (4) alternates, who shall be designated "Alternate No. 1" and "Alternate No. 2." All members of the Planning Board, except for the Class II members set forth below, shall be municipal residents.

B. Membership.**1. Members shall be appointed according to the following classes:**

- a. Class I - The Mayor or the Mayor's designee in the absence of the Mayor.
- b. Class II - One (1) of the officials of the Borough other than a member of the Borough Council, to be appointed by the Mayor. However, if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by *N.J.S.A. 40:56A-1* shall be deemed to be the Class II Planning Board member for purposes of this chapter in the event that there be among the Class IV or alternate members of the Planning Board or a member of the Board of Education.
- c. Class III - A member of the Borough Council to be appointed by it.
- d. Class IV - Other citizens of the Borough, to be appointed by the Mayor. Members of Class IV shall hold no other municipal office, position, or employment except that one (1) member may be a member of the Historic Preservation Commission, if established pursuant to *N.J.S.A. 40:55D-1* and one (1) member may be a member of the Board of Education. If there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by *N.J.S.A. 40:56A-1* shall be a Class IV member unless there be among the Class IV or alternate members of the Planning Board be a member of the Board of Education, in which case the member common to the Planning Board and Environmental Commission shall be deemed a Class II member of the Planning Board. For the purposes of this section, membership on a Borough board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of a Borough office.

2. Terms of members.

Members and alternates of the Planning Board existent under the prior zoning ordinance shall retain their membership and their terms shall continue until their term would have expired under the prior ordinance. New appointments to the Planning Board shall be for a term as specified by *N.J.S.A. 40:55D- 23 and 23.1*, except in the case of a vacancy created by the resignation or removal of a member or alternate, in which case the appointment shall be for the duration of the unexpired term.

3. Members and alternates shall not participate in any hearing in which they have, either directly or indirectly, any personal or financial interest.
4. Any member or alternate other than the Mayor, after a public hearing if he or she requests it, may be removed by the Borough Council for cause.
5. Alternate members.
 - a. The governing body may, by ordinance, provide for the appointment to the Planning Board of not more than four (4) alternate members, who shall be municipal residents. Alternate members shall be appointed by the appointing authority for Class IV members and shall meet the qualifications of Class IV members of nine-member planning boards. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2," etc. and shall serve in rotation during the absence or disqualification of any regular member or members of Class IV.
 - b. No alternate member shall be permitted to act on any matter in which he/she has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.
 - c. Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member of any class. Participation of alternate members shall not be deemed to increase the size of the Planning Board established by ordinance of the governing body pursuant to Section 14 of P.L.1975, c.291 (C.40:55D-23). A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

§ 56. Powers of the Planning Board.

- A. The Planning Board shall have to power to:
 1. Prepare, maintain, adopt, and administer the master plan.

2. Prepare, maintain, and administer the subdivision, site plan, and zoning ordinances within this chapter and hear and decide applications made pursuant thereto.
3. Prepare, maintain, and administer the official map.
4. Prepare a capital improvements program.
5. Review proposed amendments to the subdivision, site plan, and zoning ordinances within this chapter and the official map and make recommendations regarding the same to the Borough Council. Pursuant to *N.J.S.A. 40:55D-26(a) & (b)*.
6. Hear and decide applications for conditional uses.
7. Hear and decide applications for variances and certain building permits when in conjunction with applications for subdivision, site plan and conditional use approval pursuant to Article 8 of *N.J.S.A. 40:55D-1 et seq.*
8. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an Zoning Officer or other administrative officer based on or made in the enforcement of the zoning provisions of this chapter.
9. Hear and decide requests for interpretation of the zoning map, zoning provisions of this chapter, official map, or for decisions upon other special questions upon which the Board is authorized to pass.
10. Hear and decide variance requests pertaining to:
 - a. "c" variances.
 - 1) Where (a). by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or (b). by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c). by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or structures lawfully existing thereon, the strict application of any regulation of the zoning provisions of this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.
 - 2) Where in an application or appeal relating to a specific piece of property the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning provisions of this chapter and the benefits of the deviation would substantially outweigh any

detriment, grant a variance to allow departure from the zoning provisions of this chapter; provided; however, that no variance from those departures enumerated in subsection 3.b. of this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance.

b. "d" variances.

In particular cases and for special reasons, grant a variance to allow departure from the zoning provisions of this chapter to permit:

- 1) A use or principal structure in a district restricted against such use or principal structure.
- 2) An expansion of a non-conforming use.
- 3) Deviation from a specification or standard pertaining solely to a conditional use.
- 4) An increase in the permitted floor area ratio.
- 5) An increase in the permitted density, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.
- 6) A height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure.

Variances granted under this subsection shall be granted only by affirmative vote of at least five (5) members. No variance or other relief may be granted under the terms of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning provisions of this chapter.

If an application for development requests one or more variances but not a variance for a purpose enumerated in subsection d. of this Section, the decision on the requested variance or variances shall be rendered under subsection 71.A.3.a.

No variance or other relief may be granted under the terms of this Section, including a variance or other relief involving an inherently

beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. In respect to any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or other relief may be granted under the terms of this Section, permitting the creation or establishment of a nonconforming use which would be prohibited under standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation. An application under this Section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

11. Exercise such other powers which are authorized by *N.J.S.A. 40:55D-76*.

- B. If an application for development requests one or more variances but not a variance for a purpose enumerated in subsection 3.b. of this Section, the decision on the requested variance or variances shall be rendered under subsection 3.a. of this Section.
- C. No variance or other relief may be granted under the terms of this Section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. In respect to any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.60 (C.6:1 80 et seq.), no variance or other relief may be granted under the terms of this Section, permitting the creation or establishment of a nonconforming use which would be prohibited under standards promulgated pursuant to that act, except upon issuance of a permit by the standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation. An application under this Section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.
- D. The Planning Board may:
 - 1. Participate in the exercise and review of programs or plans required by State or Federal law or regulation.
 - 2. Assemble data on a continuing basis as part of a continuous planning process.
 - 3. Perform such other advisory duties as may be requested of it by the Borough Council.

§ 57. Organization and Advisory Bodies of the Planning Board.

- A. The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV, select a Secretary who may or may not be a member or alternate member of the Planning Board or a municipal employee, and create and fill such other offices as established by ordinance. An alternate member shall not serve as Chairman or Vice Chairman of the Planning Board. It may employ, or contract for, and fix the compensation of legal counsel, other than the municipal attorney, and experts, and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body for its use. The governing body shall make provision in its budget and appropriate funds for the expenses of the Planning Board.
- B. Advisory bodies.
1. A citizens' advisory committee may be appointed by the Mayor, and shall serve at the pleasure of the Mayor, to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board.
 2. The Planning Board shall make available to the Environmental Advisory Board an informational copy of every application submitted for development, although failure on the part of the Planning Board to make such informational copy available to the Environmental Advisory Board shall not invalidate any hearing or procedure.

§ 58. Annual Report, Expenses and Costs of the Planning Board

- A. Annual report.
1. The Planning Board shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on the zoning provisions of this chapter which were the subject of variance requests.
 2. The report shall contain recommendations of the Planning Board relative to amendments or revisions to the zoning provisions of this chapter, if any.
 3. The report shall be sent to both the Borough Council.
- B. Expenses and costs.
1. The Borough Council shall make provision in its budget and appropriate funds for the expenses of the Planning Board.
 2. The Planning Board may employ, or contract for, and fix the compensation of legal counsel, other than the Borough Solicitor, and experts and other staff and

services as it shall deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the Borough Council for its use.

§ 59. Appeals and Applications to the Planning Board.

A. Appeals and applications.

1. Appeals to the Planning Board may be taken by any interested party affected by any decision of the Zoning Officer or other administrative officer of the Borough based on or made in the enforcement of the zoning provisions of this chapter or the official map.
2. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the Administrative Officer, specifying the grounds of such appeal.
3. The Administrative Officer shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
4. A developer may file an application for development with the Planning Board for action under any of its powers without prior application to the Zoning Officer.

B. Time for decision.

1. The Planning Board shall render a decision not later than one hundred twenty (120) days after the date:
 - a. An appeal is taken from the decision of the Zoning Officer or other administrative officer, or
 - b. The submission of a complete application for development to the Planning Board.
2. Failure of the Planning Board to render a decision within the prescribed time period or within such further time as may be consented to by the developer, shall constitute a decision favorable to the developer. If an applicant elects to submit separate consecutive applications for "d" variance approval and site plan, subdivision or conditional use approval, the one hundred twenty (120) day time period for action shall apply to the application for approval of the "d" variance, and the time period for granting or denying any subsequent approval shall be as otherwise provided in this chapter.
3. If, in the case of an appeal made pursuant to Subsection a. of Section 57 of P.L.1975, c.291 (C.40:55D 70), the Planning Board determines there is an error in any order, requirement, decision or refusal made by the Zoning Officer or administrative officer pursuant to a report submitted by the Historic Preservation Commission or Planning Board in accordance with Section 25 of P.L. 1985, c.216

(C.40:55D 111), the Planning Board shall include the reasons for its determination in the findings of its decision thereon.

C. Modification of appeal.

The Planning Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the Zoning Officer or other administrative officer from whom the appeal is taken.

D. Stay of proceedings by appeal; exception.

1. An appeal to the Planning Board shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Zoning Officer or other administrative officer certifies to the Board, after the notice of appeal has been filed with the Zoning Officer or other administrative officer, that by reason of facts stated in the certificate a stay would, in the Zoning Officer's or other administrative officer opinion, cause imminent peril to life or property.
2. In such case, proceedings shall not be stayed other than by order of the Superior Court upon notice to the Zoning Officer or other administrative officer as designated and on due cause shown.

§ 60. Meetings of Planning Board.

- A. Regular meetings of the Planning Board shall be fixed for the entire calendar year and set for a certain time and place. Regular meetings shall be scheduled no less than once a month and shall be held as scheduled unless cancelled for lack of applications for development to process.
- B. Special meetings may be held at the call of the Chairman or on the request of any two (2) Board members, and which shall be held on notice to its members and the public in accordance with all legal requirements.
- C. No action shall be taken at any meeting without a quorum being present, said quorum to be the majority of the full authorized membership of the Board.
- D. All actions shall be taken by a majority vote of the members of the Board at the meeting except as otherwise required by *N.J.S.A. 40:55D-1 et seq.* A member of the Board who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted provided, however, that such Board member certifies in writing to the Board that he or she has read a transcript or listened to a recording of all of the hearing from which he or she was absent.
- E. All regular and special meetings shall be open to the public and notice of all such meetings shall be given in accordance with State requirements.

- F. Minutes of every regular and special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Municipal Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes, as indicated in “Fees, Guarantees, Inspections and Off Tract Improvement” of this chapter.

§ 61. Public Hearings of Planning Board.

- A. The Planning Board shall hold a hearing on each application for development. Each Board shall make rules governing such hearings.
- B. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing during normal business hours in the office of the Administrative Officer. The developer may produce other documents, records, or testimony at the hearing to substantiate, clarify, or supplement the previously filed maps and documents.
- C. The officer presiding at the hearing or such person as he/she may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipality Investigations Law (C. 2A:67A-1 et seq.) shall apply.
- D. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and reasonable limitations as to time and number of witnesses.
- E. A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made either by stenographic, mechanical, or other means. The Borough shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense, provided that the charge for a transcript shall not exceed the maximum amount permitted in *N.J.S.A. 2A:11-15*. Each transcript shall be certified in writing by the transcriber to be accurate.
- F. If an applicant desires a certified court reporter, the costs of taking testimony and transcribing it and providing a copy of the transcript to the Borough or court shall be at the expense of the applicant, who shall also arrange for the attendance by the reporter. All costs for transcription of the record before the applicable Board shall be the entire and sole obligation of the applicant or appellant, whichever requests the transcript. The obligation to obtain and pay for such transcript shall be solely that of the applicant or appellant who requests the transcript.

§ 62. Public Notice of a Hearing of Planning Board.

- A. Public notice of a hearing shall be given by the developer for the following applications for development:
1. Any request for a variance.
 2. Any request for conditional use approval.
 3. Any request for issuance of a permit to build within the bed of a mapped street or public drainageway or on a lot not abutting a street.
 4. Any request for minor or major site plan and/or subdivision approval involving one (1) or more of the aforesaid elements.
 5. Any request for preliminary approval of a major subdivision.
 6. Any request for approval of a general development plan
 7. Any extension of approvals for five or more years under Subsection d. of Section 37 of P.L.1975, c.291 (C.40:55D-49) and Subsection b. of Section 40 of P.L.1975, c. 291 (C.40:55D-52); for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice, and for any other applications for development, with the following exceptions: (1) conventional site plan review pursuant to Section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions pursuant to Section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final approval pursuant to Section 38 of P.L.1975, c.291 (C.40:55D-50); notwithstanding the foregoing, the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance, for appeals of determinations of administrative officers pursuant to Subsection a. of Section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for interpretation pursuant to Subsection b. of Section 57 of P.L.1975, c.291(C. 40:55D-70). Public notice shall also be given in the event that relief is requested pursuant to Section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for development otherwise excepted herein from public notice. Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.
- B. The Administrative Officer shall notify the developer at least two (2) weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice shall be given by the developer at least ten (10) days prior to the date of the hearing in the following manner:
1. By publication in the official newspaper of the Borough, if there is one, or in a newspaper of general circulation in the Borough.

2. By notice to all owners of real property located in the State and within two hundred (200) feet in all directions of the property which is the subject of the hearing, as such owners are shown in the current tax duplicate, provided that this requirement shall be deemed satisfied by notice to the (a.) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (b.) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by serving a copy on the property owner, as shown on the current tax duplicate, or his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. It is not required that a return receipt be obtained as notice is deemed complete upon mailing.
3. Notice to a partnership owner may be made by service to any partner. Notice to a corporate owner may be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowner's association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the public hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.
4. To the clerk of any adjoining municipality or municipalities when the application for development involves property located within two hundred (200) feet of said municipality or municipalities. Notice shall be given by personal service or certified mail.
5. To the Monmouth County Planning Board when the application for development involves property adjacent to an existing County road or proposed road shown on the County Official Map or on the County Master Plan, adjoining other County land or situated within two hundred (200) feet of a municipal boundary. Notice shall be given by personal service or certified mail.
6. To the Commissioner of Transportation of the State of New Jersey when the property abuts a State highway. Notice shall be given by personal service or certified mail.
7. To the State Planning Commission when the application for development involves property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units, in which case the notice shall include a copy of any maps or documents required to be filed with the Borough.
8. Notice of hearings on applications for approval of a major subdivision or a site plan, not defined as a minor site plan by this chapter, requiring public notice pursuant to subsection A. of this Section shall be given to public utilities, cable television companies or local utilities which possess a right-of-way or easement within the Borough and which has registered with the Borough in accordance with

N.J.S.A. 40:55D-1 et seq. Notice shall be given by personal service or certified mail to the person whose name and address appears on the registration form.

- C. Upon the written request of a developer, the Administrative Officer or other designated Borough representative shall, within ten (10) days, make and certify a list from the current tax duplicates of names and addresses of owners within the Borough to whom the developer is required to give notice. In addition, the Administrative Officer shall include on the list the names, addresses and positions of those persons who, not less than ten (10) days prior to the date on which the developer requested the list, have registered to receive notice pursuant to subsection B.8. of this Section. The developer shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner or to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever, is greater, may be charged for such list.
- D. The developer shall file an affidavit of proof of service with the Planning Board.
- E. The notice shall state the date, time and place of the hearing, the nature of the matters to be considered, an identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Borough Tax Assessor's office, and the location and times at which any maps and documents for which approval is sought are available for inspection.

§ 63. Decisions of Planning Board.

- A. The Board shall include findings of fact and conclusions based thereon in each decision on any application for development or other determination or adjudication and shall reduce the decision to writing.
- B. The Board may provide such written decision and findings and conclusions either on the date of the meeting at which the Board grants or denies approval or, if the meeting at which such action is taken occurs within the final forty-five (45) days of the applicable time period for rendering a decision on the application for development, within forty-five (45) days of such meeting by the adoption of a resolution of memorialization setting forth the decision and findings and conclusions of the Board.
- C. Failure of a motion to approve an application for development or other lawful motion to receive the number of votes required for approval shall be deemed an action denying the application. An action resulting from the failure of a motion to approve the application shall be memorialized by resolution as provided above.
- D. The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of the majority of the Board members who voted for the action previously taken or such other decision, and no other member shall vote thereon. The vote of such a resolution shall be deemed to be a memorialization of an action taken by the Board and not to be an action of the Board.

- E. Whenever a memorialization is adopted, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filings, and publications specified in “Notice of Decision for Either Board” of this chapter.

§ 64. Appeal of Decision by Planning Board.

- A. All appeals of decisions made by the Planning Board, except as noted below, shall be taken directly to the identified court of competent jurisdiction.
- B. Any interested party may appeal to the Borough of Oceanport Council any final decision of the Planning Board involving the granting of a variance as specified in *N.J.S.A. 40:55D-70d*. Such appeals shall be decided upon the record established by the Board of Adjustment. The filing and hearing of such appeals shall be in accordance with the provisions of *N.J.S.A. 40:55D-17*.

§ 65. Notice of Decision for Planning Board.

- A. Any decision of the Planning Board when acting upon an application for development and any decisions of the Borough Council when acting upon an appeal shall be given notice in the following manner:
1. A copy of the decision shall be mailed by the municipal agency within ten (10) days of the date of the decision to the developer or appellant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed within ten (10) days to any interested party who has requested it and who has paid the fee prescribed in “Fees” section of this chapter.
 2. A brief notice of the decision shall be published in the official newspaper of the Borough. Such publications shall be arranged by the Secretary of the Planning Board or the Borough Clerk or agents thereof, as the case may be, without separate charge to the developer. The notice shall be sent to the official newspaper for publication within ten (10) days of the date of the decision.
 3. A copy of the decision shall also be filed in the office of the Municipal Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a reasonable fee and available for public inspection at the office during business hours.

Article XI. Development Application Review Procedures**§ 66. Purpose.**

The purpose of this article is to provide procedures for the review and approval of applications for subdivisions, site plans, conditional uses, and general development plans in Oceanport Borough.

§ 67. Applicability of Requirements.

- A. Subdivision review - All subdivisions, as defined under Article II. of this chapter, are subject to the review procedures specified herein.
- B. Site plan review - All site plans, as defined under Article II. of this chapter, are subject to the review procedures specified herein. No construction permit shall be issued for any new structure or for an addition to an existing structure and no certificate of occupancy shall be issued for any change of use of an existing structure until a site plan has been reviewed and approved by the appropriate Borough agency, except that:
 - 1. A construction permit for a single-family detached dwelling unit or a two-family dwelling unit and/or their accessory building(s) on a lot shall not require site plan approval or other approval provided all prevailing use and bulk standards are satisfied.
 - 2. Any change of use from one permitted nonresidential use to another permitted nonresidential use shall not require site plan approval if both the Construction Official and the Zoning Officer stipulate to the Board that the existing site development meets the requirements of this chapter for the new use, including onsite parking requirements.
- C. Conditional use review - Before a construction permit or certificate of occupancy shall be issued for any conditional use as permitted by this chapter, application shall be made to the Planning Board. The review by the Planning Board of a conditional use shall include any required site plan review pursuant to this chapter. Public notice and a hearing shall be required as stipulated by this chapter.

§ 68. Informal Reviews.

- A. Applicability.

Nothing in this section shall be considered mandatory but the procedures provided for herein are recommended for the purpose of expediting the review process and reducing development costs.

- B. Pre-Application Conference.

1. Any developer may request to meet with the Development Review Committee through coordination with the Administrative Officer without the payment of any fees and without obligation.
2. A pre-application conference may be used to provide the developer with an overview of the substantive and procedural aspects of the development review process, to provide insight as to the acceptability of the proposed plan, and to offer suggestions for the improvement of said plan.
3. The developer may be required to submit a sketch plan of the proposed application.
4. For the purpose of the pre-application conference only, the sketch plan need not be drawn to scale nor be prepared by a licensed engineer, surveyor, architect, landscape architect, or planner but shall contain sufficient information from a tax map or other source to enable the Development Review Committee to determine the suitability of the proposal in relation to the standards of this chapter.
5. The pre-application conference is a good-faith meeting between the developer and the Development Review Committee. Nothing discussed at the conference shall be binding upon either party or upon the Planning Board.

C. Concept Plan Review.

1. An applicant for site plan, subdivision or general development plan approval or an applicant having a particular question which cannot be resolved at a pre-application conference may request an informal concept plan review before the Planning Board.
2. Standards for the concept plan.
 - a. The concept plan shall contain sufficient detail to enable the reviewing officials to determine compliance with this chapter, including the area of all proposed lots and buildings and any dimensions necessary to determine zoning compliance.
 - b. Roadway and street widths shall be noted but fully engineered plans for streets, drainage, and other utility or infrastructure systems shall not be required.
 - c. The required number of concept plans to be submitted by the applicant shall be determined by the Administrative Officer, but in no case shall be less than five (5) plans.
3. The applicant shall be required to submit application fees for an informal concept review before the Planning Board, however, the applicant shall only be required to post escrow fees for the review services of the Borough's professional

consultants if such review is so requested by the applicant. At the conclusion of the concept review process, any unexpended escrow fees will be returned.

4. An applicant desiring to have a concept plan informally reviewed by the Planning Board shall so notify the Secretary of the Planning Board at least fourteen (14) days prior to the next regularly scheduled meeting of the Planning Board. The Secretary of the Planning Board shall thereafter notify the applicant of the time and place which has been scheduled by the Planning Board for the informal review. The informal presentation before the Planning Board will be scheduled at the conclusion of the meeting and will be allotted fifteen (15) minutes, if time permits.
5. Nothing in the concept review process shall be binding upon either the applicant or the Planning Board.

§ 69. Submission, Classification, and Completeness of Formal Applications.

- A. All formal applications for approval, including minor subdivisions and site plans, preliminary or final major subdivisions and site plans, general development plans, and conditional use plans, shall be submitted with forms provided by the Administrative Officer and as provided on the Borough website. The completed application forms shall be accompanied by all required plans, supporting documentation, application fees and escrow fees for professional review.
- B. Submission Standards.
 1. Plans and supporting documentation must contain all information herein required for the type of approval requested. Where there is a question as to classification of the plan, the applicant may seek advice from the Administrative Officer. Failure to provide all required information will result in the plan being declared incomplete.
 2. Five (5) copies of all plans and supporting documentation and five (5) copies of the completed application forms shall be submitted by the applicant to the Administrative Officer, where the Administrative Officer or his or her representative shall date stamp the plans upon receipt. This date shall be considered the official submission date.
- C. Upon receipt of an application, the Board Secretary shall submit the information to the Board Engineer, who will preliminarily screen the material and determine completeness relative to the details required by the appropriate development checklist in this chapter. The Board Engineer shall either determine the application to be incomplete or determine that the application is substantially complete and provide the determination to the Administrative Officer.
 1. Should the Board Engineer determine that the application is incomplete, the reasons for such determination shall be specified in writing to the applicant, and

an appropriately revised plan may thereafter be submitted to the Administrative Officer as in the first instance.

2. If the Board Engineer determines the application to be substantially complete, the Administrative Officer shall schedule the application for the next available regularly scheduled Planning Board meeting.
- D. The following certifications are required before an application is heard by the Planning Board.
1. All taxes due to the Borough on the property for which application is made shall be paid.
 2. Sufficient monies are in the escrow account to cover the cost of professional reviews.
 3. Where applicable, the applicant shall submit a certification at the time of the Planning Board meeting that the plan has been submitted for review by appropriate outside agencies such as the New Jersey Department of Environmental Protection in the case of potential wetlands or stream encroachment, the Monmouth County Planning Board when the proposal has frontage on a county road, the New Jersey Department of Transportation when the proposal has frontage on a state highway, and any other agency as may be directed by the Administrative Officer. A final determination by these agencies shall not be required for action by the Planning Board, but any action taken shall be conditioned upon the approval of these agencies.

§ 70. Approval Procedures for Minor Subdivisions and Minor Site Plans.

- A. The developer must comply with the applicable requirements for notice of a public hearing.
- B. The Board shall take action on minor subdivisions and minor site plan applications within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the developer.
- C. Minor subdivisions and minor site plans do not require preliminary approval and may be voted upon for final action by the Board. The Board may condition approval upon compliance with any reasonable condition not in violation with the terms of this chapter or other applicable local, state, or federal law.
- D. When a minor subdivision or minor site plan is approved by the Board, at least five (5) prints of the final approved plat, plan or deed descriptions shall be submitted to the Board by the developer to be signed by the Chairman and Secretary of the Board. If the minor subdivision or minor site plan application is denied by the Board, the Secretary of the Board shall notify the developer of such denial and forward the developer a copy of the

resolution adopted in accordance with this chapter, setting forth the reasons for the denial.

E. Effect of Minor Subdivision Approval.

1. The approval of a minor subdivision shall expire one hundred ninety (190) days from the date of approval unless within such period a plat conforming to all conditions of approval is filed in conformity with the provisions of the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., or a deed clearly describing the approved minor subdivision is filed by the developer with the County recording officer, the Borough engineer, and the Borough tax assessor as required by *N.J.S.A. 40:55D-1 et seq.*
2. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date of minor subdivision approval, provided the approved minor subdivision shall have been duly recorded as provided in this subsection.
3. If the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other government entities and that he or she applied promptly for and diligently pursued the approvals, the Board either:
 - a. Shall grant an extension of the approval period not to exceed one (1) year. The developer shall apply for this extension before: 1), what would otherwise be the expiration date, or 2), the 91st day after the developer receives the last legally required approval from the other governmental entities, whichever occurs later; or
 - b. May extend the one hundred ninety (190) day period for filing a minor subdivision plat or deed pursuant to subsection C. of this Section. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

F. Effect of Minor Site Plan Approval.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two (2) years after the date of minor site plan approval. If the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other government entities and that he or she applied promptly for and diligently pursued the approvals, the Board shall grant an extension of

the approval period not to exceed one (1) year. A developer shall apply for this extension before: 1), what would otherwise be the expiration date, or 2), the 91st day after the date on which the developer receives the last of the legally required approvals from the other governmental entities, whichever occurs later.

G. Exceptions in Applications of Requirements.

1. The rules, regulations and standards set forth in this Section shall be considered the minimum requirements for the protection of the public health, safety, and welfare of the citizens of the Borough. However, if the applicant can clearly demonstrate that, because peculiar conditions pertaining to his land, the literal enforcement of this Section is impracticable or will exact undue hardship, the Planning Board may permit such exemption(s) and waiver(s) as may be reasonable within the general purpose and intent of the rules, regulations and standards established by this Section.
2. Exceptions after Approvals:
 - a. A building permit or certificate of occupancy may be issued if all improvements have been installed or completed except the finish course of the road and the Borough Engineer warrants that completion of the road is in the Borough's interest after the subdivider has completed construction of dwellings and structures. The maintenance guarantee required shall not begin until the finish course has been installed.
 - b. The Planning Board may confirm with the Construction Official that the issuance of a temporary certificate of occupancy is permitted if the following improvements have been bonded but not yet installed: landscaping, sidewalks, other similar improvements.

§ 71. Approval Procedures for Preliminary Major Subdivisions and Site Plans.

- A. The developer must comply with the applicable requirements for notice of a public hearing.
- B. The Planning Board shall take action on a preliminary major site plan application involving ten (10) acres of land or less and ten (10) dwelling units or less and/or a preliminary major subdivision application involving ten (10) lots or less within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the developer. Provided, however, that the Planning Board shall take action on a preliminary major site plan or subdivision application which includes a request for relief pursuant to *N.J.S.A. 40:55D-60* within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.

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- C. The Planning Board shall take action on a preliminary major site plan application involving more than ten (10) acres of land or more than ten (10) dwelling units and/or a preliminary major subdivision application involving more than ten (10) lots within ninety-five (95) days after the application has been certified complete or within such further time as may be consented to by the developer. Provided, however, that the Planning Board shall take action on a preliminary major site plan or subdivision application which includes a request for relief pursuant to *N.J.S.A. 40:55D-60* within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.
- D. The Planning Board shall take action on a preliminary major site plan or subdivision application which includes a request for relief pursuant to *N.J.S.A. 40:55D-70d.* within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in *N.J.S.A. 40:55D-1 et seq.* Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.
- E. The Board may condition preliminary major subdivision or site plan approval upon compliance with any reasonable condition not in violation with the terms of this chapter or other applicable local, state, or federal law.
- F. When a preliminary major subdivision or site plan is approved by the Board, at least twelve (12) prints of the plat or plan shall be submitted to the Board by the developer to be signed by the Chairman and Secretary of the Board and the Borough Engineer. If the preliminary major subdivision or site plan application is denied by the Board, the Secretary of the Board shall notify the developer of such denial and forward the developer a copy of the resolution adopted in accordance with this chapter, setting forth the reasons for the denial.
- G. Effect of Preliminary Major Subdivision or Site Plan Approval.
1. The preliminary approval of a subdivision or site plan shall, except as provided in subsection d. of this section, confer the following rights for a three (3) year period from the date on which the resolution of preliminary approval is adopted:
 - a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions, and off-tract improvements; and, in the case of a site plan, any requirements peculiar to site plan approval pursuant to *N.J.S.A. 40:55D-41*, except that nothing herein shall be construed to prevent the Borough from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety;

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- b. That the developer may submit an application for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be; and
 - c. That the developer may apply for, and the Planning Board may grant, an extension of the preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
 - d. In the case of a subdivision of, or site plan for, an area of fifty (50) acres or more, the Planning Board may grant the rights referred to in subsections a, b and c. of this section for a reasonable period of greater than three (3) years, but not more than seven (7) years. The developer may apply for thereafter, and the Planning Board may thereafter grant an extension of the preliminary approval for not more than three (3) additional one (1) year periods, provided that if the design standards have been revised by ordinance, such revised standards may govern. The granting of this extended approval period shall be based upon the Planning Board's consideration of such factors as:
 - 1) The total number of dwelling units and/or square footage of non-residential floor area proposed;
 - 2) Economic conditions; and
 - 3) The comprehensiveness of the development.
 - e. Whenever the Planning Board grants an extension of preliminary approval pursuant to subsection c. or d. of this section and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
 - f. The Planning Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before 1), what would otherwise be the expiration date of preliminary approval or 2), the 91st day after the developer receives the

last legally required approval from other governmental entities, whichever occurs later.

- H. Concurrent Preliminary and Final Subdivision and Site Plan Approval.
1. The Planning Board may, as its discretion, approve a request from a developer to concurrently consider preliminary and final subdivision and/or site plan approval provided that:
 - a. The application does not involve the construction of a new street.
 - b. The application involves the creation of ten (10) or fewer lots.
 - c. The total square footage of non-residential construction involves less than twenty-five thousand (25,000) square feet of floor area and less than thirty thousand (30,000) square feet of impervious surface.
 2. The approval procedures for final approval shall be followed by the Planning Board as noted in §87 below.

§ 72. Approval Procedures for Final Major Subdivisions and Site Plans.

- A. The Planning Board shall take action on a final major site plan or subdivision application within forty-five (45) days after the application has been certified complete or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.
- B. The Planning Board may condition approval upon compliance with any reasonable condition not in violation with the terms of this ordinance or other applicable local, state, or federal law.
- C. All final plans shall be revised to incorporate any conditions of approval and, when all such conditions have been met, twelve (12) copies of the revised final plat shall be submitted to the Administrative Officer to be signed by the Chairman and Secretary of the Planning Board.
- D. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plats unless within such period the plat shall have been filed by the developer with the County recording officer, in conformity with the provisions of the Map Filing Law, *N.J.S.A. 46:23-9.9* et seq. The Planning Board may, for good cause, extend the time period for filing for an additional one hundred ninety (190) days from the date of signing of the plats. The Planning Board may extend the ninety-five (95) day or one hundred ninety (190) day period if the developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The

developer may apply for the extension either before or after what would otherwise be the expiration date.

E. Effect of Final Approval.

1. The zoning requirements applicable to the preliminary approval first granted and all other rights granted to the developer pursuant to the preliminary approval, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date on which the resolution of final approval is adopted; provided that the developer has duly recorded the major subdivision plat as provided for in *N.J.S.A. 40:55D-54*.
2. If the developer has duly recorded the major subdivision plat as provided for in *N.J.S.A. 40:55D-54*, the Planning Board may grant an extension of the final approval for not more than three (3) additional one (1) year periods.
3. Notwithstanding any other provisions of *N.J.S.A. 40:55D-1 et seq.*, the granting of final approval terminates the time period of preliminary approval for the section(s) granted final approval.
4. In the case of a subdivision or site plan for a planned development of fifty (50) acres or more, a conventional subdivision or site plan for one hundred fifty (150) acres or more, or site plan for development of nonresidential floor area of two hundred thousand (200,000) square feet or more, the Planning Board may grant the rights referred to in subsections 1. and 2. of this section for a reasonable period of greater than two (2) years, but not more than seven (7) years. The developer may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration:
 - a. The total number of dwelling units and/or square footage of non-residential floor area which is proposed;
 - b. Economic conditions; and
 - c. The comprehensiveness of the development.
5. Whenever the Planning Board grants an extension of final approval pursuant to subsection -1- 2 or -4. of this section and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
6. The Planning Board shall grant an extension of final approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that he or she was barred or prevented, directly or

indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that he or she applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before a) what would otherwise be the expiration date of preliminary approval or b) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later.

7. All final approvals are conditioned upon submission of required bonds or other surety of a form satisfactory to the Borough, as prescribed in §96. If required street, utility, and similar improvements are not constructed, the Borough may call said bond or surety and use its proceeds to construct said improvements at the applicant's expense.

§ 73. Approval Procedures for Conditional Uses.

- A. The Planning Board may condition conditional use approval upon compliance with any reasonable conditions not in violation with the terms of this chapter or other applicable local, state, or federal laws.
- B. The Planning Board shall take action on an application for a conditional use within ninety-five (95) days of submission of a complete application or within such further time as may be consented to by the developer.
 1. This time period shall be concurrent with the review of a site plan application.
 2. An approval shall be conditioned upon receipt of a favorable recommendation from the County Planning Board or other appropriate agency.
- C. The Planning Board shall take action on a conditional use approval application which includes a request for relief pursuant to N.J.S.A. 40:55D-70d. within one hundred twenty (120) days after the application has been certified complete or within such further time as may be consented to by the developer. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in N.J.S.A. 40:55D-1 et seq. Failure of the Planning Board to act within the prescribed time period shall constitute approval of the application.

§ 74. Findings for Planned Developments.

- A. No planned development (including planned unit developments, residential clusters, planned commercial developments, or planned industrial developments) shall be authorized unless the Planning Board first makes all of the following determinations:
 1. That the plan fully complies with the requirements of this chapter and the departures by the proposed planned development from the zoning regulations

otherwise applicable to the subject property conform to those standards in this chapter applicable to the permitted planned development;

2. That the proposals for maintenance and conservation of common open space are reliable, and that the amount, location, and purpose of the common open space are adequate;
3. That the provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;
4. That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established; and
5. That in the case of a proposed planned development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

§ 75. Required Documentation for General Development Plans.

- A. The general development plan shall set forth the permitted number of dwelling units, the amount of nonresidential floor space, the residential density and the nonresidential floor area ratio for the planned development, in its entirety, according to a schedule which sets forth the timing of the various sections of the development.
- B. Every developer for approval of a PUD general development plan shall submit the following documentation for review by the Borough.
 1. Each report shall be prepared by appropriate professional experts, licensed by the State of New Jersey when applicable. Reports shall be of sufficient detail to allow for reasonable review by the Borough's own experts, at the applicant's expense.
 - a. A report analyzing the impact of traffic generated by the proposed PUD on nearby roadways.
 - b. A storm water management plan setting forth the proposed method of controlling and managing storm water on the site.
 - c. An environmental inventory including a general description of the vegetation, soils, topography, geology, surface hydrology, climate and cultural resources of the site, existing man-made structures or features, and the probable impact of the development on the environmental attributes of the site.

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- d. A community facility plan indicating the scope and type of supporting community facilities which may include, but not be limited to, educational or cultural facilities, historic sites, libraries, hospitals, firehouses, and police stations.
 - e. A housing plan outlining the number of housing units to be provided and the extent to which any housing obligation assigned to the municipality pursuant to P. L. 1985, c. 222 (C. 52:27D-301 et al.) will be fulfilled by the development.
 - f. A local service plan indicating those public services which the developer proposes to provide, and which may include, but not be limited to, water, sewer, cable, and solid waste disposal.
 - g. A fiscal report describing the anticipated demand on municipal services to be generated by the planned development and any other financial impacts to be faced by Borough or school districts as a result of the completion of the planned development. The fiscal report shall also include a detailed projection of property tax revenues which will accrue to the county, Borough and school district according to the projected development schedule as required below, and following the completion of the planned development in its entirety.
2. The PUD general development plan shall include the following information:
- a. A schematic land use plan containing sufficient information to allow a determination that the plan is capable of satisfying the requirements of this chapter. The plan shall include:
 - 1) A hierarchical circulation system, but may be exclusive of local streets. Guidelines for bicycle and pedestrian circulation should also be provided.
 - 2) Generalized land use by section. This plan need not contain detailed development design but shall include the area of each section, its intended use, and the maximum number of residential dwelling units or non-residential square feet which are anticipated.
 - 3) A system of open space, recreational amenities, and necessary community facilities shall be noted.
 - b. A description or schematic plan of utility service by which it can be determined that adequate capacity exists for distribution, collection, and/or treatment of water, sanitary waste, solid waste, electric, gas, and telephone service. No PUD general development plan shall be approved without all principal buildings being served by public sewer and water service.

- c. An estimate of the cost of completing required public and common services including recreational amenities, circulation system improvements, utility lines, community facilities, and such other improvements as may be deemed necessary. This estimate shall include the cost of all on-site improvements and a fair share of all required off-site improvements.
- d. A proposed timing schedule in the case of a planned development whose construction is contemplated over a period of years, including any terms or conditions which are intended to protect the interests of the public and of the residents who occupy any section of the planned development prior to the completion of the development in its entirety.
- e. A municipal development agreement, which shall mean a written agreement between the Borough and a developer relating to the planned development.
- f. A detailed plan explaining how common areas are to be owned, managed, maintained, and administered. The submission shall include the proposed bylaws of any homeowners, community, or condominium association to be established.

§ 76. Approval Procedures for General Development Plans.

- A. The Planning Board shall first make the appropriate findings as noted in §89.
- B. General development plan approval of a PUD must be granted by the Planning Board prior to the Planning Board taking action on preliminary approval on any section. Each PUD shall be developed in accordance with a general development plan approved by the Planning Board, notwithstanding any provision of *N.J.S.A. 40:55D-1 et seq.*, or an ordinance or regulation adopted pursuant thereto after the effective date of the approval.
- C. The planning board shall take action on the general development plan application within ninety-five (95) days after the submission of a complete application or within such further time as may be consented to by the developer. Failure of the Planning Board to act within the period prescribed shall constitute general development plan approval of the planned development.
- D. The term of the effect of the general development plan approval shall be determined by the Planning Board using the guidelines set forth below, except that the term of the effect of the approval shall not exceed twenty (20) years from the date upon which the developer receives final approval of the first section of the planned development:
 - 1. In making its determination regarding the duration of the effect of approval of the development plan, the Planning Board shall consider: the number of dwelling units or amount of nonresidential floor area to be constructed, prevailing economic conditions, the timing schedule to be followed in completing the

- development and the likelihood of its fulfillment, the developer's capability of completing the proposed development, and the contents of the general development plan and any conditions which the Planning Board attaches to the approval thereof.
2. The approval may be extended by the Planning Board for good cause for additional two (2) year periods but the Planning Board shall have the right to include with each extension a requirement that the PUD comply with such additional conditions as the Planning Board may deem appropriate and in the public interest. In no case shall the term of the effect of the approval and any extensions exceed twenty (20) years from the date upon which the developer receives final approval of the first section of the planned development.
- E. The developer shall, to the satisfaction of the Borough, construct required improvements or post sufficient bond, notes, or letters of credit, to insure that, in the event that the PUD is not fully developed prior to the expiration of the general development plan, that adequate recreational, circulation, utility, and community facilities shall be provided to the residents and occupants of those portions of the development which are completed.
- F. Approval of the PUD general development plan does not relieve the developer of the necessity to apply for preliminary and final site plan or subdivision approval for each and every section of the development and to fully comply with the requirements of this chapter.
- G. Any guarantees or rights granted pursuant to approval of a subdivision or site plan for a specific section shall run independently of the term of the general development plan approval.
1. In the event that a general development plan approval expires prior to the expiration of rights granted pursuant to a subdivision or site plan for a specific section, the rights granted to that section shall remain in effect for the period guaranteed by *N.J.S.A. 40:55D-1 et seq.*
 2. Upon the expiration of general development plan approval, the conditional approval of the PUD shall be deemed to have expired and the land shall be regulated by the zoning regulations of the underlying district.
- H. The Planning Board may condition approval upon compliance with any reasonable condition not in violation of the terms of this chapter or other applicable local, state, or federal laws.
- I. In the event that the developer seeks to modify the proposed timing schedule, such modification shall require the approval of the Planning Board. The Planning Board shall, in deciding whether or not to grant approval of the modification, take into consideration prevailing economic and market conditions, anticipated and actual needs for residential units and nonresidential space within the Borough and the region, and the availability and capacity of public facilities to accommodate the proposed development.

- J. Except as provided hereunder, the developer shall be required to gain the prior approval of the Planning Board if, after approval of the general development plan, the developer wishes to make any variation in the location of land uses within the planned development or to increase the density of residential development or the floor area ratio of nonresidential development in any section of the planned development.
1. Any variation in the location of land uses or increase in density or floor area ratio proposed in reaction to a negative decision of, or condition of development approval imposed by the Department of Environmental Protection and Energy pursuant to P. L. 1973, c. 185 (C. 13:19-1 et seq.) shall be approved by the Planning Board if the developer can demonstrate to the satisfaction of the Planning Board, that the variation being proposed is a direct result of such determination by the Department of Environmental Protection and Energy.
- K. Except as provided hereunder, once a general development plan has been approved by the Planning Board, it may be amended or revised only upon application by the developer approved by the Planning Board.
1. A developer, without violating the terms of the approval pursuant to *N.J.S.A. 40:55D-1 et seq.*, may, in undertaking any section of the planned development, reduce the number of residential units or amount of nonresidential floor space by no more than fifteen percent (15%) or reduce the residential density or nonresidential floor area ratio by no more than fifteen percent (15%); provided, however, that a developer may not reduce the number of residential units to be provided pursuant to P. L. 1985, c. 222 (C. 52:27D-301 et al.) without prior Borough approval.
- L. Upon the completion of each section of the development as set forth in the approved general development plan, the developer shall notify the Administrative Officer, by certified mail, as evidence that the developer is fulfilling his obligations under the approved plan. For the purpose of this section, "completion" of any section of the development shall mean that the developer has acquired a certificate of occupancy for every residential unit or every nonresidential structure, as set forth in the approved general development plan and pursuant to section 15 of P. L. 1975, c. 217 (C. 52-27D-133). If the Borough does not receive such notification at the completion of any section of the development, the Borough, shall notify the developer, by certified mail, in order to determine whether or not the terms of the approved plan are in compliance with the approval.
1. If a developer does not complete any section of the development within eight (8) months of the date provided for in the approved plan, or if at any time the Borough has cause to believe that the developer is not fulfilling his obligations pursuant to the approved plan, the Borough shall notify the developer, by certified mail, and the developer shall have ten (10) days within which to give evidence that he is fulfilling his obligations pursuant to the approved plan. The Borough thereafter shall conduct a hearing to determine whether or not the developer is in violation of the approved plan. If, after such hearing, the Borough finds good

cause to terminate the approval, it shall provide written notice of same to the developer and the approval shall be terminated thirty (30) days thereafter.

2. In the event that a developer who has general development plan approval does not apply for preliminary approval for the planned development which is the subject of that general development approval within five (5) years of the date upon which the general development plan has been approved by the Planning Board, the Borough shall have cause to terminate the approval.
- M. In the event that a development which is the subject of an approved general development plan is completed before the end of the term of the approval, the approval shall terminate with the completion of the development. For the purposes of this section, a development shall be considered complete on the date upon which a certificate of occupancy has been issued for the final residential or nonresidential structure in the last section of the development in accordance with the timing schedule set forth in the approved general development plan and the developer has fulfilled all of his obligations pursuant to the approval.

§ 77. Compliance and Time Limitations for Certain Approvals.

- A. Compliance. All applicable requirements shall be met at the first time of erection, enlargement, alterations, moving or change in use of a structure and shall apply to the entire structure or structures, whether or not the entire structure or structures were involved in the erection, enlargement, alteration, moving or change in use.
- B. Time Limit on Variances.
1. Applicable time limit. Any variance granted by the Planning Board or the Planning Board pursuant to *N.J.S.A. 40:55D-70*, subsection -c or -d, shall expire and become null and void two (2) years from the date such variance is granted unless within said period the applicant obtains a building permit or otherwise avails himself of the said approval; provided, however, that in the event that such variance is approved in conjunction with a major subdivision or site plan approval, then such variance shall not expire and become null and void until three (3) years after the preliminary approval for such site plan and/or subdivision is granted and any approved extensions thereof, or if final approval is granted for such development, two (2) years from the date of the final approval and any approved extensions thereof.
 2. Varying time periods - Nothing contained herein shall be construed as preventing the applicable municipal agency from specifying a shorter or longer period of time than noted in subsection B.1. above pursuant to approvals granted to variance applications under *N.J.S.A. 40:55D-70*, subsection c. or d, that are not in conjunction with a major subdivision or site plan approval.

- C. Commencement of time periods - For the purpose of calculating the times provided for in this section, such time periods shall commence on the date the municipal agency memorializes its approval by written resolution.

Article XII. Application Submission Requirement and Checklists

§ 78. Purpose.

The documents to be submitted are intended to provide the approving authority with sufficient information and data to assure compliance with all Borough codes and specifications and ensure that the proposed development meets the design and improvement standards contained in this chapter. The specification of documents to be submitted is based on the type of development and particular stage of development application.

§ 79. Document Submission Requirements.

- A. Submission Requirements Checklists. The documents to be submitted for an application for development known as the "Completeness Checklist" for site plan, preliminary major subdivision, final major subdivision, minor subdivision, plot plan, final survey which accompanies and are made a part of this chapter, and which are adopted herein and included by reference shall be provided at the time of application for development.
- B. Requested waivers from submitting the required items in the checklists shall be reviewed by the Borough Engineer and referred to and decided by the Planning Board.
- C. Environmental Impact Statement Environmental impact statement.[Added 8-15-2002 by Ord. No. 754A]
 1. In addition to the other conditions and requirements contained in this section, any application for site plan approval involving the following uses shall be accompanied by an environmental impact statement, without which an application shall not be deemed complete for purposes of review:
 - a. Major subdivisions.
 - b. When the project is classified as a "planned development."
 - c. Commercial and industrial developments.
 - d. For any lot or parcel of land which exceeds five acres in size.
 2. Definition. As used in this chapter, the following terms shall have the meanings indicated:

ENVIRONMENTAL IMPACT STATEMENT

A written description and analysis of all possible direct and indirect effects a project will have upon the project site and upon surrounding areas, with particular references to the effects of the project upon the public health, welfare and safety, the protection of public and private property, and the preservation and enhancement of natural resources.

3. Purpose. The purpose of providing an environmental impact statement is to allow the Planning Board to assess impacts of the proposed project upon the environment, including physical, social, and aesthetic considerations, both natural

and man-made, which affect the quality of life. Particular emphasis should be made on assessing the impact upon surface water and groundwater, air resources, pollution of all kinds, waste disposal, drainage, wetlands, floodplains, landscapes, and waterfront.

4. Contents. The environmental impact statement shall include, but not be limited to, the following:
 - a. Plan and description of development.
 - i. A project description, complete with maps and drawings, and also by narrative which specifies what is to be done and how it is to be done during construction and after construction is completed.
 - ii. The project description shall include a key map showing the location of the project, Tax Map, and physical features within 500 feet of the project site.
 - iii. The information shall include, but not be limited to, existing and proposed contours, grading, buildings, roads, paved areas and utility lines and also adjacent watercourses, flood hazard boundaries and zoning information. The information and technical data shall be adequate to permit a careful assessment of the environmental impact of the project.
 - b. Inventory of existing environmental conditions.
 - i. An inventory of existing environmental conditions at the project site and in the immediate area to the site which is affected by the plan of development includes:
 - 1) Sewer facilities.
 - 2) Water supply.
 - 3) Water quality.
 - 4) Surface and subsurface hydrology.
 - 5) Air quality.
 - 6) Traffic volume, noise, and flow.
 - 7) Lighting conditions and levels.
 - 8) Noise.
 - 9) Demography.
 - 10) Geology.
 - 11) Soils and soil properties, including capabilities and limitations.
 - 12) Topography.
 - 13) Slopes.
 - 14) Vegetation.
 - 15) Regulated wetlands.
 - 16) Wildlife and wildlife habitats.
 - 17) Watercourses.
 - 18) Waterfront/shoreline features.
 - 19) Historical sites and archeological resources.
 - 20) History, including past or present use that might have involved subsurface disposal of waste and toxic or hazardous materials.

- 21) Flood and flood hazard areas.
 - 22) Elevation at two-foot contours.
- ii. Where applicable, quality standards shall be described with reference to those promulgated by the New Jersey Department of Environmental Protection (NJDEP) and federal agencies.
- c. Assessment of the anticipated impact of the project:
 - i. An assessment of the environmental impact of the project shall be stated, supported by environmental data. The assessment shall include an analysis of the public costs, such as but not limited to schools, roads, police protection, fire protection, waste disposal, water supply, sewerage and other similar direct and indirect costs of the project, including the effects on recreational facilities, open space and other similar municipal services.
 - ii. Assessment data shall specifically include the following:
 - 1) Sewerage facilities. A showing that sewage can be disposed of through public facilities of adequate capacity and to preclude water pollution. If on-site subsurface disposal is proposed, data on underlying water table, soil analysis, soil stratigraphy, percolation tests for each sewage disposal site, topography, depth of aquifers, depth and type of construction of all wells within 500 feet, and any other pertinent data or compliance with all federal, state and local sewerage and health regulations shall be provided.
 - 2) Water supply. A showing that an adequate water supply is available.
 - 3) Drainage. A showing that storm runoff from the site is so controlled that on-site and off-site erosion is neither caused nor worsened and that potential downstream flooding is not increased. Information provided shall show:
 - a. Volume and peak flows of stormwater runoff expected from the existing site and to be generated by new improvements.
 - b. Data/mapping on existing on-site landscaping, vegetation and tree and ground cover compared with that proposed.
 - c. Changes in runoff rates and volume and the time of concentration to be caused by changes in land use.
 - d. Plans for disposition of stormwater, whether by retention on site or by means of channeling so as to protect downstream property.
 - 4) Stream encroachments. A stream encroachment permit is required from the NJDEP for fill or diversion of a water channel, alteration of a stream, or repair or construction of a bridge, culvert, pipeline, or cable crossing.
 - 5) Floor plans. Description of protection against flood damages and proposed elevations.

- 6) Air quality. A statement of anticipated effects on air quality due to vehicular traffic and on-site activities such as heating, incineration, and any processing of materials.
- 7) Pedestrian and vehicular traffic. A statement of projected effects of anticipated traffic on internal, access, bordering and regional roadways.
- 8) Noise. A statement of anticipated effects on noise levels, magnitudes and characteristics related to on-site activities and proposed methods of control. The applicant must also list neighboring properties that will be affected by the noise.
- 9) Artificial light. A statement of anticipated effects of light levels, magnitudes and characteristics related to on-site activities and proposed methods of control.
- 10) Demography. A statement of the on-site and off-site effects on the utilization of public facilities due to the changes in population density and demographics.
- 11) Solid and hazardous wastes. A statement of the type, amount, and anticipated methods of disposal. A list of all licenses, permits and other approvals required by municipal, county, state or federal law shall be provided.
- 12) Listing of all unavoidable adverse impacts. A listing and evaluation of adverse impacts and damages to natural resources which cannot be avoided, with particular emphasis upon, but not limited to, air or water pollution, increased noise, damage to vegetative and wildlife systems, changes to waterfront and waterfront views, displacement of people and businesses, increase in sedimentation and siltation, increase in municipal services and consequences to municipal tax structure. Off-site impacts shall also be stated and evaluated.
- 13) Steps to minimize and mitigate environmental damage. A description of steps to be taken to minimize and mitigate adverse environmental impacts during construction and operation, both at the project site and in the affected surroundings. Such description shall include necessary maps, schedules, renderings, and other explanatory data as may be needed to clarify and explain the actions to be taken.
- 14) Alternatives. A statement of alternatives to the proposed project which might avoid some or all of the adverse environmental effects of the proposed project. The statements should include the reasons for the acceptability or not of each alternative.
- 15) Reference to federal, state, or local statutes or regulations. Whenever possible, the above-referenced assessment shall describe anticipated impacts with reference to standards as may have been determined by federal, state, and local statutes and/or regulations.

d. Submission requirements:

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- i. Six complete copies of the environmental impact statement, including all maps, drawings, narratives, and technical data, shall be submitted to the Planning Board.
 - ii. Any environmental impact statement shall be submitted to the Secretary of the Planning Board 30 days prior to the hearing date of the subdivision or site plan.
 5. Evaluation procedure.
 - a. Upon receipt of the application, the Secretary of the Planning Board shall forward the environmental impact statement to the Environmental Commission and to any other Borough agency that the Planning Board may desire for consultation.
 - b. The Environmental Commission and other Borough agencies shall review the applicant's environmental impact statement and shall report its findings and comments within 25 days of the date submitted to the Planning Board.
 - c. The Planning Board and/or Environmental Commission may require the opinions of experts in their review of the environmental impact statement. The Planning Board and/or Environmental Commission may hire an expert consultant to assist them in the evaluation of the submitted information by the applicant.
 - d. Fees for the cost of such a consultant described in Subsection B(9)(e)[3] above shall be paid by the applicant.
 6. Conditions of approval. As a condition of approval of the application, the Planning Board may require that steps be taken to minimize the adverse environmental impact during and after construction, and no construction permit or certificates of occupancy, as the case may be, shall be issued until all such requirements have been satisfied. The Planning Board may, in its discretion, waive all or any portion of the requirements for an environmental impact statement whenever either the nature of the application or the physical characteristics of the project site or the surrounding area would warrant such waiver.
 7. Qualifications of preparer. The environmental impact statement shall be prepared by a person or firm having expertise in the field by virtue of experience and/or education. Such person or firm may be required to submit his/her qualifications to the Planning Board at its discretion. The applicant shall choose the person or firm to prepare the environmental impact statement.
- D. Community Impact Statements.
1. When required. All applications for preliminary major subdivision approval where more than fifty (50) lots are proposed and all applications for preliminary major site plan approval in excess of two hundred thousand (200,000) gross square feet of floor area shall be accompanied by a community impact statement

analyzing the proposed development and its expected impacts upon existing municipal facilities and services. A general development plan application shall be submitted with an abbreviated community impact statement consisting of items - 2.a and -2.e, below. The community impact statement shall indicate why, in the applicant's opinion, the proposed development is in the public interest as well as providing data and opinions concerning the impacts in subsection -B.

2. Submission format. When a community impact statement is required, the applicant shall retain one or more competent professionals to perform the necessary work. All applicable material on file in the Department of Community Development pertinent to local conditions may be consulted. Any additional material pertinent to the evaluation of regional impacts shall also be considered. All community impact statements shall consist of written and graphic materials which clearly present the required information addressing the following areas:
 - a. Population impact. An analysis of the number of people expected to be added to the municipal population as a result of the proposed development, including those attracted to the Borough for the number of projected jobs in non-residential development, according to the following age cohorts:
 - 1) 0-4 years
 - 2) 5-17 years
 - 3) 17-24 years
 - 4) 25-44 years
 - 5) 45-64 years
 - 6) 65 years and older
 - b. School impact. An analysis of the anticipated number of public-school students projected to be added and the ability of the existing public-school facilities to absorb the additional population projected ten (10) years into the future. The overall anticipated cost of facilities necessitated and the development's share of the cost on a pro rata basis by the increase in student population shall be provided.
 - c. Community facilities impact. An analysis of the existing community facilities and infrastructure available to serve the proposed development and its impact on the adequacy of existing public water facilities, public sewerage facilities; recreational facilities; library facilities, and senior services. Should such facilities be determined inadequate to serve the proposed development, the remedies, either expected or proposed by the

applicant, shall be indicated along with the estimated costs for such additional facilities.

- d. Services impact. An analysis of the existing services provided by the municipality to serve the proposed development and the impact of the development upon police protection, fire protection, solid waste disposal, and street maintenance services.
- e. Fiscal impact. An analysis of the revenues expected to be generated from the development compared to the anticipated costs which the proposed development is expected to generate. Revenues and costs shall be shown for the municipality and the municipal school system.

E. Circulation Impact Study.

1. When required. A circulation impact study shall be submitted for all general development plans, preliminary major subdivisions, and preliminary major site plans.
2. Submission format. Circulation impact studies shall consist of two components, a planning report, and a traffic impact report.
 - a. Planning report. The planning report component of the circulation impact study shall include the following:
 - 1) An introduction indicating the applicant, the location of the site in question, and a description of the site from a land use and transportation perspective.
 - 2) The extent to which any proposed street system meets requirements for street hierarchy, street connectivity, right-of-way and cartway width, and sidewalks.
 - 3) The extent to which the proposed circulation system conforms to the Circulation Element of the Master Plan.
 - 4) The extent to which internal circulation for vehicles, people and the movement of goods is adequate.
 - 5) The extent to which the safety of pedestrians, bicyclists and the traveling public is protected.
 - 6) The provisions made to provide connectivity to the street system, pedestrian generators, and the local and regional greenway network.
 - b. Traffic impact report. The traffic impact report component of the circulation impact study shall include the following:

- 1) A description of the project phasing, access points, and connection to other existing or proposed developments.
- 2) An analysis of existing conditions, including:
 - (a) A description of the study area and the rationale behind choosing this area;
 - (b) A description of the study area's roadway facilities, including number of lanes, functional classification, condition, location and type of traffic signals, and location of other traffic control devices or signs;
 - (c) The location of transit routes and stops and any transit facilities, including on-street, off-street, and private facilities, and service frequency;
 - (d) The location of school bus routes and stops;
 - (e) The location of pedestrian crosswalks, sidewalks, and bicycle pathways;
 - (f) Traffic volume data including turning movement counts at key intersections during the peak periods of the day, truck movements, pedestrian counts, and transit use;
 - (g) Volume/capacity analysis and an assessment of existing conditions.
- 3) Traffic characteristics of the site.
 - (a) Traffic generation of the proposed uses in the development;
 - (b) Traffic distribution.
- 4) Future demands on the transportation system.
 - (a) Projection of non-site related traffic to the build-out year or years of the site (base conditions);
 - (b) Projection of all traffic, including site traffic, to the build-out year or years of the site.
- 5) Impact analysis and recommendations.
 - (a) Levels of service shall be computed for each analysis year both with and without the inclusion of site traffic;

- (b) Comparison of levels of service conditions with site traffic, and, with site traffic after recommended improvements are constructed;
 - (c) Recommendations for passenger vehicle reduction techniques;
 - (d) Schematic plan of any recommended improvements.
- 6) Site plan analysis, if applicable.
- (a) Location of access points;
 - (b) Demand for parking and loading;
 - (c) Sight distance analysis.

Article XIII. Fees, Guarantees and Off-Tract Improvements

§ 80. Fees.

- A. **Nonrefundable Application Fees.** Each applicant who files an application before the Oceanport Borough Planning Board shall pay the applicable application fee listed below for such application. The application fee provided for herein shall be nonrefundable and is required for purposes of offsetting the administrative and clerical costs of operating the Planning Board and for costs which may be incurred by the Planning Board in the normal processing of such applications (exclusive of the legal, planning, engineering and other professional services deemed necessary by the Planning Board).
- B. **Creation of Escrow Accounts.**
1. In addition to the nonrefundable application fees referred to above, each applicant before the Planning Board shall establish and make the required payments to an escrow account to be maintained by the Borough for the purpose of providing sufficient moneys to pay the costs of review by professionals engaged by the Planning Board. The requirement that an escrow account be established shall apply regardless of whether the application is to be heard before the Planning Board.
 2. Upon submitting an application for development to either the Planning Board, the applicant shall be required to deposit and execute an escrow agreement requiring

the applicant to pay all necessary and reasonable costs incurred by the Borough for technical and professional review by the approving authority. The escrow agreement shall be in a form approved by the Borough Council. The amounts specified below to be placed in escrow are estimates of professional fees only and should not be considered as a minimum or maximum fee which may be required of the applicant to compensate the Borough for legal, engineering, traffic engineering, planning or other professional services. Said fees must be paid prior to either Board certifying the application as complete; provided, however, that payment of the fee in and of itself shall not be deemed as making the application complete.

In the event that the amounts required to be posted by this section are not sufficient to cover the professional charges incurred by the Borough of Oceanport for such application, then the applicant shall pay the amount required which is over and above the funds previously collected and shall not receive any approvals or other permits from the Borough before such fees are paid in full.

In the event the amounts posted as fees shall be in excess of the amount required for all professional review, the excess funds shall be returned to the applicant within thirty (30) days of the issuance of a certificate of occupancy for the project which the application fee covers.

The Board Secretary shall periodically review the balance of all escrow accounts and whether additional funds are required as provided for hereinafter. In the event additional funds are required, the Board Secretary shall notify the applicant of the amounts required as additional fees. In the event the applicant refuses or fails to make the payments required within ten (10) days of demand, the Board Secretary shall notify the approving authority. If the additional fees are not paid, the Planning Board may deny the application before it, and no other permits or certificates shall be issued by the Borough to the applicant for the applicable project until payment is made in full. In the event additional fees are required, the applicant shall pay such fees to the Borough in accordance with the same agreement already entered into or under any additional terms which may be agreed to by the applicant and the approving authority.

3. Before issuing a construction permit or certificate of occupancy for any element of a project, the applicable code official for the Borough of Oceanport shall first determine from the applicable Board Secretary whether there are sufficient escrow funds to pay all pending or reasonably anticipated bills attributable for professional review to the particular project. The applicable code officer shall not issue the requested construction permit or certificate of occupancy until the amounts which are due or necessary to provide sufficient funds in escrow to pay such pending or reasonably anticipated bills are paid in full by the applicant.

C. Fees and Escrows. Refer to Chapter 205 for applicable fees and escrows.

§ 81. Improvement and Maintenance Guarantees.

- A. Before recording final subdivision plats or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to *N.J.S.A. 40:55D-65d*, the approving Board, for the purpose of assuring the installation and maintenance of on- and off-tract (pursuant to *N.J.S.A. 40:55D-42*) improvements, shall require and accept in accordance with the standards adopted by this chapter, the following:
1. The furnishing of a performance guarantee in favor of the Borough of Oceanport in an amount not to exceed one hundred twenty percent (120%) of the cost of installation, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in §97 for improvements which the Board may deem necessary or appropriate, including but not limited to: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments as shown on the final subdivision plat and required by the Map Filing Law (*N.J.S.A. 46:23-9.9 et seq.*), culverts, storm sewers, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping.
- The Borough Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obliger.
2. Provision for a maintenance guarantee to be posted with the Borough Council for a period not to exceed two (2) years after final acceptance of the improvement, in an amount not to exceed fifteen percent (15%) of the cost of the improvement, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in §97. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Borough for such utilities or improvements.
- B. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Borough Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty percent (120%) of the cost of the installation, which cost shall be determined by the Borough Engineer according to the method of calculation set forth in §97 as of the time of the passage of the resolution.
- C. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obliger and surety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected and the Borough may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the

public bidding requirements of the Local Public Contracts Law (*N.J.S.A. 40A:11-1 et seq.*).

- D. Estimate of cost for installation of improvements. A performance guarantee estimate shall be prepared by the Borough Engineer, setting forth all requirements for improvements as fixed by the Board and their estimated cost. The estimated cost of the installation of improvements determined by the Borough Engineer shall be based on documented construction costs for public improvements prevailing in the general area of the Borough. The developer may appeal the Borough Engineer's estimate to the Borough Council. The Borough Council shall decide the appeal within forty-five (45) days of receipt of the appeal in writing by the Borough Clerk. After the developer posts a guarantee with the Borough based on the cost of the installation of improvements as determined by the Borough Council, he may institute legal action within one (1) year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guarantee.

1. The cost of the installation of improvements for the purposes of Section 41 of P.L. 1975, c.291 (C.40:55D 53) shall be estimated by the Municipal Engineer based on documented construction costs for public improvements prevailing in the general area of the municipality. The developer may appeal the Municipal Engineer's estimate to the County Construction Board of Appeals established under Section 9 of P.L. 1975, c.217 (C.52:27D 127).

- E. Approval by Borough Solicitor.

The applicant shall present two (2) copies of the performance guarantee in an amount equal to the amount of the approved performance guarantee estimate for approval as to form.

- F. Bonding and cash requirements.

1. The performance guarantee posted by the applicant shall be in the form acceptable to the Borough Solicitor. Performance and maintenance bonds shall be provided by an acceptable surety company licensed to do business within the State of New Jersey with a rating of no less than a B+ by AM Best. The performance guarantee in favor of the Borough shall be in an amount not to exceed one hundred twenty percent (120%) of the cost of the installation and improvements. The Chief Financial Officer shall issue its receipt for such cash deposits and shall cause the same to be deposited in a bank named by the Borough for this purpose to be retained as security for completion of all requirements and to be returned to the developer on completion of all required work and expiration of the period of maintenance guarantee or, in the event of default on the part of the applicant, to be used by the Borough of Oceanport to pay the cost and expense of obtaining completion of all requirements.
2. The Borough shall accept a performance guarantee or maintenance guarantee for the purposes herein which is an irrevocable letter of credit if it:

- a. Constitutes an unconditional payment obligation of the issuer running solely to the Borough for an express initial period of time in the amount determined pursuant to *N.J.S.A. 40:55D-53*;
 - b. Is issued by a banking or savings institution authorized to and doing business in the State of New Jersey;
 - c. Is for a period of time of at least one (1) year; and
 - d. Permits the Borough to draw upon the letter of credit if the obliger fails to furnish another letter of credit which complies with the provisions of this subsection thirty (30) days or more in advance of the expiration date of the letter of credit or such longer period in advance thereof as is stated in the letter of credit.
- G. Inspections, tests, and as-built requirements [Ord. O.16.10, 11/8/10].
1. All improvements and utility installations shall be inspected during the time of their installation under the supervision of the Borough Engineer to ensure satisfactory completion. The cost of said inspection shall be the responsibility of the applicant, and he or she shall deposit with the Borough Chief Financial Officer for placement in an escrow account an amount not to exceed, except for extraordinary circumstances, the greater of five hundred dollars (\$500.00) or five percent (5%) of the amount of the performance guarantee estimate of the cost of improvements pursuant to §97, Off-Tract Improvements. The obligor shall reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements. For those developments for which the reasonably anticipated fees are ten thousand dollars (\$10,000) or greater, the fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be twenty-five percent (25%) of the anticipated fees. When the balance on deposit drops to ten percent (10%) of the anticipated fees because of payments to the Borough Engineer for inspection, the developer shall make additional deposits of twenty-five percent (25%) of the anticipated fees. The Borough Engineer shall not perform any inspection if sufficient funds to pay for such inspection are not on deposit.
 2. Site maintenance. It shall be the responsibility of the developer to maintain the entire construction site in a safe and orderly condition during construction. Necessary steps shall be taken by the developer to protect occupants of the construction site and the general public from hazardous and unsightly conditions during the entire construction period. Sub-paragraphs –a through –f list the necessary site operations and activities that shall be maintained on construction sites.
 - a. Every effort shall be made by the developer’s contractor to close excavations by the end of the workday. Unavoidable excavations left open during non-construction hours shall be enclosed by fencing or

barricades or covered by appropriate steel traffic plates during non-construction hours. Movable barricades shall be equipped with yellow flashing hazard markers or other lighting accepted by the Borough Engineer during the hours of darkness. All locations and activities on the construction site that are hazardous shall be marked with signs indicating such hazard.

- b. The excavation of previously installed sidewalk and pavement areas which provide access to an occupied building on a site shall be clearly marked with signs and barricades. Alternate safe access shall be provided for pedestrians to the occupied buildings and motor vehicles to the site. Safe vehicular and pedestrian access to occupied buildings in the site or subdivision shall be provided at all times.
- c. Materials stored on the site shall be screened from the view of next-door occupants of residential property and the traveling public on public roads.
- d. Construction equipment and trucks shall not be stored within one hundred (100) feet of occupied residential buildings during non-construction hours.
- e. Construction debris, including but not limited to scrap materials, cartons, boxes, and wrappings shall be removed daily from the construction at the end of each working day or placed in appropriate dumpsters.
- f. Whenever construction activities take place within or adjacent to any traveled way or interfere with existing traffic patterns in any manner, suitable warning signs, conforming to the requirements of the Manual on Uniform Traffic Control Devices, shall be erected and maintained by the developer.
- g. Should the developer fail in his obligation to maintain the site or subdivision in a safe and orderly condition, the Borough may, on five days' written notice, or immediately in the case of hazard to life, health or property, undertake whatever work may be necessary to return the site or subdivision to a safe and orderly condition and deduct the cost thereof from the ten-percent-cash-or-certified-check portion of the performance guaranty. Upon notice of such deduction, the developer shall, within 10 days, restore the full ten-percent-cash balance, or his performance guaranty will be held to be void, and the Borough may take action as if final plat approval had not been obtained.
- h. The Construction Official shall, upon receiving notice from the Borough Engineer that a developer is in violation of this sub-section, suspend further issuance of certificates of occupancy and building permits and may order cessation of work on any outstanding permits until such time as the condition is rectified.

3. In no case shall any paving work or other construction activities requiring inspection by the Borough Engineer be started without his or her permission. At least forty-eight (48) hours' notice shall be given to the Borough Engineer or qualified representative assigned to Oceanport Borough prior to any such construction so that the required inspection of improvements may be scheduled and inspected.
4. Any improvement installed without notice for inspection pursuant to subsection - G.3 above shall constitute just cause for:
 - a. Removal of the uninspected improvement;
 - b. The payment by the developer of any costs for material testing.
 - c. The restoration by the developer of any improvements disturbed during any material testing; and/or
 - d. The issuance of a stop work order by the Borough Engineer pending the resolution of any dispute.
5. Final inspection and as-built drawings. A final inspection of all improvements and utilities shall be undertaken by the Borough Engineer to determine whether the work is satisfactory and in agreement with the approved final plan drawings and Borough specifications or as a field change approved in writing by the Borough Engineer. Any minor deviation from the final approved plan may be approved by the Borough Engineer. Any deviation deemed substantial by the Borough Engineer shall require submission of an amended final site plan or subdivision, as the case may be, to the Board of Jurisdiction. If the improvements have been constructed under a performance guarantee after approval of a subdivision or site plan, the developer shall submit an as-built plan showing as-built grades, profiles and sections and locations of all subsurface utilities, including but not limited to, stormwater management piping, end walls, headwalls, control systems and basins; lawn and roof drainage; sanitary sewage conveyance and disposal systems; public and individual waterlines and control valves; natural and propane gas lines; telephone, cable television, telecommunications conduits; monuments and other property markers; and any other utilities or improvements installed. The as-built plan shall be certified by a licensed New Jersey professional land surveyor. If any improvements are constructed prior to final plat approval, the final plat shall reflect all changes and as-built conditions and be so certified. As-built plan(s) shall be submitted on reproducible media, CAD file or other media as directed by the Borough Engineer.
6. Inspection of any work by the Borough Engineer or authorized representative shall not be considered to be final approval or rejection of the work but shall only be considered to be a determination of whether or not the specific work involved was being done to Borough specifications or other required standards at the time

of inspection. Any damage to such work or other unforeseen circumstances, including but not limited to, the weather, other construction, changed physical or topographical conditions, and settlement of soils between the time of installation and the time of a request for full or partial performance guarantee release shall be the entire responsibility of the developer, and no work shall be considered accepted until release of the performance guarantee. Upon a final inspection report, action will be taken to release or declare in default the performance guarantee covering such improvements and utilities.

7. Inspection by the Borough of the installation of improvements and utilities by the applicant shall not subject the Borough to liability for claims, suits or any other liability of any kind that may at any time arise because of defects or negligence during construction or at any time thereafter; it is recognized that the responsibility to maintain safe conditions at all times during construction and to provide proper utilities and improvements is upon the applicant and his contractors, if any. No declaration, written or otherwise, shall be made by the Borough Council, the Borough Engineer or any of their agents, employees, or other representatives as a precedent to the release of payments to contractors by the developer.

H. Reduction of Guarantees.

1. Upon substantial completion of all required on- and off-site improvements (except for the top course of road paving) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Borough Council in writing, by certified mail addressed in care of the Borough Clerk, that the Borough Engineer prepare, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee pursuant to §97, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Borough Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Borough Engineer shall inspect all improvements covered by the obligor's request and shall file a detailed list and report, in writing, with the Borough Council, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.
2. The list prepared by the Borough Engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Borough Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in

accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee.

3. The Borough Council, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Borough Engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee. This resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the Borough Engineer. Upon adoption of the resolution by the Borough Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty percent (30%) of the amount of the performance guarantee posted for each line item may be retained to ensure completion and acceptability of all improvements.

For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee pursuant to Subsection a. of this Section, including any contingency factor applied to the cost of installation. If the sum of said improvements would exceed 70% of the total amount of the performance guarantee, the municipality may retain 30% of the amount of the total performance guarantee to ensure completion and acceptability of all improvements, as provided above.

4. If the Borough Engineer fails to send or provide the list and report as requested by the obligor within forty-five (45) days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Borough Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

If the Borough Council fails to approve or reject the improvements determined by the Borough Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days from the receipt of the Borough Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Borough Engineer and appended to the performance guarantee, and the cost of

applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

5. In the event that the obliger has made a cash deposit with the Borough or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.
6. If any portion of the required improvements is rejected, the approving authority may require the obliger to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.
7. Nothing herein, however, shall be construed to limit the right of the obliger to contest by legal proceedings any determination of the Borough Council or the Borough Engineer.
8. The obligor shall reimburse the municipality for all reasonable inspection fees paid to the Municipal Engineer for the foregoing inspection of improvements; provided that the municipality may require of the developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of improvements, which cost shall be determined pursuant to Section 15 of P.L.1991, c.256 (C.40:55D-53.4). For those developments for which the inspection fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall deposit the remaining 50% of the inspection fees. For those developments for which the inspection fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees. The Municipal Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.
9. In the event that final approval is by stages or sections of development pursuant to *N.J.S.A. 40:55D-38*, the provisions of this section shall be applied by stage or section.
10. To the extent that any of the improvements have been dedicated to the municipality on the subdivision plat or site plan, the municipal governing body shall be deemed, upon the release of any performance guarantee required pursuant to subsection a. of this Section, to accept dedication for public use and any other

improvements made thereon according to site plans and subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Municipal Engineer.

I. Conditions for acceptance of improvements; maintenance guarantee.

The approval of any plat under this chapter by the approving Board or Borough Council, or both, shall in no way be construed as acceptance of any street or drainage system or any other improvement required by this chapter, nor shall such plat approval obligate the Borough in any way to maintain or exercise jurisdiction over such street or drainage system or other improvement. No improvement shall be accepted by the Borough Council unless and until all of the following conditions have been met.

1. The Borough Engineer shall have certified in writing that the improvements are complete and that they comply with the requirements of this chapter.
2. The final plat shall have been approved by the Board.
3. Maintenance guarantee.
 - a. After final acceptance of all improvements, the developer shall have filed with the Borough Council a maintenance guarantee in an amount equal to not more than fifteen percent (15%) of the original estimate of the cost of installing the improvements and shall run for a period not exceeding two (2) years. The procedures and requirements governing such maintenance guarantee shall be identical with the procedures and requirements for a performance guarantee set forth in this chapter. The requirements for a maintenance guarantee may be waived by the Borough Council only if the Borough Engineer has certified that the improvements have been in continuous use for not less than two (2) years from the date the Borough Engineer certified completion of such improvements and that during this period the developer has maintained the improvements in a satisfactory manner.
 - b. As-built plans and profiles (one (1) reproducible and two (2) paper copies) of all utilities and roads are submitted to the Administrative Officer, with certification signed and sealed by a New Jersey licensed professional engineer as to the actual construction as approved by the Borough Engineer, shall be provided.
 - c. In the event that any other Borough or governmental agencies or public utilities automatically will own the utilities to be installed, or the improvements are covered by a maintenance guarantee to another municipal or governmental agency, no maintenance guarantee shall be required by the Borough for such utilities or improvements.

- J. Guarantee Status Reports. The Chief Financial Officer shall issue a semi-annual status report on all non-cash performance and maintenance guarantees held by the Borough. The report shall give an accounting of each guarantee, specifically noting its expiration date. The report shall be submitted to the Borough Engineer, Construction Official, Zoning Officer, and the Secretary of the Planning Board.
- K. Certificate of Occupancy. Occupancy permits will be issued only when the installation of any curbs, all utilities, all functioning water supply and sewage treatment facilities, all necessary storm drainage to ensure proper drainage of the lot and surrounding land, rough grading of lots, base course for the driveway and base course for the streets are installed to serve the lot and structure for which the permit is requested. Streets, if installed prior to final approval, shall not be paved until all heavy construction is complete; shade trees shall not be planted until all grading and earthmoving is completed; and seeding of grass areas shall be the last operation. The issuance of a certificate of occupancy will follow the procedures outlined in this chapter and the chapter of the Borough Code administering the Uniform Construction Code. A separate certificate of occupancy shall also be required when any change occurs in the use or occupancy of an existing structure.

§ 82. Off-Tract Improvements.

This section is intended to ensure a pro rata share allocation of the costs for off-tract improvements necessitated by new development.

As a condition of final subdivision or site plan approval, the Planning Board may require a developer to pay his/her pro rata share of the cost of providing reasonable and necessary improvements for off-tract costs directly related to the development. These costs may include that of land and/or easements for, and construction of, improvements to circulation, water, sewerage, drainage facilities which are located off-tract of the property limits of the subdivision or development but for which substantially all the cost of said improvements is necessitated or required directly by the development. In addition, a development may be liable for its share of the cost of the impact of the development to Borough and/or regional capital improvements provided that the cost shall not duplicate off-tract improvements for which the developer is primarily responsible. The Planning Board shall provide in its resolution of approval the basis of the required improvements.

Where a developer pays the amount determined as his pro-rata share under protest they shall institute legal action within one year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.

- A. Calculation of Proportionate Costs.
1. Full allocation. In cases where off-tract improvements are necessitated by the proposed development, and where no other property owner(s) receive(s) a special benefit thereby, the developer may be required at his sole expense and as a condition of approval, to provide and install such improvements. In such case where the Planning Board determines that the full improvement is required to

service this development, the developer shall fully install the entire improvement at his expense with no reimbursement.

2. Proportionate allocation.
 - a. Where it is determined that some properties outside the development will also be benefitted by the off-tract improvement, the following criteria shall be utilized in determining the proportionate share of the cost of such improvements to the developer.
 - b. Allocation formula.
 - 1) Roadways - The applicant's proportionate share of street improvements, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements uncovered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements shall be as follows:
 - (a) The municipal engineer, traffic engineer or planner shall provide the applicant with the existing and reasonably anticipated future peak hour traffic for the off-tract improvement;
 - (b) The applicant shall furnish a plan for the proposed off-tract improvement which shall include the estimated peak-hour traffic generated by the proposed development and the proportion thereof which is to be accommodated by the proposed off-tract improvement. The ratio of the peak hour traffic generated by the proposed development which is to be accommodated by the off-tract improvement to the future additional peak-hour traffic anticipated to impact the proposed off-tract improvement shall form the basis of the proportionate share. The proportionate share shall be computed as follows:

$$\frac{\text{Total cost of enlargement or improvement}}{\text{Developer's Cost}} = \frac{\text{Capacity of enlargement or improvement (peak-hour traffic)}}{\text{Development peak-hour traffic to be accommodated by the enlargement or improvement}}$$

- 2) Drainage improvements - The applicant's proportionate share of storm water and drainage improvements including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, rip-rap, improved drainage ditches and appurtenances thereto, and relocation or replacement of other storm drainage facilities or appurtenances associated therewith, shall be determined as follows:
- (a) The capacity and the design of the drainage system to accommodate storm water runoff shall be based on the standards specified in §35. of this chapter and related appendices, computed by the developer's engineer and approved by the municipal engineer.
 - (b) The capacity of the enlarged, extended, or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the municipal engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the municipal engineer. The prorated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Total cost of enlargement or improvement}}{\text{Developer's Cost}} = \frac{\text{Capacity of enlargement or improvement (total capacity expressed in cubic feet per second)}}{\text{Development-generated peak rate of runoff expressed in cubic feet per second to be accommodated by the enlargement of improvement}}$$

- B. Future funds. Where the proposed off-tract improvement is to be undertaken at some future date, the monies required for the improvement shall be deposited in a separate interest-bearing account to the credit of the Borough of Oceanport until such time as the improvement is constructed. If the off-tract improvement is not begun within ten (10) years of deposit, all monies and interest shall be returned to the applicant.

§ 83. Administrative Guidelines.

- A. The Chief Financial Officer of a municipality shall make all of the payments to professionals for services rendered to the municipality or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of PL. 1975, c.291 (C.40:55D-1 *et*

seq.). Such fees or charges shall be based upon a schedule established by resolution. The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of developments under construction and review by outside consultants when an application is of a nature beyond the scope of the expertise of the professionals normally utilized by the municipality. The only costs that shall be added to any such charges shall be actual out of pocket expenses of any such professionals or consultants including normal and typical expenses incurred in processing applications and inspecting improvements. The municipality or approving authority shall not bill the applicant, or charge any escrow account or deposit authorized under subsection b. of this Section, for any municipal clerical or administrative functions, overhead expenses, meeting room charges, or any other municipal costs and expenses except as provided for in this Section, nor shall a municipal professional add any such charges to his bill. If the salary, staff support and overhead for a municipal professional are provided by the municipality, the charge shall not exceed 200% of the sum of the products resulting from multiplying (1) the hourly base salary, which shall be established annually by ordinance, of each of the professionals by (2) the number of hours spent by the respective professional upon review of the application for development or inspection of the developer's improvements, as the case may be. For other professionals, the charge shall be at the same rate as all other work of the same nature by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers.

- B. If the municipality requires of the developer a deposit toward anticipated municipal expenses for these professional services, the deposit shall be placed in an escrow account pursuant to Section I of P.L.1985, c.315 (C.40:55D 53. 1). The amount of the deposit required shall be reasonable in regard to the scale and complexity of the development. The amount of the initial deposit required shall be established by ordinance. For review of applications for development proposing a subdivision, the amount of the deposit shall be calculated based on the number of proposed lots. For review of applications for development proposing a site plan, the amount of the deposit shall be based on one or more of the following: the area of the site to be developed, the square footage of buildings to be constructed, or an additional factor for circulation intensive sites, such as those containing drive through facilities. Deposits for inspection fees shall be established in accordance with Subsection h. of Section 41 of P.L. 1975 c.291 (C.40:55D 53).
- C. Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service, and for each date the services performed, the hours spent to one quarter ($\frac{1}{4}$) hour increments, the hourly rate and the expenses incurred. All professional shall submit vouchers to the Chief Financial Officer of the municipality on a monthly basis in accordance with schedules and procedures established by the Chief Financial Officer of the municipality. If the services are provided by a municipal employee, the municipal employee shall prepare and submit to the Chief Financial Officer of the municipality a statement containing the same information as required on a voucher, on a monthly basis. The professional shall send an informational copy of all vouchers or statements submitted to

the Chief Financial Officer of the municipality simultaneously to the applicant. The Chief Financial Officer of the municipality shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements, and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are \$1,000 or less, or on a monthly basis if monthly charges exceed \$1,000. If an escrow account or deposit contains insufficient funds to enable the municipality or approving authority to perform required application reviews or improvement inspections, the Chief Financial Officer of the municipality shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall within a reasonable time period, post a deposit to the account in an amount to be agreed upon by the municipality or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.

- D. The following closeout procedure shall apply to all deposits and escrow accounts established under the provisions of P.L. 1975, c.291 (C.40:55D 1 et seq.) and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits, or after the improvements have been approved as provided in Section 41 of P. L. 1975, c.291 (C.40:55D 53). in the case of improvement inspection escrows and deposits. The applicant shall send written notice by certified mail to the Chief Financial Officer of the municipality and the approving authority, and to the relevant municipal professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the municipality within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest in accordance with Section I of P. L. 1985, c.315 (C.40:55D 53.1) shall be refunded to the developer along with the final accounting.
- E. All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any State environmental agency and not under municipal jurisdiction except to the extent consultation with a State agency is necessary due to the effect of State approvals in the subdivision or site plan. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work and such inspections shall be reasonably based on the approved development plans and documents.

- F. If the municipality retains a different professional or consultant in the place of the professional originally responsible for development, Application review, or inspection of improvements, the municipality or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or approving authority shall not bill the applicant or charge the deposit or the escrow account for any such services.

§ 84. Appeal of Escrow Charges

- A. An applicant shall notify in writing the governing body with copies to the Administrative Officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for service rendered to the municipality in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges made pursuant to the provisions of P.L.1975, c.291 (C.40:55D I et seq.). The governing body, or its designee, shall within a reasonable time period attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals established under Section 9 of P.L. 1975, c.217 (C.52:27D 127) any charges to an escrow account or a deposit by any municipal professional or consultant, or the cost of the installation of improvements estimated by the Municipal Engineer pursuant to Section 15 of P. L. 199 1. c.256 (C.40:55D 53.4). An applicant or his authorized agent shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the municipality, approving authority, and any professional whose charges is the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by Subsection c. of Section 13 of PL. 1991, c.256 (C.40:55D 53.2), except that if the professional has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within 60 days from receipt of the municipal statement of activity against the deposit or escrow account required by Subsection c. of Section 13 of P.L.1991, c.256 (C.40:55D 53.2). An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.
- B. The County Construction Board of Appeals shall here the appeal, render a decision thereon, and file its decision with a statement of the reasons therefore with the municipality or approving authority not later than ten business days following the submission of the appeal, unless such period of time has been extended with the consent of the applicant. The decision may approve, disapprove, or modify the professional charges appealed from. A copy of the decision shall be forwarded by certified or registered mail to the party making the appeal, the municipality, the approving authority, and the professional involved in the appeal. Failure by the Board to hear an appeal and render and file a decision thereon within the time limits prescribed in this Subsection shall be deemed a denial of the appeal for purpose of a complaint, application, or appeal to a court of competent jurisdiction.

- C. The County Construction Board of Appeals shall provide rules for its procedure in accordance with this Section. The Board shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence and the provisions of the "County and Municipal Investigations Law," P.L.1953, c.38 (C.2A:6AA 1 *et seq.*) shall apply.
- D. During the appeal period, the municipality or approving authority shall continue to process, hear, and decide the application for development, and to inspect the development in the normal course, and shall not withhold, delay, or deny reviews, inspections, signing of subdivision plans or site plans, the reduction or release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial Officer may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial Officer shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of the municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

§ 85. Enforcement.

- A. It shall be the duty of the Construction Official and Zoning Officer of the Borough to administer and enforce the provisions of this chapter. No new structure shall be erected unless a building permit is obtained from the Construction Official, and no structure or lot shall be used in violation of this chapter.
1. It shall be the duty of the Zoning Officer to inspect the structures and land in the Borough and order the owner, in writing, to remedy any condition found to exist in violation of the provision(s) of this chapter or any condition in violation of any application for development as duly approved by the Borough under the terms of this chapter. For purposes of this inspection, the Zoning Officer shall have the right to enter any building or premises during reasonable hours, subject to due process of law. The owner shall have a maximum fifteen (15) days or as otherwise specified by the Zoning Officer within which time to respond to the purported violations and indicate the remedies to be taken. Such response, or lack of response, shall be immediately communicated in writing by the Zoning Officer to the Borough Attorney for appropriate referral and action.
 2. Upon notice being served of any land use existing in violation of any provision(s) of this chapter, the certificate of occupancy for such use shall thereupon, without further notice, be null and void, and a new certificate of occupancy shall be required for any further use of the structure or land.

- B. Issuance of Construction Permits in accordance with Chapter 170 Construction Code, Uniform
- C. Issuance of Certificates of Occupancy in accordance with Chapter 170 Construction Code, Uniform
- D. Payment of Taxes.

No approval, permit or certificate for any of the following shall be given to an application or to an applicant if any taxes or assessments for local improvements are due or delinquent on the property for which the application is made: preliminary and final site plan; preliminary and final subdivision; minor subdivision; minor site plan; bulk variance; use variance; conditional use; zoning permit or subdivision approval certificate. An application for approval or issuance of any of the above items shall not be deemed complete and shall not be considered by the applicable municipal agency unless the applicant submits with the application a certification signed by an authorized representative of the Oceanport Borough Tax Collector's office stating that no taxes or assessments as described above are due or delinquent on the subject property.

§ 86. Violations and Penalties.

- A. Each and every violation of this chapter shall be subject to punishment by a court of appropriate jurisdiction. Said violation may include a fine of not more than one thousand dollars (\$1,000.00) and/or imprisonment for a term not to exceed ninety (90) days and/or community service of ninety (90) days, or a combination of any of the above.
- B. The violation shall be deemed enforceable against the owner, contractor and/or any other person interested as lessee, tenant, or otherwise.
- C. Each day that a violation continues to exist shall be deemed to be a separate violation.
- D. Nothing contained in this chapter shall be deemed to limit the right of any interested person to initiate the prosecution of any person or persons believed to be in violation of this chapter.

§ 87. Amendments.

This chapter may be amended from time to time by the Borough Council, after the appropriate referrals, notices, hearings, and other requirements of law.

§ 88. Procedure for Amendments.

- A. Prior to the hearing on adoption of a zoning ordinance or any amendments thereto, Borough Council shall refer any such proposed ordinance or amendment thereto to the Planning Board pursuant to the following requirements:
 - 1. The Planning Board shall issue a report within thirty-five (35) days of referral by the Borough Council which identifies any portion of the proposed development

regulation, revision or amendment which is inconsistent with the master plan and any recommendations concerning these inconsistencies.

2. The Planning Board may include in its report any other matter which it deems appropriate.
 3. Failure of the Planning Board to render a report within the prescribed time period shall relieve the Borough Council of its responsibility to wait for that report before acting on the proposed development regulation, revision, or amendment.
- B. After receipt of the Planning Board report, or after the expiration of the time allocated for delivery of that report, the Borough Council shall conduct a public hearing on the merits of the proposed development regulation, revision, or amendment.
- C. The Borough Council shall evaluate the proposed amendment for its consistency with the master plan.
- D. The Borough Council may enact an amendment which is in whole or part inconsistent with the master plan and which is not designed to effectuate the land use plan or housing plan elements but only by an affirmative vote of a majority of its full authorized membership. In that instance, the reasons for the action of the Borough Council shall be set forth in a resolution and recorded in the minutes of the Borough Council.
- E. A protest against any proposed amendment or revision of a zoning ordinance may be filed with the Borough Clerk, signed by the owners of twenty percent (20%) or more of the area either (a). of the lots or land included in such proposed change, or (b). of the lots or land within two hundred (200) feet in all directions therefrom inclusive of street space, whether within or without the Borough. In the event such a protest is filed, the amendment or revision shall require the affirmative vote of two-thirds of all members of Borough Council.
- F. No zoning amendment shall be submitted to or adopted by initiative or referendum.

§ 89. Severability and Repealer.

- A. Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity as a whole or of any other part thereof.

Appendix

SCHEDULES

Application Submission Checklists

Zoning Map

Schedule I
Permitted Land Uses

District	Permitted Principal Uses	Permitted Accessory Uses	Conditional Uses
R-1 Single-Family R-2 Single-Family R-3 Single Family R-4 Single-Family	Single-family detached dwelling Park and playground and open space Municipal building Library Public Schools Community Facilities Churches, synagogues and other houses of worship	Private garages for no more than 3 motor vehicles Private boat launching and docking facilities for no more than 3 boats Signs Other accessory uses and structures customarily appurtenant to a permitted principal use Private swimming pools and private tennis courts	Communication Tower
R-5 Single-Family Two-Family	Single-family detached dwelling Two-family dwelling Park, playground and open space Public schools	Same as residential districts R-1, R-2, R-3 and R-4	Communication Tower
R-7.5 Single-Family	Single-family detached dwelling Park, playground and open space	Other accessory uses and structures customarily appurtenant to a permitted principal use	Communication Tower
R-M Multifamily	Multiple-family dwelling Public schools Library	Other accessory uses and structures customarily appurtenant to a permitted principal use	Communication Tower

	Community Facilities Municipal Building		
RMO Multifamily	Multifamily development (fee simple owner) Multifamily age-restricted development Assisted Living facility Nursing Home	Other accessory uses and structures customarily appurtenant to a permitted principal use	Communication Tower
RMW Multifamily	Multifamily dwelling units	Other accessory uses and structures customarily appurtenant to a permitted principal use	Communication Tower
V-C Village Center	Permitted first-floor uses: <ul style="list-style-type: none"> - Retail stores and service establishments, including but not limited to drugstore, stationary store, the sale of gifts, antiques, flowers, books, jewelry, wearing apparel, craft shops making articles for retail sale on remises, specialty food shops - Banks, travel, real estate, and insurance offices - Museums, galleries and studios for dance, art, music, photography, radio or television - Fully enclosed restaurants and drinking establishments with or without outdoor dining areas; a maximum of 25% professional and/or medical/dental office - Grocery stores in excess of 5,000 square feet (Drive-in or drive-through restaurants and drive-through drugstores are prohibited) - Shopping Center - Age-Restricted Development Permitted second-floor uses: <ul style="list-style-type: none"> - General business and professional offices, medical/dental offices, studios, or one- and two-bedroom residential apartments Permitted third-floor uses:	Signs Incidental storage Parking and loading facilities Other accessory uses and structures customarily appurtenant to a principal permitted use	Communication Tower

	<ul style="list-style-type: none"> - Studio and one-bedroom apartments - No more than 25% of the footprint can contain a third floor <p>General requirements:</p> <ul style="list-style-type: none"> - First-floor area: minimum 1,200 square feet, maximum 5,000 square feet per unit - Residential units must have a minimum 800 square feet 		
V-C Village Center – Affordable Housing Overlay	V-C Village Center District permitted principal uses, provided 4 or more affordable housing units are provided on site	Same as V-C Village Center District above	Communication Tower
B-1 Professional and Office	<p>Business or professional office buildings, including banks and financial institutions, but not including businesses which involve the retail sale of goods</p> <p>Recreation facilities, including public open space, public active and passive recreational uses such as miniature golf, a golf driving range</p> <p>Clubhouses, auditoriums and other places of assembly</p> <p>Churches, synagogues and other houses of worship</p> <p>Age-Restricted Development</p> <p>Utility Service Facility/Structure</p>	<p>Signs</p> <p>Off-street parking facilities</p>	Communication Tower
B-2 General and Recreational Commercial	<p>Horse racing, with or without pari-mutuel wagering, provided that any racetrack conducted for profit shall be licensed by the State Racing Commission</p> <p>Clubhouses, auditoriums and other places of assembly</p> <p>Motels and hotels</p>	<p>Signs</p> <p>Parking and loading facilities</p> <p>Within the confines of any structure or structures, designed, constructed and/or used for horse racing, business incidental thereto may be conducted for the convenience of the users thereof, such as</p>	Communication Tower

	<p>Eating and drinking establishments</p> <p>Business and professional offices</p> <p>Swimming pools</p> <p>Ice-skating rinks</p> <p>Churches, synagogues and other houses of worship</p> <p>Utility Service Facility/Structure</p>	<p>restaurants, food and beverage stands, newspaper stands and the like, provided that the conduct of business should be confined to a limited area, the access to which can only be made by paying a general admission or other similar charge.</p> <p>Accessory uses and structures customarily appurtenant to a principal permitted use and/or necessary to the conduct of a principal permitted use</p>	
I Industrial	<p>Any use permitted in the B-1 District, plus manufacturing of small machine parts and assemblies, such as carburetors, cash registers, sewing machines, calculators, and other machines.</p> <p>Fabrication of paper products, comprising any of the following: bags, bookbinding, boxes and packaging material and office supplies</p> <p>Laboratories comprising any of the following: dental, electronic and pharmaceutical</p> <p>The warehousing or storage of goods and products, provided that no goods are sold on or from the premises</p> <p>Manufacturing of electronic products; switches and controls; glass and glass products manufacturing; jewelry manufacturing, including gem polishing; leather goods manufacturing except curing, tanning, and finishing hides; printing plant; sporting goods and toy manufacturing; and thread and yarn manufacturing</p>	<p>Signs</p> <p>Private garage space necessary to store vehicles owned by the occupant on the premises</p> <p>Electric light and power and other utility company installations which may be needed in conjunction with this Industrial Zone</p> <p>Other accessory uses and structures customarily appurtenant to a principal permitted use</p>	Communication Tower

**Schedule II
Bulk and Coverage Controls**

	R-1 Single Family	R-2 Single Family	R-3 Single Family	R-4 Single Family	R-5 Single Family
Minimum Lot Area	30,000 sf	15,000 sf	12,000 sf	10,000 sf	10,000 sf
Minimum Lot Width	150 ft	125 ft	120 ft	100 ft	100 ft
Minimum Lot Depth	200 ft	120 ft	100 ft	100 ft	100 ft
Maximum Height (1) Flat Roof (2) All other Roofs	(1) 2 st/30 ft (2) 2.5 st/35 ft	(1) 2 st/30 st (2) 2.5 st/35 ft			
Maximum Building Coverage (1) Principal Build. (2) Accessory Build.	(1) 20% (2) 5%	(1) 25% (2) 5%	(1) 25% (2) 5%	(1) 25% (2) 5%	(1) 25% (2) 5%
Maximum Dwelling Units per Acre	1.5	3.0	3.7	4.5	4.5
Minimum Principal Building Yard Setbacks (1) Front ^{(2) (5)} (2) Side ^{(3) (4)} (one/both) (3) Rear ⁽⁴⁾	(1) 50 ft (2) 15 ft/35 ft (3) 40 ft	(1) 30 ft (2) 10 ft/25 ft (3) 40 ft	(1) 30 ft (2) 10 ft/25 ft (3) 25 ft	(1) 30 ft (2) 10 ft/20 ft (3) 25 ft	(1) 30 ft (2) 10 ft/20 ft (3) 25 ft
Minimum Accessory Building Yard Setbacks (1) Side (2) Rear	(1) 20 ft (2) 10 ft	(1) 15 ft (2) 10 ft	(1) 10 ft (2) 5 ft	(1) 10 ft (2) 5 ft	(1) 10 ft (2) 5 ft
Maximum Impervious Coverage	25%	32%	37%	40%	40%

**Schedule II Continued
Bulk and Coverage Controls**

	R-5 Two Family	R-7.5 Single Family	RM Multifamily	RMO Multiple-Family Development	RMW Multiple-Family Waterfront
Minimum Lot Area	7,000 sf per dwelling unit	7,500 sf	5 acres	Refer to Section 390-21.5 for bulk and general requirements	Refer to Section 390-21.5 for bulk and general requirements
Minimum Lot Width	70 ft per dwelling unit	75 ft	350 ft		
Minimum Lot Depth	100 ft	100 ft	350 ft		
Maximum Height ⁶ (1) Flat Roof (2) All other Roofs	(1) 2 st/30 ft (2) 2.5 st/35 ft	(1) 2 st/30 ft (2) 2.5 st/35 ft	(1) 2 st/30 ft (2) 2.5 st/35 ft		
Maximum Building Coverage (1) Principal Build. (2) Accessory Build.	(1) 25% (2) 5%	(1) 25% (2) 5%	(1) 25% (2) 5%		
Maximum Dwelling Units per Acre	6.3	4.0	12		
Minimum Principal Building Yard Setbacks (1) Front ^{2, 5} (2) Side ^{3, 4} (one/both) (3) Rear ⁴	(1) 30 ft (2) 15 ft/20 ft (3) 25 ft	(1) 30 ft (2) 10 ft/20 ft (3) 25 ft	(1) 75 ft (2) 30 ft/60 ft (3) 50 ft		
Minimum Accessory Building Yard Setbacks (1) Side (2) Rear	(1) 10 ft (2) 5 ft	(1) 10 ft (2) 5 ft	(1) 30 ft (2) 50 ft		
Maximum Impervious Coverage	40%	45%	45%	45%	

Schedule II Continued					
Bulk and Coverage Controls					
V-C A-H Village					
V-C Village Center	Center Affordable Housing Overlay	B-1 Profession and Office	B-2 General and Recreational Commercial	I Industrial	
Minimum Lot Area	6,000 sf ¹	Same as the V-C Village Center District	62,500 sf	80,000 sf	40,000 sf
Minimum Lot Width	60 ft		250 ft	250 ft	200 ft
Minimum Lot Depth	100 ft		250 ft	250 ft	200 ft
Maximum Height (1) Flat Roof (2) All other Roofs	(1) 2 st/30 ft (2) 2.5 st/35 ft		(1) 2 st/30 ft (2) 2.5 st/35 ft	(1) 2 st/30 ft (2) 2.5 st/35 ft	(1) 2 st/30 st (2) 2.5 st/35 ft
Maximum Lot Coverage (1) Principal Build. (2) Accessory Build.	(1) 25% (2) 5%		(1) 25% (2) 5%	(1) 15% (2) 5%	(1) 30% (2) 5%
Maximum Dwelling Units per Acre	16				
Minimum Principal Building Yard Setbacks (1) Front (2) Side (one/both) (3) Rear	(1) 15 ft (2) 10 ft/20 ft (3) 25 ft		(1) 100 ft (2) 50 ft/100 ft (3) 100 ft	(1) 100 ft (2) 50 ft/100 ft (3) 60 ft	(1) 50 ft (2) 25 ft/50 ft (3) 25 ft
Minimum Accessory Building Yard Setbacks (1) Side (2) Rear	(1) 20 ft (2) 10 ft			(1) 50 ft (2) 50 ft	(1) 20 ft (2) 10 ft
Maximum Impervious Coverage	80%		60%	60%	60%

Notes:

- 1 Shopping Centers shall have a minimum lot area of five (5) acres and an age-restricted residential development shall have a minimum lot area of 15,000 square feet with a maximum number of units to not exceed 50 units.
- 2 Refer to Section 17.B and 17.D for front yard setback exceptions
- 3 Refer to Section 17.C for side yard setback exceptions
- 4 Refer to Section 17.A for general yard exceptions
- 5 Refer to Section 17.A (4) for front yard exceptions
- 6 Refer to Section 16.B for additional height regulations

**Schedule III
Minimum Habitable Floor Area Per Family
(Square Feet per Living Unit)**

	R-1 Single Family	R-2 Single Family	R-3 Single Family	R-4 Single Family	R-5 and R-7.5 Single Family	R-5 Two-Family
1-Story	2,000	1,500	1,400	1,200	1,200	
1.5-Story	2,200 total 1,500 first floor	1,600 total 1,200 first floor				
2-Story	2,200 total 1,350 first floor	2,000 total 1,150 first floor	2,000 total 1,150 first floor	1,800 total 1,050 first floor	1,800 total 1,050 first floor	
Bi-Level	2,200 total 1,500 second floor	1,600 total 1,200 second floor	Side-by-Side vertical 1,450 total 1,000 first floor			
Split-Level	2,200 total 1,500 second floor	1,600 total 1,200 second floor	Over-and-Under horizontal 1,000 total 1,000 first floor			

**Minimum Habitable Floor Area for Multifamily
(Square Feet per Living Unit)**

	Apartments	Condominiums and Cooperatives	Fee-Simple-Owner Townhouses
1-Bedroom	700	1,000	1,250
2-Bedroom	900	1,250	1,250

**OCEANPORT BOROUGH
MONMOUTH COUNTY, N.J.
PLOT PLAN CHECK LIST**

PROJECT NAME: _____

LOT: _____

Date _____

BLOCK: _____

1. POINT OF BEGINNING: _____
2. BEARINGS AND DISTANCES CLOCKWISE: _____
3. ADJOINING LOT & BLOCK NUMBERS: _____
4. LOT AREA: _____
5. ROAD NAMES & RIGHT OF WAY WIDTH: _____
6. EXISTING TOPOGRAPHY AND CONTOURS LABELED: _____
7. TIE TO NEAREST ROAD INTERSECTION: _____
8. EXISTING UTILITIES (STORM, SEWER, WATER) _____
9. OTHER UTILITIES (GAS, ELECTRIC, CABLE): _____
10. LEGEND: _____
11. GRAPHIC SCALE: _____
12. NORTH ARROW: _____
13. INFORMATION OF FACT REFERENCING CORRECT FILED MAP _____
14. SIGNATURE OF BOTH ENGINEER AND LAND SURVEYOR: _____
15. ALL DIMENSIONS OF DWELLING: _____
16. SPOTS SHOTS AT ALL CORNERS OF DWELLING: _____
17. SETBACKS DIMENSIONED: _____
18. DRIVEWAY LABELED AND SLOPE OF DRIVEWAY SHOWN: _____
19. MIN. 2% YARD SLOPES: _____
20. TIES SHOWN FROM HOUSE TO PROPERTY LINE: _____
21. INDICATE DROPS IN FLOORS INSIDE DWELLING: _____
22. INDICATE LOCATION, SIZE OF PIPE AND DIRECTION OF FLOW OF
SUMP PUMP DISCHARGE, IF APPLICABLE _____

**OCEANPORT BOROUGH
MONMOUTH COUNTY, N.J.
FINAL SURVEY CHECK LIST**

PROJECT NAME: _____

LOT: _____

Date _____

BLOCK: _____

1. POINT OF BEGINNING: _____
2. BEARINGS AND DISTANCES CLOCKWISE: _____
3. ADJOINING LOT & BLOCK NUMBERS: _____
4. LOT AREA: _____
5. ROAD NAMES & RIGHT OF WAY WIDTH: _____
6. EXISTING TOPOGRAPHY AND CONTOURS LABELED: _____
7. TIE TO NEAREST ROAD INTERSECTION: _____
8. EXISTING UTILITIES (STORM, SEWER, WATER) _____
9. OTHER UTILITIES (GAS, ELECTRIC, CABLE): _____
10. LEGEND: _____
11. GRAPHIC SCALE: _____
12. NORTH ARROW: _____
13. INFORMATION OF FACT REFERENCING CORRECT FILED MAP _____
14. LOCATION AND TRIANGULATION OF SANITARY SEWER
CLEANOUT AND WATER SERVICE SHUT OFF VALVE: _____
15. SIGNATURE AND SEAL OF LAND SURVEYOR: _____
16. ALL DIMENSIONS OF DWELLING: _____
17. SPOTS SHOTS AT ALL CORNERS OF DWELLING: _____
18. SETBACKS DIMENSIONED: _____
19. DRIVEWAY LABELED AND SLOPE OF DRIVEWAY SHOWN: _____
20. MIN. 2% YARD SLOPES: _____
21. TIES SHOWN FROM HOUSE TO PROPERTY LINE: _____
22. AS-BUILT ELEVATION OF FINISHED FLOOR AND GARAGE FLOOR: _____
23. INDICATE LOCATION, SIZE OF PIPE AND DIRECTION OF FLOW OF
SUMP PUMP DISCHARGE, IF APPLICABLE _____

**OCEANPORT BOROUGH
MONMOUTH COUNTY, NEW JERSEY**

SITE PLAN COMPLETENESS CHECKLIST
(To be completed by applicant)

- | SUBMITTED | WAIVER
REQUESTED | N/A | |
|-----------|--------------------------|--------------------------|---|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Original and 4 copies of application forms and a digital set emailed |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Application form signed and notarized |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Owner Consent |
| 4. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> 5 complete sets of plans (site plan, lighting, details, etc.) and one digital set emailed. (Eight (8) additional sets of plans to be provided upon determination of completeness - plan sets can be of a reduced plan size, at the discretion of the Board Chairman) |
| 5. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Application fee and completed application/escrow fee schedule |
| 6. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Escrow fee and completed application/escrow fee schedule |
| 7. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Signed escrow agreement |
| 8. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Signed W-9 authorization form |
| 9. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> One (1) complete "Tax and Assessment Payment Report" forms which will be forwarded to the Tax Collector's office for verification that no delinquent taxes or assessments are due. |
| 10. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Survey of property which is less than 1-year old prepared by a New Jersey Licensed Land Surveyor showing: <ol style="list-style-type: none"> a. Boundaries of the property b. Building and setback lines and the lines of all existing streets, roads, reservations, easements, right-of-ways and areas dedicated to public use, within two hundred (200) feet of the property c. Title, reference meridian, scale d. Name and address of record owner e. Name, address, professional license number and seal of the surveyor who prepared the survey |

The following shall be on the plans submitted:

11. Key map showing site and its relation to surrounding area. Map shall be at a scale of not less than one inch equals 1000 feet. Names of all streets and Township boundaries within 500 feet shall be shown.
12. Plans certified by appropriate professional as stipulated by New Jersey revised statutes Title 45:8, 13:40-7.1 et seq
13. Date (of original and revisions), scale, and north arrow
14. Zone data, including zone district and tax map block, lot and street number
15. Location of all existing and proposed buildings or structures with spot elevations
16. Names of all owners of record of all adjoining property, and property directly across the street or streets from the property involved, and the block and lot numbers of all the property shown on the plan
17. Existing and proposed contours at 1 foot intervals based on National Geodetic Vertical Datum 1929 to determine general slope and natural drainage of the land. Where necessary to evaluate drainage, the Board shall require contours to be shown for all lands within 200 feet of the property in question.
18. Existing and proposed easements
19. The location of all existing watercourse, wooded areas, rights-of-way, streets, roads, highways, freeways, railroads, canals, rivers, buildings, structures or any other feature directly on the property or beyond the property if such feature has an effect upon the use of said property.
20. All existing schools and zoning district boundaries within two hundred (200) feet of the property. Such features shall be shown on a separate map or as a key map on the detailed map itself.
21. The distances, as measured along the centerlines of existing streets abutting the property to the nearest intersection with any public street.
22. Location of existing edge of pavement and proposed edge of pavement of all roadways abutting site.

23. Location of all existing and proposed storm drainage structures and utility lines including telephone, power, water, sewer, gas, etc., whether publicly or privately owned, with pipe sizes, grades and direction of flow.
24. Proposed use or uses of land and buildings, including outdoor storage.
25. Size and location of all driveways and curb cuts.
26. Cross sections and construction details of all streets, pavement, curb, sidewalks and walkways
27. Parking and loading layout
28. Total number of parking or loading spaces
29. Dimensions of parking or loading spaces, aisles and parking islands
30. Interior traffic and pedestrian circulation
31. Percent total impervious coverage
32. Percent total building coverage
33. Building dimensions
34. Area, finished floor elevation and height of proposed and existing building or structures.
35. Preliminary architectural plans for proposed buildings including building elevations (each side) indicating materials and colors to be used in construction, height and general design or architectural styling.
36. Location, direction of illumination and intensity of all outdoor lighting. Type of fixture and height of lighting area to be indicated and isolux lines are to be superimposed on the plan.
37. Manufacturer's catalogue cut sheet for proposed lighting
38. The location, size, materials, illumination and construction details of existing and proposed signs
39. Existing and proposed screening and landscaping, including a planting plan, with quantity, species, caliper and location of plantings.

40. The location of and identification of proposed open spaces, parks or other recreation areas
41. Name, address, professional license number and seal of the architect, engineer, planner or surveyor preparing the site plan
42. Refuse enclosure location and detail
43. Fencing detail
44. Percolation test and soil log results (if applicable) certified by New Jersey Licensed Professional Engineer
45. Soils Report, including location of seasonal high ground water table
46. Evidence of soil erosion and sediment control plan submittal to Freehold Soil Conservation Service (if soil disturbance meets or exceeds 5,000 square feet)
47. Evidence of submittal to New Jersey Department of Transportation for Access Permit and Drainage Permit (if applicable)
48. Traffic study, including anticipated traffic volumes, capacity of existing or proposed roads traffic impact on road network and need for traffic improvements
49. Evidence of submittal to New Jersey Department of Environmental Protection for stream encroachment permit (if applicable)
50. A Letter of Interpretation from New Jersey Department of Environmental Protection Freshwater Wetlands Division, including evidence that notice was given to the Municipal Clerk pursuant to N.J.S. A. 13:9B. If the New Jersey Department of Environmental Protection deems that wetlands are present, or the applicant does not receive a response to its request for a Letter of Interpretation, the applicant shall show such areas on a survey of the property, prepared by a Licensed Surveyor of the State of New Jersey.
51. Evidence of submittal to Monmouth County Planning Board (if on County road or involving County drainage structure)
52. Stormwater Management Report

53. Statement of the steps to be taken by the applicant to eliminate any downstream drainage problems which may be caused by the development of the site and to mitigate impact from prior upstream development.
54. Copy of any protective covenants or deed restrictions that are intended to cover all or any part of the tract
55. Statement detailing size of proposed building, proposed use, number of tenants, number of employees, anticipated hours of operation, traffic, etc.
56. Such other items and information pertaining to the site as the Board Engineer reasonably determines would be necessary or helpful to the Planning or Zoning Board in reviewing the application.
57. Staging plan for any area that will be developed in stages, a total development plan must be submitted in accordance with this section.
58. Location of 100 year flood limit as depicted on current State of New Jersey, Department of Environmental Protection, Bureau of Flood Plain Management, Delineation of Floodway and Flood Hazard Area Map. If stream has not been studied then a copy of the application for floodplain delineation to NJDEP Land Use Regulation Program should be provided, if applicable.

**OCEANPORT BOROUGH
MONMOUTH COUNTY, NEW JERSEY**

MINOR SUBDIVISION COMPLETENESS CHECKLIST
(To be completed by applicant)

- | SUBMITTED | WAIVER
REQUESTED | N/A | |
|-----------|--------------------------|--------------------------|--|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Original and 4 copies of application forms and one digital set emailed |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Application form signed and notarized |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Owner's Consent |
| 4. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> 5 complete sets of plat and one digital set emailed (Eight (8) additional sets of plans to be provided upon determination of completeness - plan sets can be of a reduced plan size, at the discretion of the Board Chairman) |
| 5. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Scale not less than 1" to 100' and shall conform to NJSA 46:23-9.9 et seq. |
| 6. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Plans no greater than 36"x42" size |
| 7. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Application fee and completed application/escrow fee schedule |
| 8. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Escrow fee and completed application/escrow fee schedule |
| 9. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Signed escrow agreement |
| 10. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Signed W-9 authorization form |
| 11. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> One (1) complete "Tax and Assessment Payment Report" forms which will be forwarded to the Collector of Revenue office for verification that no delinquent taxes or assessments are due. |
| 12. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Survey of property which is less than 1 year old prepared by a New Jersey Licensed Land Surveyor showing: <ul style="list-style-type: none"> a. Boundaries of the property b. Building and setback lines and the lines of all existing streets, roads, reservations, easements, right-of-ways and areas dedicated to public use, within two hundred (200) feet of the property c. Title, reference meridian, scale |

- d. Name and address of record owner
- e. Name, address, professional license number and seal of the surveyor who prepared the survey

- 13. Percolation test and soil log results (if applicable) certified by New Jersey License Professional Engineer.
- 14. Soil report, including location of seasonal high ground water table.
- 15. Evidence of soil erosion and sediment control plan submittal to Freehold Soil Conservation Service (if disturbance of 5,000 square feet or more of soil).
- 16. Evidence of submittal to New Jersey Department of Transportation for Access Permit and/or Drainage Permit (if applicable).
- 16. Evidence of submittal to New Jersey Department of Environmental Protection for Stream Encroachment Permit (if applicable).
- 17. A statement indicating that the property which is the subject of the application for development is free of delineation as a freshwater wetland, as more particularly defined in N.J.S.A. 13:9B-3 et seq, or if any part of the property which is the subject of the application for development is delineated as “freshwater wetland”, then the applicant shall show such areas on a survey of the property, prepared by a Licensed Surveyor of the State of New Jersey.
- 18. Evidence of submittal to Monmouth County Planning Board (if on County road or involving County drainage structure)
- 19. Copy of any protective covenants or deed restrictions that are intended to cover all or any part of the tract.
- 20. A written statement setting forth the intentions of the applicant in regard to the proposed character of the subdivision, whether for the sole purpose of the sale of land or for the construction and sale of homes, with data as to the number, price range, size, floor plan and the outside design of homes, deed restrictions, date of beginning and completion of construction and proposed method of maintaining parking or recreational areas.

The following shall be on the plans submitted:

21. Title of Plat
22. Key map showing site and its relation to surrounding area. Map shall be at a scale of not less than one inch equals 1000 feet. Names of all streets and Township boundaries within 500 feet shall be shown.
23. Entire tract shown on one sheet.
24. Plat based on a new or existing survey of the property being subdivided, as per revised statutes title 45:8.
25. Location of that portion which is to be subdivided in relation to the entire tract.
26. Plans signed and sealed by a New Jersey Licensed Land Surveyor (survey data only) and by a New Jersey Licensed Engineer if engineering has been performed.
27. Written and graphical scales
28. Zone data table
29. The tract name, tax map sheet, block and lot number, date, reference meridian, scale and the following names and addresses:
 - a. The record owner or owners
 - b. The subdivider
 - c. The person who prepared the map
30. Acreage of tract to be subdivided to the nearest hundredth of an acre.
31. Accurate length of all existing and proposed lot lines.
32. Proposed lot lines.
33. Existing lots lines to remain.
34. Existing lot lines to be removed.
35. Minimum building setback line on all lots.

36. Existing and proposed wells or sanitary sewer systems on tract.
37. Areas of existing and proposed lots shown to nearest 100th of an acre and in square feet.
38. Existing and proposed streets, sidewalks, storm drains, radii, curbs, bridges, culverts.
39. Setback distance of all existing and proposed structures from each lot line.
40. Natural features, such as wooded areas and rock formations.
41. Existing and proposed structures.
42. Existing and proposed buffer screening and landscaping, including a planting plan, with quantity, species, caliper and location of planting if required.
43. All existing schools, zoning and special district boundaries within two hundred (200) feet of the property. Such features shall be shown on a separate map or as a key map on the detailed map itself.
44. All lots lines, streets, roads, streams, wooded areas and other physical features on or within two hundred (200) feet of the extremities of the proposed subdivision and the existing land use of all adjacent land.
45. Location of existing trees with caliper of 4 inches dbh or more.
46. Existing and proposed contours at 2 foot intervals based on National Geodetic Vertical Datum 1929 to determine general slope and natural drainage of the land. Where necessary to evaluate drainage, the Board shall require contours to be shown for all lands within 200 feet of the property in question.
47. Existing and proposed easements (sight triangle included).
48. The distances, as measured along the centerlines of existing streets abutting the property to the nearest intersection with any public street.
49. Location of existing edge of pavement and proposed edge of pavement of all roadways abutting site.
50. Location of existing right-of-way lines (both sides) of all streets abutting the subdivision.
51. Location of all existing and proposed storm drainage structures and utility lines including telephone, power, water sewer, gas, etc.,

whether publicly or privately owned, with pipe sizes, grades and direction of flow.

52. Location of all the land which lies within the 100 year flood line as depicted on the current State of New Jersey, Department of Environmental Protection, Division of Water Services, Bureau of Flood Plain Management, Delineation of Floodway and Flood Hazard Area Maps. If the stream has not been studied then a copy of Application for Delineation to NJDEP Land Use Regulation, shall be provided, if applicable.
53. Such other items and information pertaining to the site as the Board Engineer reasonably determines would be necessary or helpful to the Planning or Zoning Board in reviewing the application.

**OCEANPORT BOROUGH
MONMOUTH COUNTY, NEW JERSEY**

**PRELIMINARY MAJOR SUBDIVISION
COMPLETENESS CHECKLIST
(To be completed by applicant)**

	SUBMITTED	WAIVER REQUESTED	N/A	
1.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Original and 4 copies of application forms and one digital set emailed
2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Application form signed and notarized
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Owner's Consent
4.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5 complete sets of plans (site plan, lighting, details, etc.) and one digital set emailed. (Eight (8) additional sets of plans to be provided upon determination of completeness - plan sets can be of a reduced plan size, at the discretion of the Board Chairman)
5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Scale not less than 1" to 100' and shall conform to NJSA 46:23-9.9 et seq.
6.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Plans no greater than 36"x42" size
7.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Application fee and completed application/escrow fee schedule
8.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Escrow fee and completed application/escrow fee schedule
9.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signed escrow agreement
10.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signed W-9 authorization form
11.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One (1) complete "Tax and Assessment Payment Report" forms which will be forwarded to the Collector of Revenue office for verification that no delinquent taxes or assessments are due.
12.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Survey of property which is less than 1 year old prepared by a New Jersey Licensed Land Surveyor showing: a. Boundaries of the property b. Building and setback lines and the lines of all existing streets, roads, reservations, easements, right-of-ways and areas dedicated to public use, within two hundred (200) feet of the property c. Title, reference meridian, scale

- d. Name and address of record owner
- e. Name, address, professional license number and seal of the surveyor who prepared the survey

- 13. Percolation test and soil log results (if applicable) certified by New Jersey License Professional Engineer.
- 14. Soil report, including location of seasonal high ground water table.
- 15. Evidence of soil erosion and sediment control plan submittal to Freehold Soil Conservation Service (if disturbance of 5,000 square feet or more of soil).
- 16. Evidence of submittal to New Jersey Department of Transportation for Access Permit and/or Drainage Permit (if applicable).
- 17. Traffic study, including anticipated traffic volumes.
- 16. Evidence of submittal to New Jersey Department of Environmental Protection for Stream Encroachment Permit (if applicable).
- 17. A Letter of Interpretation from New Jersey Department of Environmental Protection Freshwater Wetlands Division, including evidence that notice was given to the Municipal Clerk pursuant to N.J.S. A. 13:9B. If the New Jersey Department of Environmental Protection deems that wetlands are present, or the applicant does not receive a response to its request for a Letter of Interpretation, the applicant shall show such areas on a survey of the property, prepared by a Licensed Surveyor of the State of New Jersey.
- 18. Evidence of submittal to Monmouth County Planning Board (if on County road or involving County drainage structure)
- 19. Storm drainage calculations including drainage area maps for on-site and off-site.
- 20. Recycling Plan, which shall include details as to the storage, collection disposition and recycling of recyclable materials.
- 21. Copy of any protective covenants or deed restrictions that are intended to cover all or any part of the tract.
- 22. A written statement setting forth the intentions of the applicant in regard to the proposed character of the subdivision, whether for the sole purpose of the sale of land or for the construction and sale of homes, with data as to the number, price range, size, floor plan and the outside design of homes, deed restrictions, data of beginning and completion of

construction and proposed method of maintaining parking or recreational areas.

23. Such other items and information pertaining to the site as the Board Engineer reasonably determines would be necessary or helpful to the Planning Board in reviewing the application.

The following shall be on the plans submitted:

24. Title of Plat
25. Key map showing site and its relation to surrounding area. Map shall be at a scale of not less than one-inch equals 1000 feet. Names of all streets and Township boundaries within 500 feet shall be shown.
26. Plat based on a new or existing survey of the property being subdivided, as per revised statutes title 45:8.
27. Plans signed and sealed by a New Jersey Licensed Land Surveyor (survey data only) and by a New Jersey Licensed Engineer if engineering has been performed.
28. Written and graphical scales
29. Zone data table
30. The tract name, tax map sheet, block and lot number, date, reference meridian, scale and the following names and addresses:
- a. The record owner or owners
 - b. The subdivider
 - c. The person who prepared the map
31. Acreage of tract to be subdivided to the nearest hundredth of an acre.
32. Proposed lot lines.
33. Existing lot lines remain.
34. Existing lot lines to be removed.
35. Setback distance of all existing and proposed structures from each lot line.
36. Areas of lots shown to nearest square foot.

37. The proposed location and area (in acres or square feet) of all required or proposed open space areas.
38. Existing and proposed streets, sidewalks, storm drains, radii, curbs, bridges, culverts.
39. Natural features, such as wooded areas and rock formations.
40. Existing and proposed structures.
41. Existing and proposed screening and landscaping, including a planting plan, with quantity, species, caliper and location of planting noted.
42. All existing schools, zoning and special district boundaries within two hundred (200) feet of the property. Such features shall be shown on a separate map or as a key map on the detailed map itself.
43. All lots lines, streets, roads, streams, wooded areas and other physical features on or within two hundred (200) feet of the extremities of the proposed subdivision and the existing land use of all adjacent land.
44. Location of existing trees with caliper of 3 inches dbh or more.
45. Existing and proposed contours at 2 foot intervals based on National Geodetic Vertical Datum 1929 to determine general slope and natural drainage of the land. Where necessary to evaluate drainage, the Board shall require contours to be shown for all lands within 200 feet of the property in question.
46. High and low points of all proposed streets, proposed cross sections and centerline profiles of all proposed streets.
47. Existing and proposed easements.
48. The distances, as measured along the center lines of existing streets abutting the property to the nearest intersection with any public street.
49. Location of existing edge of pavement and proposed edge of pavement of all roadways within two hundred (200) feet of the property.
50. Location of all existing and proposed storm drainage structures and utility lines including telephone, power, water, sewer, gas, etc., whether publicly or privately owned, with pipe sizes, grades and direction of flow.
51. Names of all owners of record of all parcels within 200 feet from the property involved, and the block and lot numbers of all the property shown on the plan.

52. Plans and profiles of all proposed utility layouts, including storm drainage, sanitary sewers and waterlines, showing feasible connections to existing utility systems or to proposed systems and service connections, which will be installed before the plat is submitted for final approval.
53. Statement of the steps to be taken by the subdivider to eliminate any downstream drainage problems which may be caused by the development of the subdivision and to mitigate impact from prior upstream development.
54. The location, direction of illumination and intensity of all outdoor lighting. Type of fixture and height of lighting are to be indicated and isolux lines are to be superimposed on the plan.
55. Manufacturer's catalogue cut sheet for proposed lighting.
56. Location of all land which lies within the 100 year flood line as depicted on the current State of New Jersey, Department of Environmental Protection, Division of Water Services, Bureau of Flood Plain Management, Delineation of Flood Way and Flood Hazard Area Maps. If the stream has not been studied then a copy of the application for delineation to NJDEP Land Use Regulation shall be provided, if applicable.
57. Location of all areas with seasonal high water table at the surface, including lakes and ponds.
58. Location of all areas with seasonal high water table within one and a half (1-1/2) feet of the surface.

**OCEANPORT BOROUGH
MONMOUTH COUNTY, NEW JERSEY**

FINAL SUBDIVISION COMPLETENESS CHECKLIST

(To be completed by applicant)

	SUBMITTED	WAIVER REQUESTED	N/A	
1.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Original and 4 copies of application forms and one digital copy emailed
2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Application form signed and notarized
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Owners Consent
4.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5 complete sets of final plat and one digital copy emailed
5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Scale not less than 1" to 100'
6.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Plans no greater than 36"x42" size
7.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Application fee and completed application/escrow fee schedule
8.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Escrow fee and completed application/escrow fee schedule
9.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signed escrow agreement
10.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signed W-9 authorization form
11.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One (1) complete "Tax and Assessment Payment Report" forms which will be forwarded to the Collector of Revenue office for verification that no delinquent taxes or assessments are due.
12.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Copy of protective covenants or deed restrictions that are intended to cover all or any part of the tract.
13.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Final map on CAD-generated data file submitted via email

The following shall be on the plans submitted:

14. Entire tract shown on one sheet
15. Plat based on a new or existing survey of the property being subdivided, as per revised statutes title **45:8**.
16. Plans signed and sealed by a New Jersey Licensed Land Surveyor.
17. The tract name, tax map sheet, block and lot number, data, reference meridian, scale and the following names and addresses:
 - a. The record owner or owners
 - b. The subdivider
 - c. The person who prepared the map
18. Acreage of tract to be subdivided to the nearest hundredth of an acre.
19. Accurate length of all existing and proposed lot lines.
20. Tract boundary lines, right-of-way lines of streets, street names, easement and other rights-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines; with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves.
21. The purpose of any easement of land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
22. Each block and the lots within each block numbered in accordance with a number system provided by the Municipal Engineer.
23. Minimum building setback line on all lots and other sites.
24. Location and description of all existing and proposed monuments.
25. Names of owners of adjoining land.
26. Certification by a Licensed New Jersey Land Surveyor as to the accuracy of details of the plat, as required by law.
27. Certification that the applicant is agent or owner of the land or that the owner has given consent under an option agreement.

28. When approval of a plat is required by an officer or body of such municipality, county or state, approval shall be certified on the plat.
29. Cross sections and profiles of streets, approved by the Township Engineer.
30. Plans and profiles of storm and sanitary sewers, water mains and hydrants approved by the Township Engineer, Fire and Sewerage Authority. All plans and profiles for gas, electric and telephone utilities are to be approved by the appropriate utility company.
31. Final grading plans showing two foot contours, the proposed solutions to difficult drainage problems that might be encountered as a result of the finished grades and the location and elevation of the main levels of each building.

BOROUGH ZONING MAP

BOROUGH OF OCEANPORT
MONMOUTH COUNTY, NEW JERSEY

November 3, 2020



LEGEND:

RESIDENTIAL ZONES

-  R-1, RESIDENTIAL SINGLE-FAMILY
-  R-2, RESIDENTIAL SINGLE-FAMILY
-  R-3, RESIDENTIAL SINGLE-FAMILY
-  R-4, RESIDENTIAL SINGLE-FAMILY
-  R-5, RESIDENTIAL SINGLE-FAMILY & TWO-FAMILY
-  R-7.5, RESIDENTIAL SINGLE-FAMILY
-  RM, RESIDENTIAL MULTIFAMILY
-  RMW, RESIDENTIAL MULTIFAMILY WATERFRONT
-  RMO, RESIDENTIAL MULTIFAMILY DEVELOPMENT (FEE-SIMPLE OWNERSHIP)

BUSINESS ZONES

-  B-1, PROFESSIONAL AND OFFICE
-  B-2, GENERAL & RECREATIONAL COMMERCIAL

FORT MONMOUTH ZONES

-  FM-GT, FORT MONMOUTH - GREEN TECH CAMPUS
-  FM-HC, FORT MONMOUTH - HORSENECK CENTER
-  FM-MU, FORT MONMOUTH - EDUCATION/ MIXED-USE NEIGHBORHOOD

INDUSTRIAL ZONES

-  I, INDUSTRIAL

VILLAGE CENTER ZONES

-  VC, VILLAGE CENTER RETAIL COMMERCIAL

OVERLAY ZONES

-  VC-AH, VILLAGE CENTER AFFORDABLE HOUSING
-  MPAH-AH, MONMOUTH PARK AGE-RESTRICTED AFFORDABLE HOUSING

Kendra Lelie, PP, AICP, LLA
Senior Associate

klelie@kylemcmanus.com
P.O. Box 236, Hopewell, NJ 08525
T (609) 451 0013



POLICY
PLANNING
DESIGN

Data Sources: Monmouth County Parcels; NJ Roadway Network; NJDEP Waterbodies; NJDEP Municipal Boundaries