

Browse

North Plainfield, NJ

Revised General Ordinances

Title Page

ADOPTING ORDINANCE NO. 88-27

CHAPTER 1 GENERAL[1]

CHAPTER II ADMINISTRATION

CHAPTER III POLICE REGULATIONS1

CHAPTER IV GENERAL LICENSING

CHAPTER V ANIMAL CONTROL1

CHAPTER VI ALCOHOLIC BEVERAGE CONTROL

CHAPTER VII TRAFFIC

CHAPTER VIII PARKING LOTS AND PARKING METERS.[1]

CHAPTER IX PERSONNEL*

CHAPTER X BUILDING AND HOUSING

CHAPTER XI PROPERTY MAINTENANCE

CHAPTER XII RENT STABILIZATION[1]

CHAPTER XIII WATER AND SEWER

CHAPTER XIV STREETS, SIDEWALKS AND SANITATION

CHAPTER XV SWIMMING POOLS*

CHAPTER XVI ELECTION DISTRICTS1

CHAPTER XVII GREEN ACRES AREA[1]

CHAPTER XVIII AIR POLLUTION CONTROL

CHAPTER XIX FIRE PREVENTION1

CHAPTER XX FLOOD PREVENTION1

CHAPTER XXI SOIL AND SOIL REMOVAL

CHAPTER XXII LAND DEVELOPMENT

ARTICLE I GENERAL PROVISIONS

ARTICLE II PLANNING BOARD

ARTICLE III MASTER PLAN

ARTICLE IV CAPITAL IMPROVEMENTS PROGRAM AND PROJECT REVIEW

ARTICLE V OFFICIAL MAP

ARTICLE VI SUBDIVISION AND SITE PLAN REVIEW AND APPROVAL

ARTICLE VII SITE PLAN AND SUBDIVISION STANDARDS

ARTICLE VIII ZONING BOARD OF ADJUSTMENT

ARTICLE IX FAIR SHARE ORDINANCE

ARTICLE IXA GROWTH-SHARE AFFORDABLE HOUSING OBLIGATION

ARTICLE X HOME BASED BUSINESS

ARTICLE XI WELL HEAD PROTECTION

ARTICLE XII ARCHITECTURAL DESIGN STANDARDS

SCHEDULE OF REQUIREMENTS

CHAPTER XXIII TAX EXEMPTIONS*

CHAPTER XXIV HOTEL AND MOTEL ROOM OCCUPANCY TAX

CHAPTER XXV FENCES

CHAPTER XXII LAND DEVELOPMENT

ARTICLE I GENERAL PROVISIONS

22-1 SHORT TITLE.

This Chapter shall be known and may be cited as the "Land Development Regulations of the Borough of North Plainfield, New Jersey". (Ord. #679, S 101)

22-2 PURPOSES.

There is hereby ordained by the Council for the Borough, pursuant to the provisions of P.L. 1975, c. 291, a Land Development Chapter for the following purposes:

- a. To guide the appropriate use of development of all lands in the Borough, in a manner which will promote the public health, safety, morals, and general welfare;
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;
- c. To provide adequate light, air and open space;
- d. To ensure that the development of the Borough does not conflict with the development and general welfare of neighboring municipalities, the County and the State as a whole;
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- g. To provide sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all citizens;
- h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
- j. To promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;
- k. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.
- l. To provide that the unique character of its neighborhoods be maintained.
(Ord. #679, S 102)

22-3 DEFINITIONS.

As used in this Chapter:

Accessory Structure shall mean a separate, subordinate structure or building on the same lot with a principal and main structure or building and devoted exclusively to an accessory use.

Accessory Use shall mean a use naturally, normally and customarily incidental and subordinate to the principal or main use of a structure, building or lot.

Administrator shall mean the Federal Insurance Administrator, to whom the Secretary has delegated the administration of the Federal Flood Insurance Program.

Adult Book Store shall mean an establishment, business or use having as a predominant part of its stock in trade and presented for observation or purchase by persons therein: books, magazines, photographs, pictures, films, devices or other periodicals or documents which are distinguished or characterized by their emphasis on matter depicting or relating to sexual activities.

Adult Motion Picture Theater shall mean an enclosed building with the capacity for one or more persons used predominantly for presenting for observation therein, material distinguished or characterized by an emphasis on matter depicting or relating to sexual activities.

Alteration shall mean any change in the supporting members of a structure, to add to or reduce the size of a structure, a change in use from that permitted in one zone district to a use permitted in another district, a conversion of a structure or building or part thereof, or removal of a structure from one location to another.

Anatomical Areas shall mean (a) less than completely or opaquely covered human genitals, buttocks, pubic regions and female breasts; or, (b) human male genitals in a discernibly rigid or aroused state, even if completely and/or opaquely covered.

Apartment Building shall mean a building designed and used for three (3) or more dwelling units.

Area shall mean any part of the surface of the land area comprising the Borough.

Attic shall mean the open, non-habitable space between the ceiling beams of the top habitable story and the roof rafters in any building.

Base Flood shall mean the flood having a one (1%) percent chance of being equaled or exceeded in any given year.

Basement shall mean a portion of the building partly underground and having more than one-half (1/2) of its clear height above the average level of the finished grade at the front of the building, or adjoining ground. (See Cellar.)

Bedroom shall mean a room used, designated for use, or designed for use by one (1) or more persons for sleeping.

Block shall mean the length on one side of the street between two (2) street intersections.

Boarder shall mean a person who is not related to the head of the household and who pays for the privilege of boarding.

Borough shall mean the Borough of North Plainfield, a municipal corporation in the County of Somerset, New Jersey.

Building shall mean a structure having a roof supported by columns, piers, walls or similar structural parts, used or intended to be used for the housing, enclosure or shelter of persons, animals or property of any kind.

Building Line or Setback Line shall mean a line set back from a street line in accordance with certain specified distances as hereinafter set forth.

Cabaret shall mean an establishment, business or use which features dancing depicting, describing or demonstrating sexual activities or anatomical areas by male and/or female entertainers.

Cellar shall mean a portion of a building partly underground, and having more than one-half (1/2) of its clear height below the average level of the finished grade at the front of the building or adjoining ground. (See Basement.)

Clerk shall mean the Borough Clerk of North Plainfield.

Common Ownership shall mean the ownership of two (2) or more contiguous lots of real property by one (1) person or by two (2) or more persons owning such property in the same form of ownership, i.e., joint tenants, tenants by the entirety, or tenants in common.

Corner Lot shall mean a lot at the junction of and having frontage on two (2) or more intersecting streets. A corner lot is also a lot bounded on two (2) or more sides by the same street. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

Curb Level shall mean the officially established elevation of the street curb in front of the mid-point of the front lot line.

Deck shall mean an open porch without a roof.

Design Storm shall mean that amount and rate of precipitation used in drainage design calculations.

Development shall mean as defined by statute.

Dwelling or Dwelling Unit or Unit of Dwelling Space shall mean any room or rooms, or suite or apartment thereof,

whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

Dwelling, One-Family shall mean a detached building designed for and containing one (1) dwelling unit only occupied exclusively by one (1) family.

Dwelling, Two-Family shall mean a detached building containing two (2) dwelling units occupied exclusively for two (2) families.

Family shall mean a person or any number of persons related by blood, marriage or adoption, and foster children placed with such families by the N.J. Board of Child Welfare or duly incorporated child care agency, including in-servants, living together as single, non-profit housekeeping unit and using certain rooms and cooking facilities in common; or a group of not more than four (4) persons not related by blood living together as a single non-profit housekeeping unit and using certain rooms and cooking facilities in common.

Floor Area shall mean the total area of all floors of a building or portion thereof computed by using the inside dimensions of the outside walls of each floor of the building or portion thereof; however, excluding attic and basement floors, open porches, breeze ways, and garages. Any basement area in a nonresidential zone that is used for sale or display and is open to the public.

Flood Elevation Determination shall mean a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one (1%) percent or greater change of occurrence in any given year.

Flood Hazard Boundary Map (FHBM) shall mean an official map of a community issued by the Administrator, where the boundaries of the flood, mudslide, (i.e. mudflow) related erosion areas having special hazards have been designated as Zone A.M. and/or E.

Flood Insurance Rate Map (FIRM) shall mean an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Plain or Flood-Prone Area shall mean any land area susceptible to being inundated by water from any source.

Flood Plain Management shall mean the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

Floodway Encroachment Lines shall mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

Garage, Private shall mean a detached accessory building or portion of the principal building designed primarily for the storage of passenger vehicles and not more than one (1) commercial vehicle with a rated capacity not exceeding three-quarter (3/4) ton owned or used by the occupant of the principal building to which the garage is an accessory.

Garage, Public shall mean a garage, other than a private garage available to the public, operated for gain, and which is used for sale, storage, servicing, rental, and/or repair of automobiles, or other motor vehicles, including the sale of motor parts and accessories, oil and other fuel incidental to the aforesaid uses; provided, that the aforesaid uses shall be conducted within an enclosed building.

Automatic car wash operations are included within this definition; but, it does not include automotive service stations even though some of the uses herein are the same or similar to automotive service stations.

Garage, Automotive Service Station shall mean a place where gasoline or other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale at retail to the public, including sale of accessories, oiling, greasing, washing, and light motor vehicle repairs on the premises, but in no case to include major vehicle repairs or rebuilding, or fender, body or frame straightening, painting or rebuilding.

Garden Apartments shall mean a building or group of buildings situated on one (1) lot and containing separate dwelling units for no less than four (4) families.

Gasoline Service Station shall mean a building or premises in which or upon which is conducted a business involving the retail sale and direct delivery to motor vehicles of gasoline and lubricating oil regardless of any other business on the premises, which business may or may not include facilities for lubricating, washing or otherwise servicing motor

vehicles, but not necessarily including facilities for body repair work or painting.

Habitable Floor shall mean any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

Height of a Building shall mean vertical distance measured, in the case of flat roofs, from the curb level to the highest point of the roof beams, adjacent to the street wall, and in the case of pitched roofs, from the curb level to the average height of the gable. In the case of both flat roofs and pitched roofs, the measurement shall be made through the center of the street facade. Where no roof beams exist or there are structures wholly or partly above the roof, the heights shall be measured from the curb level to the highest point of the building. Where the walls of a building do not adjoin the street, the average level of the ground along the front wall of the building may be taken in measuring its height instead of the curb level.

Impermeable Surface shall mean any condition of the surface area which produces in excess of fifty (50%) percent of runoff from rainfall as determined by drainage calculations.

Institutional Uses shall mean non-profit institutions limited to churches, church-owned cemeteries, public or private day schools, not operated for profit, covering grades kindergarten through grade twelve (12), hospitals for humans, municipally owned or operated buildings or structures used for public purposes.

Interior Lot shall mean any lot other than a corner lot.

Lot shall mean a parcel of land, the location, dimensions and boundaries of which are set forth on the latest Borough Tax Map. Despite what may be disclosed on the current Borough Tax Map, however, if contiguous lots, any one of which is substandard and fails to meet the minimum lot size requirements of the zone in which it falls, are in common ownership, the entire land area shall, for the purposes of administering and enforcing this Chapter, be construed to be one (1) lot.

Lot Area shall mean the total area included within the lot lines.

Lot Depth shall mean a distance between the mean front street line and the mean rear line of a lot. The greater frontage of a corner lot is its depth and the lesser frontage is its width and such lesser frontage shall be the front street line of a corner lot.

Lot Frontage shall mean the distance between side lot lines at their foremost points, (where they intersect with the street line) shall not be less than the required lot width along the street line.

Lot Width shall mean the mean width of a lot measured at right angles to its depth.

Massage Shop shall mean an establishment, business or use which provides the service of massage and body manipulation, unless operated by an athletic trainer, chiropractor, physical therapist, physician or masseuse licensed by, or registered with, the State of New Jersey.

Minor Subdivision shall mean a subdivision of land that does not involve a. the creation of more than three (3) lots, b. planned development, c. any new street or d. extension of any off-tract improvement.

Mixed Uses shall mean simultaneous residential and nonresidential uses of a single lot or building on a single lot.

Mobile Homes shall mean a structure, transportable in one (1) or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

Modeling Studio shall mean an establishment, business or use which provides the service of modeling in a manner depicting, describing or demonstrating sexual activities or anatomical areas for the purpose of reproducing such depictions, descriptions or demonstrations by means of photographs, moving pictures, or video recording.

Motel shall mean one (1) or more structures, each structure consisting of twenty (20) or more sleeping units, all of which shall be furnished with furniture, baths, lights, linens and maid service, and to be utilized to accommodate guests for compensation, together with an office for registry purposes and such other usual and customary incidental uses as may be allowed in accordance with the provisions of this Chapter.

Nonconforming Use shall mean a lawful use of a building, structure or land in existence at the time of adoption of this Chapter, which use is in violation of the use regulations of the zone in which it is located.

Nonconforming Structure shall mean a lawful structure in existence at the time of adoption of this Chapter, which is in violation of the height, bulk, yard, court, or similar regulation of the zone in which it is located.

Occupancy or Occupied shall mean any dwelling unit shall be construed to be occupied if one (1) or more persons or a family customarily reside in the dwelling unit overnight. In nonresidential buildings, the installation, storage or use of equipment, merchandise or machinery in any commercial, public or industrial building shall be construed as constituting occupancy of the building.

Office shall mean a building or portion thereof used as the place of business of a person, corporation, firm or public agency for professional services and/or administrative and executive purposes as distinguished from a shop or store.

Off-Street Loading Space shall mean an accommodation for the off-street parking of a commercial vehicle for the purpose of delivery to or receipt from a building of goods and materials and having a width of at least ten (10') feet, a length of at least twenty-five (25') feet and a clearance above grade of at least fourteen (14') feet.

Off-Street Parking Area shall mean an open area, other than a street or other public way, used for the parking of motor vehicles and available for use whether for a fee or as a service or privilege for clients, customers, suppliers or residents.

Off-Street Parking Space shall mean an accommodation for the off-street parking of one (1) motor vehicle. Such parking space shall have an area of not less than two hundred (200) square feet exclusive of access drives or aisles, shall be a minimum of ten (10') feet in width measured perpendicular to the axis of the length and shall have adequate provisions for ingress and egress on the property.

Parking Area shall mean an open area other than a street or other public road or way used for the parking of motor vehicles, including access drives or aisles for ingress or egress thereto and therefrom.

Patio shall mean a recreation area that adjoins a dwelling at ground level; a court.

Percolation shall mean a test designed to determine the ability of the ground to absorb storm runoff. The details of the test, including certification or observation requirements shall be set by the Borough Engineer and shall be in accordance with accepted engineering standards and practices.

Person shall mean and include any person, individual, business entity, partnership, association, corporation, company or organization of any kind or nature, including state and local government and agencies.

Porch (open) shall mean a porch which is not fully enclosed with permanent or semi-permanent material.

Portico shall mean a colonnade or covered ambulatory.

Premises shall mean a lot including any buildings or structures thereon.

Principal Structure shall mean a structure arranged, adapted or designed for a predominant or primary purpose for which a lot may be used.

Regulated Use shall mean adult bookstores, adult motion picture theaters, cabarets, massage shops and modeling studios.

Regulatory Floodway shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Roomer shall mean a person who is not related to the head of the household and who pays for the privilege of rooming.

Sexual Activities shall mean (a) fondling of human genitals, buttocks, pubic regions or female breasts; (b) acts of oral or sexual intercourse, autoeroticism, sodomy or the simulation of any of the above acts; or, (c) stimulation of human genitals.

Sign shall mean a visible device for attracting attention and/or giving information, through the use of letters, symbols, or any other means such as, but not limited to, models, flags and pennants. Such sign shall be deemed to consist of the background to which it is affixed and if not affixed to a background shall be deemed to include all of the area within its maximum horizontal and vertical dimensions which most clearly outline the sign. Not included or restricted are the flag, pennant, or insignia of the Nation, State, Borough or other division of government.

Sign, Advertising shall mean a sign concerning objects or matters not directly related to the premises on which it is located, for example, a billboard.

Sign, Announcement shall mean a sign identifying the occupant of a structure or space and his profession or activity.

Sign, Banner shall mean a flexible sign supported at one (1) or both ends.

Sign, Business shall mean a sign identifying the business, activity, products, uses or other matters concerning the parcel

or premises on which the sign is located.

Sign, Ground shall mean any sign erected, constructed or maintained for the purposes of displaying outdoor advertising by means of posters, pictures, pictorial or reading matter, when such sign is supported by one (1) or more uprights, or braces, placed upon or in the ground and not attached to any part of the building.

Sign, Roof shall mean any sign erected, constructed or maintained upon the roof of any building.

Sign, Wall shall mean any sign or poster on any outside surface or plane that may be painted or affixed to any exterior wall, surface or window of any building.

Sign, Projecting shall mean any letter, word, model, sign, device or representation used in the nature of an advertisement, announcement or direction affixed to any building wall and extending beyond the building wall to which it is attached.

Single Ownership shall mean ownership by one (1) person or ownership by two (2) or more persons jointly, in common, or by the entirety, of a separate lot not adjoining land in the same ownership.

Special Hazard Area shall mean an area having special flood hazards and shown on a FHBM or FIRM as Zone A, AO, A1-99.

State Coordinating Agency shall mean the agency of the State government or other office designated by the Governor of the State or by State Statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that State.

Story-Half shall mean a portion of a building situated above a story with a minimum height of five (5') feet where the walls meet a sloping roof and having a minimum average height of seven and one-half (7 1/2') feet.

Street shall mean a public or private right-of-way commonly used by the public for motor vehicle movement and which is approved for purposes of issuing building permits.

Structure shall mean anything constructed or erected which requires permanent or temporary location on the ground or attachment to something having such location, including a gas or liquid storage tank, that is principally above ground as well as a mobile home.

Substantial Improvement shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either, a. before the improvement or repair is started, or b. if the structure has been damaged, and is being restored before the damage occurred.

Townhouse shall mean one of a series of single-family dwellings attached by common wall extending from the basement to the roof to a similar unit or units and having individual front and rear entrances.

Trailer Camp or Court shall mean an area designed for the parking of wheeled vehicles used or designed to be used for sleeping or other human occupancy.

Warehouse shall mean a building used for the temporary storage of goods, materials or merchandise for later or subsequent distribution or delivery elsewhere for purposes of processing or sale.

Water Surface Elevation shall mean the projected heights in relation to mean sea level reached by floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Yards.

- a. Front Yard shall mean an area, unoccupied except by a use as hereinafter specifically permitted, extending across the full width of a lot and lying between the abutting street right-of-way line and the nearest part of the principal structure on the lot.
- b. Side Yard shall mean an area, unoccupied except by a use as hereinafter specifically permitted, extending from the front yard to the rear yard of a lot and lying between the side lot line and nearest part of the principal structure on the lot.
- c. Rear Yard shall mean an area, unoccupied except by a use as hereinafter specifically permitted, extending across the full width of a lot and lying between the rear lot line and the nearest part of the existing or proposed principal structure on the lot.

Zoning Officer shall mean the Borough official charged with interpreting and enforcing the Land Development Chapter unless otherwise specified herein.

(Ord. #679, S 103; Ord. #679-G, S 1; Ord. #679-M-86-12; Ord. #92-11, S 1)

22-4 ADMINISTRATIVE PROCEDURES.

The Council, Planning Board, and Zoning Board of Adjustment shall adopt, and may amend reasonable rules and regulations, not inconsistent with the Municipal Land Use Law of 1975, P.L. 1975, c. 291 or this Chapter for the administration of their functions, powers and duties, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee, as established by Section 22-17 of this Chapter, for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the Clerk's office. (Ord. #679, S 104)

22-5 MEETINGS; QUORUMS.

Every Borough Agency shall by its rules fix the time and place for holding its regular meetings for business authorized to be conducted by such agency. Regular meetings of the Borough Agency shall be scheduled not less than once a month and shall be held as scheduled unless cancelled for lack of applications for development to process. The Borough Agency may provide for special meetings, at the call of the chairman, or on request of any two (2) of its members, which shall be held on notice to its members and the public in accordance with the provisions of the "Open Public Meetings Act", P.L. 1975, c. 231, and agency regulations. No action shall be taken at any meeting without a quorum being present. All actions shall be taken by a majority vote of a quorum except as otherwise required by Section 22-48 and Section 22-14, paragraph e; subsection 22-27.7, paragraph a; subsection 22-89.2, paragraph d; and subsection 22-89.8, paragraph b of this Chapter. Failure of a motion to receive the number of votes required to approve an application for development pursuant to the exceptional vote requirements of Section 22-48 or subsection 22-89.2, paragraph d of this Chapter shall be deemed an action denying the application. Nothing herein shall be construed to contravene any statute providing for procedures for governing bodies. (Ord. #679, S 105; Ord. #679-I-85-1)

22-6 PUBLIC MEETINGS AND MINUTES.

- a. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the provisions of the "Open Public Meetings Act", P.L. 1975, c. 231 and agency regulations.
- b. Minutes of every regular or special meeting shall be kept and shall include the names of all persons appearing and addressing the Borough Agency and of the persons appearing by attorney, the action taken by the Borough Agency, 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 Borough 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 meeting. Such interested party may be charged a fee as established by Section 22-17 of this Chapter for reproduction of the minutes for his use.

(Ord. #679, S 106)

22-7 HEARINGS.

- a. The Borough Agency shall hold a hearing on each application for development, or adoption, revision or amendment of the Master Plan.
- b. The Borough Agency shall make the rules governing such hearings. 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 Agency Secretary. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.
- c. The officer presiding at the hearing or such person as he may designate shall have 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 Municipal Investigations Law", P.L. 1953, c. 38 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 to reasonable limitations as to time and number of witnesses.
- e. Technical rules of evidence shall not be applicable to the hearing, but the chairman of the agency may exclude irrelevant, immaterial or unduly repetitious evidence.
 - f. The Borough Agency shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means. The Borough Agency shall furnish a transcript, or duplicate recordings in lieu thereof, on request to any interested party at his expense.
 - g. Each decision on any application for development shall be in writing and shall include findings of fact and conclusions based thereon.
 - h. A copy of the decision shall be mailed by the Secretary of the Borough Agency within ten (10) days of the date of decision to the applicant, or if represented then to his attorney, without separate charge, and to all who request a copy of the decision for a fee as specified by Section 22-17 of this Chapter. A copy of the decision shall also be filed by the Borough Agency in the office of the Borough Clerk. The Agency Secretary shall make a copy of such filed decision available to any interested party for a fee as specified in Section 22-17, of this Chapter and available for public inspection at his office during Borough business hours.
 - i. A brief notice of the decision shall be published in an official newspaper of the Borough. Such publication shall be arranged by the Agency Secretary provided that the applicant may in any case provide for publication of the decision. The applicant shall pay a fee as designated by Section 22-17 for publication of the notice, unless applicant submits proof acceptable to the Agency Secretary within ten (10) days of the decision that he has provided for the required publication. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision, whether arranged by the Borough or the applicant.
- (Ord. #679, S 107; Ord. #91-10, S 21)

22-8 CONTENTS OF NOTICE OF HEARING ON APPLICATION FOR DEVELOPMENT OR ADOPTION OF MASTER PLAN.

Notices pursuant to Sections 22-9 and 22-10 of this Chapter shall state the date, time and place of the hearing, the nature of the matters to be considered, and, in the case of notices pursuant to Section 22-9 of this Chapter, 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 pursuant to Section 22-7, paragraph b, of this Chapter. (Ord. #679, S 108)

22-9 NOTICE OF APPLICATIONS.

Notice pursuant to paragraphs a, b, d, e, f, and g of this Section shall be given by the applicant and shall be given at least ten (10) days prior to the date of the hearing.

- a. Public notice of hearings on applications for development, including all site plans and preliminary and final major subdivision approval shall be given by the applicant. Public notice shall be given by publication in an official newspaper of the Borough. In addition, the Secretary of the Planning Board and the Board of Adjustment shall publish in an official newspaper of the Borough, notice of all applications to come before the respective Board.
- b. Notice of a hearing requiring public notice pursuant to paragraph a of this Section shall be given to the owners of all real property as shown on the current tax duplicate, located within two hundred (200') feet in all directions of the property which is the subject of such hearing. Notice shall be given by: a. serving a copy thereof on the property owner as shown on the current tax duplicate, or his agent in charge of the property, or b. mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicates. 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.
- c. Upon the written request of an applicant, the Administrative Officer shall, within seven (7) days, make and certify a list from the current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to paragraph b of this Section. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A fee of ten

(\$10.00) dollars shall be charged for such a list.

- d. Notice of all hearings on applications for development involving property located within two hundred (200') feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.
- e. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing County road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other County land or situated within two hundred (200') feet of a municipal boundary.
- f. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.
- g. Notice shall be given by personal service or certified mail to the director of the Division of State and Regional Planning, New Jersey Department of Community Affairs, of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Borough pursuant to Section 22-7, paragraph b, of this Chapter.
- h. The applicant shall file an affidavit of proof of service with the Borough Agency holding the hearing on the application for development in the event that the applicant is required to give notice pursuant to this Section.
(Ord. #679, S109)

22-10 NOTICE CONCERNING MASTER PLAN.

The Planning Board shall give:

- a. Public notice of a hearing on adoption, revision or amendment of the Master Plan; such notice shall be given by publication in an official newspaper of the Borough at least ten (10) days prior to the date of the hearing;
- b. Notice by personal service or certified mail to the Clerk of an adjoining municipality of all hearings on adoptions, revision or amendment of a Master Plan involving property situated within two hundred (200') feet of such adjoining municipality at least ten (10) days prior to the date of any hearing;
- c. Notice by personal service or certified mail to the County Planning Board of (1) all hearings on adoption, revision or amendment of the Borough Master Plan at least ten (10) days prior to the date of the hearing; such notice shall include a copy of any proposed Master Plan, or any revision or amendment thereto; and (2) the adoption, revision or amendment of the Master Plan not more than thirty (30) days after the date of such adoption, revision or amendment; such notice shall include a copy of the Master Plan or revision or amendment thereto.
(Ord. #679, S 110)

22-11 EFFECT OF MAILING NOTICE.

Any notice made by certified mail pursuant to Sections 22-9 and 22-10 of this Chapter shall be deemed complete upon mailing. (Ord. #679, S 111)

22-12 NOTICE OF HEARING ON ORDINANCE OR CAPITAL IMPROVEMENT PROGRAM; NOTICE OF ACTION ON CAPITAL IMPROVEMENT OR OFFICIAL MAP.

- a. Notice by personal service or certified mail shall be made to the clerk of an adjoining municipality of all hearings on the adoption, revision or amendment of a development regulation involving property situated within two hundred (200') feet of such adjoining municipality at least ten (10) days prior to the date of any such hearing.
- b. Notice by personal service or certified mail shall be made to the County Planning Board of (1) all hearings on the adoption, revision or amendment of any development regulation at least ten (10) days prior to the date of the hearings, and (2) the adoption, revision or amendment of the Borough capital improvement program or Borough Official Map not more than thirty (30) days after the date of such adoption, revision or amendment. Any notice provided hereunder shall include a copy of the proposed development regulation, the Borough Official Map or the Borough capital program, or any proposed revision or amendment thereto, as the case may be.

Notice of hearings to be held pursuant to this Section shall state the date, time and place of the hearing and the nature

of the matters to be considered. Any notice by certified mail pursuant to this Section shall be deemed complete upon mailing.

(Ord #679, S 112)

22-13 FILING OF DEVELOPMENT REGULATIONS.

The Borough Clerk shall file, with the County Planning Board as soon after passage as possible, all development regulations, including this Chapter and any amendments or revisions thereto, and file and maintain for public inspection copies of the regulations in the office of the Clerk.

(Ord. #679, S 113)

22-14 APPEAL TO THE BOROUGH COUNCIL; TIME; NOTICE; MODIFICATION; STAY OF PROCEEDINGS.

- a. Any interested party may appeal to the Borough Council any final decision of the Board of Adjustment approving an application for development pursuant to subsection 22-89.2, paragraph d, of this Chapter. Such appeal shall be made within ten (10) days of the date of publication of such final decision pursuant to Section 22-7, paragraph i, of this Chapter. The appeal to the Borough Council shall be made by serving the Borough Clerk in person or by certified mail with a notice of appeal specifying the grounds therefor and the name and address of the appellant and name and address of his attorney, if represented. Such appeal shall be decided by the Borough Council only upon the record established before the Board of Adjustment.
- b. Notice of the meeting to review the record below shall be given by the Borough Council by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to Section 22-7, paragraph h, and to the Board of Adjustment of least ten (10) days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the Borough Council shall provide for verbatim recording and transcripts of such meetings pursuant to Section 22-7, paragraph f.
- c. The appellant shall, (1) within five (5) days of service of the notice of the appeal pursuant to paragraph a hereof, arrange for a transcript pursuant to Section 22-7, paragraph f, of this Chapter for use by the Borough Council and pay a deposit of fifty (\$50.00) dollars or the estimated cost of such transcription, whichever is less, or (2) within thirty-five (35) days of service of the notice of appeal, submit a transcript as otherwise arranged to the Borough Clerk; otherwise, the appeal may be dismissed for failure to prosecute.

The Borough Council shall conclude a review of the record below not later than ninety-five (95) days from the date of publication of notice of the decision below pursuant to Section 22-7, paragraph i, of this Chapter unless the applicant consents in writing to an extension of such period. Failure of the Borough Council to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the Board.

- d. The Borough Council may reverse, remand or affirm with or without the imposition of conditions the final decision of the Board of Adjustment approving a variance pursuant to subsection 22-89.2, paragraph d, of this Chapter. The review shall be made on the record made before the Board of Adjustment.
- e. The affirmative vote of a majority of the full authorized membership of the Borough Council shall be necessary to reverse, remand or affirm with or without conditions any final action of the Board of Adjustment.
- f. An appeal to the Borough Council shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Board from whose action the appeal is taken certified to the Borough Council after the notice of appeal shall have been filed with such Board, that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the Board from whom the appeal is taken and on good cause shown.
- g. The Borough Council shall mail a copy of the decision to the appellant or if represented then to his attorney, and to the applicant, without separate charge, and for a fee as designated by Section 22-17 of this Chapter to any interested party who has requested it, not later than ten (10) days after the date of the decision. A brief notice of the decision shall be published in an official newspaper of the Borough. Such publication shall be arranged by the Borough Clerk, provided that the applicant may arrange such publication if he so desires.
- h. Nothing herein shall be construed to restrict the right of any party to obtain a review by any court of competent

jurisdiction according to law.

(Ord. #679, S 114; Ord. #679-I-85-1, S1)

22-15 ENFORCEMENT.

The Borough Council shall enforce this Chapter. In case any building or structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Chapter, the Borough Council and its agents or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

(Ord. #679, S 115)

22-16 CONDITIONAL APPROVALS.

- a. In the event that a developer submits an application for development proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any State agency, political subdivision or any other party to protect the public health and welfare or by a directive or order issued by any State agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the approving authority shall process such application for development in accordance with this Chapter, and, if such application for development complies with the requirements of this Chapter, the approving authority shall approve such application conditioned on removal of such legal barrier to development.
- b. In the event that development proposed by an application for development requires an approval by a governmental agency other than the approving authority, the approving authority shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency; provided that the approving authority shall make a decision on any application for development within the time period provided in this Chapter or within an extension of such period as has been agreed to by the applicant unless the approving authority is prevented or relieved from so acting by the operation of law.

(Ord. #679, S 116)

22-17 FEES.

a. *Planning Board.*

Application fees:

1. Minor Subdivisions (sketch plat) — \$600.00 fixed fee
2. Major Subdivisions:
 - (a) Preliminary — \$400.00 fixed fee plus \$100.00 per lot
 - (b) Final — \$500.00 fixed fee plus \$100.00 per lot
3. Conditional use application — \$ 800.00 fixed fee
4. Application containing bulk variances — additional \$400.00 fixed fee

b. *Board of Adjustment.*

Application fees by statutory (N.J.S.A. 40:55D-70) type:

1. "A" — \$300.00 fixed fee, refundable upon decision favorable to applicant
2. "B" — \$300.00 fixed fee
3. "C" — \$200.00 fixed fee
4. "D" — \$600.00 fixed fee plus the following as applicable:
 - (a) Nonconforming residential units — \$600.00 per each nonconforming dwelling unit

(b) Nonresidential nonconforming space:

- (1) \$200.00 per 1,000 square feet for the first 10,000 square feet or part thereof
- (2) \$2,000.00 plus \$100.00 per 1,000 square feet or part thereof over 10,000 square feet up to 50,000 square feet
- (3) \$6,000.00 plus \$50.00 per 1,000 square feet or part thereof over 50,000 square feet

c. *Planning Board — Board of Adjustment.*

1. Site Plan Review (in addition to application fee):

(a) \$400.00 plan review plus the following if applicable:

- (1) \$20.00 per required parking space
- (2) \$100.00 for each space deficient to the parking requirement

(b) Additional site plan reviews (due to plan revisions)—25% of original site plan review fee

(e) Technical Committee site plan revision—\$150.00 fixed fee for re-review

2. Miscellaneous (in addition to application and site plan review):

- (a) \$400.00 for a special meeting requested by applicant
- (b) \$200.00 or 50% of the original application fee, whichever is greater, to reschedule a hearing already on the agenda due to failure to appear, applicant's request, failure to notify or publish properly or other delays by the applicant
- (c) Reproduction of documents — \$5.00 for first five (5) pages or portion thereof and \$1.00 for each additional page
- (d) Actual cost of publication plus \$15.00 for each publication
- (e) Copy of Zoning Ordinance—as established by Borough Council
- (f) Temporary banner permit — \$80.00

d. *Technical Review Escrow Deposits.*

1. In addition to the filing fees or any other fees required in this Section, an applicant shall file with the administrative officer an escrow deposit of adequate funds to cover the costs incurred for the technical review of the application by any professional consultant whose services are deemed necessary to report on the application. The Borough Treasurer shall place all such deposits in an escrow account in the name of the applicant and shall charge against such account all disbursements in connection with the costs referred to above.

The term "professional personnel" or "professional services," as used herein, shall include the services of a duly licensed engineer, surveyor, planner, attorney, realtor, appraiser or other expert who would provide professional services to insure an application meets performance standards set forth in the ordinance and other experts whose testimony is in an area in which the applicant has presented expert testimony.

Costs incurred for technical review include:

- (a) All expenses of professional personnel incurred and paid by it necessary to process an application for development before a municipal agency such as, but not by way of limitation:
 - (1) Charges for reviews by professional personnel of applications and accompanying documents;
 - (2) Issuance of reports by professional personnel to the municipal agency setting forth recommendations resulting from the review of any documents submitted by the applicant;
 - (3) Charges for any telephone conference or meeting requested or initiated by the applicant, his attorney or any of his experts;
 - (4) Review of additional documents submitted by the applicant and the issuance of reports relating thereto;
 - (5) Review or preparation of easements, developers' agreements, deeds or the like; and,

- (6) Preparation for attendance at special meetings.
- (b) The cost of expert advice or testimony obtained by the municipal agency for the purpose of corroborating testimony of applicant's experts; provided that the municipal agency gives prior notice to the applicant of its intention to obtain such additional expert advice or testimony and affords the applicant an opportunity to be heard as to the limitations on the nature and extent thereof.

No applicant shall be responsible to reimburse the municipality for the preparation of a resolution or memorializing resolution setting forth the findings and conclusions of the municipal agency with respect to an application.

2. Escrow Schedule.

- (a) The following escrow accounts shall apply to subdivision and variance review:
- (1) Sketch Plan/Minor Subdivision/ Boundary Line Change/Merger — \$200.00/lot
 - (2) Major Subdivision, Preliminary — \$1,000.00 plus \$150.00 per lot
 - (3) Major Subdivision, Final \$600.00 plus \$50.00 per lot
- (b) The following escrow amounts shall apply to variance applications which do not include or are not associated with applications for subdivisions of land or site review:
- (1) N.J.S.A. 40:55D-70(a) — \$200.00
 - (2) N.J.S.A. 40:55D-70(b) — \$200.00
 - (3) N.J.S.A. 40:55D-70(c) — \$200.00
 - (4) N.J.S.A. 40:55D-70(d) — \$2,000.00
 - (5) Borough Ordinance (road, driveway and street opening ordinances) — \$200.00

- (c) Site Plan Review Escrow Accounts. The following escrow amounts shall apply to site plan review:

<i>Classification</i>	<i>Required fee</i>
Preliminary site plan	\$600.00 plus \$0.10 per square foot of new or modified gross building floor area
Preliminary site plan	\$1,200.00 plus \$100.00 per unit
Final site plan	\$200.00, plus \$0.02 per square foot of new or modified gross building floor area or \$20.00 per dwelling

- (d) Construction and Final Inspection Escrow Account. All land use improvement applications requiring construction and final inspection of improvements shall provide an inspection escrow as follows:

<i>Total Cost of Improvements</i>	<i>Inspection Escrow</i>
Less than \$5,000.00	\$700.00
\$5,000.00 – \$9,999.00	\$700.00 plus 5% of the excess over \$5,000.00
\$10,000.00 – \$49,000.00	\$1,200.00 plus 4% of the excess over \$10,000.00
\$50,000.00 – \$74,999.00	\$4,400.00 plus 3.5% of the excess over \$50,000.00
\$75,000.00 – \$99,999.00	\$6,150.00 plus 3% of the excess over \$75,000.00
Over \$100,000.00	\$7,650.00 plus 2.5% of the excess over \$100,000.00

3. Administration of Technical Review Escrow Deposits.

- (a) Each technical review escrow deposit shall be held by the Borough in a trust account separate from the

general funds of the Borough.

- (b) Whenever an amount of money in excess of five thousand (\$5,000.00) dollars shall be deposited by an applicant with the Borough for technical review deposits pursuant to this paragraph, said money, until repaid or applied to the purposes for which it is deposited, including the applicant's portion of the interest earned thereon, shall continue to be the property of the applicant and shall be held in trust by the Borough in escrow.
 - (c) Deposits received from any developer pursuant to paragraph 3(b) above shall be deposited in a banking institution or savings and loan association in this State insured by an agency of the Federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The municipality shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The municipality shall not be required to refund an amount of interest paid on a deposit which does not exceed one hundred (\$100.00) dollars for the year. If the amount of interest exceeds one hundred (\$100.00) dollars, that entire amount shall belong to the applicant and shall be refunded to him by the municipality annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except, that the municipality may retain for administrative expenses a sum equivalent to no more than thirty-three and one-third (33 1/3%) percent of that entire amount, which shall be in lieu of all other administrative and custodial expenses.
 - (d) In the event that the funds in the escrow account should become depleted to thirty-five (35%) percent or less of the original amount prior to the completion of the application procedure and additional funds are necessary to cover the cost of processing said application, the applicant shall deposit additional funds of not less than fifty (50%) percent of the initial escrow deposit amount. In order to expedite the processing of applications by the Borough agency, the administrative officer shall notify the applicant immediately upon the depletion of funds in the escrow account or as soon as insufficiency of funds becomes evident or is expected.
 - (e) All payments charged to the deposit shall be pursuant to vouchers from the professional stating the hours spent, the hourly rate and the expenses incurred. The municipality shall render a written final accounting to the developer on the uses to which the deposit was put. Thereafter, the municipality shall, upon written request, provide copies of the vouchers to the developer.
 - (f) If the salary, staff support and overhead for a professional are provided by the municipality, the charge to the deposit shall not exceed two hundred (200%) percent of the sum of the products resulting from multiplying (1) the hourly base salary of each of the professionals by (2) the number of hours spent by the respective professional on review of the application for development or the developer's improvements, as the case may be. For other professionals the charge to the deposit shall be at the same rate as all other work of the same nature by the professional for the municipality.
 - (g) All fees and escrow deposits shall be paid prior to certification by the administrative officer that the application is complete. The Borough agency shall not process and/or take action on the application unless all fees and deposits required in the manner described above shall have been paid by the applicant. No plat or site plan shall be signed, nor shall any zoning permits, building permits, certificates of occupancy or any other types of permits be issued with respect to any approved application for development until all bills for reimbursable services have been received by the municipality from professional personnel rendering services in connection with such application and payment has been approved by the Governing Body unless the applicant shall have deposited with the Borough Clerk an amount agreed upon by the applicant and the municipal agency and such amount is likely to be sufficient to cover all reimbursable items. Upon posting such deposit with the Borough Clerk, the appropriate maps or permits may be signed and released or issued to the developer.
 - (h) Any of the funds remaining in the escrow account upon completion of the application procedure, as well as any interest the applicant may be entitled to under N.J.S.A. 40:55D-53.1, shall be returned to the applicant. The municipality shall render a final written accounting to the developer on the uses to which the deposit was put, and the account shall be terminated.
4. Request for a Special Meeting. An applicant may request a special meeting. The Board shall schedule such special meeting(s) at a date and time convenient to the applicant, the Board and the public. There shall be paid to the

Borough, prior to the meeting, a special meeting escrow deposit of seven hundred fifty (\$750.00) dollars, one hundred (\$100.00) dollars of which shall be paid as a nonrefundable administrative charge. If the applicant has in escrow at the time of the request for a special meeting more than seven hundred fifty (\$750.00) dollars net of any vouchers presented or to be presented, then no additional special meeting deposit shall be required. If the special meeting is continued for additional hearings, or additional review which requires further professional services to the Board, the applicant shall, if the applicant's escrow is less than seven hundred fifty (\$750.00) dollars at the time of the next meeting, post with the Borough an additional seven hundred fifty (\$750.00) dollars for each said additional hearing.

(Ord. #679, S 117; Ord. #679F; Ord. #679-J-85-22, S 1; Ord. #679L-86-1; Ord. #90-04, S 8; Ord. #91-10, S 22; Ord. #91-17, S 1; Ord. #94-05, S 1; Ord. #95-27 S 3; Ord. #08-08)

22-18 CONSTRUCTION OF CHAPTER.

In the event of any inconsistency between any provision of this Chapter or the ordinances of which this Chapter is amendatory and any land usage statutes of the State of New Jersey now or hereafter adopted, this Chapter shall be so construed to the extent possible to give full intent and meaning to the purposes of this Chapter, consistent with statutory provisions. (Ord. #679, S 22-18; Ord. #679-I-85-1)

22-19 SATELLITE DISHES.

- a. *Satellite Dish* shall mean any apparatus, building and/or structure which is designed for the purpose of receiving or transmitting television, radio, satellite or similar signals.
- b. *Size and Location.* A satellite dish which complies with the following requirements shall be a permitted conditional use in all zones, except the Washington Park Historic District, where the placement of a satellite dish on lots within the District must conform to the standards established for satellite dishes within the Washington Park Historic District.
 1. The surface area of any satellite dish shall not exceed fifty (50') square feet or eight (8') feet in diameter.
 2. The satellite dish shall be erected on a secure ground-mounted foundation or securely attached to the roof of the principal structure and properly grounded, as described further below.
 3. All power controls and signal cables from the satellite dish to the structure being served shall be buried underground and installed in accordance with the appropriate building and electric codes. All exterior wiring shall conform to all applicable "weather proofing" standards.
 4. The satellite dish shall be located in the rear yard of the property only and shall comply with all yard and setback requirements for the principal structure. No satellite dish shall be permitted in a front or side yard.
 5. The satellite dish shall be located and screened to minimize visibility from the street and adjacent properties. The ability of the applicant to install the satellite dish in an unobtrusive location and to minimize its impact on adjacent properties shall be a major factor in determining whether or not the conditional use is approved. Screening shall be maintained as originally approved.
 6. Only one (1) satellite dish shall be permitted for each individual lot, and its use shall be for the sole use of that lot.
- c. *Permit Required.* Any property owner and/or person or entity in possession of the property, shall obtain a permit from the Construction Code Official prior to the placement of a satellite dish on the property. No tenant of any property may apply for a permit unless they submit, with the permit, a written notarized document signed by the property owner supporting the application. If the property changes hands, an updated written notarized document must be submitted to support a continuing use.
- d. *Obtaining a Permit.*
 1. A permit may be obtained by providing the Construction Code Official with a plot plan and specifications showing the size of the dish, the proposed location of same on the subject premises, construction plans showing the foundation support details (where applicable), the location of electrical conduits and all such other information as required herein.
 2. The plot plan shall include the following information:

- (a) The name and address of the applicant and the owner of the property; the name, address and title of the person or entity preparing the plan and accompanying data, the date of preparation and the dates of each revision, where applicable.
 - (b) Appropriate places for the signature of the Construction Code Official, subcode officials (where applicable) and Zoning Officer.
 - (c) The lot and block numbers from the Borough Tax Map of the subject property, as well as the length and bearings of the lot lines.
 - (d) The proposed location of the satellite dish, as well as the location of all existing buildings and structures and all accessory buildings and structures, with dimensions showing present and finished grade elevations at all corners.
3. The Construction Code Official and/or applicable subcode officials shall review the plan and either issue a permit or deny the permit within twenty (20) calendar days after submission of said plan, unless further time has been granted by the applicant.
 4. An application fee of twenty-five (\$25.00) dollars shall be submitted with all applications for a permit.

e. *Maintenance Requirements; Enforcement.*

1. Every satellite dish shall be maintained in a safe, presentable and good structural material condition at all times. If the satellite dish is not made to comply with adequate safety and maintenance standards, the Zoning Official shall require its removal in accordance with this Section.
2. No persons shall maintain or permit to be maintained on any premises owned or controlled by him any satellite dish which is in a dangerous or defective condition. Any such satellite dish shall be removed or repaired by the owner of the premises or the owner of the satellite dish, whichever is applicable. Upon failure of the owner to remove or repair a dangerous or defective satellite dish, the Zoning Official shall proceed as described herein.
3. The Zoning Official shall cause to be removed any satellite dish that endangers the public safety such as an abandoned, dangerous or materially, electrically or structurally defective satellite dish or a satellite dish for which no permit has been issued. The Zoning Official shall prepare a notice which shall describe the satellite dish and specify the violation involved and which shall state that the satellite dish must be removed or the violation corrected within ten (10) calendar days. If the violation is not corrected within the ten (10) calendar day period, the Zoning Official shall cause same to be removed. All notices shall be sent by certified mail, return receipt requested and regular mail. The notice shall be mailed to the owner of the property on which the satellite dish is located, the owner of the satellite dish, if known, and the occupant of the property.
4. Any person having an interest in the satellite dish or the property may appeal the determination of the Zoning Official ordering removal or compliance by filing a written notice of appeal with the Borough Administrator within ten (10) calendar days after receipt of the notice. Notwithstanding the above, in cases of imminent danger to the public safety or other emergency, the Zoning Official may cause the immediate removal of a dangerous or defective satellite dish without notice. The Borough Administrator shall render his decision within ten (10) calendar days of receipt of such written notice of appeal and his decision shall be final.
5. Any satellite dish removed by the Zoning Official pursuant to the provisions of this Section shall become the property of the Borough and may be disposed of in any manner deemed appropriate by the Borough. The cost of removal of the satellite dish shall be considered a debt owed to the Borough by the owner of the satellite dish and the owner of the property, and may be recovered in an appropriate court action by the Borough or attached as a lien by the Borough to the property, whichever the Borough chooses.

f. *Existing Satellite Dishes.*

1. After enactment of this Section, the Zoning Official or his designee shall, as soon as practicable, survey the Borough for satellite dishes which do not conform to the requirements of this Section. Upon determining that a satellite dish is nonconforming, the Zoning Official shall notify the owner or user of the property on which the satellite dish is located of the nonconformity and his/her requirements to meet the conditions/terms of this Section.
2. Any satellite dish located within the Borough on the date of adoption of this Section, or located in an area annexed to the Borough thereafter, which does not conform to the provisions of this Section, is eligible for characterization as a legal nonconforming satellite dish if the satellite dish was in compliance with applicable law on the date of

adoption of this Section.*

3. A legal nonconforming satellite dish shall immediately lose its legal nonconforming designation if the satellite dish is altered in any way; or the satellite dish is relocated; or the satellite dish is replaced. On the happening of any of the above, the satellite dish shall immediately be brought into compliance with this Section with a new permit secured therefor, or shall be removed.
 4. Nothing in this Section shall relieve the owner or user of a legal nonconforming satellite dish or owner of the property on which the satellite dish is located from the provisions of this Section regarding safety, maintenance and repair of such satellite dish; provided, however, that no maintenance or repair shall have the effect of making the satellite dish nonconforming.
 5. Landlords with multiple satellite dishes on their properties must ascertain whether said dish(es) are active and/or could be made conforming to this Section within sixty (60) calendar days of notice by the Borough of the enactment of this Section remove all nonfunctioning and/or nonconforming satellite dishes.
- g. *Fines.* Any person violating any provision of this Section shall be fined in accordance with Chapter I, Article 1-5, entitled "General Penalty," of the Code of the Borough of North Plainfield.
- h. *Waiver.* Any property owner and/or person or entity in possession of the property may seek a waiver from the permit requirement by making application therefor to the Zoning Board of Adjustment. A waiver may be sought to allow more than one (1) satellite dish on the property, to allow placement of the satellite dish in a location other than that permitted by this Section or to allow a satellite dish which exceeds the size limitations set forth in this Section. The waiver applications shall state the specific reasons for the request and shall include all the information required to be provided in a permit application, as set forth in paragraph d. above. The Zoning Board of Adjustment shall consider the request and grant or deny the waiver within twenty (20) calendar days after submission of the waiver request.
(Ord. #08-15; Ord. #08-19)

22-20 - 22-26 RESERVED.

*Editor's Note: Ordinance No. 08-15, codified herein as Section 22-19 was adopted July 28, 2008.

ARTICLE II PLANNING BOARD

22-27 PLANNING BOARD.

22-27.1 Establishment.

A Planning Board is hereby established pursuant to the provisions of P.L. 1975, c. 291, Section 14. (Ord. #679, S 201)

22-27.2 Membership.

The Planning Board shall consist of nine (9) regular members and two (2) alternate members. For convenience in designating the manner of appointment, the regular membership shall consist of and be divided into the following four (4) classes.

Class I The Mayor.

Class II One of the officials of the Borough.

Class III A member of the Council to be appointed by it.

Class IV Other citizens of the Borough, to be appointed by the Mayor.

The alternate members shall be in Class IV. The regular and alternate members of Class IV shall hold no other Borough office. (Ord. #679, S 202; Ord. #91-10, S 23)

22-27.3 Terms of Office; Removal.

- a. The term of the member composing Class I shall correspond to his official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first. The term of a Class IV member who is also a member of the Board of Adjustment or Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The terms of all Class IV members first appointed under this Chapter shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four (4) years after their appointment, provided that the initial Class IV term of no member shall exceed four (4) years. Thereafter, the Class IV term of each such member shall be four (4) years. If a vacancy in any class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term.

The alternate members shall serve for the terms as provided by statute, provided, however, that the initial term of the first alternate member appointed to Class IV shall terminate at 12:00 Noon on January 1, 1980, and the initial term of the second alternate member appointed to Class IV shall terminate at 12:00 Noon on January 1, 1981.

- b. No member of the Planning Board shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member, after a public hearing if he request one, may be removed by the Council for cause.
- c. When any hearing before a Planning Board shall carry over two (2) or more meetings, a member of the Board who was absent for one or more of the meetings, shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided, however that such Board member has available to him a transcript or recording of the meeting from which he was absent, and certifies in writing to the Board that he has read such transcript or listened to such recording.
(Ord. #679, S 203)

22-27.4 Organization of the Planning Board.

The Planning Board shall elect a Chairman and Vice-Chairman from the members of Class IV, and select a Secretary who may or may not be a member of the Planning Board or a municipal employee. It may employ, or contract for, and fix the

compensation of the legal counsel, other than the Borough Attorney, a planning consultant, a civil engineer, and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the Council for its use. (Ord. #679, S 204)

22-27.5 Powers of the Planning Board.

- a. The Planning Board shall follow the provisions of this Chapter and shall accordingly exercise its power in regard to:
 1. The Master Plan pursuant to Article III.
 2. Subdivision control and site plan review pursuant to Articles VI and VII.
 3. The Official Map pursuant to Article V.
 4. The zoning regulations including conditional uses pursuant to Article IX.
 5. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to subsection 22-27.6.
- b. The Planning Board may:
 1. Participate in the preparation and review of programs or plans required by State or Federal law or regulations.
 2. Assemble data on a continuing basis as a part of a continuous planning process; and
 3. Perform such other advisory duties as are assigned to it by ordinance or resolution of the Borough for the aid and assistance of the Council and other agencies or officers.
(Ord. #679, S 205)

22-27.6 Ancillary Powers.

The Planning Board when reviewing applications for approval of subdivision plats, site plan or conditional uses shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment:

- a. Variances pursuant to subsection 22-89.2, paragraph c, of this Chapter.
- b. Direction pursuant to Section 22-50 of this Chapter for issuance of a permit for a building or structure not related to a street.
- c. Direction pursuant to Section 22-48 of this Chapter for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to Section 22-47 of this Chapter.

Whenever relief is requested pursuant to this subsection, notice of the hearing on the application for development shall include reference to the request for a variance, or direction for issuance of a permit, as the case may be.

The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zone Plan and Article IX Zoning. (Ord. #679, S 206; Ord. #679-I-85-1, S 206)

22-27.7 Referral Powers.

- a. Prior to the adoption of a development regulation, revision, or amendment thereto, the Planning Board shall make and transmit to the Council, within thirty-five (35) days after referral a report including recommendations concerning the proposed development regulation, revision or amendment. The Council, when considering the adoption of a development regulation, revision or amendment thereto, shall review the report of the Planning Board and may disapprove or change any recommendation by a vote of a majority of all authorized membership and shall record in its minutes the reasons for not following such recommendations. Failure of the Planning Board to transmit its report within the thirty-five (35) day period provided herein shall relieve the Council from the requirements of this subsection in regard to the proposed development regulation, revision or amendment thereto referred to the Planning Board.
- b. Prior to the hearing on adoption of an ordinance providing for Planning Board approval of either subdivisions or site

plans or both or any amendment thereto, the Council shall refer any such proposed ordinance or amendment thereto to the Planning Board pursuant to paragraph a above of this Chapter.
(Ord. #679, S207)

22-27.8 Citizens' Advisory Committee; Environmental Commission.

- a. The Mayor may appoint one (1) or more persons as a Citizens' Advisory Committee 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. Such person or persons shall serve at the pleasure of the Mayor.
- b. Whenever the Environmental Commission has prepared and submitted to the Planning Board an index of the natural resources of the Borough, the Planning Board shall make available to the Environmental Commission an informational copy of every application for development submitted to the Planning Board. Failure of the Planning Board to make such information copy available to the Environmental Commission shall not invalidate any hearing or proceeding.
(Ord. #679, S 208)

22-28 - 22-33 RESERVED.

ARTICLE III MASTER PLAN

22-34 PREPARATION; CONTENTS, MODIFICATION.

- a. The Planning Board shall prepare and, after public hearing adopt or amend a Master Plan or component parts thereof, to guide the use of lands within the Borough in a manner which protects public health and safety and promotes the general welfare.
- b. The Master Plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams, and text, presenting, where appropriate, the following elements:
 1. A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the Borough are based;
 2. A land use plan element (a) taking into account the other Master Plan elements and natural conditions, including but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and(c) including a statement of the standards of population density and development intensity recommended for the Borough.
 3. A housing plan element, including but not limited to, residential standards and proposals for the construction and improvement of housing.
 4. A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the Borough.
 5. A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities;
 6. A community facilities plan element showing the location and type of educational or cultural facilities, historic sites, libraries, hospitals, fire houses, police stations and other related facilities, including their relation to the surrounding areas;
 7. A recreation plan element showing a comprehensive system of areas and public sites for recreation;
 8. A conservation plan element providing for the preservation, conservation and utilization of natural resources, including, to the extent appropriate, open space, water, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, wildlife and other natural resources; and
 9. Appendices or separate reports containing the technical foundation for the Master Plan and its constituent elements.
- c. The Master Plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.
- d. The Master Plan shall include a specific policy statement indicating the relationship of the proposed development of the Borough as developed in the Master Plan to (1) the master plans of contiguous municipalities, (2) the Master Plan of (Somerset) County, (3) any comprehensive guide plan pursuant to Section 15 of P.L. 1961, c.47.
(Ord. #679, S 301)

22-35 PERIODIC EXAMINATION.

- a. The Council shall, at least every six (6) years, provide for a general re-examination of the Master Plan and this Development Chapter by the Planning Board which shall prepare a report on the findings of such re-examination a copy of which shall be sent to the County Planning Board and the municipal clerks of each adjoining municipality. The six (6) year period shall commence with the adoption or termination of the last general re-examination of such plan and regulations. The first such re-examination shall be completed within six (6) years after August 1, 1976.
- b. Such report shall state:
 1. The major problems and objectives relating to land development in the Borough at the time of such adoption, last

revision or re-examination, if any.

2. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
3. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for such plan or regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources and change in State, County and Borough policies and objectives.
4. The specific changes recommended for such plan or regulations, if any, including underlying objectives, policies, and standards, or whether a new plan or regulations should be prepared.
(Ord. #679, S 302)

22-36 - 22-39 RESERVED.

ARTICLE IV CAPITAL IMPROVEMENTS PROGRAM AND PROJECT REVIEW**22-40 PREPARATION OF CAPITAL IMPROVEMENTS.**

- a. The Council may authorize the Planning Board to prepare a program of municipal capital improvement projects projected over a term of at least six (6) years, and amendments thereto. Such program may encompass major projects being currently undertaken or future projects to be undertaken with Federal, State, County and other public funds or under Federal, State, or County supervision. The first year of such program shall, upon adoption by the Council, constitute the capital budget of the Borough as required by N.J.S.A. 40A:4-43 et seq. The program shall classify projects in regard to the urgency and need for realization, and shall recommend a time sequence for their implementation. The program may also contain the estimated cost of each project and indicate probable operating and maintenance costs and probable revenues, if any, as well as existing sources of funds or the need for additional sources of funds for the implementation and operation of each project. The program shall, as far as possible, be based on existing information in the possession of the departments and agencies of the Borough and shall take into account public facility needs indicated by the prospective development shown in the Master Plan of the Borough or as permitted by other municipal land use controls.

In preparing the program, the Planning Board shall confer, in a manner deemed appropriate by the Board, with the Mayor, the chief fiscal officer, other municipal officials and agencies, and the school board or boards.

Any such program shall include an estimate of the displacement of persons and establishments caused by each recommended project.

- b. In addition to any of the requirements in paragraph a of this Section, whenever the Planning Board is authorized and directed to prepare a capital improvements program, every department, authority or agency shall, upon request of the Planning Board, transmit to the Board a statement of all capital projects proposed to be undertaken by such municipal department, authority or agency, during the term of the program, for study, advice and recommendation by the Planning Board.

(Ord. #679, S 401)

22-41 ADOPTION OF CAPITAL IMPROVEMENT PROGRAM.

Whenever the Planning Board has prepared a capital improvement program pursuant to Section 22-40 of this chapter, it shall recommend such program to the Council which may adopt such program with any modification approved by affirmative vote of a majority of the full authorized membership of the Council and with the reasons for the modification recorded in the minutes. (Ord. #679, S 402)

22-42 REVIEW OF CAPITAL PROJECTS.

Whenever the Planning Board shall have adopted any portion of the Master Plan, the Council or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the Planning Board for review and recommendation in conjunction with such Master Plan and shall not act thereon, without such recommendation or until forty-five (45) days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district, or other authority, redevelopment agency, school board, or other similar public agency, State, County or municipal. (Ord. #679, S 403)

22-43 - 22-46 RESERVED.

ARTICLE V OFFICIAL MAP

22-47 ESTABLISHMENT OF AN OFFICIAL MAP.

- a There is hereby adopted, pursuant to the provisions of section 23 of P.L. 1975, c. 291, a document known as "The Official Map of the Borough."
- b The Official Map shall be deemed conclusive with respect to the location and width of streets and public drainage ways and the location and extent of flood control basins and public areas, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence. Upon receiving an application for development, the Borough may reserve for future use, the aforesaid streets, ways, basins, and areas in the manner provided in Section 22-57 of this Chapter.
(Ord. #679, S 501)

22-48 ISSUANCE OF PERMITS FOR BUILDINGS OR STRUCTURE.

For purposes of preserving the integrity of the Official Map, no permit shall be issued for any building or structure in the bed of any street or public drainage way, flood control basin or public area reserved pursuant to Section 22-47 of this Chapter as shown on the Official Map, or shown on a plat filed pursuant to this Chapter before adoption of the Official Map, except as provided herein. Whenever one (1) or more parcels of land, upon which is located the bed of such mapped street or public drainage way, flood control basin or public area reserved pursuant to Section 22-47 hereof, cannot yield a reasonable return to the owner unless a building permit is granted, the Board of Adjustment may, in a specific case, by an affirmative vote of a majority of the full authorized membership of the Board, direct the issuance of a permit for a building or public drainage way or flood control basin or public area reserved pursuant to Section 22-47 hereof, which will as little as practicable increase the cost of opening such street, or tend to cause a minimum change of the Official Map and the Board shall impose reasonable requirements as a condition of granting the permit so as to promote the health, morals, safety and general welfare of the public. Subsections 22-89.4 through 22-89.7 of this Chapter shall apply to applications or appeals pursuant to this Section.
(Ord. #679, S 502)

22-49 BUILDING LOT TO ABUT STREET.

No permit for the erection of a building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. Such street shall have been duly placed on the Official Map or shall be (a) an existing State, County or municipal street or highway, or (b) a street shown upon a plat approved by the Planning Board, or (c) a street on a plat duly filed in the office of the County Recording Officer prior to the passage of this Chapter or its predecessor or any prior law which required prior approval of plats by the Borough Council or other authorized body. Before any such permit shall be issued, such street shall have been certified to be suitably improved to the satisfaction of the Council, or such suitable improvement shall have been assured by means of a performance guarantee, in accordance with standards and specifications for road improvements approved by the Council, as adequate in respect to the public health, safety and general welfare of the special circumstances of the particular street.(Ord. #679, S 503)

22-50 APPEALS.

Where the enforcement of Section 22-49 hereof would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the building or structure to be related to a street, the Board of Adjustment may upon application or appeal vary the application of Section 22-49 hereof and direct the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the Official Map or a general circulation plan element of the municipal Master Plan pursuant to Section 22-34, paragraph b.4. of this Chapter.

Subsections 22-89.4 through 22-89.7 of this Chapter shall apply to applications or appeals pursuant to this Section. (Ord. #679, S 504)

22-51 - 22-54 RESERVED.

ARTICLE VI SUBDIVISION AND SITE PLAN REVIEW AND APPROVAL

22-55 GRANT OF POWER; COUNTY PLANNING BOARD APPROVAL.

- a. Pursuant to the provisions of section 28, P.L. 1975, c. 291 approval of subdivision plats by resolution of the Planning Board shall be required as a condition for the filing of such plats with the County Recording Officer. Approval of site plans by resolution of the Planning Board shall be required as a condition for the issuance of a building permit and Certificate of Occupancy for development, except that subdivision or individual lot applications for detached one (1) or two (2) dwelling unit buildings shall be exempt from such site plan review and approval, provided that the resolution of the Board of Adjustment shall substitute for that of the Planning Board whenever the Board of Adjustment has jurisdiction over a subdivision or site plan pursuant to subsection 22-89.8, paragraph b of this Chapter.
- b. *When Required.* Excepting single-family and two (2) family residences, site plan approval by the Planning Board shall be obtained prior to the issuance of a building permit or Certificate of Occupancy for the following uses and improvements;
 1. Any new building.
 2. Any addition to an existing building.
 3. Any parking area or addition thereto, including the curbing thereof, and any alteration to the access thereto.
 4. Any change in the use of a building or lot when the new use requires a larger number of off-street parking spaces than the prior use.
 5. Any change in the use of a building or lot when the new use is of a significantly different nature than the prior use as to involve greater risk of fire hazard, different on-site traffic considerations or any other aspect of the operation which would involve different considerations under the provisions of this Chapter.
 6. Any modification to the exterior design of a nonresidential building when such modification involves a change in roof line, facade materials or exterior structural alteration.
 7. Any construction in the Flood Hazard Area Limit.
- c. Each application for subdivision approval, where required pursuant to section 5 of P.L. 1968, c. 285, and each application for site plan approval, where required pursuant to section 8 of P.L. 1968, c. 285 shall be submitted by the applicant to the County Planning Board for review and approval, as required by the aforesaid sections, and the approving authority shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
(Ord. #679, S 601)

22-56 SUBMITTAL PROCEDURE.

- a. The applicant shall submit fifteen (15) copies of his complete application for subdivision, site plan, or conditional use approval to the Secretary of the Planning Board. The time for the Board's review shall not begin to run until the submission of a complete application with the required fee.
- b. The applicant shall first transmit two (2) complete sets of plans, with all supporting documents and data, to the Agency Secretary, who shall forward them to the Zoning Officer for a completeness review. The Agency Secretary and Zoning Officer shall within five (5) days, review the plan for completeness of application and compliance with the standards set forth herein, and the Secretary of the Agency shall issue a letter of comment or a Certificate of Proper Application. The applicant shall comply with the Secretary's review comments, if any, and resubmit plans as necessary. Upon determination by the Secretary of the Agency that the original plans or the resubmitted plans contain the information and data required by ordinance, the Secretary shall issue a Certificate of Proper Application, which may include comments and recommendations pertinent to the application, and shall then notify the applicant to make submission for approval by the Board, including payment of the required application fees. After receipt of the Certificate of Proper Application, payment of the required fees and filing of the required documents with the Secretary of the Agency, the application shall be deemed to be properly submitted.
- c. A complete application for preliminary approval shall consist of the following:

4. The Environmental Commission One (1) copy
5. Department of Police One (1) copy
6. Department of Fire Protection One (1) copy
7. Landscape Consultant One (1) copy
8. Design Review Committee Two (2) copies
9. County Planning Board Three (3) copies
(Ord. #679, S 601; Ord. #679-I-85-1; Ord. #679-M-86-12; Ord. #06-16; Ord. #07-20)

22-57 RESERVATION OF PUBLIC AREAS.

- a. Before approving a subdivision or site plan, the approving authority shall require that streets, public drainageways, flood control basins and public areas, designated for reservation on the Master Plan or Official Map, must be shown on the plat in location and sizes suitable to their intended uses. The approving authority may reserve the location and extent of such streets, ways, basins or areas shown on the plat for a period of up to one (1) year after the approval of the final plat or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the Borough shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this Section shall not apply to streets and roads, flood control basins or public drainageways necessitated by the subdivision or land development and required for final approval.
- b. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instance, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation; provided that determination of such fair market value shall include, but not be limited to, consideration of the real property taxes apportioned to the land reserved and prorated for the period of reservation. The developer shall be compensated for the reasonable increased cost of legal, engineering, or other professional services incurred in connection with obtaining subdivision approval or site plan approval, as the case may be, caused by the reservation.
- c. Upon the submission to the approving authority of an application for development showing development proposed for an area reserved on the Official Map or Master Plan, the Secretary of the approving authority shall notify the Council in writing of such application, and that the approving authority intends to grant approval for the development in the reserved area unless the Council notifies the approving authority prior to the date for final approval that it intends to reserve the area in question and will provide compensation to the developer for such reservation. The notice of intent to reserve shall be in the form of a resolution by the Council. The Council shall thereupon proceed either to reach an agreement with the developer as to the amount of compensation to be paid for such reservation, or negotiate a purchase price for the reserved area. Upon the Council arriving at the amount to be paid the developer by way of compensation for the reservation or purchase, the amount shall be deposited in escrow for the benefit of the developer.
(Ord. #679, S 603)

22-58 OFF-TRACT IMPROVEMENTS.

- a. The approving authority shall require, as a condition of preliminary subdivision or site plan approval, that the developer pay his pro-rata share of the cost of providing only reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefor, located outside the property limits of the development but necessitated or required by construction or improvements within such development. Such contribution for a developer's pro-rata share shall only be required where the off-tract improvements are to be constructed pursuant to the provisions of the circulation and comprehensive utility services plans included in the Borough Master Plan pursuant to Section 22-34, paragraphs b.4 and 5. of this Chapter. The developer shall either install the improvements or contribute his pro-rata share of the costs, at the option of the developer. If the developer installs the improvements, he shall be compensated by the Borough for all but his pro-rata share of the cost of the improvement.

- b. Off-tract improvements required shall be based on the percent use or increase in use directly or indirectly attributable to the development proposed as it relates to the area affected.
- c. When the developer chooses to install the improvements instead of contributing his pro-rata share of the cost of such improvements, the developer shall post a performance bond/guarantee ensuring completion of such improvements in accordance with the provisions of Section 22-67.
(Ord. #679, S 604; Ord. #08-20)

22-59 FINDINGS FOR PLANNED DEVELOPMENTS.

Prior to approval of planned developments the approving authority shall find the following facts and conclusions:

- a. The departure by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning ordinance standards dealing with planned development.
- b. The proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate.
- c. 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, recreational and visual enjoyment are adequate.
- d. The proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
- e. In the case of a proposed 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.
(Ord. #679, S 605)

22-60 STANDARDS FOR THE ESTABLISHMENT OF OPEN SPACE ORGANIZATIONS.

- a. The Borough may, at any time, accept the dedication of land for public use and maintenance, or any interest therein, required to be set aside, designated and reserved for the use and enjoyment of owners and occupants of land adjoining or neighboring such land as a condition of approval of planned unit development, planned unit residential development or residential cluster, but such dedication shall not be required by the approving authority.
- b. The developer shall provide for an organization for the ownership and maintenance of any open space for the benefit of owners or residents of a development, if the open space is not dedicated to the Borough. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the Borough.
- c. In the event that such organization shall fail to maintain the open space in reasonable order and condition, the Borough Administrator may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and the notice shall include a demand that such deficiencies of maintenance be cured within thirty-five (35) days thereof, and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice. At such hearing, the Borough Administrator may modify the terms of the original notice as to deficiencies set forth in the original notice or in the modification thereof shall not be cured within thirty-five (35) days or any extension thereof, the Borough, in order to preserve the open space and maintain the same for a period of one (1) year, may enter upon and maintain such land. The entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of the year, the Borough Administrator shall, upon his initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon fifteen (15) days written notice to such organization and to the owners of the development, to be held by the Borough Administrator at which hearing such organization and the owners of the development shall show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough Administrator shall determine that such organization is ready and able to maintain the open space in reasonable condition, the Borough shall cease to maintain the open space at the end of the year. If the Borough Administrator shall determine such organization is not ready and able to maintain the

open space in a reasonable condition, the Borough may, in its discretion, continue to maintain the open space during the next succeeding year, subject to a similar hearing and determination, in each year thereafter. The decision of the Borough Administrator in any case shall constitute a final administrative decision subject to judicial review.

- d. The cost of such maintenance by the Borough shall be assessed pro-rata against the properties within the development that have a right of enjoyment of open space in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax on the properties and be added to and be a part of the tax to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

(Ord. #679, S 606)

22-61 TIME FOR DECISION.

- a. Upon the submission to the administrative officer of a complete application for a conditional use, the Planning Board shall grant or deny the application for a conditional use within ninety-five (95) days, or within such further time as may be consented to by the applicant. Otherwise, the Planning Board shall be deemed to have granted the conditional use.
- b. Upon the submission to the administrative officer of a complete application for a site plan which involves ten (10) acres of land or less, and ten (10) dwelling units or less, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a site plan which involves more than ten (10) acres, or more than ten (10) dwelling units, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan.
- c. Upon the submission to the administrative officer of a complete application for a subdivision of ten (10) or fewer lots, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a subdivision of more than ten (10) lots, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the subdivision.
- d. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to subsection 22-27.6 of this Chapter, the Planning Board shall grant or deny approval of the application within one hundred twenty (120) days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. 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 or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided in this Chapter. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required.
- e. The Planning Board may waive site plan approval requirements if the construction or alteration or change of occupancy or use does not affect existing circulation, drainage, relationships of buildings to each other, landscaping, buffering, lighting and other considerations of site plan review.
- f. If the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Planning Board shall, if the proposed development complies with this Chapter, grant preliminary subdivision or site plan approval.
- g. Nothing herein shall be construed to limit the right of a developer to submit a sketch plat to the Planning Board for informal review, and neither the Planning Board nor the developer shall be bound by any discussions or statements made during such review; provided that the right of the developer at any time to submit a complete application for subdivision or site plan approval shall not be limited by his submission of a sketch plat and the time for the Planning Board's decision shall not begin to run until the submission of a complete application. (Ord. #679, S 607; Ord. #679-I-85-1)

22-62 PUBLIC HEARINGS.

A public hearing shall be held on all applications for site plan approval. (Ord. #679, S 608)

22-63 RIGHTS UNDER PRELIMINARY APPROVAL.

Preliminary approval of a major subdivision or site plan except as provided in paragraph d. of this Section shall confer upon the applicant the following rights for a three (3) year period from the date of preliminary approval:

- a. 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, existing natural resources to be preserved on the site; vehicular and pedestrian circulation, parking and loading; screening, landscaping and location of structures; exterior lighting both for safety reasons and street lighting; 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;
- b. The applicant may submit 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; and
- c. The applicant may apply for and the reviewing board may grant extensions on such 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 or site plan for an area of fifty (50) acres or more, the reviewing board may grant the rights referred to in paragraph a, b and c above for such period of time, longer than three (3) years, as shall be determined by the reviewing board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, (2) economic conditions, and (3) the comprehensiveness of the development. The applicant may apply for thereafter and the reviewing board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the reviewing board to be reasonable taking into consideration:
 1. The number of dwelling units and nonresidential floor area permissible under preliminary approval, and
 2. The potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval,
 3. Economic conditions, and
 4. The comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.
 (Ord. #679, S 609)

22-64 FINAL APPROVAL OF SITE PLANS AND MAJOR SUBDIVISIONS.

- a. The reviewing board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by this Chapter for final approval, the conditions of preliminary approval, and, in the case of major subdivision, the standards prescribed by the "Map Filing Law", P.L. 1960, c. 141.
- b. Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the secretary of the approving authority, or within such further time as may be consented to by the applicant. Failure of the approving authority to act within the period prescribed shall constitute final approval of the application for final approval as submitted and a certificate of the secretary of the approving authority as to failure of the approving authority to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other required evidence of approval.
- c. A complete application for final approval shall consist of the following where applicable;
 1. A properly completed final subdivision of site plan approval form.
 2. The required fee as per Section 22-17 of this Chapter.

3. A subdivision plat conforming with the "Map Filing Act", P.L. 1940, c. 141.

22-65 EXCEPTION TO APPLICATION OF SUBDIVISION OR SITE PLAN REGULATIONS; SIMULTANEOUS REVIEW AND APPROVAL.

- a. The approving authority when acting upon applications for preliminary or minor subdivision approval shall have the power to grant such exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this Chapter, if the literal enforcement of one (1) or more provisions of this Chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
- b. The approving authority when acting upon application for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of this Chapter, if the literal enforcement of one (1) or more provisions of this Chapter is impracticable or will exact undue hardship of peculiar conditions pertaining to the land in question.
- c. The approving authority shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the approving authority, or the approving authority being required to hold further hearings. The longest time period for action by the approving authority, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this Section, notice of the hearing on the plat shall include reference to the request for such conditional use. (Ord. #679, S 611)

22-66 EFFECT OF FINAL APPROVAL.

- a. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to Section 22-63 of this Chapter, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval; provided that in the case of major subdivision the rights conferred by this Section shall expire if the plat has not been duly recorded within the time period provided in Section 22-69 of this Chapter.

If the developer has followed the standards prescribed for final approval, and, in the case of a subdivision, has duly recorded the plat as required in Section 22-69 of this Chapter, the approving authority may extend such period of protection for extensions of one (1) year but not to exceed three (3) extensions. Notwithstanding any other provisions of this Chapter, the granting of final approval terminates the time period of preliminary approval pursuant to Section 22-63 of this Chapter for the section granted final approval. (Ord. #679, S 612)

22-67 GUARANTEES REQUIRED.

- a. Before recording of final subdivision plats, or as a condition of final site plan approval, the approving authority may require and shall accept in accordance with the standards adopted by this Chapter for the purpose of assuring the installation and maintenance of on-tract improvements;
 1. The furnishing of a performance guarantee in favor of the Borough in an amount not to exceed one hundred twenty (120%) percent of the cost of installation for improvements it may deem necessary or appropriate including; streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law", P.L. 1960, c. 141 (c46:23-9.9 et seq.), water mains, culverts, storm sewers, sanitary sewers, or other means of sewage disposal, 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; provided that no more than ten (10%) percent of the total performance guarantee shall be required to be in cash, and the balance shall be in the form of a bond from a bonding company approved by the Council.

The Borough Engineer shall review the improvements required by the approving authority which are to be bonded and itemize their cost. The itemization shall be the basis for determining the amount of performance guarantee and maintenance guarantee required by the approving authority. The Borough Engineer shall forward his estimate of the cost of improvements to the applicant within thirty (30) days of the date of receipt of a request sent by

certified mail for the estimate.

2. The furnishing of a maintenance guarantee to be posted with the Council for a period not to exceed two (2) years after final acceptance of the improvement, in an amount not to exceed fifteen (15%) percent of the cost of the improvement.

In the event that other governmental agencies or public utilities automatically will own the utilities to be installed 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 for such utilities or improvements.

- b. The amount of any performance guarantee may be reduced by the Council by resolution, when portions of the improvements have been certified by the Borough Engineer to have been completed. The time allowed for installation of the improvements for which the performance guarantee has been provided may be established by the Council by resolution.
- c. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor 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 improvement.
- d. When all the required improvements have been completed, the obligor shall notify the Council in writing, by certified mail addressed in care of the Borough Clerk of the completion of the improvements and shall send a copy thereof to the Borough Engineer. Thereupon the Borough Engineer shall inspect all of the improvements and shall file a detailed report, in writing, with the Council, indicating either approval, partial approval or rejection of the improvements with a statement of reasons for any rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.
- e. The Council shall either approve, partially approve or reject the improvements, on the basis of the report of the Borough Engineer and shall notify the obligor in writing, by certified mail, of the contents of the report and the action of the approving authority with relation thereto, not later than sixty-five (65) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for the improvements not yet approved. Failure of the Council to send or provide such notification to the obligor within sixty-five (65) days shall be deemed to constitute approval of the improvements and the obligor and surety, if any shall be released from all liability, pursuant to such performance guarantee.
- f. If any portion of the required improvements are rejected, the approving authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in this Section shall be followed.
- g. The obligor shall reimburse the Borough for all reasonable inspection fees paid the Borough Engineer for the foregoing inspection of improvements.
(Ord. #679, S 613)

22-68 MINOR SUBDIVISION.

- a. The Planning Board shall waive notice and public hearing for an application for development if the Subdivision Committee of the Planning Board appointed by the chairman finds that the application for development conforms to the definition of "minor subdivisions" in Section 22-3 of this Chapter. Minor subdivision approval shall be deemed to be final approval of the subdivision by the Board; provided that the Board or subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to Article VII of this Chapter.
- b. Minor subdivision approval shall be granted or denied within forty-five (45) days of the date of submission of a complete application to the Secretary of the Planning Board, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor subdivision approval and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act shall be issued on request of the applicant; and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein, required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.
- c. Approval of a minor subdivision shall expire one hundred ninety (190) days from the date of municipal approval unless within such period of a plat in conformity with such approval and the provisions of the "Map Filing Law", P.L. 1960, C. 141, 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. Any such plat or deed accepted for such filing shall have been signed by the Chairman and Secretary of the Planning Board. In reviewing the application for development for a proposed minor subdivision the Planning Board may accept a plat not in conformity with the "Map Filing Act" provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of the act.

- d. 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 that the approved minor subdivision shall have been duly recorded as provided herein.
(Ord. #679, S 614)

22-69 FILING OF SUBDIVISION PLATS.

- a. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The approving authority may for good cause shown extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing the plat.
- b. Final approval of a major subdivision shall be evidenced by affixing to the plat the signature of the Chairman and Secretary of the approving authority, or a copy of the certificate of the Secretary of the approving authority indicating that the approving authority failed to reach a decision on the subdivision application within the prescribed time. The signatures of the Chairman and Secretary of the approving authority shall not be affixed until the developer has posted the guarantees required pursuant to Section 22-67 of this Chapter.

22-70 SELLING BEFORE APPROVAL.

- a. If before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner, or agent, any land which forms a part of a subdivision for which Borough approval is required by this Chapter, such person shall be subject to a penalty not to exceed five hundred (\$500.00) dollars and each lot disposition so made may be deemed a separate violation.
- b. In addition to the foregoing, the Borough may institute and maintain a civil action:
 - 1. For injunctive relief; and
 - 2. To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with Section 22-71 of this Chapter.
(Ord. #679, S 616)

22-71 CERTIFICATES SHOWING APPROVAL.

- a. The prospective purchaser, prospective mortgagee, or any other person interested any land which forms part of a subdivision, or which formed part of such a subdivision three (3) years preceding August 1, 1976, may apply in writing to the Borough Clerk for the issuance of a certificate certifying whether or not such subdivision has been approved by the Planning Board. Such application shall contain a diagram showing the location and dimensions of the land to be covered by the certificate and the name of the owner thereof.
- b. The Borough Clerk shall make and issue such certificate within fifteen (15) days after the receipt of such written application and the fees therefor. The officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his office.
- c. Each such certificate shall be designated a "certificate as to approval of subdivision of land" and shall certify:
 - 1. There exists in the Borough a duly established Planning Board and that there is an ordinance controlling subdivision of land adopted under the authority of the "Municipal Land Use Law of 1975, c. 291."
 - 2. Whether the subdivision, as it relates to the land shown in the application, has been approved by the Planning Board, and if so, the date of such approval and any extensions and terms thereof, showing that subdivision of

which the lands are a part is a validly existing subdivision.

- d. The Borough Clerk shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in N.J.S.A. 54:4-14 and 15. The fees so collected by the Borough Clerk shall be paid by him to the Borough.
(Ord. #679, S 617)

22-72 ENVIRONMENTAL IMPACT STATEMENT.

22-72.1 Requirements and Applicability.

- a. No major subdivision or major site plan shall receive preliminary approval until an Environmental Impact Statement (EIS) shall have been submitted to and approved by the Planning Board and/or the Zoning Board of Adjustment, unless the Planning Board or the Zoning Board of Adjustment waives this requirement pursuant to subsection 22-72.5, below. The purpose of requiring an Environmental Impact Statement is to permit the Planning Board/Zoning Board of Adjustment to assess the impact of the proposed project upon the environment. Particular emphasis should be given to assessing the impact of the proposed development upon water and air resources, pollution of all kinds, drainage, waste disposal, wetlands, floodplains, steep slopes, shallow bedrock, critical areas and landscape.
- b. No application for development shall be approved as set forth above, unless it has been affirmatively determined, after an environmental appraisal, that the proposed project:
1. Will not result in significant adverse impact on the environment;
 2. Has been conceived and designed in such a manner that it will not significantly impair natural processes; and,
 3. Will not place a disproportionate or excessive demand upon the total resources available to the project site and to the impact areas.
(Ord. #08-21)

22-72.2 Definition.

An Environmental Impact Statement ("EIS") shall be defined as a separate written description and analysis of all possible direct and indirect effects a development will have on the site of the proposed development, as well as adjacent and noncontiguous areas, with particular reference to the effect of the project on the public health, safety and welfare, the protection of public and private property and the protection, preservation and enhancement of the natural environment. (Ord. #08-21)

22-72.3 Contents of Statement.

The EIS shall contain information and analysis with respect to the following:

- a. The location of the project and a description of the project, including maps and drawings, specifying what is to be done and how it is to be done during construction and operation. The description shall locate the project within its regional, municipal and neighborhood setting, including its relation to surrounding properties, roads, utility lines, parks, recreational sites, historic sites, rivers, streams and vegetative patterns. The project description shall include contours, buildings and other structures, roads, paved areas, grading and regrading, adjacent natural streams, floodplains, wetlands, critical areas, water supply, drainage, stormwater runoff plans, sediment and soil erosion control, traffic patterns, waste disposal plans and open space management plans.
- b. An inventory of existing environmental conditions at the project site and in the affected region, including delineation of all on-site easements, deed restrictions, rights-of-way, stream encroachment lines, wetlands and floodplains. The inventory shall describe air quality, water quality, water supply, surface waters (including streams, ponds and marshes), wetlands, floodplains, steep slopes, critical areas, bedrock, hydrology, natural and manmade drainage, geology, soils and properties thereof (including capabilities and limitations), sewerage systems, topography, slope, vegetation, wetlands, wildlife, aquatic organisms, noise characteristics and levels, traffic conditions, ecology, demography, land use, aesthetics, history and archeology. Air and water quality shall be described with reference to standards promulgated by the New Jersey Department of Environmental Protection.
- c. A listing of all licenses, permits or other approvals required by municipal, County or State law and the status of each.

- d. An assessment of the probable temporary and long-term environmental impact of the project, both adverse and beneficial, supported by environmental data, on the topics described in paragraph b. above.
- e. A listing and evaluation of any probable adverse environmental impacts and damage to natural resources which cannot be avoided, both on site and off site, as a result of the project, with emphasis upon air and water pollution and quality, increase in noise, damage to plants, trees and wildlife systems, displacement of people and businesses, impediments to existing traffic flow and increase in sedimentation and siltation. Impacts upon any wetlands, floodplains, steep slopes, critical areas and shallow bedrock shall also be set forth and evaluated.
- f. A thorough discussion of the steps to be taken during and after construction, both at the project site and in the surrounding area, to minimize the adverse environmental effects described above, such description to be accompanied by necessary maps, schedules and other explanatory data as may be needed to clarify.
- g. A statement of alternatives to the proposed project which might avoid some or all of the adverse environmental effects of the proposed project. The statement should include the reasons for the acceptability or nonacceptability of each alternative and an analysis of the costs and social impact(s) of the alternatives.
- h. *Sewerage Facilities.* An estimate of the expected flow of sewage, process water and/or other wastewater expected from the proposed development. If any flow is expected, the EIS must discuss:
 1. If the disposal is on site, the data on underlying geology, water table, soils analysis, soil stratigraphy, percolation tests for every sewage disposal site, topography, location and depth of aquifers, depth, capacity and type of construction of all wells within five hundred (500') feet of the site and any other pertinent data.
 2. If the disposal is off site, the plant design capacity, the monthly average and peak flows for the past twelve (12) months, the daily average and peak flows, any enforcement action against the plant, the receiving water quality standards, the stream quality data from Federal, State or private sources, the stream flow (minimum average seven (7) consecutive day flow with a frequency of occurrence of ten (10) years), plans for the sewage treatment facility (local plans) and State regional planning policy and flows expected from other approved subdivisions which are dependent upon the sewage treatment facilities in question.
 3. Compliance with all applicable State and local sewage and health regulations and with all groundwater standards of the NJDEP.
- i. *Water Supply.* A showing that an adequate potable water supply is available and not threatened by nearby use of other land and:
 1. If the water is to be supplied from the site, the location and depth of all private and public water supplies within five hundred (500') feet of the development improvements, the location, depth and adequacy of the proposed private or public water supplies to serve the proposed development improvements and the geologic description of subsurface conditions.
 2. If the supply is from facilities off site, including private water companies, the amount of diversion granted by the NJDEP, Division of Water Resources, the present amount of diversion and diversions expected from other approved subdivisions or site plans which are dependent upon the present diversions granted by the Division of Water Resources. The applicant must submit documentary proof that the facility has the available excess capacity in terms of its allowable diversion and equipment to supply the proposed project and is willing to do so.
 3. Compliance with all State and local regulations.
- j. *Drainage.* There must be a showing that stormwater runoff from the site is so controlled that on-site and off-site erosion will not be either caused or worsened and that the potential for downstream flooding will not be increased as a result of the development. The EIS must also state:
 1. Volume and peak flow rates of stormwater runoff expected from the undeveloped site and to be generated by new improvements, including volumes and rates for two (2), five (5), ten (10), twenty-five (25), fifty (50) and one hundred (100) year storm frequencies having durations producing maximum flow rates before and after the proposed development;
 2. Data on landscaping, vegetation maps, trees and ground cover existing on site compared with what would exist with the proposed development;
 3. Any increase in rate or velocity of runoff and change in drainage patterns;

4. Plans for disposition of stormwater, whether by retention or detention on site or by other means so as to protect downstream property;
 5. If the proposed development lies in whole or in part in a floodplain, a description of potential flood damages, including a summary of flood stages from Federal and State sources; and,
 6. Submission of an erosion and sedimentation control plan reviewed by the local Soil Conservation District, if applicable.
- k. *Solid Waste Disposal*. Submission of a plan for disposal by means of a facility operating in compliance with the State Sanitary Code.
- l. *Air Pollution*. A showing that no visible smoke or deleterious chemical changes are produced in the atmosphere by heating or incinerating devices or by any processing of materials.
(Ord. #08-21)

22-72.4 Submission and Review.

- a. Ten (10) copies of the EIS shall be submitted to the Planning Board or the Zoning Board of Adjustment for distribution to applicable Borough officials and review.
- b. In reviewing the EIS, the Planning Board/Zoning Board of Adjustment shall take into consideration the effect of the applicant's proposal upon all aspects of the environment including, but not limited to, water quality, water supply, sewage disposal and environmental preservation.
- c. The Planning Board/Zoning Board of Adjustment shall approve an EIS only if it determines that the proposed development will not result in appreciable harm to the natural environment, has been designed with a view toward the protection of natural resources and will not place an excessive demand upon the total resources available for such proposal and for any future proposals. The EIS approval shall be part of the overall approval for any major subdivision or major site plan and the Planning Board/Zoning Board of Adjustment may impose any conditions on approval of the EIS in the same manner and to the same extent as conditions which may be imposed for major subdivision or major site plan approval. The time limits specified for major subdivision or major site plan approvals shall apply.
(Ord. #08-21)

22-72.5 Waiver.

The Planning Board or the Zoning Board of Adjustment, whichever is applicable, at its sole discretion, may waive the requirement for an EIS, in whole or in part, if sufficient evidence is submitted to support a conclusion that the proposed project will have a negligible environmental impact or that a complete EIS need not be prepared in order to evaluate adequately the environmental impact of the proposed project. (Ord. #08-21)

22-72.6 Appeals.

If the EIS is rejected by the Planning Board or the Zoning Board of Adjustment, the decision may be appealed to the Borough Council by filing a written notice with the Borough Clerk within ten (10) calendar days after receiving notice of the rejection. The Borough Council shall hold a hearing on the matter within thirty (30) calendar days after the notice of appeal has been filed and may modify, affirm or reverse the Planning Board's/Zoning Board of Adjustment's decision as to the EIS. (Ord. #08-21)

22-73 COMMUNITY IMPACT STATEMENT.

22-73.1 General.

All applications for major subdivision or major site plan approval shall be accompanied by a Community Impact Statement (CIS) analyzing the proposed development and its expected impact upon existing municipal facilities and services. The information provided within the CIS shall serve to influence the design of the proposed development so that the provision of necessary municipal facilities can be anticipated and coordinated with the construction of the proposed development and/or alert the appropriate public agencies to anticipated needs that may have to be satisfied in the near future. (Ord. #08-21)

22-73.2 Contents of Community Impact Statement.

The CIS shall address the following areas:

- a. *Population Impact.* The applicant shall provide an analysis of the number of people expected to be added to the municipal population as a result of the proposed development within the following age groups: (1) preschool aged children— zero (0) to four (4) years of age; (2) school aged children—five (5) to eighteen (18) years of age; (3) parents of family-bearing age—eighteen (18) to forty (40) years of age; (4) middle aged adult—forty-one (41) to sixty-two (62) years of age; and, (5) senior citizens—over sixty-two (62) years of age.
- b. *School Impact.* The applicant shall provide an analysis of the anticipated number of pupils who will be added to the student population in the Borough, the ability of the existing public school facilities to absorb the expected student population during a ten (10) year period and the expected cost of any required building additions and increased teaching staff which may be necessary as a result of the proposed number of pupils who will be added to the student population. The applicant may provide this analysis by either of the following means:
 1. The applicant may submit an analysis prepared by the Borough Superintendent of Schools or Board of Education; or,
 2. The applicant may submit an analysis prepared by competent professionals, together with proof that a copy of the analysis has been served on the Board of Education with the following notice: "The Planning Board/Zoning Board of Adjustment requests that the Superintendent of Schools or the Board of Education provide written comments on this analysis within twenty (20) calendar days after service. The Superintendent and the Board are also invited to attend the hearings on this application and give testimony on the impact of the application on the school system."
- c. *Facilities Impact.* The applicant shall provide an evaluation as to the adequacy of existing facilities to serve the proposed development, including the adequacy of existing public water facilities, public sewerage facilities, recreational facilities and library facilities.
- d. *Service Impact.* The applicant shall provide an evaluation as to the adequacy of existing public services to serve the proposed development and the impact of the development upon these services, including police protection, fire protection, solid waste disposal and street maintenance services.
- e. *Traffic Impact.* The applicant shall provide an analysis of the existing road network available to serve the proposed development, as well as the proposed road network within the development itself and the surrounding road network which will be affected by the proposed development, including the capacity of the existing and proposed roadways, the anticipated traffic volumes as a result of the proposed development, the physical structure of both road networks and any problem areas in the road network affected by the development, including unsafe intersections and vertical or horizontal alignments.
- f. *Utility Impacts.* The applicant shall submit letters directed to the Planning Board/Zoning Board of Adjustment and signed by a responsible official of the lighting agency, water company and of any other utility company or governmental authority or district having jurisdiction in the area and which will provide utility service to the proposed development, approving the design of each proposed utility installation and stating who will construct the facility so that service will be available prior to occupancy.
- g. *Financial Impact.* The applicant shall provide 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. Revenue and costs shall be shown for the municipality, the municipal school system and the County.
(Ord. #08-21)

22-73.3 Preparation of CIS.

All factors, multipliers and values used in the preparation of the CIS shall have been provided by a reliable and recognized source and shall be subject to verification as to their accuracy and applicability by the Planning Board/Zoning Board of Adjustment. If the Planning Board/Zoning Board of Adjustment demonstrates reasonable cause to question any representations made in the CIS, the applicant shall be liable for any additional expense incurred during the review of said statement. (Ord. #08-21)

22-73.4 Waiver.

The Planning Board/Zoning Board of Adjustment may waive any or all provisions of this Section that it deems unnecessary. (Ord. #08-21)

22-74 PAYMENT OF TAXES AND ASSESSMENTS.

As a condition of approval by the Planning Board of the Borough of North Plainfield or the Board of Adjustment of the Borough of North Plainfield, any person and/or entity submitting an application for development of property within the Borough must submit proof that no taxes and/or assessments for local improvements are due or delinquent on the property for which any subdivision, site plan or planned development application is made at the time of submission of such subdivision, site plan or planned development application. (Ord. #08-27)

22-75 - 22-77 RESERVED.

ARTICLE VII SITE PLAN AND SUBDIVISION STANDARDS

22-78 DESIGN STANDARDS.

The standards shown apply to improvements required for subdivision plats and site plans. (Ord. #679, S 701)

22-79 STANDARD REQUIRED IMPROVEMENTS.

- a. *Street Signs.* Approved street signs shall be installed at all street intersections and shall be of a type specified by the Borough.
- b. *Walkways.* The developer shall construct a concrete sidewalk, four (4') feet in width located no less than three (3') feet from the side line of the roadway but within the right-of-way. Sidewalks or additional walkways may be required in residential, business or industrial areas and shall be determined on an individual basis by the approving authority and shall in all cases be sufficient in width to accommodate pedestrian traffic and shall be constructed in accordance with the construction standards and specifications of the Borough.
- c. *Street Lighting.* Appropriate street lights shall be installed where designated by the approving authority.
- d. *Topsoil Protection.* No topsoil shall be removed from the site or used as spoil or fill. Topsoil removed during the course of construction shall be redistributed in the site as to provide equal distribution of cover to all areas of the subdivision and shall be stabilized by seeding and planting.
- e. *Monuments.* Monuments of the size and shape required by Section 4 of Chapter 358 of the Laws of New Jersey of 1953, as amended, shall be placed in accordance with the statute, as amended, in subdivisions.
- f. *Drainage.* Drainage shall be provided so that surface water will not flow either over private property, unless the course of the natural drainage by existing ditch is indicated, or over any street so as to erode same. The method of disposal of surface waters must be satisfactory in the opinion of the Borough Engineer. In the case of a major subdivision, or site plan, the drainage plan for the entire subdivision including the street or streets, must be submitted with the tentative plans at the time of the request for tentative approval of the approving authority. There must be sufficient drainage to intercept any water seepage so as to overcome unfavorable subgrade conditions. Underground service connections are to be completed before the placing of any pavement construction material. All driveways from house to street shall be in such a manner as not to interfere with the flow of water in the road or drainage ditches along the public road. The Stormwater Control Ordinance under Section 22-101 of the Borough Code of North Plainfield provides necessary and additional information regarding drainage that must be reviewed and observed in addition to this Section.
- g. *New Roads.* In all subdivisions, the subdivider shall construct paved roadways with curbing. The paved roadway shall be constructed of a compacted five (5) inch bituminous concrete stabilized base and be covered with a two (2") inch FABC machine-laid bituminous concrete surface. All materials used on road construction and methods and work procedures shall be in accordance with the standard form of specifications for New Jersey State Highways, and in accordance with Standard Construction Details on file in the office of the Borough Engineer.
- h. *Sanitary Sewage.* Sanitary sewers shall be installed in areas which are accessible to a public sewage system and shall be installed in accordance with specifications approved by the Borough Engineer. If a public sewer system is not accessible, a sewage disposal system shall be installed in accordance with the requirements of the State Department of Health and subject to the approval of the Borough Engineer and the Borough Council.
- i. *Utilities.* The developer shall install its distribution supply lines, services and street lighting supply facilities underground in accordance with the serving utilities' specifications and with the provisions of the applicable standard terms and conditions incorporated as a part of its tariff as the same are then on file with the State of New Jersey Board of Public Utility Commissioners, provided however, that for good cause shown the Planning Board may waive this requirement and provided further that lots which, in such subdivisions or site plans, abut existing streets where overhead electric or telephone distribution supply lines have heretofore been installed on any portion of the street involved, may be supplied with electric and telephone service from those overhead lines or extensions thereof, but the service connections from the utilities' overhead lines may be installed underground.
- j. *Earth Removal.* No change shall be made in the elevation or contour of any lot or site by removal of earth to another site except when approved by the Borough Engineer. All changes in elevation and contours approved by the Borough Engineer shall be shown on the preliminary plat and profiles.

- k. *Shade Trees*. Where required by the approving authority, two (2) new shade trees shall be installed on each lot on the owner's property so as not to interfere with utilities, roadways or walkways and sidewalks. Trees shall be two (2") inches or more in diameter, eight (8') feet or more in height and of the following types, but not limited to; evergreen or silver linden; London or Oriental plane; Norway, Schwedler's or sugar maple; chestnut; red, pin, black or scarlet oak.
- l. *Parking Areas*. Multi-level parking structures are encouraged to be used rather than surface lots in nonresidential zones, where practicable. In all zones, shared parking, where practical, is encouraged.
- m. A recycling plan, if required pursuant to Section 22-82 hereinbelow.
(Ord. #679, S 702; Ord. #06-16; Ord. #07-20)

22-80 CONSTRUCTION REQUIREMENTS.

- a. All construction stakes and grades thereon shall be set by professional engineer or land surveyor in the employ of the developer or his contractor, and a duplicate copy of the notes made therefrom shall be filed with the Borough Engineer.
- b. No construction work shall commence without the Borough Engineer being properly notified. Such notice shall be given at least one (1) week before the commencement of work.
- c. "Standard Construction Details-Borough of North Plainfield" are hereby adopted as presently on file in the office of the Borough Engineer, and the Standard Construction Details with any amendments thereto or revisions thereof presently existing or to be made in the future shall govern the construction and installation of all the above improvements. Failure of the developer, his contractor or agents to conform to the specifications will be just cause for the suspension of the work being performed.
(Ord. #679, S 703)

22-81 DESIGN STANDARDS FOR SUBDIVISION PLATS.

- a. The subdivision plat shall conform to design standards that will encourage good development patterns within the Borough. The subdivision shall conform to the proposals and conditions shown on the Official Map of the Borough and the Master Plan. 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.
- b. The arrangement of streets not shown on the Master Plan shall be such as to provide for the appropriate extension of existing streets. Whenever a cul-de-sac is permitted, the subdivider shall dedicate a parcel of land fifty (50') feet wide to be used as a future street and running from the cul-de-sac to any adjoining land not fronting on a street as defined in this Chapter, whether such adjoining land is owned by the subdivider or not.
- c. Minor streets shall be so designed as to discourage through traffic.
- d. Subdivisions abutting arterial streets shall 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 approving authority may determine appropriate.
- e. The right-of-way width shall be measured from the lot line and shall not be less than the following:
 - 1. Secondary streets as in Master Plan, sixty (60') feet.
 - 2. Collector streets as in Master Plan, fifty (50') feet.
 - 3. Minor streets, fifty (50') feet.

Applicants shall submit plans for approval which limit on-street parking to allow for narrower paved widths, where feasible.
- f. No subdivision showing reserve strips controlling access to streets shall be approved.
- g. Subdivisions that adjoin or include existing streets that do not conform to widths as shown on the Master Plan, or the street width requirements of this Chapter shall dedicate additional width along either one (1) side only, one-half (1/2) of the required extra width shall be dedicated.
- h. *Street Grades*. Grades of through and main traffic streets shall not exceed twelve (12%) percent, except under special

- conditions which may be approved by the approving authority. No streets shall have a minimum grade of less than one-half of one (1/2 of 1%) percent.
- i. Street intersections shall be laid out as nearly at right angles as possible and in no case shall be less than sixty (60°) degrees. The block corners at intersections shall be rounded at the curbline with a curve having a radius of not less than twenty (20') feet.
 - j. A tangent at least one hundred (100') feet long shall be introduced between reverse curves.
 - k. When connecting street lines deflect each other at any one (1) point by more than ten (10°) degrees and not more than forty-five (45°) degrees, they shall be connected by a curve with a radius of not less than one hundred (100') feet for all streets.
 - l. All changes in grade shall be connected by vertical curves of sufficient radii to provide a smooth transition and proper distance.
 - m. Connecting streets shall be planned wherever possible. Dead-end streets, where planned shall not be longer than one thousand (1,000') feet, excepting where unusual circumstances require granting additional footage at the direction of the approving authority and shall provide a turn around at the end with a radius of not less than fifty (50') feet and tangent wherever 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 provision made for future extension of the street and reversion of the excess of right-of-way to the adjoining properties.
 - n. 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. All street names shall be approved by the approving authority.
 - o. *Blocks.*
 1. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by Article IX Zoning, and to provide for convenient access, circulation, control and safety of street traffic.
 2. In blocks over one thousand (1,000') feet long, pedestrian crosswalks may be required in locations deemed necessary by the approving authority. Such walkway shall be ten (10') feet wide and be straight from street to street.
 3. For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.
 - p. *Lots.*
 1. Lot dimensions and area shall not be less than requirements of Article IX, Zoning.
 2. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
 3. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formation, flood conditions or similar circumstances the approving authority may, after adequate investigation, withhold approval of such lots.
 - q. *Utility Easements; Drainage Rights-of-way; Preservation of Natural Features.*
 1. In large scale development, 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 connection with the companies or municipal departments concerned.
 2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose intended and further, the width of such stormwater easement or drainage right-of-way shall be based upon New Jersey Department of Environmental Protection flood hazard boundaries where such exist.
 3. Natural features such as trees, forested areas, brooks, hilltops and views shall be preserved whenever possible in designing any subdivision containing such features.
(Ord. #679, S 704; Ord. #06-16)

22-82 RECYCLING AND SOLID WASTE REQUIREMENTS FOR NEW DEVELOPMENTS OF MULTIFAMILY RESIDENTIAL UNITS OR COMMERCIAL, INSTITUTIONAL, GOVERNMENT OR INDUSTRIAL PROPERTIES.¹

22-82.1 Definitions.

As used in this Section:

- a. *Multifamily Housing* shall mean 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.
- b. *Recycling Area* shall mean allocated for collection and storage of source separated recyclable materials.
(Ord. #07-20)

22-82.2 Recycling Plan to be Included in Applications to Planning Board and/or Zoning Board of Adjustment.

There shall be included in any application to the Borough Planning Board and/or Zoning Board of Adjustment that requires subdivision or site plan approval for the construction of multifamily housing, single-family developments of fifty (50) or more units or any commercial, institutional, government or industrial development for the utilization of one thousand (1,000) square feet or more of land, a recycling plan. The plan must contain, at a minimum, the following:

- a. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and,
- b. Locations documented on the application's site plan that provide for an indoor or outdoor recycling area for the collection and storage of residentially-generated recycling materials.
 1. 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; and,
 2. 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; and,
 3. The location of the recycling area shall be convenient for the residential disposition of source separated recycling materials, preferably near, but clearly separated from, a refuse dumpster; and,
 4. The plan shall represent that:
 - (a) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles; and,
 - (b) Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles.
(Ord. #07-20)

22-82.3 Protection of Recycling Area.

Reasonable measures shall be taken to protect the recycling area and the bins or containers placed therein, against theft of recycling materials, bins or containers. (Ord. #07-20)

22-82.4 Hauling Contract Required for Certificate of Occupancy.

Prior to the issuance of a Certificate of Occupancy by the Borough, the owner of any new multifamily housing or commercial, institutional or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the Borough does not otherwise provide this service. (Ord. #07-20)

22-82.5 Design of Containers.

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 recycling 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. (Ord. #07-20)

22-82.6 Signs.

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. (Ord. #07-20)

22-82.7 Screening.

Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner. (Ord. #07-20)

22-82.8 Provision for Solid Waste Storage and Pickup Required.

Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Borough Engineer. (Ord. #07-20)

22-83 - 22-88 RESERVED.

¹Editor's Note: Prior ordinance history includes portions of Ordinance No. 94-06.

ARTICLE VIII ZONING BOARD OF ADJUSTMENT

22-89 ZONING BOARD OF ADJUSTMENT.

22-89.1 Establishment, Member, and Organization.

- a. Pursuant to the provisions of P.L. 1975, c. 291, Section 56, as amended by P. L. 1978, c. 37, Section 2, a Zoning Board of Adjustment is hereby established and shall consist of seven (7) regular members and two (2) alternates.
- b. The members of the Board of Adjustment shall be appointed by the Council. The term of each regular member shall be four (4) years. No member may hold any elective office or position under the Borough. No member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if he requests it, be removed by the Council for cause. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only. The alternate members shall serve for the term as provided by statute.
- c. The Board of Adjustment shall elect a Chairman and Vice Chairman from its members and select a Secretary who may or may not be a member of the Board of Adjustment or a municipal employee.
(Ord. #679, S 801; Ord. #679-I-85-1)

22-89.2 Powers.

The Board of Adjustment shall have the power to:

- a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the Zoning Enforcement Officer based on or made in the enforcement of Article IX of this Chapter.
- b. Hear and decide in accordance with the provisions of Article IX, Zoning of this Chapter, requests for interpretation of the Zoning Map or Zoning article of this Chapter or for decisions upon other special questions upon which such board is authorized to pass by the Zoning or Official Map articles of this Chapter.
- c. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to Article IX of this Chapter would result in peculiar and exceptional practical difficulties, 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.

Where in an application or appeal relating to a specific piece of property, the purposes of N.J.S.A. 40:55D-1 et seq. would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to Article IX of this Chapter; provided, however, that no variance from those departures enumerated in paragraph d of this subsection shall be granted under this paragraph; 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 pursuant to subsection 22-27.6, paragraph a. of this Chapter.

- d. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to Article IX 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 nonconforming use, (3) deviation from a specification or standard pursuant to N. J. S. A. 40:55D-67 pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4, (5) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4 except as applied to the required lot area for a lot or lots for detached one (1) or two (2) dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision. A variance 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 subsection 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 regulations. An application under this subsection 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 Board of

Adjustment shall act. (Ord. #679, S 802; Ord. #679-I-85-1)

22-89.3 Employees.

The Board of Adjustment may employ, or contract for, and fix the compensation of legal counsel, other than the Municipal Attorney, a licensed planning consultant, a licensed engineer and other staff and services as it shall deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the Council for its use. (Ord. #679, S 803)

22-89.4 Appeals and Applications.

- a. Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of the Construction Official, Zoning Enforcement Officer of the Borough based on or made in the enforcement of the zoning regulations or official Map. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal is taken, specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
 - b. A developer may file an application for development with the Board of Adjustment for action under any of its powers without prior application to the Construction Official. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning regulations. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in this Chapter for the approval in question, and the special vote pursuant to the aforesaid subsection 22-89.2, paragraph d shall not be required.
 - c. If an application for development is filed with the Board of Adjustment, whether or not an appeal from a decision of the Zoning Enforcement officer is also taken, the applicant shall submit fifteen (15) copies of his completed application to the Secretary of the Board of Adjustment. The time for the Board's review shall not begin to run until the submission of a complete application with the required fee.
 - d. A complete application for development under this Article shall consist of the following:
 1. A properly completed variance information application form.
 2. The required fee, as per Section 22-17 of this Chapter.
 3. If subdivision and/or site plan and/or conditional use approval is also sought as part of an application for a variance pursuant to subsection 22-89.2, paragraph b of this Chapter, the applicant shall also include the information and documents required pursuant to the provisions of Section 22-56, paragraph c. of this Chapter.
 - e. The Secretary of the Board of Adjustment shall distribute the application for review and report, and where required, approval as follows:
 1. Board of Adjustment Five (5) copies
 2. Department of Police One (1) copy
 3. Borough Engineer One (1) copy
 4. Department of Fire One (1) copy
 5. Environmental Commission One (1) copy
 6. Construction Official One (1) copy
 7. Borough Planner One (1) copy
 8. Landscape Consultant One (1) copy
 9. Secretary of Planning Board One (1) copy
 10. Design Review Committee Two (2) copies
- (Ord. #679, S 804; Ord. #679-I-85-1)

22-89.5 Time for Decision.

- a. The Board of Adjustment shall render a decision not later than one hundred twenty (120) days after the date (1) an appeal is taken from the decision of the Zoning Enforcement Officer or (2) the submission of a complete application for development to the Board of Adjustment pursuant to subsection 22-89.4, paragraph b of this Chapter.
- b. Failure of the Board to render a decision within such one hundred twenty (120) day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant. (Ord. #679, S 805)

22-89.6 Modification on Appeal.

The Board of Adjustment 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 Enforcement Officer from whom the appeal is taken. (Ord. #679, S 806)

22-89.7 Stay of Proceedings; Exception.

An appeal to the Board of Adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Zoning Enforcement Officer from whose action the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown. (Ord. #679, S 807)

22-89.8 Other Powers of the Board of Adjustment.

- a. Subsection 22-89.4 through 22-89.7 of this Chapter shall apply to the power of the Board of Adjustment to:
 1. Direct issuance of a permit pursuant to Section 22-48 of this Chapter for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to Section 22-47 of this Chapter; or
 2. Direct issuance of a permit pursuant to Section 22-50 of this Chapter for a building or structure not related to a street.
- b. The Board of Adjustment shall have the power to grant to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to Articles VI and VII of this Chapter or conditional use approval pursuant to subsection 22-108.1 et seq., of this Chapter whenever the Board of Adjustment is reviewing an application for approval of a variance pursuant to subsection 22-89.2. paragraph d of this Chapter.
- c. Whenever an application for development requests relief pursuant to paragraph b of this subsection, the Board of Adjustment shall grant or deny approval of the application within one hundred twenty (120) days after submission by a developer of a complete application to the Secretary of the Board of Adjustment or within such further time as may be consented to by the applicant. 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 this Chapter. Failure of the Board of Adjustment to act within the period prescribed shall constitute approval of the application and a certificate of the Secretary of the Board of Adjustment as to the failure of the Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required.
- d. Whenever review or approval of the application by the County Planning Board is required, the Board of Adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board by failure to report thereupon within the required time.
- e. An application under this subsection 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.
- f. The Board of Adjustment shall refer any application for subdivision or site plan approval under this subsection to the Planning Board for its report before it takes final action thereof. Such reference shall not extend the time for action by the Board of Adjustment, whether or not the Planning Board has submitted its report. Whenever the Planning Board shall have made a recommendation regarding a matter authorized by this Chapter to the Board of Adjustment, such recommendation may be rejected only by a majority of the full authorized membership of the Board of Adjustment.

(Ord. #679, S 808; Ord. #679-I-85-1)

22-89.9 Member Absence at Meetings.

A member of the Board of Adjustment who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one (1) or more of the meetings; provided, however, that such Board member has available to him the transcript or recording of all of the hearing from which he was absent, and certified in writing to the Board that he has read such transcript or listened to such recording. (Ord. #679, S 809)

22-90 - 22-99 RESERVED.

22-100 INTERPRETATION AND SCOPE.

22-100.1 Interpretation.

Where the provisions of this Article impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Article shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Article, the provisions of such statute, other ordinance or regulation shall be controlling. It is not intended by this Article to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically or impliedly repealed in this Article or any private restrictions placed on property by covenant, deed or other private agreement unless repugnant hereto. Whether this Article imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or lot coverage, or require greater lot areas, or larger yards, courts or other open spaces than are imposed or required by such existing provisions of law, or ordinance or by such rules, regulations or permits or by such private restrictions, the provisions of this Article shall control. (Ord. #679, S 9-101)

22-100.2 Scope.

From and after the effective date of this Article, the use of all land and every building and structure and portions of a building or structure erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the Borough, shall be in conformity with the provisions of this Article. Any lawful existing building or structure and any lawful existing use of a building or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, extended or changed subject to the regulations herein provided with respect to nonconforming buildings or uses. (Ord. #679, S 9-102)

22-101 WATER RUN-OFF CONTROL.

22-101.1 Purpose.

It is hereby determined that disastrous floods which have occurred over the last several years have caused significant damage to public and private property, health, safety, convenience, and general welfare of the community. It is further found that the significant increase in flood occurrences is partially due to an increase in stormwater runoff. The increase in the quantity of stormwater runoff is a result of the development of lands with impermeable surfaces in and around the community. It is therefore determined that the special public interest in the control of stormwater justifies the regulation of property located within the community as provided in this Chapter. (Ord. #679, S 9-201)

22-101.2 Regulation.

- a. No land area shall be developed by any person, partnership, corporation, municipal entity, or other public agency which shall increase the quantity or velocity of stormwater emanating from the development as a result of the construction of an impermeable surface or any other means which increases stormwater runoff, except in accordance with a permit issued therefor as provided by this Chapter. All proposed developments within the Borough must comply with the Soil Erosions and Sediment Control Standards of New Jersey (N.J.S.A. 4:24-39 et seq.)

- b. This Chapter and the requirements and standards contained herein shall be applicable to any person, partnership, corporation, municipal entity, or public agency which shall by any means whatsoever develop land area, provided, however, the following exemptions from the requirements of this Chapter shall be granted by the Construction Official or Borough Engineer:
1. Any development or construction of any impervious surface which results in less than one hundred fifty (150) square feet of impervious surface being added to any building lot.
 2. The repair, replacement, or renovation of an existing impermeable surface, regardless of size, when the repair, replacement or renovation does not increase the existing building lot coverage by impermeable surfaces, does not change the location of any impermeable surface on the building lot and is designed primarily to replace a deteriorated condition.
- c. *Application for Approval.*
1. In cases where the development of land involves the construction of a building or other facility requiring a construction permit, the Construction Official shall determine whether the development is exempt. If the character of the work to be undertaken by the applicant is found to be exempt, the Construction Official may proceed with the issuance of a construction permit. If the character of the work to be undertaken is such that requires review and approval with regard to the provisions of this Chapter, the applicant shall proceed to submit an application and other data as outlined in subsection 22-101.2, paragraph d herein to the Borough Engineer. The Borough Engineer, through the Construction Official, upon completing his review of the application and data, shall either approve, conditionally disapprove, or disapprove the application. Upon approval or exemption the Construction Official may proceed with the issuance of a construction permit. If the application is approved, the Borough Engineer shall issue a permit. If conditionally disapproved by the Borough Engineer the application and data shall be returned to the applicant with appropriate comments and/or requirements to be incorporated into the data and resubmitted for approval, disapproval or exemption.
 2. In cases where the development of land does not require a construction permit, the developer shall submit a preliminary application to the Borough Engineer. If the character of the development to be undertaken by the applicant is found to be exempt, the Borough Engineer shall so notify the applicant in writing and the applicant may proceed to develop the land area. If not exempt, the developer shall submit an application and other data as outlined in subsection 22-101.2, paragraph d to the Borough Engineer. The Borough Engineer, upon completing his review of the application and data, shall either approve, disapprove or conditionally disapprove the application. If the application is approved, the Borough Engineer shall issue a permit. If conditionally disapproved by the Borough Engineer, the application and data shall be returned to the applicant with appropriate comments and/or requirements to be incorporated into the data and resubmitted for approval, disapproval or exemption.
- d. *Data Required.* Any application submitted for approval must be accompanied by the following data, the payment of the appropriate fee and submitted at the appropriate time, provided, however, the Borough Engineer may waive the submission of any data in specific instances, when in his judgment, same is not necessary for a proper evaluation of the application. Developments and improvements meeting the definition of major development as provided under subsection 22-101.2f, Stormwater Control Ordinance, shall comply with the requirements of that section.
1. Any development on single dwelling lot with a one (1) or two (2) family dwelling. Application to accompany request for construction permit.
 - (a) Plot plan showing dimensions of property, proposed buildings, driveway, patios, sidewalks, etc., including area of each and every improvement.
 - (b) One (1) percolation test and soil log report for each dwelling lot when utilizing subsurface recharge system.
 - (c) Topographical survey showing existing and proposed grades on the U.S. Coastal and Geodetic Survey Datum.
 2. Major subdivision application to accompany preliminary subdivision application to Planning Board.
 - (a) Same data as required for preliminary subdivision approval.
 - (b) One (1) percolation test and soil log report for each dwelling lot when utilizing subsurface recharge system.
 - (c) Design calculations.
 - (d) Detailed plans for retention-detention facilities.

3. Commercial Lots. Application to accompany site plan review application.

- (a) Plot plan showing dimensions of property, proposed buildings, driveways, parking areas, etc., and areas of each and every improvement.
- (b) Topographical survey showing existing and proposed grades on the U.S. Coastal and Geodetic Survey Datum.
- (c) One (1) percolation test and soil log report for each lot when utilizing subsurface recharge systems.
- (d) Design calculations.
- (e) Detailed plans for retention-detention facilities.

4. All Other Developments. Application to accompany site plan review or subdivision application if applicable, otherwise in accordance with subsection 22-101.2, paragraph c.

Applications for a stormwater control permit which accompany subdivision and site plan applications shall be acted on by the Borough Engineer within the same time allotted for the necessary Board review and approval. All other applications which come before the Construction Official and/or the Borough Engineer shall be acted on within twenty-one (21) days of submittal. All data accompanying a stormwater control application shall be prepared by a professional engineer and/or architect licensed in the State of New Jersey.

- e. *Design Standards.* The intent of this Section is to regulate and control stormwater runoff as it is increased as a result of development except as exempted by subsection 22-101.2, paragraph b. For developments and improvements that do not meet the definition of major development as provided under subsection 22-101.2f, Stormwater Control Ordinance, shall retain/detain water on site equal to the net difference in discharge as calculated before and after development. Design shall be based on the USDA Natural Resource Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds or Rational Method for peak flow and the Modified Rational Method for Hydrograph computations. For peak flow developments and improvements meeting the definition of major development as provided under subsection 22-101.2f, Stormwater Control Ordinance, design shall be based on the more stringent of the Stormwater Control Ordinance or the Handbook for Stormwater Detention Basins as adopted by the Somerset County Planning Board, including all subsequent revisions. The following on-site water retention/detention facilities may be incorporated as prescribed for developments and improvements not meeting the definition of major development.

f. *Stormwater Control.**

1. Scope and Purpose.

- (a) Policy Statement. Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- (b) Purpose. It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for "major development," as defined in paragraph f,2.
- (c) Applicability:
 - (1) This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
 - [a] Nonresidential major developments; and,
 - [b] Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
 - (2) This ordinance shall also be applicable to all major developments undertaken by the Borough of North Plainfield.

- (d) **Compatibility with Other Permit and Ordinance Requirements.** Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.
2. **Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2:

CAFRA Centers, Cores or Nodes shall mean those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

CAFRA Planning Map shall mean the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E5B.3.

Compaction shall mean the increase in soil bulk density.

Core shall mean a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

County Review Agency shall mean an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The County review agency may either be:

A County planning agency; or,

A County water resource association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

Department shall mean the New Jersey Department of Environmental Protection.

Designated Center shall mean a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

Design Engineer shall mean a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

Development shall mean 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 structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

Drainage Area shall mean a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

Environmentally Critical Areas shall mean an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

Empowerment Neighborhood shall mean a neighborhood designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

Erosion shall mean the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Impervious Surface shall mean a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

Infiltration shall mean the process by which water seeps into the soil from precipitation.

Major Development shall mean any "development" that provides for ultimately disturbing one (1) or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

Municipality shall mean any city, borough, town, township, or village.

Node shall mean an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

Nutrient shall mean a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

Person shall mean any individual, corporation, company, partnership, firm, association, The Borough of North Plainfield, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground-waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

Recharge shall mean the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

Sediment shall mean solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Site shall mean the lot or lots upon which a major development is to occur or has occurred.

Soil shall mean all unconsolidated mineral and organic material of any origin.

State Development and Redevelopment Plan Metropolitan Planning Area (PAI) shall mean an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

State Plan Policy Map shall mean the geographic application of the State Development and Redevelopment Plan's goals and Statewide policies, and the official map of these goals and policies.

Stormwater shall mean water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

Stormwater Management Basin shall mean an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

Stormwater Management Measure shall mean any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

Stormwater Runoff shall mean water flow on the surface of the ground or in storm sewers, resulting from

precipitation.

Tidal Flood Hazard Area shall mean a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

Urban Coordinating Council Empowerment Neighborhood shall mean a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

Urban Enterprise Zone shall mean a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq.

Urban Redevelopment Area shall mean previously developed portions of areas:

- (a) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- (b) Designated as CAFRA Centers, Cores or Nodes;
- (c) Designated as Urban Enterprise Zones; and,
- (d) Designated as Urban Coordinating Council Empowerment Neighborhoods.

Waters of the State shall mean the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

Wetlands or *wetland* shall mean an area that is inundated or saturated by surface water or ground-water 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.

3. General Standards.

- (a) Design and Performance Standards for Stormwater Management Measures.
 - (1) Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in paragraph f,4. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
 - (2) The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

4. Stormwater Management Requirements for Major Development.

- (a) The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with paragraph f,10.
- (b) Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- (c) The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of paragraphs f,4(f) and (g).
 - (1) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
 - (2) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and,
 - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of

fourteen (14') feet, provided that the access is made of permeable material.

- (d) A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of paragraph f,4(f) and (g) may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
- (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 - (2) The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of paragraph f,4(f) and (g) to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements paragraph f,4(f) and (g), existing structures currently in use, such as homes and buildings, would need to be condemned; and,
 - (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under paragraph d,3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of paragraph f,4(f) and (g) that were not achievable on site.
- (e) Nonstructural Stormwater Management Strategies.
- (1) To the maximum extent practicable, the standards in paragraph f,4(f) and (g) shall be met by incorporating nonstructural stormwater management strategies set forth at paragraph f,4(e) into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in paragraph (2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
 - (2) Nonstructural stormwater management strategies incorporated into site design shall:
 - [a] Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - [b] Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - [c] Maximize the protection of natural drainage features and vegetation;
 - [d] Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
 - [e] Minimize land disturbance including clearing and grading;
 - [f] Minimize soil compaction;
 - [g] Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - [h] Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - [i] Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - [1] Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy paragraph f,4(e)(3) below;
 - [2] Site design features that help to prevent discharge of trash and debris from drainage systems;

- [3] Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and,
 - [4] When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
- (3) Site design features identified under paragraph f,4(e)(2)[i][2] above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see paragraph f,4(e)(3)[c] below.
- [a] Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - [1] The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or,
 - [2] A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inch across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
 - [b] Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two (2) or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0") inches across the smallest dimension.
 - [c] This standard does not apply:
 - [1] Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
 - [2] Where flows from the water quality design storm as specified in paragraph f,4(g)(1) are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - (1) A rectangular space four and five-eighths (4 5/8") inches long and one and one-half (1 1/2") inches wide (this option does not apply for outfall netting facilities); or,
 - (2) A bar screen having a bar spacing of 0.5 inch.
 - [3] Where flows are conveyed through a trash rack that has parallel bars with one (1") inch spacing between the bars, to the elevation of the water quality design storm as specified in paragraph f,4(g)(1); or,
 - [4] Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.
- (4) Any land area used as a nonstructural stormwater management measure to meet the performance standards in paragraph f,4(f) and (g) shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved

equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

- (5) Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in paragraph f,7, or found on the Department's website at www.njstormwater.org.
- (f) Erosion Control, Groundwater Recharge and Runoff Quantity Standards.
- (1) This paragraph contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.
- [a] The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
- [b] The minimum design and performance standards for groundwater recharge are as follows:
- [1] The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at paragraph f,5, either:
- (i) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain one hundred (100%) percent of the average annual preconstruction groundwater recharge volume for the site; or,
- (ii) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from preconstruction to post-construction for the 2-year storm is infiltrated.
- [2] This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to paragraph [3] below.
- [3] The following types of stormwater shall not be recharged:
- (i) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/ unloaded, stored, or applied, areas where pesticides are loaded/ unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and,
- (ii) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; byproducts; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- [4] The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- [c] In order to control stormwater runoff quantity impacts, the design engineer shall, using the

assumptions and factors for stormwater runoff calculations at paragraph f,5, complete one of the following:

- [1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
 - [2] Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 10-, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
 - [3] Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are fifty, seventy-five and eighty (50%, 75% and 80%) percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or,
 - [4] In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with paragraphs [1], [2] and [3] above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.
- (2) Any application for a new agricultural development that meets the definition of major development at paragraph f,2 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this Section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this Section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.
- (g) Stormwater Runoff Quality Standards.
- (1) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by eighty (80%) percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional one-quarter (1/4) acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is one and one-quarter (1.25") inches of rainfall in two (2) hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.



Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

- (2) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in paragraph f,7, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in paragraph f,7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418, Trenton, New Jersey, 08625-0418.
- (3) If more than one (1) BMP in series is necessary to achieve the required eighty (80%) percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A+B-(AXB)/100$$

Where

R = total TSS percent load removal from application of both BMPS, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	80
Infiltration Structure	40-60
Manufactured Treatment Device	See paragraph f,6(c)
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

- (4) If there is more than one (1) on-site drainage area, the eighty (80%) percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
- (5) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in paragraph f,4(f) and (g).
- (6) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in paragraph f,7.
- (7) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - [a] The applicant shall preserve and maintain a special water resource protection area in accordance with one (1) of the following:
 - [1] A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
 - [2] Encroachment within the designated special water resource protection area under paragraph [1] above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than one hundred fifty (150') feet as measured perpendicular to the top of the bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.
 - [b] All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
 - [c] If stormwater discharged outside of and flowing through the special water resource protection

area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

- [1] Stabilization measures shall not be placed within one hundred fifty (150') feet of the Category One waterway;
- [2] Stormwater associated with discharges allowed by this Section shall achieve a ninety-five (95%) percent TSS post-construction removal rate;
- [3] Temperature shall be addressed to ensure no impact on the receiving waterway;
- [4] The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
- [5] A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and,
- [6] All encroachments proposed under this Section shall be subject to review and approval by the Department.

[d] A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to paragraph f,4(g)(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to paragraph f,4(g)(8) shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in paragraph f,4(g)(8)[a][1] above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than one hundred fifty (150') feet as measured perpendicular to the waterway subject to this subsection.

[e] Paragraph f,4(g)(8) does not apply to the construction of one (1) individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

5. Calculation of Stormwater Runoff and Groundwater Recharge.

(a) Stormwater runoff shall be calculated in accordance with the following:

(1) The design engineer shall calculate runoff using one (1) of the following methods:

- [a] The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or,
- [b] The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

(2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at paragraph f,5(a)(1)[a] and the Rational and Modified Rational Methods at paragraph f,5(a)(1)[b]. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the

site or portion of the site for at least five (5) years without interruption prior to the time of application. If more than one (1) land cover have existed on the site during the five (5) years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

- (3) In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce preconstruction stormwater runoff rates and volumes.
 - (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.
 - (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- (b) Groundwater recharge may be calculated in accordance with the following:
- (1) The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427; (609) 984-6587.
6. Standards for Structural Stormwater Management Measures.
- (a) Standards for structural stormwater management measures are as follows:
- (1) Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
 - (2) Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one (1") inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one (1") inch and a maximum spacing between bars of six (6") inches. In addition, the design of trash racks must comply with the requirements of paragraph f,8(b).
 - (3) Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.
 - (4) At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half (2 1/2") inches in diameter.
 - (5) Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at paragraph f,8.
- (b) Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by paragraph f,4.

- (c) Manufactured treatment devices may be used to meet the requirements of paragraph f(4) of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

7. Sources for Technical Guidance.

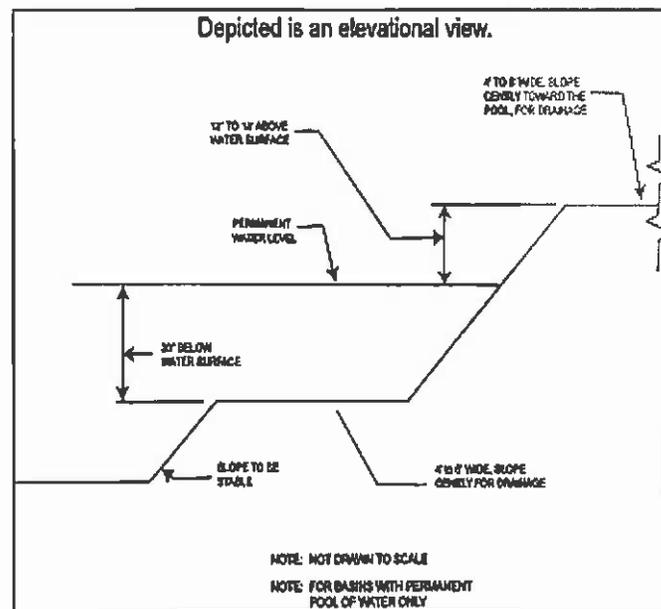
- (a) Technical guidance for stormwater management measures can be found in the documents listed at (1) and (2) below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.
 - (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
 - (2) The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.
- (b) Additional technical guidance for stormwater management measures can be obtained from the following:
 - (1) The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625; (609) 292-5540;
 - (2) The Rutgers Cooperative Extension Service, (732) 932-9306; and,
 - (3) The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

8. Safety Standards for Stormwater Management Basins.

- (a) This Section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This Section applies to any new stormwater management basin. Note to the applicant: The provisions of this section are not intended to preempt more stringent municipal or County safety requirements for new or existing stormwater management basins. Municipal and County stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins to be retrofitted to meet one (1) or more of the safety standards in paragraph f,8(b)(1), (2) and (3) for trash racks, overflow grates, and escape provisions at outlet structures.
- (b) Requirements for Trash Racks, Overflow Grates and Escape Provisions.
 - (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - [a] The trash rack shall have parallel bars, with no greater than six (6") inch spacing between the bars.
 - [b] The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - [c] The average velocity of flow through a clean trash rack is not to exceed two and one-half (2.5') feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - [d] The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of three hundred (300) lbs./ft. sq.
 - (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure

has an overflow grate, such grate shall meet the following requirements:

- [a] The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - [b] The overflow grate spacing shall be no less than two (2") inches across the smallest dimension.
 - [c] The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of three hundred (300) lbs./ft. sq.
- (3) For purposes of this paragraph (3), escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
- [a] If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in paragraph 8(c) a free-standing outlet structure may be exempted from this requirement.
 - [b] Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half (2 1/2') feet. Such safety ledges shall be comprised of two (2) steps. Each step shall be four (4') to six (6') feet in width. One (1) step shall be located approximately two and one-half (2 1/2') feet below the permanent water surface, and the second step shall be located one (1') to one and one-half (1 1/2') feet above the permanent water surface. See paragraph 8(d) for an illustration of safety ledges in a stormwater management basin.
 - [c] In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.
- (c) Variance or Exemption from Safety Standards.
- (1) A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written funding by the appropriate reviewing agency (municipality, County or Department) that the variance or exemption will not constitute a threat to public safety.
- (d) Illustration of Safety Ledges in a New Stormwater Management Basin.



NOTE: NOT DRAWN TO SCALE
NOTE: FOR BASINS WITH PERMANENT POOL OF WATER ONLY

9. Requirements for a Site Development Stormwater Plan.

(a) Submission of Site Development Stormwater Plan.

- (1) Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at paragraph 9(c) below as part of the submission of the applicant's application for subdivision or site plan approval.
- (2) The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
- (3) The applicant shall submit seven (7) copies of the materials listed in the checklist for site development stormwater plans in accordance with paragraph 9(c) of this ordinance.

(b) Site Development Stormwater Plan Approval. The applicant's site development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

(c) Checklist Requirements. The following information shall be required:

- (1) **Topographic Base Map:** The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of two hundred (200') feet beyond the limits of the proposed development, at a scale of 1" =200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing manmade structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
- (2) **Environmental Site Analysis.** A written and graphic description of the natural and manmade features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
- (3) **Project Description and Site Plan(s).** A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map (s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground-water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.
- (4) **Land Use Planning and Source Control Plan.** This plan shall provide a demonstration of how the goals and standards of paragraphs f,3 through f,6 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- (5) **Stormwater Management Facilities Map.** The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - [a] Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - [b] Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

- (6) Calculations.
 - [a] Comprehensive hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the design storms specified in paragraph f,4 of this ordinance.
 - [b] When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.
 - (7) Maintenance and Repair Plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of paragraph f,10.
 - (8) Waiver from Submission Requirements. The municipal official or board reviewing an application under this ordinance may, in consultation with the Borough Engineer, waive submission of any of the requirements in paragraph f,9(c)(1) through (c)(6) of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.
10. Maintenance and Repair.
- (a) Applicability: Projects subject to review as in paragraph f,1(c) of this ordinance shall comply with the requirements of paragraphs f,10(b) and (c).
 - (b) General Maintenance.
 - (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
 - (2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
 - (3) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
 - (4) If the person responsible for maintenance identified under paragraph f,10(b)(2) above is not a public agency, the maintenance plan and any future revisions based on paragraph f,10(b)(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
 - (5) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
 - (6) The person responsible for maintenance identified under paragraph f,10(b)(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
 - (7) The person responsible for maintenance identified under paragraph f,10(b)(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
 - (8) The person responsible for maintenance identified under paragraph f,10(b)(2) above shall retain and

make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by paragraphs f,10(b)(6) and (7) above.

- (9) The requirements of paragraphs f,10(b)(3) and (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
 - (10) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the Municipal Engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.
 - (11) A two (2) year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 shall be posted for the maintenance of the stormwater facilities.
 - (12) Guidelines for developing a maintenance and inspection program are provided in the New Jersey Stormwater Best Management Practices Manual and the NJDEP Ocean County Demonstration Study, Stormwater Management Facilities Maintenance Manual, dated June 1989 available from the NJDEP, Watershed Management Program.
- (c) Nothing in this Section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.
11. Penalties. Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the general penalty provisions of the Borough Code regarding ordinance violations. Each day a violation occurs shall be a separate penalty.
 12. Effective Date. This ordinance shall take effect immediately upon the approval by the County review agency, or sixty (60) days from the receipt of the ordinance by the County review agency if the County review agency should fail to act.
 13. Severability. If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
(Ord. #679, S 9-202; Ord. #90-04, S 1; Ord. #06-16; Ord. #08-23)

22-101.3 Maintenance of Systems.

If not addressed under subsection 22-101.2f, the owner of any system installed under the Chapter to control or regulate stormwater runoff shall properly maintain such system to insure its correct functioning. (Ord. #679, S 9-203; Ord. #06-16)

22-102 ZONES, ZONING MAP AND SCHEDULE.

22-102.1 Zones.

For the purposes of this Chapter, the Borough is hereby divided into eighteen (18) classes of zones as to use, as follows:

R-1	Residence Zone
R-2	Residence Zone
R-3	Residence Zone
R-4	Residence Zone
R-5	Residence Zone
R-6	Residence Zone
R-7	Residence Zone
R-8	Residence Zone
R-9	Age Restricted Community (ARC)

	Residence Zone
H-1	Historic District Residence Zone
H-2	Historic District Residence Zone
B	Business Zone
B-1	Business Zone
B-2	Business Zone
B-3	Business Zone
B-4	Business Zone
B-5	Business Zone
B-6	Business Zone

(Ord. #679, S 9-301; Ord. #679-R-88-19, S 1A; Ord. #01-11, S 1; Ord. #05-22; Ord. #06-01)

22-102.2 Zoning Map.

The boundaries of the districts shall be as shown on certain maps entitled "Zoning Map, Borough of North Plainfield, Somerset County, New Jersey, December 1977, revised June 1980," and "Map Revision to the Zoning Map, Borough of North Plainfield, Somerset County, New Jersey, July 1, 1988," and "Map Revision to the Zoning Map, Borough of North Plainfield, Somerset County, New Jersey, October 22, 2001" and "North Plainfield Zoning Map, Somerset County, New Jersey, March 2005," which maps have been and/or are now on file in the Office of the Clerk of the Borough of North Plainfield. Said maps are hereby adopted and included within this Chapter as fully as if replicas of said map(s) were printed herewith.

The designation or placing of any streets, roads or avenues on said maps shall not be construed to be a dedication or acceptance of any such streets, roads or avenues as may not have been heretofore dedicated or accepted. (Ord. #679, S 9-302; Ord. #679-R-88-19, S 1B; Ord. #01-17; Ord. #05-19; Ord. #05-22)

22-102.3 Schedule of Requirements.

The Schedule of Requirements attached hereto shall be a part of this Chapter, provided, however, that it shall be considered a general guide to the requirements of this Chapter and in any case where the "Schedule" may conflict with the express wording of any provision of this Chapter, such express wording shall control. (Ord. #679, S 9-303; Ord. #91-10, S 24)

22-102.4 Zone District Boundary Lines.

Zone boundary lines are shown on the Zoning Map accompanying this Chapter are intended to coincide with lot lines, the center lines of streets, drainage courses or railroads as they existed at the time of adoption of this Chapter, or as they are designated on the Zoning Map by figures or dimensions. In case of uncertainty or disagreement as to the true locations of any zone boundary line, the determination thereof shall be made by the Board of Adjustment in accordance with N.J.S.A. 40:55D-70b. (Ord. #679, S 9-304)

22-103 R-1 AND R-2 RESIDENCE ZONES.

22-103.1 Uses.

In the R-1 and R-2 Residence Zones, only the following uses are permitted:

- a. One-family dwellings.
- b. State accredited schools and public buildings and uses owned or operated by the Borough or its agent or by the Board of Education.
- c. Churches, synagogues and other religious buildings and uses.
- d. Not more than two (2) roomers or boarders per one-family dwelling.
- e. Accessory uses limited to the following:
 1. Off-street parking in accordance with Section 22-117.
 2. Signs in accordance with Section 22-119.
- f. Accessory buildings and structures normally incident and subordinate to the principal use including private garages, property maintenance and storage buildings, private swimming pools and cabanas and similar utility and recreational

buildings and structures.

(Ord. #679, S 9-401; Ord. #679G)

22-103.2 Required Conditions R-1 Residence Zone.

- a. *Height.* No principal building shall exceed two and one-half (2-1/2) stories or thirty-five (35') feet.
- b. *Minimum Lot Area.* There shall be a minimum lot area of seven thousand five hundred (7,500) square feet which must be measured within one hundred sixteen (116') feet of the front street right-of-way.
- c. *Minimum Lot Width.* There shall be a minimum lot width at the building line of sixty-five (65') feet and a minimum lot frontage of fifty (50') feet.
- d. *Front Yard.* There shall be a front yard of not less than thirty (30') feet except that where the existing buildings on the same side of the street within the block and within two hundred (200') feet of the site form an average setback, new buildings shall conform to such established line.
- e. *Rear Yard.* There shall be a minimum rear yard equal to at least twenty five (25%) percent of the average lot depth, but not less than twenty-five (25') feet.
- f. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than four (4') feet; provided, however, that the aggregate width of the two (2) side yards shall equal at least thirty (30%) percent of the lot width at the building line.
- g. *Corner Lots.* On a corner lot, a building must meet the front yard requirement on both streets. Existing corner lots with buildings thereon shall not be required to comply with this provision.
- h. *Maximum Building Coverage.* The total ground floor area of all buildings shall not exceed twenty (20%) percent of the total lot area.
- i. *Minimum Floor Area.* Every residence shall have a minimum floor area of one thousand two hundred (1,200) square feet. A residence having more than one (1) story shall have a first floor area of at least eight hundred fifty (850) square feet.

(Ord. #679, S 9-402)

22-103.3 Required Conditions R-2 Residence Zone.

- a. *Height.* No principal building shall exceed two and one-half (2-1/2) stories or thirty five (35') feet.
- b. *Minimum Lot Area.* There shall be a minimum lot area of six thousand (6,000) square feet which must be measured within one hundred fifteen (115') feet of the front street right-of-way.
- c. *Minimum Lot Width.* There shall be a minimum lot width at the building line of fifty (50') feet and a minimum lot frontage of thirty-five (35') feet.
- d. *Front Yard.* There shall be a front yard of not less than thirty (30') feet except that where the existing buildings on the same side of the street within the block and within two hundred (200') feet of the site form an average setback, new buildings shall conform to such established line.
- e. *Rear Yard.* There shall be a minimum rear yard equal to twenty five (25%) percent of the average lot depth, but not less than twenty-five (25') feet.
- f. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than four (4') feet; provided, however, that the aggregate width of the two (2) side yards shall equal at least thirty (30%) percent of the lot width at the building line.
- g. *Corner Lots.* On a corner lot, a building must meet the front yard requirements on both streets. Existing corner lots with buildings thereon shall not be required to comply with this provision.
- h. *Maximum Building Coverage.* The total ground floor area of all buildings shall not exceed thirty (30%) percent of the total lot area.
- i. *Minimum Floor Area.* Every residence shall have a minimum floor area of one thousand (1,000) square feet. A residence having more than one (1) story shall have a first floor area of at least seven hundred fifty (750) square feet.

(Ord. #679, S 9-403)

22-104 R-3 RESIDENCE ZONE**22-104.1 Uses.**

In the R-3 Residence Zone, only the following uses are permitted:

- a. Any use permitted in the R-1 and R-2 Residence Zones.
- b. Two (2) family dwellings.
(Ord. #679, S 9-501)

22-104.2 Required Conditions.

In the R-3 Residence Zone all required conditions of the R-2 Residence Zone shall be met; provided, however, that for two (2) family dwellings, each dwelling unit need have a minimum floor area of only nine hundred (900) square feet. (Ord. #679, S 9-502)

22-104.3 Two Family Dwellings.

Two (2) family dwellings shall be required to have a minimum lot area of seven thousand five hundred (7500) square feet. (Ord. #679, S 9-503)

22-105 R-4 RESIDENCE ZONE.**22-105.1 Uses.**

In the R-4 Residence Zone, only the following uses are permitted:

- a. Any use as permitted in the R-3 Residence Zone subject to all required conditions of that zone.
- b. Townhouses subject to the required conditions of subsection 22-105.2.
(Ord. #679, S 9-601)

22-105.2 Required Conditions for Townhouses.

- a. Area and Density Requirements.
 1. Minimum Lot Area. There shall be a minimum lot area of two (2) acres.
 2. Maximum Density. There shall be no more than nine (9) dwelling units per acre.
 3. Maximum Building Coverage. The total ground floor area of all buildings shall not exceed thirty-five (35%) percent of the lot area.
- b. Setback Requirements.
 1. No principal building shall be located within thirty (30') feet of a street, nor within twenty (20') feet of a rear property line, nor within ten (10') feet of a side property line.
 2. No principal building shall be located within five (5') feet of an internal roadway or driveway.
 3. There shall be a minimum distance between principal buildings of twenty-five (25') feet plus one-half (1/2') foot for each foot of opposing building wall in excess of fifty (50') feet.
 4. On corner lots, principal buildings shall meet the front yard setback from all streets.
- c. Building Requirements.
 1. Height. No building shall exceed a height of two and one-half (2-1/2) stories or thirty-five (35') feet.
 2. Units Per Building. No townhouse dwelling structure shall contain less than four (4) nor more than eight (8) townhouse dwelling units.

3. Building plans and elevations shall show a variation in design and appearance of units and structures to be achieved by types of roof, heights of eaves and peaks, building materials and architectural treatment of the building facade.
4. Each townhouse dwelling unit shall be separated from adjoining units by a fire wall extending from the basement to the roof and constructed in accordance with the Building Code.

d. *Townhouse Dwelling Unit Requirements.*

1. Each townhouse dwelling unit shall contain as a minimum a separate living room, a separate bedroom, a separate bath, a basement for storage and utilities and a separate kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with exception of the dining room.
2. **Minimum Floor Area.** Each townhouse dwelling unit shall have a minimum floor area of six hundred (600) square feet plus one hundred fifty (150) square feet for each bedroom.
3. No room within the townhouse dwelling unit intended for human habitation shall be located in a cellar, basement or attic except that a cellar or basement may contain a family room or recreation room.
4. Each townhouse dwelling unit shall have individual private outside front and rear entrances.
5. Each townhouse dwelling unit shall contain its own heating plant and system and shall constitute a separate, independent unit for metering and all other purposes with respect to all required utilities and similar conveniences. No central or common laundry or similar facilities intended for two (2) or more dwelling units shall be permitted in a townhouse development.
6. Each townhouse dwelling unit shall have an individual private front yard area adjoining the unit of at least fifteen (15') feet in depth and an individual private rear yard area or open patio or court adjoining the unit of at least fifteen (15') feet. Each private rear yard area, patio or court shall be effectively screened from adjoining units by a fence, wall or natural screening in order to provide a reasonable degree of privacy.

e. *Accessory Buildings.*

1. Any accessory building shall be located at the rear of any principal building and shall be a minimum of fifteen (15') feet from any principal building or property line and ten (10') feet from another accessory building. Clubhouses, swimming pools and recreation facilities shall be at least fifteen (15') feet from a principal building or property line.
2. **Height.** The maximum height of an accessory building shall be sixteen (16') feet.
3. **Design.** Architectural design and materials used in the construction of accessory buildings shall conform to or complement those used in the construction of principal buildings.

f. *Off-Street Parking.* Off-street parking shall conform to the provisions of Section 22-117 for nonresidential uses, and, in addition, the following requirements shall be met:

1. Provision shall be made for at least two (2) off-street parking spaces for each one (1) dwelling unit. Garages may be included in calculating the number of parking spaces.
2. Parking spaces or driveways serving individual dwelling units shall not be entered directly from a street.
3. All off-street parking areas and internal roadways shall be paved, bounded by permanent curbing and constructed in accordance with Borough road specifications.
4. Parking areas and internal roadways shall be located at least five (5') feet from a building.
5. Internal roadways shall be at least twenty (20') feet in width for two-way traffic and twelve (12') feet in width for one-way traffic and shall not enter a street within fifty (50') feet of an intersection. Parking in internal roadways shall be prohibited.
6. The arrangement and location of garages, parking areas and internal roadways shall be subject to approval of the approving authority and shall be designed to insure maximum safety, proper circulation and maximum convenience for residents and their guests.

g. *Landscaping and Open Space.*

1. Exclusive of internal roadways, driveways and parking areas, there shall be provided a minimum of twenty (20%)

percent of the entire tract for common open space and facilities.

2. Effective screening by a fence or wall no less than four (4') feet nor more than six (6') feet in height shall be provided to shield parking areas and other common facilities from view of adjoining residential properties; provided, however, screening by native vegetation, hedge or other natural landscaping shall be substituted for the required fence or wall, to the maximum extent practicable, if approved by the approving authority as part of the development of the plan.
3. Lighting. Adequate lighting shall be provided in parking areas and along sidewalks, walkways and internal roadways. The source of lighting shall be directed downward, away from buildings and adjoining streets and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent resident area.
(Ord. #679, S 9-602; Ord. #679N 86-19, S 1; Ord. #06-16)

22-106 R-5 RESIDENCE ZONE.

22-106.1 Uses.

In the R-5 Residence Zone, only the following uses are permitted:

- a. Any use permitted in the R-1 Residence Zone in accordance with all required conditions of that zone.
- b. Apartment buildings as regulated in subsection 22-106.2.
(Ord. #679, S 9-701)

22-106.2 Required Conditions for Apartment Buildings.

a. Area and Density Requirements.

1. Minimum Lot Area. There shall be a minimum lot area of thirty thousand (30,000) square feet and a minimum road frontage of one hundred fifty (150') feet.
2. Maximum Density. There shall be no more than sixteen (16) dwelling units per acre.
3. Maximum Building Coverage. The total ground floor area of all buildings shall not exceed thirty (30%) percent of the lot area.

b. Setback Requirements.

1. No principal building shall be located within thirty-five (35') feet of a street, thirty (30') feet of a rear yard or within twenty-five (25') feet of a side property line.
2. No principal building shall be located within ten (10') feet of an internal roadway or driveway.
3. There shall be a minimum distance between principal buildings of twenty-five (25') feet plus one-half (1/2') foot for each foot of opposing building wall in excess of fifty (50') feet.
4. On corner lots, principal buildings shall meet the front yard setback from all streets.

c. Building Requirements.

1. Height. No building shall exceed a height of two and one-half (2-1/2) stories or thirty-five (35') feet.
2. Units Per Building. No building shall contain less than four (4) nor more than twenty-four (24) dwelling units.
3. Building plans and elevations shall show a variation in design and appearance of units and structures to be achieved by types of roof, heights of eaves and peaks, building materials and architectural treatment of the building facade.
4. Each group of two (2) dwelling units on a floor shall be separated from adjoining units by a fire wall extending from the basement to the roof and constructed in accordance with the Building Code.

d. Dwelling Unit Requirements.

1. Minimum Floor Area. The minimum floor area of dwelling units shall be as follows:

Zero (0) Bedrooms (Efficiency)	Four hundred fifty (450) square feet
One (1) Bedroom	Six hundred (600) square feet
Two (2) or more Bedrooms	Eight hundred (800) square feet plus two hundred (200) square feet for each bedroom over two (2).

- No dwelling unit shall be located above the second story or in a basement or cellar except that a basement dwelling unit may be provided for a janitor or superintendent.

e. *Accessory Buildings.*

- Any accessory building shall be located at the rear of any principal building and shall be a minimum of fifteen (15') feet from any principal building or property line and ten (10') feet from another accessory building. Clubhouses, swimming pools and recreation facilities shall be at least twenty-five (25') feet from a principal building or property line.
- Height. The maximum height of an accessory building shall be sixteen (16') feet.
- Design. Architectural design and materials used in the construction of accessory buildings shall conform to or complement those used in the construction of principal buildings.

f. *Off-Street Parking.* Off-street parking shall conform to the provisions of Section 22-117 for nonresidential uses, and, in addition, the following requirements shall be met:

- Provision shall be made for at least two (2) off-street parking spaces for each dwelling unit. Garages may be included in calculating the number of parking spaces.
- Parking spaces or driveways serving individual dwelling units shall not be entered directly from a street.
- All off-street parking areas and internal roadways shall be paved, bounded by permanent curbing and constructed in accordance with Borough road specifications.
- Parking areas and internal roadways shall be located at least ten (10') feet from a building or property line.
- Internal roadways shall be at least twenty (20') feet in width for two-way traffic and twelve (12') feet in width for one-way traffic and shall not enter a street within fifty (50') feet of an intersection. Parking in internal roadways shall be prohibited.
- The arrangement and location of garages, parking areas and internal roadways shall be subject to approval of the approving authority and shall be designed to insure maximum safety, proper circulation and maximum convenience for residents and their guests.

g. *Landscaping and Open Space.*

- Exclusive of internal roadways, driveways and parking areas, there shall be provided a minimum of twenty (20%) percent of the entire tract for common open space and facilities.
- Effective screening by a fence or wall no less than four (4') feet nor more than six (6') feet in height shall be provided to shield parking areas and other common facilities from view of adjoining residential properties; provided, however, screening by native vegetation, hedge or other natural landscaping shall be substituted for the required fence or wall, to the maximum extent practicable, if approved by the approving authority as part of the development of the plan.
- Lighting. Adequate artificial lighting shall be provided in parking areas and along sidewalks, walkways and internal roadways. The source of lighting shall be directed downward, away from buildings and adjoining streets and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent resident area.

(Ord. #679, S 9-702; Ord. #06-16)

22-106A H-1 AND H-2 HISTORIC DISTRICT RESIDENCE ZONES.

22-106A.1 Uses in H-1 Historic District Residence Zone.

In the H-1 Historic District Residence Zone, only the following uses are permitted:

Any use permitted in the R-1 Residence Zone. (Ord. #679-R-88-19, S1C)

22-106A.2 Required Conditions - H-1 Historic District Residence Zone.

In the H-1 Historic District Residence Zone, all required conditions of the R-1 Residence Zone shall be met. (Ord. #679-R-88-19, S1C)

22-106A.3 Uses in H-2 Historic District Residence Zone.

In the H-2 Historic District Residence Zone, only the following uses are permitted:

Any use permitted in the R-1, R-2 and R-3 Residence Zones. (Ord. #679-R-88-19, S1C)

22-106A.4 Required Conditions - H-2 Historic District Residence Zone.

In the H-2 Historic District Residence Zone, all required conditions of the R-2 Residence Zone shall be met; provided, however, that for two-family dwellings, all required conditions of the R-3 Residence Zone shall be met. (Ord. #679-R-88-19, S1C)

22-106B R-6 RESIDENCE ZONE.

22-106B.1 Uses.

In the R-6 Residence Zone, only the following uses are permitted:

Any use permitted in the R-1 Residence Zone.

(Ord. #01-11, S 2)

22-106B.2 Required Conditions.

- a. *Minimum Lot Area.* There shall be a minimum lot area of ten thousand (10,000) square feet which must be measured within one hundred sixteen (116') feet of the front street right-of-way.
- b. All other required conditions shall be as set forth in the R-1 Residence Zone.
(Ord. #01-11, S 2)

22-106C R-7 RESIDENCE ZONE.

22-106C.1 Uses.

In the R-7 Residence Zone, only the following uses are permitted:

Any use permitted in the R-1 Residence Zone.

(Ord. #01-11, S 2)

22-106C.2 Required Conditions.

- a. *Minimum Lot Area.* There shall be a minimum lot area of twenty-five thousand (25,000) square feet which must be measured within one hundred sixteen (116') feet of the front street right-of-way.
- b. All other required conditions shall be as set forth in the R-1 Residence Zone.
(Ord. #01-11, S 2)

22-106D R-8 RESIDENCE ZONE.

22-106D.1 Uses.

In the R-8 Residence Zone, only the following uses are permitted:

Any use permitted in the R-1 Residence Zone.
(Ord. #01-11, S 2)

22-106D.2 Required Conditions.

- a. *Minimum Lot Area.* There shall be a minimum lot area of one (1) acre which must be measured within one hundred sixteen (116') feet of the front right-of-way.
- b. All other required conditions shall be as set forth in the R-1 Residence Zone.
(Ord. 01-11, S 2)

22-106E R-9 AGE RESTRICTED COMMUNITY (ARC) RESIDENCE ZONE.**22-106E.1 Uses.**

In the R-9 Age Restricted Community (ARC) Residence Zone, only the following uses are permitted:

- a. Any use permitted in the R-2 Residence Zone in accordance with all required conditions of that zone.
- b. Age Restricted Communities as regulated in subsection 22-103A.2.
(Ord. #05-22; Ord. #06-01)

22-106E.2 Requirements for Age Restricted Communities (ARC) in the R-9 Age Restricted Community Residence Zone.**a. Use and Occupancy Restrictions.**

1. Principal permitted uses in an ARC shall include one (1) or more multi-family residential buildings containing only dwelling units specifically designed and intended for and limited to occupancy by households composed of at least one (1) permanent resident fifty-five (55) years of age or older, except as specifically provided in paragraph a,2(a) below, and with children under the age of nineteen (19) being expressly prohibited.
2. Through its corporation, association or owners, the land and buildings in any ARC shall be restricted, by bylaws, rules, regulations and restrictions of record, to permanent use and occupancy by persons of fifty-five (55) years of age or older, subject to the following exceptions, consistent with the requirements of the Federal Fair Housing Act, as amended.
 - (a) A spouse or other person under the age of fifty-five (55) years who is residing with a person who is fifty-five (55) years of age or over and qualified to reside in the unit may reside in the ARC.
 - (b) An additional adult under fifty-five (55) years of age may reside in a unit in the ARC if it is established to the ownership association with notice to the Borough Administrator that the presence of such person is essential to the physical care of one (1) or more of the occupants of the same unit who are qualified to reside in the unit.
 - (c) A child or children over the age of nineteen (19) shall be permitted to reside in the same unit with a parent if the parent is fifty-five (55) years of age or over and qualified to reside in the ARC unit, provided any such child or children shall not be enrolled in the North Plainfield school system nor shall any such child or children be eligible for or receive any services from or through the North Plainfield Board of Education or its designees/ representatives. The only exception shall be if the child or children enroll in the paid portion of the North Plainfield Board of Education Adult School, which tuition, fees, etc. shall be paid for directly by the child or children.
 - (d) One (1) unit in any such development may be occupied by a resident manager or superintendent and family not meeting the above criteria, except for the provisions of subsections 22-106E.2a,1 and 22-106E.2a,2(c).
3. The ARC shall comply with all applicable requirements of the Federal Fair Housing Act and all amendments thereto and all applicable rules and regulations of the U.S. Department of Housing and Urban Development

(HUD) regarding such use, ownership and occupancy and shall further comply with all applicable HUD rules and regulations for self-certification of compliance with the Act and with HUD's rules and regulations. The residency restriction applicable to the development may be reviewed by the Borough Attorney for compliance with this subsection.

4. Permitted accessory uses in an ARC may include, but not by way of limitation, attached or detached individual garages, common garages and parking structures; a clubhouse, pool and tennis or other sports court(s); executive offices and executive office services exclusively for use by residents; common party and meeting rooms exclusively for use by residents and their guests; maintenance, equipment storage and utility buildings; and indoor and/or outdoor areas devoted to off-street parking and to active and passive recreation and open space.
5. Monument type signs identifying the name of the development may be erected at or near the entrance to the development. As an alternative, signs may be mounted on freestanding walls or structures located on each side of an entrance to the development. The area of each sign face shall be limited to fifty (50) square feet, measured within the rectangle encompassing the outermost edges of all of the lettering on the sign. A monument sign may have two (2) sign faces. The height of the freestanding walls or structures or monuments on which signs are mounted shall be limited to not more than thirty (30") inches above the ground level, if located within a required sight triangle, and not more than seven (7') feet above the ground level, if located outside of a required sight triangle. The foregoing requirements shall only be applicable to the area within fifty (50') feet of the entrance to the site measured along the street frontage in each direction from the curb return. All other walls and fences shall be governed by the provisions of subsection 22-106E.2,h. herein and the Borough's Land Development Ordinance. The design, location and landscaping of all signs shall be approved by the Planning Board.

b. *Area and Density Requirements.* The following requirements shall apply to any tract proposed for ARC development:

1. **Minimum Tract Area.** There shall be a minimum gross tract area of twelve (12) acres having a minimum road frontage of three hundred (300') feet for the ARC.
2. **Maximum Density and Number of Units.** There shall be no more than sixteen (16) dwelling units per gross tract acre within the ARC and no more than a total of two hundred twenty-five (225) total dwelling units in the ARC. If the developer shall construct on-site, as part of the development, any low and moderate income housing units that may be required to satisfy the Borough's growth share affordable housing obligations resulting from the new market-priced dwelling units constructed in the ARC, in compliance with the adopted Rules of the New Jersey Council on Affordable Housing (COAH), said unit(s) shall be counted as part of the two hundred twenty-five (225) total dwelling units. The developer shall not construct any low and moderate income housing units on-site other than those specifically generated by the development of the site in question. At the sole discretion of the Planning Board, the developer shall be required to pay a development fee for affordable housing, in accordance with the Borough's Development Fee* or Growth Share or applicable ordinance, as an alternative to constructing some and/or all of the low and moderate income housing units on-site generated by the development.
3. **Maximum Building Coverage.** The total ground floor area of all buildings, including accessory buildings, common garages and parking structures, shall not exceed forty (40%) percent of the gross tract area.
4. **Maximum Impervious Coverage.** The maximum impervious coverage of the tract by all buildings, paved or other hard surfaces, and parking areas shall not exceed fifty-five (55%) percent of the gross tract area. Open drainage structures and detention and retention basins shall not be considered impervious for the purpose of calculating zoning compliance, provided that, once approved, they shall not thereafter be paved over or otherwise rendered impervious, but such facilities shall be considered impervious for the purposes of calculating stormwater runoff.
5. **Minimum Floor Area.** The minimum floor area of a residence within the ARC shall be as provided for a townhouse in the R-4 Zone and as provided for an apartment or flat in the R-5 Zone, whichever housing type best describes the type of dwelling unit being measured, except that any low and moderate income units required for COAH compliance may contain an average of one (1) bedroom each and shall not be required to exceed six hundred fifty (650) square feet each.
6. **Access.** Access to the ARC shall require at least two (2) separate entrances/exits. Emergency vehicle access may also be provided and may be from a municipal, County or State roadway, as approved by the Planning Board.

c. *Setback and Height Requirements.* The following setback and height requirements shall apply to the development of the ARC:

1. No foundation for a principal residential building shall be located within one hundred twenty-five (125') feet of any

adjacent residential use or residentially-zoned property. An accessory community/recreational building having a height of not more than two and one-half (2 1/2) stories (or thirty-five (35') feet) wholly or partly above grade and having a building footprint of not more than three thousand (3,000) square feet may be located within the one hundred (100') foot setback area but shall not be located closer than thirty (30') feet to a tract boundary. Patios or decks for private use by residents may extend up to twenty (20') feet beyond the building foundation, and private gardens may be planted with a minimum setback of thirty (30') feet from a tract boundary provided such patios, decks and gardens, where they lie within the one hundred (100') foot setback area, shall not be enclosed by fences or walls and shall not be roofed. A gate house may be permitted within the required setback area at the entrance to the development provided it is located outside of the required sight triangle. The requirements of subsection 22-115.3a. shall not apply to the ARC development.

2. No portion of any principal building shall be located within ten (10') feet of any internal roadway or driveway except for a driveway providing access to a parking structure located adjacent to or beneath the residential building(s).
3. There shall be a minimum separation between the window walls of residential buildings of twenty-five (25') feet. Where no window walls will be located, the minimum separation between residential buildings shall be fifteen (15') feet and the minimum separation between a residential building and a parking structure shall be ten (10') feet. Individual residential buildings may be attached to one another if separated by fire walls extending from the basement to the roof and complying with the Uniform Construction Code.
4. Height. No building shall exceed three (3) stories (or forty-five (45') feet). No building appurtenances, including, but not limited to, roof-mounted mechanical equipment, shall exceed a height of fifty-five (55') feet measured from the average finished grade at the ground level along any side of a building facing a perimeter tract boundary adjacent to a residential zone to the top of the highest roof-mounted equipment. Notwithstanding the foregoing, no antennas or towers of any kind shall be mounted on any rooftop or elsewhere on the property. An additional residential story may be located below the average finished grade, if topography permits, provided it is not visible from a perimeter tract boundary adjacent to a residential zone.

Basement levels located below the average finished grade and used exclusively for storage and mechanicals may also be provided and shall not be included in the maximum number of stories permitted, provided that there are no outside entrances and further provided that the UCC definition of a basement is satisfied with respect to the maximum height above grade.

d. *Amenities.*

1. The ARC may include any or all of the facilities set forth at subsection 22-106E.2a.4. and shall include a combination of indoor and outdoor common areas and facilities, including recreational areas and facilities and open space for the exclusive use of residents and their guests. A minimum of twenty-five (25%) percent of the site shall be in common open space. Common open space may include land in required setback and buffer areas, land in conservation easements or greenways and any other outdoor areas having a minimum width of twenty (20') feet and a minimum length of fifty (50') feet that are designed for active or passive recreational use or open space. Such open space areas may be unimproved or may be improved to suit their intended use(s) but shall not include any driveways or parking areas. At least twenty (20%) percent of the required common open space shall not be located in required buffer areas but may be located in required setback areas.
2. Areas intended for recreational purposes shall include facilities for active and passive recreation particularly suitable for adults aged fifty-five (55) years or older. Such recreation may include an indoor or outdoor swimming pool, indoor or outdoor sports courts and/or one (1) or more spa or exercise rooms, and shall include multipurpose clubhouse facilities or community rooms, which may be located in a separate building or may occupy an area within one (1) or more residential buildings, plus two (2) or more of the following: outdoor sitting areas; walking paths; exercise trails; tennis, bocce, shuffleboard or horseshoe courts; chipping and putting greens; or similar appropriate active and passive recreational areas and facilities, as well as undesignated open space areas.
3. The multipurpose clubhouse facilities shall be designed and equipped to meet the social and recreational needs of the anticipated residents of the ARC. This may include exercise rooms, hobby and craft rooms, lounge areas, meeting rooms, executive office suites with office services, card rooms, rooms providing support facilities for outdoor recreational facilities or other similar facilities, all are required to meet the needs of persons fifty-five (55) years of age and older.
4. Elevators shall be provided as required by the Uniform Construction Code, although one (1) elevator may service

more than one (1) building where buildings are separated by fire walls but are otherwise interconnected.

e. *Roadways and Parking Standards.*

1. The requirements of the Residential Site Improvement Standards (RSIS) shall apply to the development of the ARC.
2. Private streets and roadways shall be permitted within the ARC.
3. All requirements of the North Plainfield Land Development Ordinance relating to parking lot design, except as otherwise regulated herein or superseded by the RSIS, shall be applicable to the ARC.
4. No parking of recreational vehicles, including boats, shall be permitted on the site.
5. A minimum of fifty (50%) percent of the total required parking spaces shall be provided within parking structures or garages.
6. Handicapped parking spaces and handicapped accessibility shall be provided as required by law.
7. Parking spaces or driveways serving individual dwelling units shall not be entered directly from any preexisting public street. This shall not preclude driveways and parking spaces being accessed from interior development streets within the ARC tract. Parallel parking along interior development streets within the ARC tract shall be permitted consistent with the RSIS.

f. *Buffers.*

1. Within the required building setback area, a buffer area having a minimum width of thirty (30') feet shall be required along all tract boundaries, except where a street and its required sight triangles or an emergency vehicle accessway pierces the tract boundary. Such buffer area shall consist of a blend of deciduous and coniferous landscape planting materials and/or ornamental fencing or walls. The use of free-form earthen berms may also be approved, provided that the berms are landscaped with plant material approved by the Planning Board. Existing wooded areas within a required buffer area that are not proposed to be disturbed for development may, upon the approval of the Planning Board, remain in their natural state instead of being replaced with landscape plantings.
2. Planted materials used in screen plantings shall be at least eight (8') feet in height when planted and shall provide a year-round buffer. The plant materials shall be of a species common to the area, shall be of nursery stock and shall be free of insects and disease.
3. Buffer areas shall be permanently maintained, and plant materials which do not live shall be replaced within one (1) year or one (1) growing season, whichever occurs first.
4. Screen plantings shall be so placed that, at maturity, the plant material will be no closer than one (1) foot from any street or property line.
5. Decorative style fences and/or walls may be included within or instead of required buffers, upon the sole discretion and approval of the Planning Board. Under no circumstances shall a chain link fence and/or barbed wire fence serve to replace the buffer.

g. *Utilities.*

1. Water, sanitary sewer and storm drainage shall be designed in accordance with the Residential Site Improvement Standards and applicable NJDEP and utility provider regulations.
2. All electric and telephone utilities within the development shall be placed underground.

h. *Fencing.* Fences shall be limited in height as set forth in the Borough's Land Development Ordinance, except as regulated otherwise herein and except for a fence associated with an outdoor tennis court or similar facility, which shall not exceed twelve (12') feet in height. All fences and walls, except a fence associated with an outdoor tennis court or similar facility, shall be ornamental. All fences and walls shall be subject to site plan approval by the Planning Board.

i. *Other Improvements and Design Standards.* The development plan for the site, its developed facilities and the interior of residential units in the ARC shall be designed to be adaptable for meeting the physical and social needs of older residents as they age in place, to allow them to continue to live independently for as long as practicable.

1. All site improvements, whether public or private, shall conform to the Residential Site Improvement Standards, or,

where the Residential Site Improvement Standards do not regulate the type(s) of improvement(s), to the standards for such improvement(s) contained in North Plainfield's Land Development Ordinance.

2. All laws, rules and regulations of the State of New Jersey related to Land Use Regulation Permits shall be applicable to the development of the ARC.
 3. Each dwelling unit shall be equipped with central heating and air-conditioning systems with independent controls for each. This requirement may be waived by the Board for good cause.
 4. Each dwelling unit shall contain plumbing and gas or electric connections for a clothes washer and dryer.
 5. Smoke alarms and carbon monoxide detectors shall be installed in each dwelling unit in the ARC in accordance with the requirements of the Uniform Construction Code (N.J.S.A. 52:27D-119 et seq.) and the New Jersey State Fire Code.
 6. Each occupant shall be responsible for the disposal of household garbage, recyclable materials and refuse as required in other residential districts, provided, however, that a Homeowners' Association shall assume the responsibility to arrange for the collection and removal of the solid waste and recyclables produced within the ARC in accordance with applicable municipal codes. At least one (1) solid waste/recyclables collection location shall be provided for each fifty (50) units, or, as an alternative, a minimum of two (2) separate compactor locations, each with space for recyclables collection, shall be provided on the site. Such facilities shall either be located within a building or parking structure or, if located out-of-doors, be totally enclosed by a seven (7') foot high masonry wall compatible with the architectural styling of the building(s), landscaped, and with a gate or entry on one (1) side. Such enclosure(s) shall provide suitably sized containers approved by the Borough for the collection of solid waste and recyclables. Collection facilities may be consolidated and shall be placed in convenient and readily serviceable locations on the site.
 7. A safe and convenient system of walkways accessible to all occupants shall be provided. The site plan shall show the locations of all pedestrian walkways and, if proposed, bicycle paths to be provided within the development.
 8. Lighting plans for the entire development shall be submitted for the Planning Board's approval. Artificial lighting shall be provided along all walks and interior roads and driveways and in all off-street parking areas, depending upon anticipated nighttime use, with sufficient illumination for the safety and convenience of the residents of the ARC. The source of lighting shall be directed downward, away from buildings and adjoining streets and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent residential area.
 9. On-site security and maintenance service systems shall be provided in the ARC, which may include an entrance gatehouse, fences, walls and support services buildings.
- j. *Ownership and Management of Common Areas, Elements and Open Space.*
1. Any development that provides for areas, elements and/or open space to be owned and used in common by the individual owners in the development or that provides for areas, elements and/or open space to be used in common by the occupants of the development, but owned/managed by an independent corporate property owner or management agent, shall have such areas, elements and/or open space shown on the site plan, fully dimensioned, and designated as to the area of responsibility and the extent and type of ownership and such other conditions of usage or occupancy which shall be legally established and recorded therefore, and a description or plan of each such area shall be filed separately or as part of the descriptive maps of the development with the Tax Assessor. This requirement may be satisfied by a master deed filed in connection with establishing a condominium form of ownership for the development in question.
 2. The landowner shall provide for and the establishment of an organization for the ownership and maintenance or, if held under a condominium form of ownership, for the maintenance alone, of all common areas, elements and open space for the benefit of residents of the development. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise (except to an organization conceived and established to own and maintain the open spaces for the benefit of such development), without first offering to dedicate the same to the Borough of North Plainfield. Such organization shall either be in the form of a homeowners association or condominium association, depending on the form of ownership.
 3. The regulations of N.J.S.A. 40:55D-43 b. and c. shall be applicable to the maintenance of the open space.
 4. If any open space, wetlands or stream corridors or other common areas on the tract are dedicated to and accepted

by the Borough, the area of such portions of the tract shall nonetheless be included in calculating the permitted density of the development.

k. *Plan Development/Construction.*

1. As a condition of preliminary approval of the development, the Board may provide for final approval of the plan and construction of the project in whole or in one (1) or more sections or stages. If the development will occur in stages, such stages shall comply, but not by way of limitation, with the following:
 - (a) Each stage shall be substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces and similar physical features and capable of substantial occupancy, operation and maintenance upon completion of construction and development.
 - (b) Each stage shall be properly related to other services within the ARC as a whole and to those facilities and services yet to be provided in the full execution and implementation of the ARC.
 - (c) Each stage shall be provided with such temporary or permanent transitional features, buffers or protective areas as the Planning Board may require with appropriate conditions of ownership and maintenance so as to prevent damage or detriment to any completed sections or stages and to adjoining properties during construction of subsequent sections or stages.
 2. Plans and specifications showing each section or stage shall be filed with the Planning Board and shall be of sufficient detail and at such scale as to fully demonstrate the arrangement and locations of all proposed structures, uses, parking, driveways, roadways, landscaping, public and private utilities and service facilities and the proposed forms of ownership of all areas on the site.
 3. The Planning Board or a committee thereof shall have the ability to work with any proposed developer in the ARC Zone regarding the architectural design of any such development to insure that it is compatible with good design principles and other building designs within the area.
- l. *Property Covered.* The property which shall encompass the R-9 Age Restricted Community (ARC) Residence Zone is located on the Tax Maps of the Borough of North Plainfield as Lot 2, Block 110.
- m. The Zoning Map of the Borough of North Plainfield shall be amended to reflect an R-9 Age Restricted Community (ARC) Residence Zone.
(Ord. #05-22; Ord. #06-01)

22-107 B BUSINESS ZONE.

22-107.1 Uses.

In the B Business Zone only the following uses are permitted:

- a. Stores and shops for retail business conducted entirely within the confines of a building provided that any process of manufacture, assembly, treatment or conversion involves a product or service intended to be sold or provided directly to the ultimate consumer and further provided that not more than five (5) mechanics or production workers are involved in any such process.
- b. Banks and financial institutions.
- c. Central telephone exchanges.
- d. Offices for professional, business and executive purposes.
- e. Restaurants and taverns, but not including drive-in restaurants or refreshment stands where food, drink and confections are served outside the buildings, or where food is intended to be consumed in cars parked on the premises.
- f. Funeral homes.
- g. Vocational schools, or studios for the instruction of the arts, dancing, music, languages, photography.
- h. Public buildings and uses.
- i. Parking garages.

- j. Off-street parking in accordance with Section 22-117.
- k. Signs in accordance with Section 22-119.
- l. Accessory uses normally incident and subordinate to the above uses.
(Ord. #679, S 9-801)

22-107.2 Required Conditions.

- a. *Height.* No building shall exceed a height of two and one-half (2-1/2) stories or thirty-five (35') feet.
- b. *Front Yard.* There shall be a front yard of not less than ten (10') feet, except that where existing buildings on the same side of the street and within the block form an average setback, new buildings shall conform to such established line, provided no new building need set back more than twenty-five (25') feet from the street.
- c. *Rear Yard.* There shall be a rear yard of at least fifteen (15') feet. A rear yard adjoining a residence zone shall be at least twenty-five (25') feet.
- d. *Side Yards.* Side yards are not required except when adjoining a residence zone in which event the side yard shall be at least fifteen (15') feet.
- e. *Corner Lot.* A side yard adjoining a street shall be at least five (5') feet.
- f. *Off-Street Parking.* Off-street parking shall be provided in accordance with Section 22-117.
- g. *Maximum Building Coverage.* The ground floor area of the building shall not exceed thirty (30%) percent of the lot area. The applicant must also satisfy the percent impervious coverage requirements as well as comply with the Design and Performance Standards for Stormwater Management Measures (N.J.A.C. 7:8-5).
(Ord. 679, S 9-802; Ord. #06-16)

22-108 B-1 BUSINESS ZONE.

22-108.1 Uses.

In the B-1 Business Zone only the following uses are permitted:

- a. Any use permitted in the B Business Zone.
- b. Motels in accordance with Section 22-118.
- c. Apartment buildings, subject to the required conditions of subsection 22-108.3 which may contain offices on the first floor.
- d. Townhouses subject to the required conditions of subsection 22-108.4.
(Ord. # 679, S 9-901; Ord. #679-G)

22-108.2 Required Conditions.

- a. *Height.* No building shall exceed a height of five (5) stories or fifty (50') feet.
- b. *Front yard.* There shall be a front yard of at least five (5') feet plus five (5') feet for each story in excess of two (2) stories.
- c. *Rear Yard.* There shall be a rear yard of at least twenty (20') feet plus five (5') feet for each story in excess of two (2) stories.
- d. *Side Yards.* Side yards adjoining streets shall meet the front yard setback requirement. An interior side yard shall be at least ten (10') feet plus five (5') feet for each story in excess of two (2) stories.
- e. *Off-Street Parking.* Off-street parking shall be provided in accordance with Section 22-117 provided however, that for each five thousand (5,000) square feet of lot area in excess of ten thousand (10,000) square feet, the required number of parking spaces may be reduced by five (5%) percent up to a maximum of twenty-five (25%) percent.
(Ord. #679, S 9-902)

22-108.3 Required Conditions for Apartment Buildings and Office Buildings.

- a. *Height.* No building shall be less than four (4) stories nor shall exceed a height of five (5) stories or fifty (50') feet.
- b. *Minimum Lot Area.* There shall be a minimum lot area of forty thousand (40,000) square feet. In addition there shall be a minimum lot area per apartment dwelling unit in accordance with the following schedule:

Dwelling	Unit Size	Stories	
		4	5
0 Bedroom	450 square feet or more	880 square feet	700 square feet
1 Bedroom	less than 625 square feet	960 square feet	800 square feet
1 Bedroom	625 square feet or more	1,200 square feet	960 square feet
2 Bedroom		1,600 square feet	1,200 square feet
3 Bedroom or more		2,000 square feet	1,450 square feet

- c. *Maximum Building Coverage.* The ground floor area of the building shall not exceed that percentage of the lot area as specified below:

Stories	% of Lot Area
4	22
5	20

- d. *Setback Requirements.* There shall be a setback from all streets and property lines of twenty-five (25') feet plus five (5') feet for each story in excess of three (3) stories.
- e. *Distance Between Buildings.* There shall be a minimum distance between buildings of twenty-five (25') feet or the height of the shorter building, whichever is greater.
- f. *Minimum Floor Area.* The minimum floor area of apartment units shall be as follows:

0 Bedrooms (efficiency)	450 square feet
1 Bedroom	595 square feet
2 or more Bedrooms	800 square feet

- g. *All Buildings must be Elevator Serviced.* Minimum elevator size shall be five by seven (5' x 7') feet.
- h. *Accessory Buildings.* Any accessory building shall be located at the rear of any principal building and shall be a minimum of fifteen (15') feet from any principal building or property line and ten (10') feet from another accessory building. Clubhouses, swimming pools and recreation facilities shall be at least twenty-five (25') feet from a principal building or property line.
- Height. The maximum height of an accessory building shall be sixteen (16') feet.
 - Design. Architectural design and materials used in the construction of accessory buildings shall conform to or complement those used in the construction of principal buildings.
- i. *Off-Street Parking.* Off-street parking shall conform to the provisions of Section 22-117 for nonresidential uses, and, in addition, the following requirements shall be met;

- For apartment units, there shall be provided the number of parking spaces as set forth in the following schedule:

Bedrooms	Spaces
0	1.00 (1)
1	1.50 (1)
2	1.75
3 or more	2.00

- For efficiency apartments and 1-bedroom apartments, less than six hundred twenty-five (625) square feet with private covenant assuring occupancy by senior citizens, the amount of required parking to be paved may be reduced to 0.50 and 0.75 spaces per unit respectively. However, total area must be available for future parking should occupancy by other than senior citizens occur.

3. All off-street parking areas and internal roadways shall be paved, bounded by permanent curbing and constructed in accordance with Borough road specifications.
4. Parking areas and internal roadways shall be located at least five (5') feet from a building or townhouse development property line.
5. Internal roadways shall be at least twenty (20') feet in width for two-way traffic and twelve (12') feet in width for one-way traffic and shall not enter a street within fifty (50') feet of an intersection. Parking in internal roadways shall be prohibited.
6. The arrangement and location of garages, parking areas and internal roadways shall be subject to approval of the approving authority and shall be designed to insure maximum safety, proper circulation and maximum convenience for residents and their guests.

j. *Landscaping and Open Space.*

1. Exclusive of internal roadways, driveways and parking areas, there shall be provided a minimum of twenty (20%) percent of the entire tract for common open space and facilities.
2. Effective screening by a fence or wall no less than four (4') feet nor more than six (6') feet in height shall be provided to shield parking areas and other common facilities from view of adjoining residential properties; provided, however, screening by native vegetation, hedge or other natural landscaping shall be substituted for the required fence or wall, to the maximum extent practicable, if approved by the approving authority as part of the development of the plan.
3. Lighting. Adequate artificial lighting shall be provided in parking areas and along sidewalks, walkways and internal roadways. The source of lighting shall be directed downward, away from buildings and adjoining streets and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent residence area.

(Ord. #679, S 9-903; Ord. #06-16)

22-108.4 Required Conditions for Townhouses.

a. *Area and Density Requirements.*

1. Minimum Lot Area. There shall be a minimum lot area of twenty five thousand (25,000) square feet.
2. Maximum Density. There shall be no more than eight (8) dwelling units per twenty-five thousand (25,000) square feet of lot area.
3. Maximum Building Coverage. The total ground floor area of all buildings shall not exceed thirty-five (35%) percent of the lot area.

b. *Setback Requirements.*

1. No principal building shall be located within twenty (20') feet of a street or rear property line, nor within ten (10') feet of a side property line.
2. No principal building shall be located within five (5') feet of an internal roadway or driveway.
3. There shall be a minimum distance between principal buildings of twenty-five (25') feet plus one-half (1/2') foot for each foot of opposing building wall in excess of thirty-five (35') feet.
4. On corner lots, principal buildings shall meet the front yard setback from all streets.

c. *Building Requirements.*

1. Height. No building shall exceed a height of two and one-half (2-1/2) stories or thirty-five (35') feet.
2. Units Per Building. No townhouse dwelling structure shall contain less than four (4) nor more than eight (8) townhouse dwelling units.
3. Building plans and elevations shall show a variation in design and appearance of units and structures to be achieved by types of roof, heights of eaves and peaks, building materials or architectural treatment of building facade.
4. Each townhouse dwelling unit shall be separated from adjoining units by a fire wall extending from the basement

to the roof and constructed in accordance with the Building Code.

d. *Townhouse Dwelling Unit Requirements.*

1. Each townhouse dwelling unit shall contain as a minimum a separate living room, a separate bedroom, a separate bath, a basement for storage and utilities and a separate kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with exception of the dining room.
2. Minimum Floor Area. Each townhouse dwelling unit shall have a minimum floor area of six hundred (600) square feet plus one hundred fifty (150) square feet for each bedroom.
3. No room within the townhouse dwelling unit intended for human habitation shall be located in a cellar, basement or attic except that a cellar or basement may contain a family room or recreation room.
4. Each townhouse dwelling unit shall have individual private outside front and rear entrances.
5. Each townhouse dwelling unit shall contain its own heating plant and system and shall constitute a separate, independent unit for metering and all other purposes with respect to all required utilities and similar conveniences. No central or common laundry or similar facilities intended for two (2) or more dwelling units shall be permitted in a townhouse development.
6. Each townhouse dwelling unit shall have an individual private front yard area adjoining the unit of at least fifteen (15') feet in depth and an individual private rear yard area or open patio or court adjoining the unit of at least fifteen (15') feet. Each private rear yard area, patio or court shall be effectively screened from adjoining units by a fence, wall or natural screening in order to provide a reasonable degree of privacy.

e. *Accessory Buildings.*

1. Any accessory building shall be located at the rear of any principal building and shall be a minimum of fifteen (15') feet from any principal building or property line and ten (10') feet from another accessory building. Clubhouses, swimming pools and recreation facilities shall be at least twenty-five (25') feet from a principal building or property line.
2. Height. The maximum height of an accessory building shall be sixteen (16') feet.
3. Design. Architectural design and materials used in the construction of accessory buildings shall conform to or complement those used in the construction of principal buildings.

f. *Off-Street Parking.* Off-street parking shall conform to the provisions of Section 22-117 for nonresidential uses, and, in addition, the following requirements shall be met:

1. Provision shall be made for at least two (2) off-street parking spaces for each one (1) dwelling unit. Garages may be included in calculating the number of parking spaces.
2. Parking spaces or driveways serving individual dwelling units shall not be entered directly from a street.
3. All off-street parking areas and internal roadways shall be paved, bounded by permanent curbing and constructed in accordance with Borough road specifications.
4. Parking areas and internal roadways shall be located at least five (5') feet from a building.
5. Internal roadways shall be at least twenty (20') feet in width for two-way traffic and twelve (12') feet in width for one-way traffic and shall not enter a street within fifty (50') feet of an intersection. Parking in internal roadways shall be prohibited.
6. The arrangement and location of garages, parking areas and internal roadways shall be subject to approval of the approving authority and shall be designed to insure maximum safety, proper circulation and convenience for residents and their guests.
7. At the discretion of the approving authority, individual slotted parking may be permitted in the front of the property, provided:
 - (a) The adjoining street permits the flow of traffic in one (1) direction only; and
 - (b) The adjoining street has a width of at least twenty-four (24') feet; and
 - (c) Alterations are made to the existing curblines to accommodate parking slots without protruding into the

street; and

- (d) In the event alterations are made pursuant to subparagraph (c), any setback shall be measured from the altered curbline.

g. *Landscaping and Open Space.*

1. Exclusive of internal roadways, driveways and parking areas, there shall be provided a minimum of twenty (20%) percent of the entire tract for common open space and facilities.
2. Effective screening by a fence or wall no less than four (4') feet nor more than six (6') feet in height shall be provided to shield parking areas and other common facilities from view of adjoining residential properties; provided, however, screening by native vegetation, hedge or other natural landscaping shall be substituted for the required fence or wall, to the maximum extent practicable, if approved by the approving authority as part of the development of the plan.
3. Lighting. Adequate artificial lighting shall be provided in parking areas and along sidewalks, walkways and internal roadways. The source of lighting shall be directed downward, away from buildings and adjoining streets and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent resident area.

(Ord. #679, S 9-904; Ord. #679N-86-19, S 2; Ord. #06-16)

22-109 B-2 BUSINESS ZONE.

22-109.1 Uses.

In the B-2 Business Zone, only the following uses are permitted:

- a. Office buildings for business, professional and administrative purposes.
- b. Public buildings and uses.
- c. Churches, synagogues and other religious buildings and uses.
- d. Funeral homes.
- e. Non-profit clubs, lodges and fraternal, civic, service or charitable organizations.
- f. Off-street parking in accordance with Section 22-117.
- g. Signs in accordance with Section 22-119.
- h. Accessory uses normally incident and subordinate to the above uses.
(Ord. #679, S 9-1001)

22-109.2 Required Conditions.

- a. *Height.* No principal building shall exceed a height of two and one-half (2-1/2) stories or thirty-five (35') feet.
- b. *Front Yard.* There shall be a front yard of not less than ten (10') feet, except that where existing buildings on the same side of the street and within the block form an average setback, new buildings shall conform to such established line, provided no new building need set back more than twenty-five (25') feet from the street.
- c. *Rear Yard.* There shall be a minimum rear yard equal to at least twenty-five (25%) percent of the average lot depth, but no less than twenty-five (25') feet.
- d. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than ten (10') feet.
- e. *Corner Lot.* A side yard adjoining a street shall meet the front yard setback on that street.
- f. *Off-Street Parking.* Off-street parking shall be provided in accordance with Section 22-117.
- g. *Maximum Building Coverage.* The ground floor area of the building shall not exceed thirty (30%) percent of the lot area. The applicant must also satisfy the percent impervious coverage requirements as well as comply with the Design and Performance Standards for Stormwater Management Measures (N.J.A.C. 7:8-5).

(Ord. #06-16)

22-109.3 B-2a Business Zone.

In the B-2a Business Zone, only the following uses are permitted:

- a. Any use permitted in the B-2 Business Zone; and,
- b. Retail stores and shops shall be permitted in the B-2a Business Zone. Stores and shops for retail business conducted entirely within the confines of a building provided that any process of manufacture, assembly, treatment or conversion involves a product or service intended to be sold or provided directly to the ultimate consumer and further provided that not more than five (5) mechanics or production workers are involved in any such process.

(Ord. #04-21)

22-110 B-3 BUSINESS ZONE.

22-110.1 Uses.

In the B-3 Business Zone, only the following uses are permitted:

- a. Any use permitted in the B Business Zone.
- b. Gasoline service stations and public garages in accordance with Section 22-118.
- c. Motels in accordance with Section 22-118.
- d. Off-street parking in accordance with Section 22-117.
- e. Signs in accordance with Section 22-119.
- f. Accessory uses normally incident and subordinate to the above uses.

(Ord. #679, S 9-1101)

22-110.2 Required Conditions.

- a. *Height.* No principal building shall exceed a height of two (2) stories or thirty-five (35') feet.
- b. *Front Yard.* There shall be a front yard of at least fifty (50') feet.
- c. *Rear Yard.* There shall be a rear yard of at least fifty (50') feet.
- d. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than twenty (20') feet.
- e. *Minimum Lot Width.* There shall be a minimum lot width at the building line of one hundred fifty (150') feet.
- f. *Off-Street Parking.* Off-street parking shall be provided in accordance with Section 22-117, except no parking is permitted in the required front yard.
- g. *Maximum Building Coverage.* The ground floor area of the building shall not exceed thirty (30%) percent of the lot area. The applicant must also satisfy the percent impervious coverage requirements as well as comply with the Design and Performance Standards for Stormwater Management Measures. (N.J.A.C. 7:8-5).

(Ord. #679, S 9-1102; Ord. #06-16)

22-111 B-4 BUSINESS ZONE.

22-111.1 Uses.

In the B-4 Business Zone, only the following uses are permitted:

- a. Stores and shops for retail business conducted entirely within the confines of a building provided that any process of manufacture, assembly, treatment or conversion involves a product or service intended to be sold or provided directly to the ultimate consumer and further provided that not more than five (5) mechanics or production workers are

involved in any such process.

- b. Banks and financial institutions.
- c. Offices for professional, business and executive purposes.
- d. Restaurants, but not including drive-in restaurants or refreshment stands where food, drink and confections are served outside the building, or where food is intended to be consumed in cars parked on the premises.
- e. Motels in accordance with Section 22-118.
- f. Public buildings, and uses.
- g. Research, experimental and testing laboratories except those engaged in the field of explosives.
- h. Motor vehicle sales limited to new car dealerships.
- i. Theaters, but not including drive-in or open air theaters.
- j. Off-street parking in accordance with Section 22-117, except no parking is permitted in the required front yard.
- k. Signs in accordance with Section 22-119.
- l. Accessory uses normally incident and subordinate to the above uses.

(Ord. #679, S 9-1201)

22-111.2 Required Conditions.

- a. Height. No principal building shall exceed a height of two (2) stories or thirty-five (35') feet.
- b. Front Yard. There shall be a front yard of not less than fifty (50') feet.
- c. Rear Yard. There shall be a rear yard of not less than one hundred (100') feet.
- d. Side Yards. There shall be two (2) side yards and no side yard shall be less than twenty-five (25') feet.
- e. Corner Lot. A side yard adjoining a street shall meet the front yard setback on that street.
- f. Minimum Lot Width. There shall be a minimum lot width at the building line of one hundred fifty (150') feet.
- g. Minimum Lot Area. There shall be a minimum lot area of forty thousand (40,000) square feet.
- h. Maximum Building Coverage. The total ground floor area of all buildings shall not exceed thirty (30%) percent of the lot area.
- i. Off-Street Parking. Off-street parking shall be provided in accordance with Section 22-117. Provided, however, no parking shall be permitted in any required front yard.
- j. Minimum Open Area. There shall be a minimum of twenty (20%) percent of the lot area which shall have no structures, buildings or pavement thereon and which shall be landscaped with living vegetation.

(Ord. #679, S 9-1201)

22-112 B-5 BUSINESS ZONE.

22-112.1 Uses.

In the B-5 Business Zone, only the following uses are permitted:

- a. Office buildings for business, professional and administrative purposes.
- b. Research, experimental and testing laboratories except those engaged in the field of explosives.
- c. Public buildings and uses.
- d. Off-street parking in accordance with Section 22-117.
- e. Signs in accordance with Section 22-119.

- f. Accessory uses customarily incident and subordinate to the above uses.
- g. Townhouses subject to the required conditions contained in subsection 22-105.2. The required conditions of subsection 22-112.2 shall not apply to townhouses in the B-5 Business Zone.
(Ord. #679, S 9-1301; Ord. #679-G)

22-112.2 Required Conditions.

- a. *Height.* No principal building shall exceed a height of two (2) stories or thirty-five (35') feet.
- b. *Front Yard.* There shall be a minimum front yard of one hundred (100') feet.
- c. *Rear Yard.* There shall be a minimum rear yard of one hundred (100') feet.
- d. *Side Yard.* There shall be two (2) side yards and no side yard shall be less than twenty-five (25') feet.
- e. *Corner Lot.* A side yard adjoining a street shall meet the front yard setback on that street.
- f. *Minimum Lot Width.* There shall be a minimum lot width at the building line of two hundred (200') feet.
- g. *Minimum Lot Area.* There shall be a minimum lot area of eighty thousand (80,000) square feet.
- h. *Maximum Building Coverage.* The ground floor area of the building shall not exceed thirty (30%) percent of the lot area. The applicant must also satisfy the percent impervious coverage requirements as well as comply with the Design and Performance Standards for Stormwater Management Measures (N.J.A.C. 7:8-5).
- i. *Off-Street Parking.* Off-street parking shall be provided in accordance with Section 22-117, provided however, no parking shall be permitted in any required front yard.
- j. *Minimum Open Area.* There shall be a minimum of thirty (30%) percent of the lot area which shall have no structures, buildings, or pavement thereon and which shall be landscaped with living vegetation.
(Ord. #679, S 9-1302; Ord. #06-16)

22-113 B-6 BUSINESS ZONE.

22-113.1 Uses.

In the B-6 Business Zone only the following uses are permitted:

- a. Any use permitted in the B Business Zone.
- b. Motels in accordance with Section 22-118.
(Ord. #679, S 9-1401).

22-113.2 Required Conditions.

- a. *Height.* No building shall exceed a height of five (5) stories or fifty (50') feet.
- b. *Front Yard.* There shall be a front yard of not less than ten (10') feet except that where existing buildings on the same side of the street and within the same block form an average setback, new buildings shall conform to such established line; provided, however, all properties with frontage along Route #22 shall maintain a minimum setback of fifty (50') feet.
- c. *Rear Yard.* There shall be a rear yard of at least twenty (20') feet plus five (5') feet for each story in excess of two (2) stories.
- d. *Side Yards.* Side yards adjoining streets shall meet the front yard setback requirement. An interior side yard shall be at least ten (10') feet plus five (5') feet for each story in excess of two (2) stories.
- e. *Off-Street Parking.* Off-street parking shall be provided in accordance with Section 22-117, provided, however, that for each five thousand (5,000) square feet of lot area in excess of ten thousand (10,000) square feet, the required number of parking spaces may be reduced by five (5%) percent up to a maximum of twenty-five (25%) percent.
(Ord. #679, S 9-1402)

22-114 FLOOD PLAIN ZONE.¹**22-114.1 Statutory Authorization.**

The legislature of the State of New Jersey has in R.S. 40:48-2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (Ord. #685, S 1.10)

22-114.2 Findings of Fact.

- a. The flood hazard areas of the Borough are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed or otherwise protected from flood damages.
(Ord. #685, S 1.20)

22-114.3 Statement of Purpose.

It is the purpose of this Section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a. Protect human life and health;
- b. Minimize expenditure of public money for costly flood control projects;
- c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. Minimize prolonged business interruptions;
- e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;
- f. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and,
- g. Insure that potential home buyers are notified that property is in a flood area.
(Ord. #685, S 1.30)

22-114.4 Methods of Reducing Flood Losses.

In order to accomplish its purpose, this Section uses the following methods:

- a. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion or in flood heights or velocities.
- b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- c. Control the alteration of natural flood plains, stream channels and natural protective barriers which are involved in the accommodation of flood waters.
- d. Control filling, grading, dredging and other development which may increase flood damage.
- e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
(Ord. #685, S 1.40)

22-114.5 Definitions.

Unless specifically defined below, words and phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

- a. The definitions shall apply only to Article IX, Section 22-114 this Chapter.
- b. As used in this Section:

Appeal shall mean a request for a review of the Construction Official's interpretation of any provision of this Section or a request for a variance.

Area of Shallow Flooding shall mean a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three (1'-3') feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard shall mean the land in the flood plain within a community subject to a one (1%) percent or greater chance of flooding in any given year.

Base Flood shall mean the flood having a one (1%) percent chance of being equaled or exceeded in any given year.

Basement shall mean any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall shall mean a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Development shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures or drilling operations located within the area of special flood hazard.

Elevated Building shall mean a non-basement building (a) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor or in the case of a building in a Coastal High Hazard Area to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water; and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

Flood or Flooding shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) shall mean the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study shall mean the official report in which the Federal Insurance Administration has provided flood profiles as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

Floodway shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than two-tenths (0.2) of one (1') foot.

Lowest Floor shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements.

Manufactured Home shall mean a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

Manufactured Home Park or Manufactured Home Subdivision shall mean a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean Sea Level shall mean the average height of the sea for all stages of the tide.

New Construction shall mean structures for which the start of construction commenced on or after the effective date of this Chapter.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)) shall mean and include substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure shall mean a walled and roofed building that is principally above ground, as well as a mobile home.

Substantial Improvement shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either:

- a. Before the improvement or repair is started, or
- b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
 1. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 2. Any alteration of a structure listed on the National Register of Historic Places, or a State Inventory of Historic Places.

Variance shall mean a grant or relief to a person from the requirements of this Section which permits construction in a manner otherwise prohibited by this Section where specific enforcement would result in unnecessary hardship.
(Ord. #685, S 2; Ord. #679-H)

22-114.6 General Provisions.

- a. **Lands to Which This Section Applies.** This Section shall apply to all areas of special flood hazards within the jurisdiction of the Borough.
- b. **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the Borough of North Plainfield," September 1, 1983, with accompanying Flood Insurance Rate Maps and Floodway Maps and any subsequent FEMA (Federal Emergency Management Agency) revisions thereto are hereby adopted by reference and declared to be a part of this Chapter.*
- c. **Compliance.** No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with terms of this Section and other applicable regulations.
- d. **Abrogation and Greater Restrictions.** This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, whether this Section and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- e. **Interpretation.** In the interpretation and application of this Section, all provisions shall be:
 1. Considered as minimum requirements.
 2. Liberally construed in favor of the Borough Council.
 3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

- f. **Warning and Disclaimer of Liability.** The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the Borough or by any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.
(Ord. #685, S 3)

22-114.7 Administration.

- a. **Establishment of Development Permit.** A development permit shall be required in conformance with the provisions of this Chapter. Application for a development permit shall be made to the Zoning Officer on forms furnished by him and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill storage of materials; drainage facilities and the location of the foregoing. Specifically, the following information is required:
1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
 2. Elevation in relation to mean sea level to which any nonresidential structure has been flood-proofed.
 3. Plans showing how any nonresidential floodproofed structure will meet the floodproofing criteria of subsection 22-114.8, paragraph b, 2. When a structure is built, a certification by a registered professional engineer or architect that the structure as built meets the criteria of subsection 22-114.8, paragraph b, 2.
 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 5. Plans for any walls to be used to enclose space below the base flood level.
- b. *Designation of Zoning Officer.*
1. The Zoning Officer is hereby appointed to administer and implement this Section by granting or denying development permit applications in accordance with its provisions.
 2. The Zoning Officer shall incorporate the recommendations of both the Borough Engineer and Construction Official in his decision.
- c. *Duties and Responsibilities.* Duties of the Zoning Officer shall include, but not be limited to:
1. Review all development permits to determine that the permit requirements of this Section have been satisfied.
 2. Review all development permits to require that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
 3. Review all development permits to determine if such proposed development is to be located in the floodway. A certification shall be obtained in accordance with subsection 22-114.8b, 3.
- d. *Use of Other Base Flood Data.* When base flood elevation and floodway data has not been provided in accordance with subsection 22-114.6, b, Basis for Establishing the Areas of Special Flood Hazard, the Zoning Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer subsection 22-114.8b, 1. Specific Standards, Residential Construction and subsection 22-114.84b, 2, Specific Standards, Nonresidential Construction.
- e. *Information to be Obtained and Maintained.*
1. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 2. For all new or substantially improved floodproofed structures.
 - (a) Verify and record the actual elevation (in relation to mean sea level)
 - (b) Maintain the floodproofing certifications required in subsection 22-114.7, paragraph a, 3.
 3. Maintain for public inspection all records pertaining to the provisions of this Chapter.
- f. *Alteration of Watercourses.* Alteration of watercourses is prohibited except where necessary to control existing

flooding and/or erosion which threatens life or property in cases in which the New Jersey Department of Environmental Protection (NJDEP) determines that the effects of channelization are offset by the resulting restoration or improvement of the natural characteristics of the nearby environment. Any alteration to a watercourse requires a NJDEP issued permit. The NJDEP Flood Hazard Area Control Act Rules (N.J.A.C. 7:13) contains detailed regulations regarding development in and maintenance of the flood plain and the watercourses that create them. All flood plain and watercourse activities must comply with NJDEP regulations.

g. *Interpretation of Firm Boundaries.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.

h. Variance Procedure-Appeal Board.

1. The Board of Adjustment as established by the Borough shall hear and decide appeals and requests for variance from the requirements of this Section.
2. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this Section.
3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Borough Council as provided in N.J.S.A. 40:55D-17.
4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other subsections of this Section and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed site;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at site; and,
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;
- (l) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided items (a) through (k) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.
5. Upon consideration of the factors listed above and the purpose of this Section, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
 6. The Construction Official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

i. *Conditions for Variances.*

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this subsection.

2. Variances shall not be issued within any designated floodway if any increase levels during the base flood discharge would result.
3. Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall be issued only upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection 22-114.7, paragraph h, Variance Procedure-Appeal Board, or conflict with existing local laws or ordinances.
5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation in feet below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
(Ord. #685, S 4; Ord. #679-H; Ord. #679-0-87-7, S 1; Ord. #679-P-87-24, S 1; Ord. #06-16)

22-114.8 Provisions for Flood Hazard Reduction.

- a. *General Standards.* In all areas of special flood hazards the following provisions are required:
 1. Anchoring.
 - (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - (b) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 2. Construction Materials and Methods.
 - (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 3. Utilities.
 - (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters.
 - (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (d) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- b. *Specific Standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in subsection 22-114.6 paragraph b., Basis for Establishing the Areas of Special Flood Hazard, or subsection 22-114.7, paragraph d., Use of Other Base Flood Data, the following provisions are required:
 1. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
 2. Nonresidential Construction. New construction or substantial improvement of any commercial, industrial or other