

C O D E O F T H E

# *Borough of Seaside Park*

O C E A N C O U N T Y · N E W J E R S E Y



C H A P T E R 2 5

## **DEVELOPMENT REGULATIONS**

**EFFECTIVE WITH AMENDMENTS THROUGH SEPTEMBER 1, 2009**

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## CHAPTER 25

# DEVELOPMENT REGULATIONS

Adopted 09-17-87 as Ordinance No.1026. Amended as follows:

11-05-87	Ord. No. 1027; §25-616
11-19-87	Ord. No. 1029; §25-406
12-17-87	Ord. No. 1031; Re-adopted as Amended
04-06-89	Ord. No. 1058; §25-409
10-05-89	Ord. No. 1066; §25-707, §25-708, §25-709
08-02-90	Ord. No. 1095; §25-301, §25-630
08-02-90	Ord. No. 1096; §25-612
05-02-91	Ord. No. 1104; §25-301, §25-413, §25-420, §25-602, §25-625, §25-706
11-04-93	Ord. No. 1152; §25-413, §25-416, §25-616
04-03-97	Ord. No. 1213; §25-712
09-03-98	Ord. No. 1230; §25-301; §25-702; §25-707
04-01-99	Ord. No. 1243; §25-712
03-02-00	Ord. No. 1258; §25-409
05-02-02	Ord. No. 1297; §25-406
06-26-03	Ord. No. 1320; §25-404
05-12-04	Ord. No. 1333; §25-709
05-11-05	Ord. No. 1363; §25-301
01-25-06	Ord. No. 1380; §25-625
05-24-06	Ord. No. 1387; §25-627, §25-629
05-24-06	Ord. No. 1388; §25-301, §25-413, §25-707, §25-708, §25-709, §25-710, §25-711, §25-712, §25-713
09-27-06	Ord. No. 1396 §25-612
10-25-06	Ord. No. 1403 §25-409
11-29-06	Ord. No. 1407 §25-706A, §25-616, §25-707, §25-708, §25-709, §25-711,
09-01-09	Ord. No. 1488 §25-301, §25-408, §25-412, §25-602, §25-603, §25-604, §25-606, §25-610, §25-614, §25-616, §25-618, §25-620, §25-624, §25-630, §25-633, §25-701, §25-702, §25-703, §25-704, §25-705, §25-706, §25-707, §25-708, §25-709, §25-710, §25-711, §25-712.

Chapter 25 replaced the following former Chapters:

- Chapter 27 • Drainage of Lots and Lands
- Chapter 34 • Flood Hazard Areas
- Chapter 42 • Land Use Procedures
- Chapter 66 • Site Plan Review
- Chapter 81 • Zoning

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CHAPTER 25

DEVELOPMENT REGULATIONS

ARTICLE 1

SHORT TITLE

§25-101 SHORT TITLE

This ordinance may be known as "THE SEASIDE PARK DEVELOPMENT REGULATIONS ORDINANCE".

## ARTICLE 2

## PURPOSES

## §25-201 PURPOSES

The purposes of this ordinance are to implement the land use element of the master plan to guide orderly development promoting the public health, safety, morals and general welfare. They are intended to regulate the use of land; secure safety from fire, flood, panic, and disasters; provide adequate light, air, and open space; limit buildings and structures according to their type and the nature and extent of their use; regulate the bulk of structures; avoid conflicts with neighboring municipalities, the county and the state; establish appropriate population densities and concentrations contributing to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment; provide sufficient space for residential, recreational, and commercial uses and open space and parking adequate to facilitate those uses; encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of such facilities and routes which result in congestion or blight; promote a desirable visual environment; promote the conservation of open space and valuable natural resources, specifically the ocean and bay areas, to encourage access to those areas and insure preservation of the same, and prevent urban sprawl and degradation of the environment through improper use of land; encourage coordination of 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; and promote the conservation of energy and provide for maximum utilization of renewable energy resources.

## ARTICLE 3

## DEFINITIONS

## §25-301 DEFINITIONS

*Amended 8-20-90 by Ord. No. 1095; 5-2-91 by Ord. No. 1104; 9-3-98 by Ord. No. 1230;*

*5-11-05 by Ord. No. 1363; 5-24-06 by Ord. No. 1388; 9-01-09 by Ordinance No. 1488.*

Any word or term not defined shall be used with a meaning of standard usage for the context in which the word is used, except those words and terms defined in the Municipal Land Use Law, as amended, shall be used in this ordinance as if included in this ordinance.

**ACCESSORY USE OR BUILDING** - A subordinate use or building incidental to the principal use or building on the same lot. An accessory use or building may not be attached to the principal dwelling.

**ADMINISTRATIVE OFFICER** - The Secretary of the Borough of Seaside Park Planning Board for applications under the jurisdiction of the Planning Board, or the Secretary of the Borough of Seaside Park Zoning Board of Adjustment for applications under the jurisdiction of the Zoning Board of Adjustment, unless a different municipal official is designated by the ordinance to administer certain responsibilities and authorities specified for the administrative officer in N.J.S.A. 40:55D-1 et seq.

**ADVERSE EFFECT** - Designs, situations, or existing features creating or leading to unsafe, unsatisfactory or noncomplying conditions such as a layout inconsistent with the zoning regulations; insufficient off-street parking; inadequate utilities such as water, drainage, shade trees, and sewerage; infringement upon land subject to flooding and not in compliance with the flood plain regulations of this ordinance; and the creation of conditions leading to soil erosion by wind or water from excavation or grading; all as set forth in N.J.S.A. 40:55D-38 and measured against the design and performance standards of this ordinance.

**APARTMENT** - A dwelling unit in a building having two (2) or more dwelling units.

**APPLICATION FOR DEVELOPMENT** - The application or appeal forms and all accompanying documents required by this ordinance for the approval of a subdivision plat, site plan, conditional use, zoning variance or direction for the issuance of a permit pursuant to the requisite statutes.



**APPROVING AUTHORITY** - The planning board unless a different agency is designated in this ordinance pursuant to the Municipal Land Use Law such as the Zoning Board of Adjustment under certain variances and the court for certain exempt subdivisions.

**AUTOMOBILE SERVICE STATION** - Land and building providing for the sale of fuel, lubricants and automotive accessories and for maintenance and minor repairs for motor vehicles, excluding body repairs and the storage of inoperable and wrecked vehicles.

**BASE FLOOD** - The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**BEDROOM** - A private room planned and intended for sleeping, containing a closet, separated from other rooms by a door, and accessible to a bathroom without crossing through another bedroom.

**BREAKAWAY WALL** - Any type wall which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without damage to the structural integrity of the building on which it is used or any buildings to which it might be carried by flood waters.

**BUILDING** - Any structure or extension thereof or addition thereto consisting of a combination of materials to form a construction having a roof, supported by such things as columns, posts, piers or walls and adapted to permanent, temporary, or continuous occupancy intended for the shelter, business, housing or enclosing of persons, animals or property.

**BUILDING COVERAGE** - The area of a lot covered by buildings measured around the periphery of the further most projection of the exterior walls.

**BUILDING HEIGHT** - The vertical distance to the highest point of the building measured from the elevation of the top of the curb line along the front of the lot.

**CERTIFICATE OF OCCUPANCY** - The permit required prior to occupancy or use of any building or lot to verify that the use and structure comply with the applicable ordinances of the Borough.

**CHANGE OF USE** - Those instances where an existing or new occupant moves into a building or onto a lot and uses the building or lot for a purpose other than the existing use.

**COASTAL HIGH HAZARD AREA** - The area subject to high-velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on the Flood Insurance Rate Map as Zone VI-30.

**COMMON PROPERTY** - Land or water, or a combination, together with improvements within or related to a development and designed and intended for the use or enjoyment of residents of the development. Common property includes common open space and may contain such complementary structures and improvements as are necessary and appropriate for its use or enjoyment. Water area shall not be included in calculating the number of permitted units.

**COMPLETE APPLICATION** - Submission of an application form and check list, completed by the applicant, together with all accompanying documents required by this ordinance for review by the approving authority.

**DECK** - An exterior floor system supported on a least two (2) opposing sides by an adjoining structure and/or post piers or other independent supports.

**DENSITY** - The permitted number of dwelling units per gross acre of land developed, or in the case of hotels and motels, density shall mean the permitted number of rooms per square feet of land area. Land area shall not include any portion of a street right-of-way, utility easement, or water surface area. In calculating the permitted number of units for a tract, fractional results shall be rounded to the nearest whole number, e.g. 0.499 or less shall be reduced while 0.50 or more shall be increased.

**DWELLING, SINGLE FAMILY** - A detached building containing one (1) dwelling unit. A boat or houseboat is not considered a dwelling.

**DWELLING, MULTIPLE** - A building containing three (3) or more dwelling units without any other uses.

**DWELLING UNIT** - A room or series of rooms containing living, cooking, sleeping and sanitary facilities.

**GARAGE, DETACHED (SINGLE AND TWO FAMILY)** -A structure not more than sixteen (16) feet in height nor greater than 576 square feet, that is accessory to a single or two family dwelling that is used for the parking and storage of vehicles owned and operated by the residents thereof for personal use, and is not a separated commercial enterprise available to the general public.

**GROSS FLOOR AREA** - The total floor area measured around the outside of the building at each story. If sharing a common wall, the area shall be measured from the center of the interior walls and the outside of the exterior walls

**HABITABLE SPACE** - Any space usable for living purposes which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A space used only for storage purposes is not habitable space.

**HALF STORY** - A space under a sloping roof that has the line of intersection of the roof and wall face not more than three (3) feet above the floor level and in which space the possible floor area with headroom of five (5) feet or less occupies at least forty (40) percent of the total floor area of the story directly beneath.

**IMPERVIOUS MATERIAL** -any man-made material, including but not limited to, bituminous concrete, Portland cement concrete, asphaltic, metal or wood roofing, sheet plastic, concrete paver blocks; and/or natural materials, including but not limited to clay, slate, and wood, which due to placement prevents the natural absorption and percolation of precipitation and or water from other sources into the ground and soil. Sheet plastic laid below stone, wood mulch or other normally pervious materials shall be considered impervious. The use of pervious geotextile fabrics that permit the absorption and

percolation of water through them to the surrounding soils shall not be deemed impervious. For purposes of this ordinance, the water surface area of any pools and decks constructed with wood or composite decking planks spaced a minimum of 1/4" apart and open to exposed soils below same shall not be considered impervious area. *[Added 05-24-06 by Ordinance No. 1388]*

**LOADING SPACE** - An off-street berth on the same lot as the building being served for the temporary parking of a vehicle while loading or unloading.

**LOT** - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

**LOT AREA** - The total area within the lot lines of a lot, excluding any street rights-of-way.

**LOT COVERAGE** - The area of a lot covered by buildings and impervious material. *[Amended by Ordinance No. 1388]*

**LOT DEPTH** - The average distance measured from the front lot line to the rear lot line generally parallel to the side lot line. In the case of a corner lot, the lot depth will be measured from each front lot line. One (1) may be fifty percent (50%) of the required lot depth.

**LOT FRONTAGE** - The shortest, straight, horizontal distance between the side lot lines measured between the points where the side lot lines intersect the street line. The minimum lot frontage shall be the same as the lot width except that on curved streets with an outside radius of less than five-hundred (500) feet, the lot frontage may be reduced to not less than seventy-five percent (75%) of the required minimum lot width.

**LOT LINE** - Any line, including the street line, forming a portion of the boundary of a lot.

**LOT WIDTH** - The shortest straight line distance between side lot lines measured between the points on each side lot line located at the minimum setback from the street right-of-way.

**LOTS, CORNER** - On corner lots, the setback from both streets (or from all three (3) streets if the lot extends through the block to the next street) shall be considered a front yard. The remaining setbacks shall be considered sideyards and dealt with under the definition of "yard, side" and not "yard, rear". *[Added 08-02-90 by Ordinance No. 1095]*

**MAJOR SUBDIVISION** - Any subdivision not classified as a "minor" or "exempt" subdivision, or by virtue of Section 25-503, is exempt.

**MARINA** - A facility for the storing, berthing and securing of boats.

**MINOR SUBDIVISION** (See also "Subdivision, Exempt") - A subdivision of land that does not adversely affect the development of the remainder of the tract or any adjoining property, including a resubdivision of property into the same number of lots through an adjustment of existing property lines, provided the subdivision or resubdivision does not involve:

- (1) the creation of more than two (2) conforming lots fronting on an existing improved street (including the remainder of the original lot);

- (2) planned development;
- (3) any new street; or
- (4) extension of any off-tract improvement, the cost of which is to be prorated pursuant to Section 25-617.

Approval of a minor subdivision shall be deemed final approval and as such shall be prepared in accordance with the final plat requirements.

**NON-CONFORMING LOT, STRUCTURE OR USE** - A lot or structure, whose area or size, respectively, or their dimensions or locations, and a use or activity, any or all of which were lawful prior to the adoption of this ordinance or any of its amendments, and does not now conform to the requirements of the zone in which it is located.

**OFFICE** - A place for the transaction of business where reports are prepared and records kept but where no retail sales of goods are offered and where no manufacturing, assembling or fabricating takes place.

**OFF-SITE AND OFF-TRACT IMPROVEMENTS** - Improvements to accommodate conditions generated by the proposed development including but not limited to, new improvements and extensions and modifications of existing improvements. "Offsite" means located outside the lot lines of the lot in question but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way. "Off-tract" means not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

**OVERHANG, UNSUPPORTED** - A portion of roof or wall that extends beyond the façade of a structure. An unsupported overhang shall not protrude more than 24 inches beyond the building façade. No component of the overhang shall be located at an elevation lower than the top of the first floor. Unsupported overhangs shall not be utilized as habitable space or storage.

**PARKING SPACE** - The off street area measuring not less than nine (9) feet in width and eighteen (18) feet in length required for the parking of a motor vehicle

**PERFORMANCE GUARANTEE** - Any security, which may be accepted by the Borough, including cash; provided that the Borough shall not require more than ten percent (10%) of the total performance guarantee in cash.

**PERMITTED USE** - Any use of land or buildings permitted by this ordinance.

**PLAT** - The map(s) of a subdivision or site plan.

**PLAT, FINAL** - The plat of all or a section of the development submitted for final approval. If approved as a subdivision, it shall be filed with the County Recording Officer within the required time, otherwise the approval shall be void. Minor and exempt subdivision and site plan approval shall be deemed final approval and the plats shall be submitted to comply with final plat requirements.

**PLAT, INFORMAL** - The plat submitted for the purposes of discussion.

**PLAT, PRELIMINARY** - The Plat submitted as part of the application for preliminary approval.

**PRINCIPAL PERMITTED USE** - The main purpose for which any lot and/or building is used.

**PROFESSIONAL OFFICE** - The office of a person who is authorized by law to practice a recognized profession whose practice is regulated by law and the performance of which requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional Office shall include, but not be limited to offices, such as the office of an accountant, architect, dentist, engineer, insurance agent, lawyer, physician, real estate broker, and surgeon.

**RECREATIONAL VEHICLE** - A trailer, camper, van, motorized vehicle or other type vehicle designed to be towed or to be powered by its own engine and designed and intended for temporary occupancy.

**RESTAURANT** - A commercial establishment where food and drink are prepared, served and consumed. Restaurant uses may also provide limited and incidental music and entertainment. As used in this ordinance, a "restaurant" also includes a "fast food restaurant". *[Amended 05-11-05 by Ordinance No. 1363]*

**RIGHT-OF-WAY** - The total width and length of the course of a street, watercourse, utility alignment, or other way and within, under or over which all improvements and rights of access are confined.

**ROOM** - The area in a hotel, motel, rooming house or boarding house which is separated from other areas by walls, and is space used for temporary, meaning a period of time not to exceed fourteen (14) days, living quarters by transient guests, meaning individuals who have established permanent residency elsewhere, in which there are associated sanitary facilities and closet area but in which there shall be no cooking facilities and no eating areas..

**SAND DUNES** - Naturally occurring accumulations of sand ridges or mounds landward of the beach.

**SETBACK** - The horizontal distance away from a lot line or street right-of-way.

**SETBACK LINE** - A line parallel to a street line or lot line beyond which any part of a structure is not permitted to project. The minimum yard requirements shall be the minimum required setbacks. *[Amended 05-02-91 by Ordinance No. 1104]*

**SHED**- An accessory structure or building, not more than ten (10) feet in height and not greater than 100 square feet used exclusively for storage purposes

**SIGHT TRIANGLE** - A triangular area at the quadrants of street intersections where unobstructed visibility is maintained along the intersecting streets.

**SIGN** - Any announcement, display, or illustration placed to be seen from any street or public way.

**SITE PLAN APPROVAL** - A requirement that the minor and major site plan be approved by the approving authority prior to the issuance of a zoning permit, building permit, or a certificate of occupancy.

**SITE PLAN, EXEMPT**

The following applications shall not require site plan approval:

1. Construction or expansion of a single or two family dwelling and their accessory uses.
2. Signs conforming to the requirements of this Ordinance.
3. Construction or expansion of any building or structure where the addition will not exceed 10% of the gross floor area and where the non-building site improvement coverage will not be increased by more than 1,000 square feet. These increases shall be measured against the most recent site plan approval granted for the project. Any such construction or expansion shall conform with the following additional requirements:
  - a. That is does not require modification of the essential elements of the existing layout, including but not limited to vehicular or pedestrian traffic flows, drainage or access;
  - b. That is does not involve the granting of any variances or change in use; That the property which is the subject of the development plan has previously been granted site plan approval; and
  - c. That the property which is the subject of the development plan does not have a lot line adjacent to the right-of-way of NJ State Highway Route 35, a.k.a. Central Avenue.
4. Construction or expansion that does not increase the present number of uses or dwelling units located on the property or within any building
5. Individual commercial uses in the Boardwalk Zone or, as they are commonly called, amusement stands, that are licensed by either the State or the Borough shall be eligible for exemption without regard to the gross floor area requirements of item #3 above.

**SITE PLAN, MAJOR** - All site plans for new developments and those not defined as exempt.

**SITE PLAN REVIEW** - The examination of the specific development plans for a lot.

**STORY** - That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is not a floor above it, then the space between the floor and the ceiling next above it and including basements used for the principal use.

**STREET LINE** - The edge of the street right-of-way forming the dividing line between the street and the lot and shall be either the existing or future right-of-way whichever is wider as shown on an adopted master plan or official map, or as required by this ordinance.

**STRUCTURE** - A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

**SUBDIVISION, EXEMPT** (See Section 25-503)

**TAVERN** - A commercial establishment where alcoholic beverages are served, primarily by the drink for on-premises. Tavern uses may also provide limited and incidental music and entertainment. As used in this ordinance, tavern does not include "nightclub" where dancing and/or entertainment is a principal activity. *[Added 05-11-05 by Ordinance No. 1363]*

**TRACT** - One (1) or more lots. Existing streets, utility easements, and water surface area shall not be included in calculating the area of the tract for the purposes of determining permitted lot coverage, the maximum floor area of a non-residential use, or the permitted number of dwelling units or motel units.

**YARD** - An open space extending between the closest point of any building and a lot line or street line. In an apartment, townhouse or other development where more than one (1) building may be erected on a lot, yards shall also be the open space extending between structures, and between structures and interior streets. All yard dimensions shall be measured horizontally and at right angles to either a straight street line, lot line, or building facade, or perpendicular to the point of tangent of curved lines and facades. The minimum distance between buildings in developments where there is more than one (1) building on a lot shall be the sum of the two (2) yards of the structures and in no event shall two (2) structures be closer to one another than the sum of both side yards. Where an interior street or drive passes between buildings, the required yards shall be in addition to the street or drive.

**YARD, FRONT** - The area extending across the full width of a lot between the street line and the building and, for apartments, townhouses, or other development where more than one (1) building may be erected on a lot, the front yard shall be measured from the designated front of the building to an imaginary line a designated distance away from the front of the building. *[Amended 08-02-90 by Ordinance No. 1095]*

**YARD, REAR** - The open space extending across the full width of the lot between the rear lot line and the building and, for apartments, townhouses, or other developments where more than one (1) building may be erected on a lot, the rear yards shall be measured from the designated rear of the building to an imaginary line a designated distance away from the rear of the building.

**YARD, SIDE** - An open space extending from the front yard to the rear yard and lying between each side lot line and the building. The side yard for apartments, townhouses, or other developments where more than one (1) building may be erected on a lot shall be measured from the designated side of the building to an imaginary line a designated distance away from the side of the building.

ARTICLE 4  
GENERAL PROVISIONS

§25-401 ADMINISTRATION

This ordinance shall be considered the minimum requirements for the protection of the public health, safety and welfare. Any action taken shall give primary consideration to the health, safety and general welfare of the entire community. Subdivision and/or site plan approvals are required prior to the sale of new lots or the issuance of building permits or certificates of occupancy.

§25-402 AMENDMENTS

All provisions of this ordinance may be amended in accordance with applicable laws.

§25-403 APPEAL

Any interested party may appeal to the governing body any final decision of a Board of Adjustment approving an application for a use variance. Such appeal shall be made within ten (10) days of the date of publication of such final decision. The appeal to the governing body shall be made by serving the Borough Clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and name and address of his attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the Board of Adjustment. The appellant shall within five (5) days of service of the notice of appeal, arrange for a transcript pursuant to N.J.S.A. 40:55D-10 for use by the governing body and pay a deposit of fifty dollars (\$50.00) or the estimated cost of such transcript, whichever is less, or, within thirty-five (35) days 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 governing body 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 N.J.S.A. 40:55D-10 unless the applicant consents in writing to any extension of such period. Failure of the governing body to hold a hearing and conclude a review of the record below and to render a decision within such specified time shall constitute a decision affirming the action of the Board appealed from.



## §25-404 BOARD OF ADJUSTMENT

*Amended 6-26-03 by Ordinance No. 1320*

- A. A Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq. consisting of seven (7) regular and two (2) alternate members who shall be appointed by the Borough Council and all of whom shall be residents of the Borough. Their terms shall be from January 1 of the year of their appointment. Their eligibility, terms, powers, expenses, staff and other authorities vested with the Board shall be as set forth in N.J.S.A. 40:55D-69 through 76.
- B. Appeals to the board shall be filed with the Secretary to the Board. Appeals from action taken by an administrative officer shall be filed within twenty (20) days of the action by the officer. All appeals shall include the applicable fee and shall consist of four (4) copies of the application, plans, maps, and supporting documents filed with the Board at least ten (10) days prior to the date set for the hearing. The notice shall specify the grounds for the appeal. In the case of an appeal from the actions of an administrative officer, the administrative officer shall transmit to the board all the papers constituting the record. Where a subdivision and/or site plan is to also be acted upon, the submission shall include all data required in Articles 5 and 6 for design standards and submission requirements for the appropriate stage of approval being requested.
- C. Any application may be referred to any person or agency for its report provided such reference shall not extend the period of time within which the Board shall act.
- D. Time for Decision. Unless a longer period is consented to by the applicant, the Board shall render its decision within one hundred-twenty (120) days. If the developer submits separate applications for a "use variance" followed by subdivision, site plan or conditional use applications, the one hundred-twenty (120) days shall apply to the application for the use variance. The period for granting or denying the subsequent approval(s) shall be as provided in this ordinance and State Statute. Failure of the Board to render a decision within the required or extended period shall constitute a decision favorable to the applicant.
- E. Expiration of Variance. In the granting of flexible hardship variances under N.J.S.A. 40:55D-70c(2) and use variances under N.J.S.A. 40:55D-70d, a time limit of one (1) year from the date of approval shall be set within which the owner shall secure a building permit, otherwise the variance granted shall be null and void. The approving authority may for good cause shown extend the period for securing a building permit for an additional period not exceeding six (6) months.
- F. See also the section entitled "Provisions Applicable to both the Board of Adjustment and Planning Board" in Article 4.

## §25-405 COMPLIANCE

All requirements of this ordinance shall be met at the time of any construction, moving, or change in use.

## §25-406 EFFECTIVE DATE

This ordinance shall take effect upon its final passage, publication, and filing with the County Planning Board.

## §25-407 ENFORCING OFFICER

The zoning officer shall administer and enforce the zoning provisions of this ordinance. No building or occupancy permit shall be issued unless the proposal complies with this ordinance, including the flood plain regulations, and unless the Municipal Engineer has certified that in the case of a certificate of occupancy, the development has been completed in accordance with the plans approved by the Approving Authority.

It shall be the duty of the Municipal Engineer to enforce the provisions of subdivision and site plan approvals.

## §25-408 APPLICATION AND REVIEW FEES

***Amended 04-06-89 by Ordinance No. 1058; 03-02-00 by Ordinance No. 1258; 10-25-06 by Ordinance No. 1403; 9-01-09 by Ordinance No. 1488.***

See other fee requirements in "Guarantees and Inspections" and "Permits."

- A. Non-Refundable Application Fees. The following Non-Refundable Application Fees have been established to defray the administrative and clerical costs of operating the Planning Board and the Zoning Board of Adjustment exclusive of legal, planning, engineering and other professional costs incurred in reviewing applications. These fees shall be payable to the Borough at the time an application for development is filed. Additionally, applicants shall pay a Review Fee Escrow Deposit and execute an Escrow Agreement as provided in Section B below. Proposals involving more than one (1) use shall pay a fee equal to the sum of the fees for the component parts of the plan. In the event any development application requires more than two (2) hearings, other than any requested special meetings, the applicant shall pay an additional fee of two hundred dollars (\$200.00) for each hearing date.
- B. Review Fee Escrow Deposits. In addition to the Non-Refundable Application Fees set forth above, the applicant shall also pay an amount equal to the legal, planning, engineering and other professional costs incurred by the Borough in reviewing an application for development. The following schedule of Review Fee Escrow Deposits are estimates of these professional costs and shall be deposited with the Borough at the time an application for development is filed. Additionally, applicants shall execute an Escrow Agreement, in a form approved by the Borough Council, consenting to pay

these review costs and specifically stating that in the event the fees imposed are not paid, any development approvals granted shall be considered null and void. The Review Fee Escrow Deposit shall be held in an escrow account to the credit of the applicant. The Borough shall be responsible to keep a record to determine the actual review costs attributed to each application.

1. In the event that the initial deposit is not sufficient to cover the professional charges incurred in reviewing an application, the applicant shall be required to deposit additional funds as determined by the Borough. The Approving Authority shall not be required to process the application or take further action upon an application until such additional deposits are made by the applicant. If these additional deposits remain unpaid for a period of sixty (60) days, the development application shall be deemed to be withdrawn and shall be dismissed without prejudice.
2. In the event the Review Fee Escrow Deposit shall be in excess of the amounts necessary to cover the professional charges incurred in reviewing an application, the excess funds shall be returned to the applicant within forty-five (45) days of the final decision on the application, or adoption of a resolution memorializing the decision, whichever occurs later.

Non-Refundable Application Fees and Review Fee Escrow Deposits

<u>Deposit</u>	<u>Application Fee</u>	<u>Escrow</u>
Appeal Alleging Zoning Officer (NJSA 40:55D-70a).....	\$230.00	\$ 460.00
Interpretation Zoning Map or Ordinance and Special Questions (NJSA 40:55D70b).....	230.00	460.00
Request for Hardship (Bulk) Variances (NJSA 40:55D-70c) .....	280.00	690.00
Variances related to the construction of fences/Accessory Structures.....	280.00	460.00
Single Family Residential.....	280.00	690.00
All Others.....	280.00	690.00
Request for Use Variance (NJSA 40:55D-70d)		
Residential Use/Single Family Residential.....	345.00	690.00
Other Uses/Multi-Family Residential.....	520.00	1,150.00
Minimum/Business & Commercial.....	520.00	1,150.00
Request: Direct Issue of a Permit to Build in Bed of Mapped Street (N.J.S.A. 40:55D76a-1).....	230.00	460.00
Request: Direct Issue of a Permit to Build on Lot not Abutting a Street (N.J.S.A. 40:55D76a-2).....	230.00	460.00
Request for Issuance of Certificate of Non-Conforming Use (N.J.S.A. 40:55D-68).....	230.00	460.00
Conditional Use Approval (N.J.S.A. 40:55D-67).....	345.00	690.00

Waiver of Required Submissions.....	230.00	460.00
Extend Time Period for Previously Approved.....	50% original fee	50% original deposit
Pre-Applications		
Exempt Site Plan Classification Approval.....	280.00	460.00
Minor Site Plan Approval.....	345.00	690.00
Preliminary and Final		
Major Site Plan Approval:		
Informal Review .....	345.00	690.00
Preliminary Plat.....	345.00	690.00
Final Plat.....	345.00	690.00
Combined Preliminary and Final Plat.....	690.00	1,380.00
Amended Preliminary and Final Plat.....	50% original fee	50% original deposit
Request for Exception to Site Plan Requirements and Standards (NJSA 40:55D-51b).....	345.00	460.00
Minor Subdivision Approval		
Preliminary and Final.....	345.00	690.00
Major Subdivision Approval		
Informal Review .....	230.00	460.00
Sketch Plat.....	230.00	460.00
Preliminary Plat.....	345.00	690.00
Final Plat.....	345.00	690.00
Combined Preliminary and Final Plat.....	690.00	1,380.00
Amended Preliminary and Final Plat.....	50% original fee	50% original deposit
Request for Exception to Subdivision Requirements and Standards (NJSA 40:55D-51a).....	345.00	690.00
Change of Use.....	345.00	690.00
Design Variances.....	115.00	230.00
Special Meeting.....	700.00	
Flood Plain Regulations.....	230.00	460.00
Tax Map Maintenance Fees:		
Minor Subdivision, 2 to 4 lots.....	460.00	
Final Major Subdivision, up to 6 lots.....	690.00	

C. Special Meeting Fee. The fee for any Special Meeting shall be seven hundred dollars (\$700.00).

D. Appeal to the Governing Body. Any appeal shall be accompanied by a fee of one hundred dollars (\$100.00) and eight (8) copies of the transcript(s) of the hearing(s) before the Board.

- E. List of Property Owners. The Borough Tax Assessor, upon written request, shall make and certify a list from the current tax duplicates of names and addresses of owners of property within two hundred (200) feet of the property. The fee shall be ten dollars (\$10.00).

#### §25-409 GUARANTEES AND INSPECTIONS

- A. A plat requiring bonded improvements shall not be approved until a developer's agreement has been approved by the governing body and all improvements have either been installed and approved with a maintenance guarantee accepted by the governing body, or a performance guarantee has been accepted and approved by the governing body for their future installation.
- B. If final approval is by stages, bonding shall be by stage.
- C. The developer shall be principal in any performance guarantee. The surety shall be an acceptable surety company approved by the governing body and licensed in New Jersey, and/or shall be cash or certified check deposited with the Borough Treasurer. Any performance bond shall be issued in the name of, and executed by, a representative of the developer. In addition, at least one (1) corporate officer, partner, member of a joint venture or other similar entity shall sign the bond in his individual capacity. The obligor and surety shall be liable for either paying for or completing any improvements not meeting specifications, not completed within the required time, but no longer than two (2) years.
- D. The performance guarantee shall equal one hundred-twenty percent (120%) of the cost of installing the improvements. Ninety percent (90%) shall be either certified check, bank money order, or surety bond. The remaining ten percent (10%) shall be a certified check or bank money order payable to the Borough. In the event of default, the ten percent (10%) cash shall be used first followed by the other surety, if necessary.
- E. The cost of inspections shall be the responsibility of the developer who shall reimburse the township for all reasonable inspection fees by submitting a certified check or bank money order to the Borough Clerk. This fee shall be in addition to the cost of the performance guarantee and application fees. The initial deposit shall be in accordance with the following schedule. Should the initial deposit be insufficient to cover inspection costs, the developer shall deposit additional sums upon notice from the Borough Clerk, each additional deposit being in amounts not to exceed fifty percent (50%) of the initial deposit. Upon completion of all inspections, the developer shall receive any unspent funds.

<u>Estimated Construction Cost of Required Improvement</u>	<u>Inspection Fee</u>
Under \$50,000	6% of estimate
\$50,000-\$100,000	\$3,000 + 5% of excess over \$50,000
Over \$100,000	\$5,500 + 4% of excess over \$100,000

- F. Prior to construction, the developer shall arrange a preconstruction conference among the developer, contractor, and Municipal Engineer. No work shall be done without permission from the Municipal Engineer. In addition to the requirements of this Chapter, the applicable provisions of Chapter 68, Streets and Sidewalks, and Chapter 78, Water and Sewers, shall be adhered to. No underground installation shall be covered until inspected and approved. The Municipal Engineer's office shall be notified after each of the following phases of the work has been completed so that he may inspect the work: road subgrade; curb and gutter forms; curbs and gutters; road paving (after each coat in the case of priming and sealing); drainage pipes and other drainage structures before backfilling; shade trees and planting strips; street name signs; and monuments.
- G. All utility installations installed by utility companies shall not be subject to municipal inspection and bonding.
- H. Upon substantial completion of all utility improvements, and their connection to the public system, the obligor shall prepare plans and profiles to read "as constructed" and submit one (1) set to the administrative officer along with a maintenance guarantee. The obligor shall notify the governing body in writing, by certified mail addressed to the Borough Clerk, of the completion of the improvements with a copy sent to the Municipal Engineer. The Municipal Engineer shall inspect the improvements and within thirty (30) days of the inspection, file a report in writing with the governing body recommending either approval, partial approval, or rejection of the improvements with a statement of reasons for any rejection.
- I. The governing body shall either approve, partially approve, reject, or extend the time for installing the improvements and shall notify the obligor by certified mail of the contents of the Municipal Engineer's report and their action in relation thereto, not later than sixty-five (65) days after receipt of the notice of completion and the accompanying documents from the obligor. If an extension of time is granted, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred-twenty (120%) of the current costs of installing the remaining improvements. No approval or partial approval shall be granted until an acceptable maintenance guarantee has been approved. Failure of the governing body to notify the obligor within sixty-five (65) days shall be deemed to constitute approval of the improvements and he shall be released from all liability pursuant to such performance guarantee.

- J. If any portion of the required improvements are rejected, the approving authority may require the obligor to compete such improvements and, upon completion, the same procedure of notification, as set forth shall be followed.
- K. Occupancy permits will be issued only when required fire alarms, curbs, aprons, utilities, functioning water supply and sewage treatment facilities, gutters and other required storm drainage facilities including fine grading of lots, clearing of sight triangles, soil stabilization including top soil and seeding, including dune restoration (where applicable), base course for the street and driveway, and sidewalks are installed to serve the lot and structure for which the permit is requested. Streets shall not receive surface course paving until all heavy construction is completed. Shade trees shall not be planted until all grading and earth moving is completed.
- L. Maintenance Guarantee. No improvement shall be accepted by the governing body unless and until all of the following conditions have been met:
1. Written certification has been received from the Municipal Engineer that all improvements are complete and comply with borough ordinances.
  2. There are no further stages of work or alterations to be made on the improvements submitted for a maintenance guarantee.
  3. The maintenance guarantee is equal to fifteen percent (15%) of the cost of improvements and runs for two (2) years after final acceptance of the improvements by the governing body. The maintenance guarantee shall provide for replacing all work and materials if defects become apparent during the two-year period. In addition the developer shall accomplish regular maintenance such as curb and pavement replacement and repair, cleaning out catch basins and other matters.
  4. The maintenance guarantee shall be in a form acceptable to the governing body, Municipal Engineer, and Attorney. Where other governmental agencies or public utilities will own the improvements, no maintenance guarantee shall be required by the borough for such improvements.
  5. To release the maintenance bond the developer shall complete all required maintenance and apply to the governing body in writing, by certified mail with a copy to the Municipal Engineer, for final inspection of the work. The Municipal Engineer shall, within thirty (30) days of receipt of the request, send his report to the governing body in writing.
  6. The governing body shall either approve, partially approve, or reject the improvements and the release of the maintenance bond, or they may reduce the amount of the maintenance bond following the procedures for performance bonds in §25-401H, above.

#### §25-410 INCONSISTENT ORDINANCES REPEALED

All previously adopted subdivision, site plan and zoning ordinances and their amendments are repealed.

## §25-411 INTERPRETATION

- A. These provisions shall be minimum requirements. Where there are conflicts between this and any other ordinance or law, the more restrictive or higher standards shall control.
- B. See "Interpretation of Zoning District Boundaries" in Article 7.

## §25-412 PERMITS AND ZONING APPROVAL

*Amended 05-02-91 by Ordinance No. 1104; 11-04-93 by Ordinance No. 1152; 5-24-06 by Ordinance No. 1388; 9-01-09 by Ordinance No. 1488.*

- A. Zoning Approval Required. A zoning permit or approval by the Zoning Officer shall be required prior to the erection, construction, alteration, conversion, repair, remodeling, removal or destruction of any building or structure; prior to the use or occupancy of any building, structure or land; and prior to the issuance of a building permit, certificate of occupancy or certificate of approval. Building permits shall be required as set forth in the Uniform Construction Code. A zoning permit or approval by the Zoning Officer shall also be required prior to:
  - 1. the replacement or installation of any sign, fence or flagpole.
  - 2. the replacement or installation of any impervious material which increases lot coverage by more than fifty (50) square feet.
  - 3. any "change in use" as defined in this ordinance.
- B. Filing of Plans. An application for a zoning permit or approval by the Zoning Officer shall be made on forms provided for such purpose and shall be accompanied by plans, in duplicate, drawn to scale, showing the size, shape and dimensions of the lot, the size and location of existing and proposed buildings, structures and impervious materials on the lot, the existing and intended use of each building or structure, or part thereof, the heights thereof and the number of families intended to be accommodated. An applicant shall also provide such other pertinent information as may be necessary to determine the propriety of the issuance of a zoning permit.
- C. Zoning Officer Review. The Zoning Officer shall approve or deny an application for a zoning permit within ten (10) business days in accordance with the provisions of N.J.S.A. 40:55D-18.
- D. Approval. If the Zoning Officer approves the zoning permit application, one copy of the filed plans shall be returned to the applicant certified as approved by the Zoning Officer. Zoning approval shall expire six (6) months after the date of issuance if a building permit has not been obtained.



- E. Denial. If the Zoning Officer shall decline to approve the zoning permit application, such reasons for denial shall be provided to the applicant in writing.
- F. Fees. There shall be no fee for a zoning permit or approval by the Zoning Officer.
- G. Temporary approval for a use related to the development of a permitted use such as a construction trailer may be granted for a period not to exceed six (6) months within one (1) one-month extension.
- H. A grading and drainage plan is required prior to the issuance of a building permit. A final "as built" plan is required prior to the issuance of a Certificate of Occupancy.

#### §25-413 PLANNING BOARD

- A. Pursuant to N.J.S.A. 40:55D-23, a Planning Board of nine (9) members plus two (2) alternate members is established. The board's appointments, terms, vacancies, powers, organization, referrals advisory committees and other duties and procedures shall be set forth in N.J.S.A. 40:55D-1 et seq.
- B. There is hereby created an Exempt Subdivision and Site Plan Committee consisting of three (3) members of the Planning Board, to be appointed by the Chairman. The purpose of the committee shall be to review and recommend to the full Board whether an "exempt" classification shall be granted to subdivision and site plan applications requesting an "exempt" classification under the definitions of this ordinance and the provisions of Sections 25-504 and 25-506.
- C. Referrals. The board may request any agency or individual to review and comment on any matter before the board.

#### §25-414 PROVISIONS APPLICABLE TO BOTH THE BOARD OF ADJUSTMENT AND PLANNING BOARD

- A. Organization of Board. The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV. The Board of Adjustment shall elect a Chairman and Vice Chairman from its membership. Both boards shall elect a Secretary and Assistant Secretary who may or may not be a member of the board or a municipal employee.
- B. Attorney. Each board may annually appoint and fix the compensation of an attorney who shall be other than the Municipal Attorney.
- C. Experts and Staff. Both boards may employ or contract for experts and other staff and services as necessary except expenditures shall not exceed, exclusive of the gifts or grants, the amount appropriated by the governing body.
- D. Rules and Regulations. Each board shall adopt such rules and regulations necessary to carry out their duties.

- E. Conflicts of Interest. No member shall act on any matter on which he has either directly or indirectly any personal or financial interest. Whenever any member shall disqualify he shall not continue to sit with the board on the hearing of such matter nor participate in any discussion or decision relating thereto.
- F. Meetings.
1. Meetings shall be scheduled and held no less than once a month unless cancelled for lack of development applications.
  2. Special meetings may be called by the chairman or any two (2) board members provided there is notice to the members and public in accordance with applicable legal requirements.
  3. No action shall be taken without a quorum being present. All actions shall be by majority vote of the members of the board present except where a specified portion of the full authorized membership is required: N.J.S.A. 40:55D-9, 40:55D-26, 40:55D-34, and 40:55D-70d.
  4. All meetings shall be open to the public with notice given in accordance with the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq.
- G. Minutes. Minutes of regular and special meetings shall be kept including the names of persons appearing and addressing the board and of persons appearing by attorney, action taken, findings, and reasons therefor. The minutes shall be 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 and be charged a fee for their reproduction.
- H. Hearings.
1. Rules. Both boards may make rules governing the conduct of hearings consistent with N.J.S.A. 40:55D-1 et seq. and this ordinance. The approving authority may waive the required notices and hearing for exempt subdivisions and exempt site plans.
  2. Oaths. The presiding officer or such person as he may designate shall have power to administer oaths or issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties. The provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.
  3. Testimony. All testimony shall be taken under oath or affirmation by the presiding officer. The right of cross examination shall be permitted to all interested parties subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
  4. Evidence. Technical rules of evidence shall not be applicable, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
  5. Records. Each board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. Each board shall furnish a

transcript or duplicate recording in lieu thereof on request to any interested party at his expense. The charge for a copy of the transcript shall not be more than the maximum permitted in N.J.S.A. 2A:11-15 and the transcript shall be certified in writing by the transcriber to be accurate.

6. Certified Court Reporter. If an applicant desires a certified court reporter, the cost of taking testimony and transcribing it and providing a copy of the transcript to the approving authority shall be at the expense of the applicant who shall also arrange for the reporter's attendance.
7. When any hearing shall carry to two (2) or more meetings, a member who was absent for one (1) or more meetings shall be eligible to vote notwithstanding his absence, provided such board member certifies in writing to the board that he has read the transcript or listened to the recording of the hearing(s) he missed.

#### §25-415 PUBLIC HEARINGS AND PUBLIC HEARING NOTICES

*Amended 11-04-93 by Ordinance No. 1152*

The approving authority shall set the date for and hold a public hearing on each application for development following its acceptance as a complete application except that the approving authority may waive the required notices and hearing for exempt subdivisions and exempt site plans unless a variance or conditional use is part of the application. All public hearings shall follow the requirements of the Municipal Land Use Law as summarized below (N.J.S.A. 40:55D-10, -11, and -12):

- A. All public hearing dates shall be set by the approving authority. All hearing notices shall be the responsibility of the applicant and shall be given at least ten (10) days prior to the hearing date.
- B. All notices shall state the date, time and place of the hearing, the nature of the matters to be considered, an identification of the property proposed for development, and the location and time(s) at which maps and documents are available for public inspection.
- C. The applicant shall file an affidavit of proof of service with the approving authority holding the hearing certifying that notices were given in accordance with N.J.S.A. 40:55D-12. Any notice made by certified mail shall be deemed complete upon mailing.
- D. The application shall be available for public inspection at least ten (10) days before the hearing.
- E. Each decision shall be in writing including findings of fact and conclusions. Failure to approve an application shall be deemed a denial and a resolution of memorialization shall be adopted to that effect by a majority of the members who voted for the action. The date of adoption of the resolution of memorialization shall constitute the date of publication as required by statute.

- F. The approving authority shall mail a copy of the decision within ten (10) days of the date of the decision to the applicant, or if represented by an attorney, then to the attorney. A copy shall be on file with the administrative officer and a brief notice of the decision published in the official newspaper of the borough as arranged by the administrative officer. The period of time within which an appeal may be taken shall run from the first publication of the decision.

#### §25-416 SAVING PROVISION

These regulations shall not abate or modify any action, penalty, liability, or right pending under any ordinance repealed by the adoption of this ordinance except as expressly provided in this ordinance.

#### §25-417 USE VARIANCE APPLICATIONS REFERRED TO THE PLANNING BOARD

Any appeal for a variance to allow a structure or use in a district restricted against such structure or use shall have one (1) copy of the application and supporting documents forwarded to the planning board by the administrative officer together with a copy of the notice of the hearing date. The planning board shall review the material and may make recommendations at the public hearing. The planning board's recommendations may contain, among other things, its opinion as to the compatibility of the proposal to the Master Plan; applications which may have been or are currently being processed by the planning board for similar uses elsewhere in the borough; land use, traffic and other data considered by the planning board to be relevant to the application; and what conditions, if any, it would recommend be imposed on the applicant to improve compatibility with the Master Plan and zoning ordinance should the board of adjustment grant the variance.

#### §25-418 VALIDITY

If any provision of this ordinance is judged by the courts to be invalid, such adjudication shall apply only to that provision and the remainder of this ordinance shall be deemed valid and effective.

#### §25-419 VIOLATIONS AND PENALTIES *Amended 05-02-91 by Ordinance No. 1104*

- A. In case of any violation of this ordinance, the borough or an interested party may institute appropriate action to prevent such violation; to restrain, correct or abate such violation; to prevent the occupancy of said structure or land; and to prevent any illegal act, conduct, business or use in or about such premises. Any person convicted of such violation(s) before a court of competent jurisdiction shall be subject to a penalty not to

exceed one thousand dollars (\$1,000.00) and/or ninety (90) days in jail. Each day shall be deemed a separate violation.

- B. The sale or transfer of property prior to final approval shall carry those penalties outlined in N.J.S.A. 40:55D-55.
- C. See Section entitled "Permits" and "Enforcing Officers" in Article 4.

## ARTICLE 5

## DEVELOPMENT REVIEW PROCEDURES

## AND PLAT DETAILS FOR SUBDIVISIONS AND SITE PLANS

§25-501 COMPLETE APPLICATION, COMMENCING APPLICABLE TIME PERIODS,  
AND DECISIONS

- A. An application for development shall be complete for purposes of commencing the applicable time period for action when the application is certified complete by the approving authority. In the event the application is not certified to be complete within forty-five (45) days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five (45) day period for purposes of commencing the applicable time period, unless:
1. The application lacks information indicated on a checklist adopted by ordinance and provided to the applicant; and
  2. The approving authority has notified the applicant, in writing, of the deficiencies in the application within forty-five (45) days of submission of the application.
- B. The applicant may request that one (1) or more of the submission requirements be waived, in which event the approving authority shall grant or deny the request within forty-five (45) days.
- C. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application.
- D. The approving authority may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application have been met. The application shall not be deemed incomplete for lack of any such additional information or revisions in the accompanying documents so required by the approving authority.
- E. Decisions. Each decision on any application for development shall be reduced to writing including findings of fact and conclusions thereon through:
1. A resolution adopted at a meeting held within the required time period for action on the application; or
  2. A memorializing resolution adopted at a meeting held not later than forty-five (45) days after the date of the meeting at which the approving authority voted to grant or

deny approval. Only the members who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution.

3. An action resulting from the failure of a motion to approve an application shall be memorialized by a resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.
4. The vote on any such resolution shall be deemed to be a memorialization of the action of the approving authority and not to be an action of the approving authority. However, the date of the adoption of the resolution shall constitute the date of the decision for purposes of mailings, filings and publications. If the approving authority fails to adopt a resolution or memorializing resolution, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorney's fees, shall be assessed against the municipality.

#### §25-502 CONDITIONAL APPROVAL

The applicant shall comply with the reasonable conditions imposed by the approving authority. Where county planning board or some state agency review or approval is required, the approving authority shall condition any approval it grants upon either timely receipt of a favorable report from the county planning board or state agency, or approval by the county planning board or state agency due to its failure to submit a report within the required time period. If the county or state report is timely and is negative or attaches mandatory conditions, the original action by the municipal approving authority shall be void and the application shall be denied and a new resolution adopted which considers the county planning board or state report.

#### §25-503 EXCEPTIONS AND WAIVERS

The approving authority, when acting upon applications and requests submitted in writing, shall have the power to grant such exceptions from the subdivision and site plan requirements as may be reasonable and within the general purpose and intent of the provisions for subdivision/site plan review and approval if the literal enforcement of one (1) or more provisions of this ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

**§25-504 EXEMPTIONS FROM SUBDIVISION AND SITE PLAN REGULATIONS**

The approving authority may waive required notices and hearings for an exempt subdivision and exempt site plan except where a variance or conditional use is part of the application. An exempt site plan shall be as defined herein and, for purposes of classification of the site plan as exempt, the procedures of Section 25-506 shall be followed. Divisions of land not considered a subdivision as defined in this ordinance shall be exempt from compliance with the requirements of this ordinance only after affirmative action by the approving authority following its review of any recommendation(s) submitted by the Board's Exempt Subdivision and Site Plan Review Committee as created in accordance with Section 25-414B. The Approving Authority's action shall be taken following submission of documentation to the approving authority showing the divisions by testamentary or intestate provisions; divisions of property by court order; and conveyances so as to combine existing lots by deed or other instrument, as the case may be. Until exempted from the subdivision regulations by the approving authority, a court of competent jurisdiction, or administrative officer, as appropriate, no person can transfer, sell or agree to transfer or sell, as owner or agent, any land which forms a part of a subdivision for which approval is required, nor may alterations or improvements be made, nor permits issued.

**§25-505 SIMULTANEOUS REVIEW OR SEPARATE APPLICATIONS**

- A. The approving authority shall have the power to act upon subdivisions, conditional uses or site plans simultaneously without the developer making further application or the approving authority being required to hold further hearings. The longest applicable 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 in conjunction with a site plan or subdivision, notice of the hearing shall include reference to the request for such conditional use. See Section 25-406, "Conditional Uses".
- B. The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit followed by 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(s) shall be granted unless the approval can be granted without substantial detriment to the public good and without impairment of the intent and purpose of the zone plan and zoning ordinance. In the event that the developer elects to submit separate consecutive applications, the required time for action by the approving authority shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying subsequent approval(s) of a subdivision, site plan, or conditional use shall be as otherwise provided in this ordinance for that separate application.



**§25-506 SITE PLAN APPROVAL REQUIRED**

Site plan approval is required for all developments which do not meet the definition of "Site Plan, Exempt" in Article 3. For exempt site plans, the "exempt" classification shall be determined by the Approving Authority after its review of any recommendations(s) made by the Board's Exempt Subdivision and Site Plan Committee created in accordance with Section 25-414B as well as a review of the applicant's submission of a written application including nine (9) copies of a sketch plat accurately depicting what is proposed. If the proposed site plan is classified "exempt" by the Approving Authority, no further site plan approval shall be required. If the proposed site plan is not classified "exempt", the applicant shall comply with all the applicable provisions pertaining to site plan approval as set forth below.

**§25-507 SUBMISSION OF INFORMAL PLAT AND SKETCH PLAT FOR MINOR AND MAJOR DEVELOPMENTS**

- A. Informal Plat. An informal review of a concept plan is optional at the request of the developer. The purpose will be to review concepts to assist the applicant in the preparation of subsequent plans. No decisions will be made, no hearings held, and no formal action taken. Neither the developer nor the planning board shall be bound by this informal review. The plan submitted for review should be to tax map accuracy with the proposed design shown to scaled dimensions.
- B. Sketch Plat. The sketch plat is optional and is intended to apply planning and design concepts to the particular location and features of the site and to make a determination that an application is either exempt, or a minor or major development. Dimensions should be reasonably accurate and approximate boundaries of flood plains, environmentally critical areas such as dune restoration areas, and proposed lots, streets and proposed buildings, parking and access drives should be sufficient to make choices in design alternatives.
  1. Filing Procedure. The developer shall file with the administrative officer at least ten (10) calendar days prior to the meeting of the approving authority, nine (9) black on white copies of the sketch plat, and three (3) completed copies of the application form and checklist.
  2. Action by the Approving Authority
    - a) The approving authority shall classify a sketch plat as a minor or major development. Any changes may be resubmitted as an informal plat, sketch plat, or incorporated in a preliminary or final plat.
    - b) When the approving authority determines that any proposed development may create, either directly or indirectly, an adverse effect on either the remainder of the property being developed or nearby property, the approving authority may require the developer to revise the plat. Where the remaining portion of the original tract is of sufficient

size to be developed or subdivided further, the developer may be required to submit a plat of the entire remaining portion of the tract to indicate a feasible plan whereby the design of the proposed development together with subsequent subdivisions or development will not create, impose, aggravate, or lead to any such adverse effect(s).

## §25-508 SUBMISSION OF PRELIMINARY PLAT FOR MAJOR DEVELOPMENTS

### A. Filing Procedure

1. The developer shall submit to the administrative officer at least ten (10) calendar days prior to the public meeting of the approving authority, fifteen (15) black on white copies of the preliminary plat at the required scale, four (4) completed copies of the application form and preliminary plat check list; four (4) copies of any existing or proposed protective covenants, deed restrictions and easements or a statement that none exist or are proposed; four (4) copies of the drainage calculations and Soil Erosion and Sediment Control data as required in Article 6; the applicable fee including inspection fees if improvements are to be installed prior to final approval; and certification by the tax collector that all taxes are paid to date. An application shall be placed on the approving authority's agenda only after a determination of completeness has been made.
2. A corporation or partnership applying to subdivide a parcel of land into six (6) or more lots, or for a variance to construct a multiple dwelling of twenty-five (25) or more family units, or for a site to be used for commercial purposes, shall list the names and address of all stockholders or individual partners owning at least ten percent (10%) of its stock of any class or at least ten percent (10%) of the interest in the partnership, as the case may be, in accordance with N.J.S.A. 40:55D-48.1 and the penalties for non-compliance. No application shall be approved that does not provide this data.
3. A preliminary plat shall include a complete environmental Impact Report as those requirements may have been modified by data submitted at the sketch plat stage, or a written request for a waiver of any or all of its requirements (See Section 25-609). If such a waiver is requested, the approving agency shall either approve, approve in part, or disapprove the request. The applicant shall provide any required data at least fifteen (15) days prior to the date the approving authority is required to act.

### B. Action by the Approving Authority

1. A determination of completeness shall be made in accordance with Section 25-501.
2. If accepted as a complete application, a public hearing date shall be set by the approving authority and notice given by the applicant.
3. The administrative officer shall submit one (1) copy of the plat and supporting data to the County Planning Board and any other agency or person as directed by the

- approving authority or as may be required by law. If any agency or person fails to report to the approving authority within thirty (30) days, the plat shall be deemed to have been approved by them. In the event of disapproval by such other agency, the reasons shall be given. Upon mutual agreement between the County Planning Board and the approving authority, with approval of the developer, the thirty (30) day period for a County Planning Board report may be extended for an additional thirty (30) days and any extension shall so extend the time within which the approving authority is required to act.
4. A subdivision of ten (10) or fewer lots shall be granted or denied within forty-five (45) days of the date of determining that the application was a complete submission. For more than ten (10) lots, preliminary approval shall be granted or denied within ninety-five (95) days of the date of determining that the application was a complete submission. Further time may be consented to by the developer. If action is not taken within the required time, the approving authority shall be deemed to have granted preliminary approval.
  5. Preliminary site plan approval shall be granted or denied within the following time periods unless some further time has been consented to by the developer:
    - a) A site plan of ten (10) acres or less, and ten (10) dwelling units or less: within forty-five (45) days of a complete submission.
    - b) A site plan of more than ten (10) acres, or more than ten (10) dwelling units: within ninety-five (95) days of a complete submission.
  6. If substantial amendments in the layout of improvements are required and the plan has been the subject of a hearing, an amended application shall be submitted and proceeded upon as in the case of the original application.
  7. The approving authority may approve, disapprove, or approve with conditions the application. The decision shall be reduced to writing and shall be adopted in accordance with Section 25-501E.
  8. Preliminary approval shall confer upon the applicant the rights set forth in N.J.S.A. 40:55D-49 for a three (3) year period regarding protection from changes in the general terms and conditions of preliminary approval, except that changes related to public health and safety may be adopted by ordinance. In addition, the three (3) year period may be extended upon a request by the applicant for limited time periods and under certain conditions as set forth in N.J.S.A. 40:55D-49.

## §25-509 SUBMISSION OF FINAL PLAT FOR MINOR AND MAJOR DEVELOPMENTS

### A. Filing Procedure

1. Prior to expiration of the preliminary approval, or where a final plat is submitted where there has been no previous preliminary plat application, the applicant shall file with the administrative officer at least ten (10) calendar days prior to the

meeting of the approving authority one (1) mylar, two (2) cloth or mylar copies, and six (6) black on white paper prints of the plat and three (3) completed copies of the application form for final approval with supporting exhibits and final plat check list, the performance guarantee approved by the governing body including off-tract improvements, if any, and any maintenance guarantees where either or both a performance or maintenance guarantee is required to cover required improvements, the applicable fee, certification by the tax collector that all taxes are paid to date and certification by the Soil Conservation District pursuant to the Soil Erosion and Sediment Control Act, Chapter 251 of the Laws of 1975. Where an applicant submits a final plat but has previously not submitted a preliminary plat, the final plat submission shall include fifteen (15) black on white copies.

2. Where utility services are to be extended to the site, the final plat shall be accompanied by letters signed by a responsible officer of the water company, sewer authority, and utility which provides gas, telephone and electricity that has jurisdiction in the area approving the utility installation and stating who will construct the facility.
3. The final plat shall be accompanied by a statement by the Municipal Engineer that all utilities and other improvements (both in the development and off-tract) are in their exact location and elevation, and that the drainage, erosion, storm water control, and excavation plans have been inspected and the interests of the borough and of nearby properties are fully protected. Those portions of improvements already installed shall be identified and the Engineer shall state that the developer has either:
  - a) Installed all improvements in accordance with the requirements of this ordinance and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or
  - b) Posted a performance guarantee that has been approved by the governing body.

**B. Action by the Approving Authority**

1. The approving authority shall act on the submission's completeness, including a determination that the plat meets the standards of the "Map Filing Law", N.J.S.A. 46:23-9.9 et seq, in accordance with Section 25-501. In the case of an exempt subdivision or exempt site plan where there has been no previous submission of a sketch or preliminary plat, the approving authority may waive the required notices and hearing except where a variance or conditional use is part of the application.
2. If accepted as a complete application, the administrative officer shall send the applicant a certificate of completeness. Final approval shall then be granted or denied within forty-five (45) days or within such further time consented to by the applicant, and shall be reduced to writing and be adopted in accordance with Section 25-501E. An approved final plat shall be signed by the chairman and secretary of the approving authority (or the vice chairman or assistant secretary in their absence, respectively). Failure to act within the period prescribed shall

constitute final approval and a certificate to that effect shall be issued on request of the applicant.

3. Whenever County Planning Board action is required by N.J.S.A. 40:27-6.3 or 40:27-6.6, the approving authority shall condition any approval upon timely receipt of a favorable report from the County Planning Board or upon the county's failure to act within the required time period.
4. Final approval of a minor subdivision shall expire one hundred-ninety (190) days from the date of municipal approval unless within such period a plat in conformity with such approval, including any conditions imposed by the approving authority, or a deed clearly describing the approved minor subdivision, is filed by the applicant with the County Recording Officer, the Municipal Engineer and the Borough Tax Assessor. Such plat or deed shall have been signed by the chairman and secretary of the approving authority (or the vice chairman or assistant secretary in their absence, respectively). The plat of a minor subdivision need not be in conformity with the "Map Filing Law", N.J.S.A. 46:23-9.9 et seq., provided the developer chooses to file the minor subdivision by deed.
5. 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. No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the approving authority and signed by the Chairman and Secretary of the approving authority (or the Vice Chairman or Assistant secretary in their absence, respectively) or a certificate has been issued as to the failure of the approving authority to act within the required time. The signatures of the Chairman and Secretary shall not be affixed until the developer has posted the required guarantees. If the County Recording Officer records any plat without such approval, the recording shall be deemed null and void, and upon request of the municipality the plat shall be expunged from the official records. It shall be the duty of the County Recording Officer to notify the planning board in writing within seven (7) days of the filing of any plat, identifying it by its title, date of filing, and official number.
6. The same zoning requirements, general terms, conditions and other rights applicable to a preliminary approval shall not be changed for a period of two (2) years after the date of final approval provided, in the case of a subdivision, the plat has been filed with the County Recording Officer. The approving authority may extend such period of protection for extensions of one (1) year, but not to exceed three (3) extensions. Upon granting of final approval, the rights conferred by the granting of preliminary approval shall be terminated.
7. The developer shall supply sufficient copies of the approved final plat so the administrative officer can distribute one (1) copy to each of the following: Applicant, Borough Clerk, Tax Assessor, Planning Board and any other agency or

person directed by the approving authority; and shall supply one (1) translucent cloth or mylar copy to the Municipal Engineer.

#### §25-510 PLAT DESIGN STANDARDS FOR SUBDIVISIONS

- A. Plat Conformity. All applications shall be submitted in plat form drawn by a land surveyor with drawings of improvements prepared by a professional engineer, each bearing the signature, embossed seal, license number and address of the preparer.
- B. Subdivision Sketch Plat for Review and Classification
1. Clearly and legibly drawn.
  2. Graphic scale not less than 1" = 100'
  3. Existing and proposed streets, easements, and lots with dimensions and the area of each lot.
  4. Area of original tract and that portion being developed.
  5. Existing lot lines to be eliminated, if any.
  6. Connections to water service and sewage collection systems.
  7. Direction of storm water flow.
  8. Approximate location of existing structures and uses.
  9. All drainage rights-of-way; the location of drainage structures; and the flood zone in which the property is located, including the approximate location of the Federal Insurance Administration Flood Hazard Boundary if within one hundred (100) feet.
  10. The tax map sheet, block and lot numbers for the tract and all adjacent lots; a title area including the words "Sketch Plat for Review and Classification"; north arrow; space for the application number; the date of the original drawing and the date of each revision.
  11. Zoning district(s).
  12. The name, address, signature and phone number of the owner, developer, and the person preparing the plat.
  13. A key map with north arrow showing the original tract and the portion being developed in relation to surrounding areas.
- C. Preliminary Subdivision Plat
1. Clearly and legibly drawn.
  2. Graphic scale not less than 1" = 100'
  3. Based on certified boundary survey.

4. Sheet sizes of 30" x 42"; 24" x 36"; 15" x 21"; or 8.5" x 13". If more than one (1) sheet is required to show the entire subdivision, a composite map shall show the entire subdivision with reference to each section.
5. Key map with north arrow showing the entire subdivision in relation to surrounding areas including the names of principal roads and at a scale of not less than 1" = 2000'.
6. Title Block with the name of the subdivision; the name of the municipality; tax map sheet, block and lot numbers; date of preparation and most recent revision; meridian; north arrow; graphic scale; the names addresses, phone numbers, and signatures of the owner, developer and person(s) who prepared the plat(s) including the seal of the latter; and space for the application number and planning board signatures.
7. The names of all owners within two hundred (200) feet of the development.
8. Tract acreage to the nearest square foot; the number of new lots; each lot line dimension scaled to the nearest foot; and each lot area to the nearest square foot.
9. Existing and proposed contours at one (1) foot intervals. All elevations shall be related to a bench mark noted on the plan and wherever possible be based on U.S. Geological Survey mean sea level datum. The approving authority may allow other contour intervals and topographic data to meet the objectives of this section and may waive the requirements on portions of large lots where the absence of improvements or other conditions indicate the information would not assist in the decision on the application.
10. Location of existing natural features such as views, existing or developing dunes, and beaches.
11. Existing and proposed riparian rights.
12. Plans, cross-sections, center-line profiles, tentative grades and details of proposed and existing utilities and street rights-of-way including the type and width of street pavement, curbs, sidewalks, shade trees, and all utilities. At street intersections and driveway curb-cuts, sight triangles radii of curblines, crosswalks, curb ramps and street sign locations shall be shown. Final street naming of any new streets may be deferred.
13. The names, locations, widths and purpose(s) of existing and proposed easements and other rights-of-way in the development and within two hundred (200) feet. The text of any deed restriction in the development shall be included.
14. The location and description of existing and proposed monuments.
15. All lot lines that will remain, those proposed, and those to be eliminated. All setback lines with dimensions. Any lot(s) to be dedicated to public use shall be identified. Each block and lot shall be numbered as assigned by the Tax Assessor.
16. All existing structures to remain shall be shown with their proposed use; front, rear and side yard setbacks; and structures of historic significance.

17. Utility plans showing feasible connections to any existing utility systems. A letter from the servicing utility company shall be submitted stating that the service will be available before occupancy of any proposed structures.

18. Zoning district(s).

**D. Final Subdivision Plat**

1. Clearly and legibly drawn.

2. Graphic scale not less than 1" = 100' unless the approving authority authorizes a different scale which can contain legibly written data on dimensions, bearings, and other details.

3. Drawn by a licensed land surveyor in compliance with "Map Filing Law", N.J.S.A. 46:23-9.9 et seq.

4. Sheet sizes of 30" x 42"; 24" x 36"; 15" x 21"; or 8.5" x 13". If more than one (1) sheet is required to show the entire subdivision, a composite map shall be included showing the entire subdivision with references to each sheet.

5. The following data shall be included, except the plat to be filed with the County Recording Officer need only contain the data required for filing with the county. All other data may be submitted on separate sheets:

a) Signature blocks for the approving authority, Municipal Engineer, and other endorsements required by law.

b) Municipal boundary line if within two hundred (200) feet of the tract being subdivided; street names; all lot and easement lines and the location of all monuments with accurate dimensions, bearing or deflection angles and radii, arcs and chord bearings, with the lengths of all curves, all based on an actual survey by a Land Surveyor licensed to practice in the State; minimum building setback lines; and the area of each lot to the nearest square foot. All dimensions, both linear and angular, of the exterior tract boundaries shall be based on and calculated from surveyed traversing which shall have an apparent error of field closure of 1:10,000 or better and shall be corrected by accepted balancing methods to final errorless closure.

c) Block and lot numbers as approved by the Tax Assessor and all street numbers as specified by the approving authority.

d) Title of plat, name of the borough, date of survey, date(s) of original plat and all revisions, and application number.

6. The final plat shall be accompanied by the following:

a) A copy of the preliminary plat revised to show all conditions and changes required at the time of preliminary approval.

b) That the applicant is agent or owner of the land, or that the owner has given consent to the development.

c) Appropriate local, county and state approvals.



## §25-511 PLAT DESIGN STANDARDS FOR SITE PLANS

- A. Plat Conformity and Waivers. All applications shall be submitted in plat form and bear the signature, seal, license number and address of the person who prepared the plat except that plats submitted under the "Informal Discussion" provisions, and sketch plats are exempt from needing sealed plans. All drawings showing improvement designs shall bear the signature and embossed seal of a licensed Professional Engineer of the State of New Jersey.
- B. Sketch Site Plan for Review and Classification shall include the same data as required in Section 25-509B plus lot lines, proposed building(s), proposed use(s), parking, loading, onsite circulation, driveways, approximate onsite or on-tract storm water facilities, and water and sewer service.
- C. Preliminary Site Plan Plat
1. Every preliminary site plan shall be at a graphic scale not more than 1" = 30'; certified by a New Jersey licensed architect or engineer, including accurate lot lines certified by a New Jersey licensed land surveyor, submitted on a sheet size not larger than 30" x 42". (If one (1) sheet is not sufficient to show the entire plan, a composite shall show the entire development with reference to each sheet.) The following data shall be shown on the site plan or accompany it. All lot lines and the exterior boundaries of the tract; north arrow; zone district(s); date of original drawing and each revision; existing and proposed streets and street names; existing and proposed contours at 1 foot intervals within the tract and extending one hundred (100) feet beyond any building, paved area, or graded area under review; title of the plan; total area to one (1) square foot; total number of parking spaces; all dimensions, areas, and distances needed to confirm conformity with the ordinance such as but not limited to building lengths, building heights, building and lot coverage, lot lines, parking spaces, loading spaces, setbacks, and yards; a key map giving the general location of the site within the borough; and a separate map showing the site in relation to the remaining lands of the owner.
  2. Site Plan Information for Preliminary and Final Approval. Each site plan shall be designed to comply with Articles 5, 6, and 7 and be accompanied by an Environmental Impact Report unless waived in whole or in part by the approving authority.
    - a) Building and Use Plan. The plan shall indicate whether the proposed use is a change in use and the plan shall show the size, height, location, arrangement and use of all proposed buildings, structures, and signs, including architect's scaled elevation of the front, side and rear of any structure and sign (existing structures shall be identified either to remain or to be removed). A written description of the proposed use(s) of non-residential buildings shall be included, including the number of employees or members; the proposed number of shifts to be worked and the maximum number of employees on each shift; expected

truck and tractor-trailer traffic; emission of noise, glare, vibration, heat, odor, air and water pollution; safety hazards; and anticipated expansion plans incorporated in the building design. Floor plans shall be submitted for all uses. In apartment and townhouse projects, the number of dwelling units, by type, shall be shown. Depending on the location of the building with respect to flood hazard areas, compliance with the required construction methods may be required.

- b) Circulation Plan. This plan shall show access streets by name, curbs, access points to public streets, sight triangles, traffic channelization, easements, fire lanes, driveways, parking and loading spaces, pedestrian walks, and related facilities for the movement and storage of goods, vehicles and persons. All circulation plans shall be in compliance with barrier-free requirements. Consideration shall be given to merging parking areas with abutting properties together with reducing the number of access points to public streets. Sidewalks shall be shown along expected paths of pedestrian travel. Any expansion plans shall show feasible parking and loading expansion.
- c) Natural Resources and Landscaping Plan. This plan shall show existing and proposed buffer areas including the intended screening devices, seeded and/or sodded areas, ground cover, fencing, signs, shrubbery, trees, and other landscaping features. The plan shall show the location and type of man-made improvements and the location, number, species, and caliper of plant material on the tract. All areas not covered by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, and the planting of coniferous and/or deciduous trees native to the area to maintain or re-establish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The grading and landscaping shall be planned for aesthetic, drainage, and erosion control purposes. The grading plan, drainage facilities, and landscaping shall be coordinated to prevent beach and sand erosion, enhance dune development, and assure the capacity of the drainage system is sufficient to handle water from the site. The flood hazard area in which the property is located shall be shown.
- d) Facilities Plan. This plan shall show the existing and proposed locations of all drainage and storm water run-off facilities including on-site storm water detention facilities, swales, or other ways to minimize the volume of storm water leaving the site; open space; common property; fire, gas, electric, telephone, sewerage and water line locations; lighting; and solid waste collection and disposal methods. Proposed grades, sizes, capacities, and materials to be used for facilities installed by the developer shall be shown for the appropriate facilities. Installations by utility companies need only show their locations on the plat. All easements shall be shown and copies of legal documentation that support the granting of an easement by the owner of an off-tract lot shall be included. All proposed lighting shall include the direction, angle, and height of each source of light. All utilities shall be installed underground. All required state and federal approvals for environmental

considerations shall be submitted prior to preliminary approval or be a condition of approval. All public services shall be connected to an approved public utilities system.

- D. Final Site Plan Plat. The final plat shall follow preliminary site plan requirements, but include all changes required as a condition of preliminary approval.

## ARTICLE 6

## DESIGN AND PERFORMANCE STANDARDS

## §25-601 GENERAL

- A. All developments shall conform to design standards encouraging sound development patterns within the borough. Where an Official Map or Master Plan have been adopted, the development shall conform to them.
- B. Beach & Water Area Protection. Beach and water areas identified in the Master Plan for conservation efforts and protection shall not be designed for development and, in particular, dune restoration efforts shall be required for ocean beachfront properties. Exceptions to this policy are not foreseen, but if rare circumstance occurs, such exception shall be allowed only upon the application of the rigorous standards to maximize protection of the beach and water resources of the community and the public at large. Compliance with applicable federal, state and county regulations will also be required.

## §25-602 ACCESSORY BUILDINGS AND USES

*Amended 05-02-91 by Ordinance No. 1104; 9-01-09 by Ordinance No. 1488.*

- A. Setback: Any accessory building or structure attached to a principal building by connecting walls, roofs, patios, decks or similar designs and materials to make the accessory building or structure an integral part of the principal building or structure shall be considered part of the principal building and shall adhere to the yard requirements for the principal building. The minimum distance of a free-standing accessory building or structure to a property line or to a building on the same lot shall be five (5) feet from the rear lot line, five (5) feet from the side lot line and eight (8) feet from another building or structure on the same lot.
- B. Height and Area: Accessory buildings for non-habitable purposes in residential zones shall not exceed sixteen (16) feet in height and may occupy no more than five hundred seventy-six (576) square feet for a vehicle garage, and shall not exceed ten (10) feet in height and be no more than one hundred (100) square feet in area for a shed.
- C. Location of an accessory building shall only be in the rear yard. On a corner lot, it shall be set back from the side street to comply with the setback for the principal building.

## §25-603 MULTI-FAMILY DESIGNS

*9-01-09 by Ordinance No. 1488.*

Site Plan approval is required.

- A. Each overall development shall have a compatible architectural and landscaping theme with variations in design to provide attractiveness to the development. Each project shall specify how each of the following considerations has been incorporated in the overall plans: landscaping techniques; building orientation to the site and to other structures; natural features such as waterfront views; drainage facilities; off-street parking accessible from an on-site driveway or aisle; and building design features such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing roof lines and roof designs, altering building heights, and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation the facades, singly or in combination.
- B. Structures may be in any alignment meeting the yard requirements and the following maximum lengths:
  - 1. Two hundred (200) feet on one (1) plane;
  - 2. Three hundred forty (340) feet on any angle; and
  - 3. Five hundred (500) feet along the centerline.

Other lengths may be approved provided consideration is given to fire access between structures, convenient vehicular parking and access throughout the project, structural breaks, maximizing vistas and views, landscaping, and overall aesthetic appeal. A Multiple Dwelling Building shall have not less than three (3) nor more than four (4) units along one (1) plane and not more than eight (8) units in one (1) overall structure.

- C. No dwelling unit shall exceed three (3) stories for habitable purposes. In order to assure adequate parking and on-site circulation, parking areas and utility rooms may be located at ground level with two (2) habitable stories located above them provided the overall building height is not exceeded.
- D. The density shall not exceed the level permitted in the zoning regulations.

## §25-604 BUFFERS

*Amended 9-01-09 by Ordinance No. 1488.*

Where in the Mixed Use Zone, except for a one or two family dwelling, a structure or building abuts the residential zone, or where off-street parking for six (6) or more vehicles or off-street loading abuts a residential lot, the following requirements shall apply:

- A. A designated buffer area shall be contiguous with residential property lines and be of uniform width of not less than five (5) feet unless a different width is specified elsewhere in this ordinance for a specific use. The applicant shall be required to erect and landscape either a six (6) foot high fence or install plantings sufficient to provide the required buffer.

- B. Buffer areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass by the owner. Any screen planting shall be maintained permanently and any plant material which does not live shall be replaced within one (1) year or one (1) growing season.
- C. No structure, activity, storage of materials, or parking of vehicles shall be permitted in a buffer area except access drives from public streets, one (1) unlighted directional sign per each direction of traffic per access drive, and permitted signs.
- D. Plantings.
1. Where parking and loading areas abut a residential lot, a landscaped screen shall be planted and maintained by the owner of the parking/loading area to conceal them from view, and eliminate the glare of vehicle lights throughout the year. The screen shall consist of evergreen trees, such as hemlock, Douglas fir, and Norway spruce. Trees shall be planted not more than eight (8) feet apart except where otherwise authorized by the approving authority. Evergreen trees shall not be less than four (4) feet high when planted. In the event existing evergreens do not provide an adequate buffer, supplemental plantings may be required.
  2. If the buffer area includes existing trees and shrubbery, but not enough to provide a suitable screen as required above, supplemental evergreen plantings, trees and shrubs may be required to provide the landscape screen. If the approving authority finds these supplemental plantings will not grow satisfactorily, fence six (6) feet high shall be erected in the buffer area.
- E. The approving authority shall have the power to waive any of the buffer requirements if they determine an adequate buffer can be provided in another manner while maintaining the purposes of this section. The approving authority shall review the proposed plat and the standards and purposes for buffers considering the location and setback of buildings and parking areas; outdoor illumination; existing features such as trees and buildings; the efficiency, adequacy and safety of the proposed layout of driveways, streets, sidewalks and parking/loading areas; the adequacy and location of existing buffer areas; the proposed uses; and similar features.

## §25-605 CURBS AND GUTTERS

Concrete curb shall be installed along all streets in accordance with Chapter 68, Streets and Sidewalks, and, unless waived by the approving authority, along all edges of pavement within a site. The standard curb section shall be ten (10) feet in length with preformed bituminous expansion joint fillers at (10) foot intervals and shall be set in accordance with approved lines and grades, and radial curbs shall be formed in a smooth curve. The finish shall be a smooth float finish with corners rounded. Concrete curbs shall be 6" x 8" x 18" (6 inch exposed face), using Class B concrete having a twenty-eight (28) day compressive strength of 3,500 p.s.i and shall be air entrained. Barrier-free curb ramps shall be constructed in accordance with the "Design Standards for Curb Ramps for the Physically Handicapped" of the N.J. Department of Transportation.

## §25-606 DRAINAGE

*Amended 9-01-09 by Ordinance No. 1488.*

Any system shall be adequate to handle all water which originates within the development and beyond. Sites shall be planned and designed to minimize the rate and volume of storm water runoff and so the rate and volume leaving the site after development is no greater than it was before development. No water shall be diverted as to overload existing systems or create flooding or the need for additional drainage structures on other lands without provisions being made to handle these conditions, including off-tract improvements. Piping all storm water may not be required, but alternate, equivalent methods may be approved considering capacity, erosion, safety, maintenance, aesthetics, and the ability of an alternate system to provide proper drainage.

- A. A twenty-five (25) year storm curve shall be used in computing storm water runoff.
- B. Where piping is required, the pipe size shall be determined by acceptable engineering design procedures based upon Ocean County Subdivision Review and Site Plan Review Resolutions, but not less than fifteen (15) inches in diameter. Drain pipes shall be laid to the exact lines and grades approved by the Municipal Engineer. Specifications for manholes, inlets, and storm drains shall follow the 1961 State Highway specifications, as amended.
- C. Where piping is required, drainage inlets shall be not more than seven hundred-fifty (750) feet apart, or such shorter distances as required to prevent surface water from encroaching on the required travel lane, or exceeding four (4.0) cubic feet per second at the drainage inlet. Access manholes shall be not more than five hundred (500) feet apart and at pipe junctions.
- D. Where a new piped system is installed, a drainage right-of-way easement at least twenty (20) feet wide shall be dedicated to the borough. See Section 25-608.
- E. All storm water designs shall comply with the "Soil Erosion and Sediment Control" provisions in Section 25-626. Grading shall direct drainage away from all buildings, prevent the collection of water in pools, and avoid the concentration of storm water from one lot to another.
- F. A grading and drainage plan is required prior to the issuance of a building permit. A final "as built" plan is required prior to the issuance of a Certificate of Occupancy

## §25-607 DRIVEWAYS

**See also Sections 25-605, 25-606, 25-618, 25-623 and 25-628.**

- A. Permit Required. No person shall alter, demolish or construct any part of a curb or sidewalk for the purpose of installing a driveway or an opening across said sidewalk or curb for other purposes without having first applied for and obtained a driveway permit, in writing, to do so. Said permit shall be issued by the Zoning Official. The

application shall be signed by the applicant or a duly authorized agent of the applicant and shall show the location of the proposed driveway or opening in the curb or sidewalk, drawn to scale, with clearly indicated dimensions of all work to be done.

- B. The number and dimensions of driveways shall be in accordance with Section 25-618.
- C. See Chapter 68, Streets and Sidewalks.

#### §25-608 EASEMENTS

- A. Drainage and utility easements shall be along side and/or rear property lines where possible, shall not be less than twenty (20) feet wide (except walk ways shall have widths as specified in Section 25-623), shall be dimensioned on the plat, shall provide for maintenance access, shall prohibit plantings or construction, and shall be identified as follows: "Drainage/Utility easement granted to the Borough of Seaside Park as provided for in the Development Regulations Ordinance."
- B. Sight triangle easements per Section 25-624.

#### §25-609 ENVIRONMENTAL IMPACT REPORT

- A. Prior to submitting a preliminary plat, the applicant shall present an overview of the natural limitations of the site to guide the layout of the proposed development. Maps showing the Federal Flood Administration Flood Hazard Boundaries, Riparian Rights, existing beaches, and natural dune lines shall be included, where applicable. Little or no text need accompany this data at this stage. It is anticipated that major areas of concern can be identified and agreed upon by use of this generalized data at an early stage in order to avoid development designs that will encroach upon the major environmentally sensitive areas. Where environmentally sensitive areas must be encroached upon in exceptional situations, the Environmental Impact Report submitted at the preliminary plat stage shall analyze the problem in more detail based on on-site evaluations and state and federal regulations, but the analysis can be limited to the smaller areas of impact rather than the whole site.
- B. The preliminary plat shall be accompanied by an Environmental Impact Report complying with the following, unless as a result of data submitted prior to the preliminary plat, the approving authority shall have waived or modified certain portions of these requirements.
  - 1. A description of the development specifying what is to be done during construction and operation to minimize environmental impacts.
  - 2. An inventory of the following on-site conditions and an assessment of the probable impact of the development upon them:



- a) water supply
- b) water quality
- c) flood hazard protection
- d) beach and dune erosion
- e) dune beach grass protection
- f) sewage collection system capacity
- g) air quality
- h) historic landmarks
- i) site aesthetics, e.g. views, etc.

Air and water quality shall be described with reference to standards of the Department of Environmental Protection. Soil erosion and dune protection shall be described with reference to Soil Conservation Service categories and plans to stabilize, then rebuild, dunes.

3. A list and the status of any approvals needed from federal, state, or county agencies.
4. An evaluation of any adverse environmental impacts which cannot be avoided including air and water pollution, noise, sedimentation and siltation, increase in township services or capital needs, and consequences to the borough's tax structure.
5. A description of steps to be taken to avoid or minimize adverse environmental impacts during construction and operation, including maps, schedules and other explanatory data.
6. Notwithstanding the foregoing, the approving authority may waive all or part of an Environmental Impact Report based upon a written request for a waiver accompanied by sufficient evidence to support a conclusion that the development will have a slight or negligible environmental impact, or that the complete report need not be prepared to evaluate the environmental impact of the development.

#### §25-610 FENCES AND WALLS

*Amended 09-01-09 by Ordinance No. 1488.*

Fences and walls shall not be located in any required sight triangle or within any public right-of-way or easement. No fence or wall shall exceed four (4) feet except a six (6) foot high fence shall be required around areas serving a commercial trash collection purpose.

#### §25-611 FIRE PROTECTION

- A. Where fire hydrants either do not exist or are not of adequate capacity or designed for borough fire equipment, provision shall be made for new fire hydrants along streets and/or on the walls of major non-residential structures as approved by the fire department or Municipal Engineer and in accordance with the Insurance Services

Office of New Jersey. New hydrants shall be required as part of a major site plan or a major subdivision where the midpoint of any lot under review does not lie within five hundred (500) feet of a functioning fire hydrant having fire hose threads conforming to the fire company equipment with no less than two and one-half (2 1/2) inch hose connections and one (1) four and one-half (4 1/2) inch pumper nozzle. Hydrants shall be set plumb with nozzles eighteen (18) inches above grade.

- B. Properties adjacent to the bay or along bulkheads shall provide access to the bay so water for fire fighting purposes may be drafted from the bay. This shall include access suitable for use by fire fighting equipment. Such facilities shall be constructed to the satisfaction of the Municipal Engineer and fire department and in accordance with the Insurance Services Office of New Jersey.

## §25-612 FLOOD DAMAGE PREVENTION

*Adopted 09-27-06 by Ordinance No. 1396*

A. Findings of Fact.

1. The flood hazard areas of Seaside Park are subject to periodic inundation which results in loss of life and 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.
2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

- B. Purpose. It is the purpose of this ordinance 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:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

7. To insure that potential buyers are notified that property is in an area of special flood hazard; and
  8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- C. Methods of reducing flood losses. In order to accomplish its purposes, this ordinance uses the following methods and provisions for:
1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which results in damaging increases in erosion or in flood heights or velocities;
  2. Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help the accommodate or flood waters;
  4. Controlling filling, grading, dredging and other development which may increase flood damage; and,
  5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other areas.
- D. Definitions.
1. 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.
  2. As used in this ordinance, the following terms shall have the meanings indicated:
    - APPEAL – means a request for a review of the Flood Plain Manager’s interpretation of any provision of this ordinance or a request for a variance.
    - AREA OF SHALLOW FLOODING – means a designated AO or VO Zone on the Community's Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
    - AREA OF SPECIAL FLOOD HAZARD – means the land in the flood plain within a community subject to a one-percent (1%) or greater chance of flooding in any given year.
    - AREA OF SPECIAL FLOOD RELATED EROSION HAZARD – means the land within a community which is most likely to be subject to severe flood related erosion losses. After a detailed evaluation of the special flood related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.
    - BASE FLOOD – means the flood having a one-percent (1%) chance of being equaled or exceeded in any given year.

**BASEMENT** – means any area of the building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL** – means 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.

**COASTAL HIGH-HAZARD AREA** – means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**DEVELOPMENT** – means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**ELEVATED BUILDING** - means a non-basement building (i) 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 (ii) adequately anchored so as not to impair the structural integrity of the building during a flood 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.

**EROSION** – means the process of the gradual wearing away of land masses.

**FLOOD OR FLOODING** – means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

**FLOOD INSURANCE RATE MAP (FIRM)** – means 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 (FIS)** – means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Map(s) and the water surface elevation of the base flood.

**FLOOD RELATED EROSION** – means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by

waves or currents of water exceeding anticipated cyclical levels or suddenly caused by unusually high water level in a natural body of water, accompanied by a severe storm, or by unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**FLOOD-RELATED EROSION AREA or FLOOD RELATED EROSION PRONE AREA** – means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shore line of bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion.

**FLOOD RELATED EROSION AREA MANAGEMENT** – means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control work, and flood plain management regulations.

**FLOOD PLAIN MANAGER** – means the Construction Official or other official as designated by the Governing Body of the Borough of Seaside Park.

**FLOOD PLAIN MANAGEMENT REGULATIONS** – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**HABITABLE FLOOR** – means any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor". (See **LOWEST FLOOR**).

**HIGHEST ADJACENT GRADE** – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** – means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- a. By an approved State program as determined by the Secretary of the Interior; or
- b. Directly by the Secretary of the Interior in States without approved programs.

**LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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 to render the structure in violation of other applicable non-elevation design requirements.

**MANUFACTURED HOME** – means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreation vehicle”.

**MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION** – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION** – means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION** – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

**PRIMARY FRONTAL DUNE** – means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

**RECREATIONAL VEHICLE** – means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the longest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but a temporary living quarters for recreational, camping, travel, or seasonal use.

**REFERENCE FEATURE** – is the receding edge or bluff of eroding frontal dune, or if such a feature is not present, the normal high water line or the seaward line of permanent vegetation if a high water line can not be identified.

**60-YEAR SETBACK** – means a distance equal to 60 times the average annual long term recession rate at a site, measured from the reference feature.

**30-YEAR SETBACK** – means a distance equal to 30 times the average annual long term recession rate at a site, measured from the reference feature.

**SAND DUNES** - Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [P.L. 97-348]) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, 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 or 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE** – means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include:

- a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

VARIANCE – means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

- E. Land to Which this Ordinance Applies. This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Seaside Park, Ocean County, New Jersey.
- F. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard for the Borough of Seaside Park, Community No. 345319, are identified and defined on the following documents prepared by the Federal Insurance Emergency Management Agency:
1. A scientific and engineering report “Flood Insurance Study, Ocean County, New Jersey (All Jurisdictions)” dated September 29, 2006.
  2. Flood Insurance Rate Map for Ocean County, New Jersey (All Jurisdictions) as shown on Index and panel number (s) 0329, 0337; whose effective date is September 29, 2006.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at Borough Hall, 1701 North Ocean Avenue, Seaside Park, New Jersey 08752

- G. Penalties for Noncompliance. No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more that \$1,000.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay costs and expenses involved in case. Nothing herein contained shall prevent the Borough of Seaside Park from taking such other lawful action as is necessary to prevent or remedy any violation.
- H. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- I. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and,
  3. Deemed neither to limit nor repeal any other powers granted under State statutes.
- J. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance 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 ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Seaside Park, any officer or employee thereof for the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

- K. Establishment of Development Permit. A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in §25-612F. Application for a Development Permit shall be made on forms furnished by the Flood Plain Manager may include, but not be limited to; 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 structure has been floodproofed.
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing of §25-612P-2; and,
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

- L. Designation of Local Administrator. The Construction Official or other official designated by the Governing Body of the Borough of Seaside Park to be known as the Flood Plain Manager is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

- M. Duties and Responsibilities of the Flood Plain Manager. Duties of the Flood Plain Manager shall include but not be limited to:

1. Permit Review.
  - a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
  - b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
  - c) Review all development permits to determine if the proposed development is located in the floodway, assure that the encroachment provisions of §25-612Q-1 are met.

- d) Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.
  - e) Review plans for walls to be used to enclose space below the base flood level in accordance with §25-612Q-1(a).
2. Use of Other Base Flood and Floodway Data. When base flood elevation and floodway data has not been provided in accordance with §25-612F, "Basis for Establishing The Ares of Special Flood Hazard", the Flood Plain Manager 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 §25-612P-1, "Specific Standards, Residential Construction", and §25-612P-2, "Specific Standards, Nonresidential Construction".
  3. Information to be Obtained and Maintained.
    - a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new of substantially improved structures, and whether or mot the structure contains a basement.
    - b) For all new or substantially improved floodproofed structures:
      - 1) Verify and record the actual elevation (in relation to mean sea level); and
      - 2) Maintain the floodproofing certifications required in §25-612K-3.
    - c) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of §25-612Q-2(a) and §25-612Q-2(b) 1 and 2 are met.
    - d) Maintain for public inspection all records pertaining to the provisions of this ordinance.
  4. Alteration of Watercourses.
    - a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Flood Plain Management Section and Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
    - b) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.
  5. 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 §25-612N.

N. Variance Procedure.

1. Appeal Board.

- a) The Zoning Board of Adjustment as established by the Borough of Seaside Park shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b) The Zoning 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 Flood Plain Manager in the enforcement or administration of this ordinance.
- c) Those aggrieved by the decision of the Zoning Board of Adjustment, or any taxpayer, may appeal such decision to the appropriate court of competent jurisdiction, according to law.
- d) In passing upon such applications, the Zoning Board of Adjustment, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - 1) The danger that materials may be swept onto other lands to the injury of others;
  - 2) The danger to life and property due to flooding or erosion damage;
  - 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 4) The importance of the services provided by the proposed facility to the community;
  - 5) The necessity to the facility of a waterfront location, where applicable;
  - 6) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
  - 7) The compatibility of the proposed use with existing and anticipated development;
  - 8) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - 9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - 10) 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 the site;
  - 11) 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.
- e) Upon consideration of the factors of §25-612N1(d) and the purposes of this ordinance, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

- f) The Flood Plain Manager shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

2. Conditions for Variances.

- a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) in §25-612N(d) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e) Variances shall only be issued upon:
  - 1) A showing of good and sufficient cause;
  - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - 3) 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
  - 4) Victimization of the public as identified in §25-612N-1(d); or conflict with existing local laws or ordinances.
- f) 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 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.

O. Provisions for Flood Hazard Reduction.

- 1. General standards. In all areas of special flood hazards the following standards are required:
  - 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 and substantial improvements shall be constructed using 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 floodwaters 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 the systems into flood water;
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- 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 and accumulating within the components during conditions of flooding.

4. Subdivision Proposals.

- a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five 5 acres (whichever is less).

5. Enclosure Openings. All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom

of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- P. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in §25-612F, “Basis for Establishing the Areas of Special Flood Hazard” or §25-612M-2, “Use of Other Flood Base Data”, the following standards 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.
    - a) In Zones A1-30 or AE zone new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation;
    - b) Required within any AO zone on the municipality’s FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
  2. Nonresidential Construction.
    - a) In A1-30 or EA all new Construction and substantial improvement of any commercial, industrial or nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or together with attendant utility and sanitary facilities, shall:
    - b) Required within any AO zone on the municipality’s FIRM that all new Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or
    - c) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - d) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - e) Be certified by a registered, professional engineer or architect indicating that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in §25-612M-3(b).

### 3. Manufactured Homes.

- a) Manufactured homes shall be anchored in accordance with §25-612O-1(b).
- b) The placement of manufactured homes to be placed of substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

Q. Coastal High-Hazard Area. Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in §25-612F. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

#### 1. Location of Structures.

- a) All buildings or structures shall be located landward of the reach of the mean high tide.
- b) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

#### 2. Construction Methods.

- a) Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in §25-612Q-2(d).
- b) Structural Support.
  - 1) All new construction and substantial improvements shall be securely anchored on piling or columns.
  - 2) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one-percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
  - 3) There shall be no fill used for structural support.
- c) Certification. A registered, professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of §25-612Q-2(a) and §25-612Q-2(b)1-2
- d) Space Below the Lowest Floor.
  - 1) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the

lowest floor unless breakaway walls, open wood lattice work or insect screening are used as provided for in this section.

- 2) Breakaway walls, open wood lattice work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.
  - [a] Breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,
  - [b] The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.
  - [c] If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.
  - [d] Prior to construction, plans for any breakaway wall must be submitted to the Flood Plain Manager for approval.
- 3) Sand Dunes. There shall be no alteration of sand dunes, which would increase potential flood damage.

#### R. Erosion Zones

1. When the Administrator has not yet identified any area within the municipality as having special flood-related erosion hazards, but the municipality has indicated the presence of such hazards by submitting an application to participate in the Program, the municipality shall:
  - a) Require an issuance of a permit for all proposed construction, or other development in the area of flood-related erosion hazard, as it is known to the municipality;
  - b) Require review of each permit application to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion hazards or otherwise aggravate the existing flood-related erosion hazard; and



- c) If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measures to be taken which will not aggravate the existing erosion hazard.
2. When the Administrator has delineated Zone E on the community's FIRM, the municipality shall:
    - a) Meets the requirements of §25-612R-1(a); and
    - b) Require a setback for all new development from the ocean, lake, bay, river front or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Administrator according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the municipality's land. The buffer may be used for suitable purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures.

#### §25-613 LIGHTING

The objective is to minimize undesirable offsite effects. All area lighting, such as parking lots or for security, shall provide translucent fixtures with shields around the light source. The light intensity at ground level shall be a maximum of one (1.0) foot candle. The total quantity of light radiated above a horizontal plane passing through the light source shall not exceed seven and one-half percent (7 1/2%). For recreation purposes, more intense lighting may be permitted provided the shielding and possible required planting buffer are approved as part of the plat. No lights shall shine or reflect into windows or onto streets and driveways. No lights shall be rotating, pulsating, or other intermittent frequency.

#### §25-614 LOTS

*Amended 09-01-09 by Ordinance No. 1488.*

- A. Insofar as is practical, lots shall be rectangular, lot lines shall be straight, and side lot lines shall be either at right angles or radial to street lines.
- B. Each lot must front upon an approved, paved street. See Section 25-629.
- C. Corner Lots: Corner lots shall be of sufficient dimensions to allow building setbacks to meet the front yard requirements along each street.
- D. Where there is a question as to the suitability of a lot(s) due to flood conditions, high water table, or similar circumstances, the approving authority may withhold approval of such lots or require deletion of said lot(s) with the area merged into adjacent lot(s).

- E. Where two (2) or more contiguous lots exist under the same ownership and one (1) or more of said lots do not conform with the area and/or dimension requirements of this ordinance, said contiguous lots shall be considered merged into the greatest number of conforming lots.
- F. Whenever land has been dedicated to the borough to meet the minimum street width requirements or to implement the official map or master plan, the building inspector shall not withhold a building and/or occupancy permit when the lot depth and/or area was rendered substandard due to such dedication and where the owner has no adjacent lands to meet the minimum requirements.

#### §25-615 MONUMENTS

Monuments shall be the size and shape required by N.J.S.A. 46:23-9.12, the "Map Filing Law", as amended, be placed in accordance with said statute, and indicated on the final plat.

#### §25-616 NONCONFORMING USES, STRUCTURES OR LOTS

*Amended 09-01-09 by Ordinance No. 1488.*

- A. Lots. Any lot legally existing at the time of the enactment of this ordinance that is less than 5,000 square feet but not less than 2,500 square feet can be issued a building permit to construct a structure without an application for a variance to the appropriate land use board provided that on the date of permit issuance, the structure shall conform to all of the regulations within the applicable zone set forth in this ordinance.
- B. Abandonment. Any nonconforming use, established pursuant to N.J.S.A. 40:55D-68, shall be considered abandoned where the totality of facts establish by a qualitative preponderance of the evidence:
  - 1. An overt act or failure to act which carries a reasonable implication that the owner neither claims nor retains a sufficient interest in the subject matter of the abandonment; and,
  - 2. An Intent to abandon.
  - 3. The subsequent use of the structure and/or site shall be in conformity with the requirements of the zoning ordinance.
- C. Maintenance. May be made to a nonconforming use, structure or lot provided the maintenance work does not change the use, expand the building or the functional use of the building, increase the area of a lot used for a nonconforming purpose, or increase the nonconformity in any manner.
- D. Building Additions. Any structure legally existing at the time of the enactment of this ordinance but which structure violates any setback or height requirement, or if the lot on

which a structure is situated is undersized or has one (1) or more dimensions that do not comply with this ordinance, the owner may apply for and be issued a building permit to construct an addition to the structure without an appeal to the appropriate land use board, provided all of the following provisions are met:

1. All the requirements for a proper building permit, other than those exempted in this section, are met;
2. The addition itself does not expand the existing setback or height requirement violations.
3. The addition itself does not violate any use, the requirements of which are within this chapter and the height meets the following criteria:
  - (a) Lots 5,000 square feet or less - the maximum height in feet of a building shall be calculated using the following formula:  
$$\text{Lot area (square feet) divided by 250 plus 15} = \text{maximum building height}$$
  - (b) Lots greater than 5,000 sq. ft. – maximum building height is restricted to 35 feet.
4. The addition does not eliminate any existing off-street parking on the lot nor does it create the need for more off-street parking that cannot still be met on-site;
5. The addition does not exceed a foundation area equal to fifty percent (50%) of the foundation area of the existing principal building.

E. Restoration and Repairs.

1. TOTAL DESTRUCTION

- (a) NJSA 40:55D-68 does not allow for the rebuilding of a nonconforming use or structure that is completely destroyed. Total destruction terminates the grandfathered nonconforming use or structure regardless of the cause of the total destruction.
- (b) “Total” destruction shall be determined by both the Borough’s Zoning Officer and Construction Official. If they agree that there has been “total” destruction, the nonconforming use or structure cannot be restored or repaired to its previous nonconforming status.
- (c) If the Zoning Officer and the Construction Official do not agree, the decision must be sent to the Board of Adjustment for resolution.
- (d) If the Zoning Officer and the Construction Official is the same person or if both functions are performed by one service provider or contractor on behalf of the borough, then the matter must be referred to the Board of Adjustment for a decision.
- (e) The property owner retains the right to appeal the decision of the Zoning Officer and/or the Construction Official to the Board of Adjustment.

## 2. PARTIAL DESTRUCTION

- (a) Any nonconforming use or structure existing prior to the adoption of new zoning ordinances may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired to the previous level of nonconformity in the event of partial destruction provided:
1. Such destruction was not the result of arson or some other illegal action by the owner or agent directed at destroying the non-conforming structure or use; and
  2. Destruction is limited to not more than fifty (50) percent of the structure or building's square footage based on the evaluation by both the Borough's Zoning Officer and the Construction Official using the Borough's Evaluation Checklist.
  3. Items E1(c), (d), and (e) of this section also apply to partial destruction.
- (b) Any nonconforming structure or use partially destroyed at the convenience of the owner such as demolition, major remodeling or similar action or if partial destruction is the result of arson or some other illegal action by the owner or agent directed at destroying the nonconforming structure or use, shall not be rebuilt except in conformity with the provisions of this ordinance.

## 3. REPAIRS AND MAINTENANCE

Repairs and maintenance work as required to keep a structure in sound and safe condition, or to rebuild after damages to said premises, may be made to a nonconforming structure providing the repairs and maintenance do not change the use, expand the building or functional use or increase the nonconformity in any manner. If any repair or maintenance undertaken pursuant to this paragraph results in the total destruction of the structure or exceeds the limits of item 2(a)-2 of this section, then such structure shall not be rebuilt except in conformity with the provisions of this ordinance.

## §25-617 OFFSITE AND OFF-TRACT IMPROVEMENTS

Before final approval, payment of the developer's pro rata share of the following offsite and off-tract improvements may be required: street improvements, water system, sewerage, drainage facilities and easements therefore.

- A. Essential Offsite and Off-Tract Improvements shall be installed or a performance guarantee furnished in lieu thereof, with the total cost borne by the developer:

1. Direct access to an improved street and connection to the water supply and sanitary sewer collection system shall be required.
  2. Where demand for water and/or sewer service is beyond the capacity of present facilities, the approving authority may grant final plat approval provided the developer acquires land, constructs improvements, and dedicates such water and sewer facilities to the borough to overcome the present capacity limitations. Where the expanded facilities have a capacity beyond the needs of the development, the cost to the developer shall be in accordance with Section B below.
  3. Where off-site and off-tract drainage facilities are not adequate to accommodate storm water from the development, the approving authority may grant final approval if the developer shall acquire, improve and dedicate to the borough such enlarged, additional or new drainage facilities.
  4. In lieu of the developer's performing such offsite and off-tract work, the developer may enter into an agreement for such work to be performed by the borough or its contractors at the cost of the developer.
  5. Where offsite and off-tract improvements are essential to the development and the developer does not consent to the improvements, the application shall be denied, without prejudice, to such time when the conditions no longer apply.
- B. Advisable Offsite and Off-Tract Improvements are those which, although not essential, would promote the objectives of this ordinance and can be most appropriately accomplished in connection with the development. Where such improvements are required as a local improvement by the borough and the costs are to be assessed against all properties specially benefited thereby, (including the property of the developer), the following provisions shall apply:
1. The approving authority shall refer its recommendations to the governing body.
  2. If the governing body concurs, the Municipal Engineer or other professional shall determine the nature of the improvements including the needs created by the development and the existing needs in the area, notwithstanding the proposed development.
  3. An estimate of the costs of such work shall be prepared including all costs to be in any local improvement ordinance and those to be assessed to the developer. Costs shall include construction, engineering, any easement or right-of-way acquisition, legal work, advertising, contingencies, bonding, and assessments.
  4. If the governing body will not adopt a local improvement ordinance, the development shall be designed accordingly.
  5. If a local improvement ordinance is adopted, the governing body shall proceed in the following manner:
    - a) If sufficient funds are available for the initial appropriation, the governing body may appropriate such funds and adopt such ordinance.

- b) If sufficient funds are not available for the initial appropriation, the governing body may determine the anticipated amount that the lands of the applicant would be expected to be assessed.
  - 1) This amount shall be deposited by the applicant with the Borough Treasurer prior to final approval and prior to introduction of the local improvement ordinance.
  - 2) The deposit shall be made concurrent with an agreement between the applicant and the borough outlining the purposes for which the money may be spent; that such deposit may be appropriated by the borough and commingled with other appropriated funds and expended for the designated purposes; that if not spent within an agreed upon time, said deposit shall be returned to the applicant; that the properties specially benefited by such improvement shall be assessed as provided by law, including the property of applicant; that the applicant's deposit shall be credited against the assessment and any difference shall be paid to the borough or, if the deposit exceeded the amount assessed, the excess shall be refunded to the applicant, without interest.
  - 3) Where said offsite and off-tract improvements are found by the approving authority to be advisable and important to the sound development of the site, but the developer is unwilling to make such deposit as specified above, then there shall be no final approval until funds become available for the initial appropriation required to adopt the local improvement ordinance.
6. The governing body shall determine whether or not to adopt a local improvement ordinance within thirty (30) days after the referral by the approving authority unless the time is extended with the consent of the applicant. If the determination is not made within the designated period, the approving authority shall proceed as if the local improvement ordinance is not to be adopted.

§25-618 OFF-STREET PARKING AND LOADING *Amended 09-01-09 by Ordinance No. 1488.*

A. Access to and From Lots; Driveways. See also Section 25-607

Access drives shall be limited to one (1) to any lot, unless more are specifically authorized in this Ordinance. Each drive to a single family or two family dwelling shall have a width of at least ten (10) feet, but not more than twelve (12) feet. Each driveway to a parking lot for other uses having a parking capacity for six (6) or more vehicles shall be twelve (12) feet wide for one-way traffic and twenty-five (25) feet wide for two-way traffic. A driveway twenty-five (25) feet wide shall handle no more than two (2) lanes of traffic. A driveway to a parking lot for six (6) or more vehicles shall be at least twenty (20) feet from the street line of any intersecting street, except if the lot is greater than twenty-five (25) feet wide, the driveway shall be located along the side of the property farthest from the street intersection but need not be farther than seventy-five (75) feet from the intersection; and be at least two (2) feet from any

property line, except that an access drive may be shared by abutting properties in which case the access drive may overlap the property line. Curbing shall be either depressed at the driveway or have the curbing rounded at the corners with the access drive connected to the street in the same manner as another street.

- B. Access to Off-Street Parking and Loading Spaces shall be by onsite aisles or driveways to permit each vehicle to proceed to and from each space without moving another vehicle, except that with residential units the second space required for each unit may block the first space for that unit, but no parking space from one (1) unit may block the parking space of another unit nor block the access aisle or driveway. Parking spaces shall not be an extension of any street right-of-way.
- C. Buffers. Parking areas for six (6) or more vehicles and loading areas for non-residential uses shall be buffered from adjoining streets and residential uses meeting the objectives of Section 25-604.
- D. Curbing. Parking and loading areas for commercial uses, and parking lots for residential uses having six (6) or more spaces, shall have concrete curbing around the perimeter in conjunction with a drainage plan. In lieu of concrete curbing, the approving authority may accept equivalent methods of defining the edge of paving, preventing vehicles from encroaching upon non-paved areas, controlling drainage and guiding traffic circulation. Curbing, or any alternative, shall be ramped in accordance with the "Design Standards for Curb Ramps for the Physically Handicapped" of the N.J. Department of Transportation.
- E. Dimensions. Off-street parking spaces shall be nine (9) feet by eighteen (18) feet. Parking spaces shall be at least twenty (20) feet in length except that the last two (2) feet may either be paved or be a grassed overhang area, and except further that parallel spaces shall be twenty-five (25) feet in length. In parking lots containing less than twenty (20) spaces a minimum of one (1) space shall be at least twelve (12) feet wide and for parking lots with more than twenty (20) spaces, one-percent (1%) of all spaces but not less than one (1) space nor more than ten (10) spaces shall be twelve (12) feet wide. These wider spaces shall be located in one (1) area not more than one hundred (100) feet from the entrance to the building being served and designated as parking for the handicapped.

	Parking Spaces		Parking Spaces	
	<u>10 Feet Wide</u>		<u>9 Feet Wide</u>	
Angle of	1-Way	2-Way	1-Way	2-Way
<u>Parking Space</u>	<u>Aisle</u>	<u>Aisle</u>	<u>Aisle</u>	<u>Aisle</u>
90 Degrees	25 ft.	25 ft.	26 ft.	26 ft.
60 Degrees	18 ft.	20 ft.	20 ft.	22 ft.
parallel	12 ft.	18 ft.	12 ft.	18 ft.

Off-street loading spaces shall have fifteen (15) feet of vertical clearance and be designed as follows:

<u>Loading Space</u>		<u>Apron Length</u>	
<u>Length</u>	<u>Width</u>	<u>90 degrees</u>	<u>60 degrees</u>
60'	10'	72'	66'
60'	12'	63'	57'
60'	14'	60'	54'

- F. Drainage Facilities shall be installed in accordance with good engineering practice as approved by the Municipal Engineer and in accordance with the "Drainage" provisions of Section 25-606. Where sub-base conditions are of such nature that surfacing would be inadvisable without first treating the sub-base, these areas shall be excavated to a depth of at least twelve (12) inches below the sub-grade and filled with a suitable sub-base material as determined by the Municipal Engineer. Parking spaces shall have a minimum grade of 0.5 percent.
- G. Surfacing for commercial uses, multi-family housing projects, as well as residential lots requiring more than six (6) parking spaces shall be approved as part of the plan approval. Areas to experience heavy traffic, e.g. driveways and loading areas, shall be paved over a stable sub-base with not less than four (4) inches of compacted, plant-mixed bituminous stabilized base course in layers of not more than two (2) inches compacted thickness, or equivalent, plus a minimum two (2) inch thick compacted wearing surface of bituminous concrete (FABC), or equivalent. Areas to experience lighter traffic, e.g. parking spaces, shall have paving of three (3) inches of compacted base course and one and one-half (1.5) inches compacted wearing surface of the same material. All shall be constructed in accordance with the Standard Specifications of the New Jersey Department of Transportation. Parking to serve single family and two-family homes may be approved with compacted stone rather than concrete or blacktop in order to minimize storm water runoff provided a concrete driveway apron extends from the curb line a distance at least three (3) feet beyond the street right-of-way.
- H. Landscaping within and around parking and loading areas shall be shown on the site plan, including the buffer requirements in Section 25-604. Any plantings which do not live shall be replaced within one (1) year or one (1) season.
- I. Minimum Parking and Loading Requirements shall be based on the schedule for each zoning district. Uses not listed shall provide sufficient spaces as determined during site plan review.
- J. Location
  1. Parking and loading spaces shall be located on the same lot as, or an adjacent lot to, the use being served. Off-street parking or loading spaces shall be designed in off-



street parking and loading areas and shall not require part of a street for maneuvering or parking. The edge of any parking space, aisle, or driveway shall be at least five (5) feet from any building and street right-of-way.

2. No parking and loading space shall be located in any required buffer area and all spaces shall be set back sufficient distance to prevent any part of a vehicle from overhanging the street right-of-way or property line.
3. Parking spaces located to serve residential uses shall be convenient to the intended use, but generally be within seventy-five (75) feet of the entrance of the building and within one hundred fifty (150) feet of commercial uses.
4. No parking shall be permitted in fire lanes, driveways, aisles, sidewalks, or turning areas.
5. Handicapped spaces shall be identified by a capital "H" painted in the space with a sign facing the end of each space displaying the international symbol.

#### §25-619 PERFORMANCE STANDARDS

- A. Air, Water and Environmental Pollution. No use shall emit heat, odor, vibrations, noise, or any other pollutant into the ground, water, or air that exceeds the most stringent applicable state and federal regulation. No permit shall be issued for any use where a state permit is required until the state has ascertained and approved the level and quality of emission, type and quality of emission control, and level of monitoring to be conducted.
- B. Storage and Waste Disposal. No site shall be used for the storage of waste or garbage from any other site. No materials shall be deposited so they can be transferred off the lot, directly or indirectly, by natural forces such as precipitation, surface water, evaporation or wind. All materials which might create a pollutant or be a safety and health hazard shall be stored indoors and/or be enclosed in appropriate containers to eliminate such pollutant or hazard. No flammable or explosive substance shall be stored on a property except under conditions approved by the fire department. No bulk storage of materials or equipment shall be in any front yard, nor closer to any street line than one hundred (100) feet, nor closer to any side or rear lot line than the minimum setback for principal buildings. Each site shall provide appropriate area(s), properly screened from adjacent property, for the orderly deposit and pickup of trash and garbage.

#### §25-620 PRINCIPAL USE

*Amended 9-01-09 by Ordinance No. 1488.*

No lot in the Residential Zone shall have erected upon it more than one (1) principal permitted use. No more than one (1) principal building shall be permitted on one (1) lot except that multiple dwellings, office complexes and businesses on the boardwalk may be

permitted more than one (1) building on a lot in accordance with an approved site plan where all buildings are spaced to provide the same distance between buildings that would have resulted had the adjacent buildings been placed on separate lots.

#### §25-621 PUBLIC UTILITIES

Public Utilities shall be connected to approved public utility systems. Electric, telephone and cable T.V. distribution supply lines and service connections shall be installed underground except lots which abut streets with existing overhead lines may be supplied from those overhead lines, but the service connections shall be installed underground. Should an extension of service occur as a result of a development, any replacement, relocation or extension of existing overhead lines shall be underground.

#### §25-622 SIDEWALKS

Sidewalks shall be installed according to Chapter 68, Streets and Sidewalks, along all public streets located so the edge of the sidewalk closest to the street is thirty (30) inches from the back side of the curb. Sidewalks shall be at least four (4) feet wide and constructed of Class B concrete, thirty-five hundred (3,500) p.s.i., air-entrained and shall be four (4) inches thick except at points of vehicular crossing where they shall be at least six (6) inches thick. Sidewalks crossing driveways shall be reinforced with welded steel wire fabric having a six inch by six inch (6" x 6") configuration of ten (10) gauge wire. Where sidewalks cross curbs, curb ramps shall be provided as outlined in Section 25-605. Expansion joints shall be one-half (1/2) inch wide, placed at intervals of approximately twenty (20) feet and where sidewalks abut curbing, utility pole, manholes or any other structure, and shall be filled with preformed expansion joint filler for the full depth of the concrete.

#### §25-623 SIGHT TRIANGLES

- A. The sight triangle is the triangular area outside the street right-of-way. Its triangular shape is formed by the two (2) intersecting street right-of-way lines and a third line running diagonally across the corner. Where streets and driveways intersect a state or county road, the sight triangle shall conform to state or county requirements. At all other street and driveway locations, the length of the side of the triangle along the curb-line of the intersecting street, or along the edge of a driveway, shall be twenty (20) feet. The length along the curb-line of the through street shall be sixty (60) feet. The classifications of existing and proposed streets shall be those shown on the adopted Master Plan or as designated by the approving authority where a new street is proposed that is not on the Master Plan. A sight triangle easement shall be expressed on the plat as follows: "Sight triangle easement subject to grading, planting and construction

restrictions as provided in the Borough of Seaside Park Development Regulations Ordinance". Portions of a lot set aside for the sight triangle may be calculated in determining the lot area and minimum setbacks required by the zoning provisions.

- B. Sight triangles shall be required at each corner of street intersections and at intersections of streets and driveways serving commercial and multi-family housing developments. The area within sight triangles shall be either dedicated as part of the street right-of-way or kept as part of the lot and identified as a sight triangle easement. No planting or structure shall be erected or maintained more than eighteen (18) inches above the centerline grade of the intersecting street or driveway or lower than ten (10) feet above their centerlines excluding street name signs and official traffic regulations signs. Where any intersection involves vegetation, including trees, the developer shall trim or selectively thin trees to provide the sight triangle.

§25-624 SIGNS

*Amended 9-01-09 by Ordinance No. 1488.*

- A. Definitions - The following words, terms and phrases used in this chapter shall have the indicated meanings:

**ATTACHED SIGN** – any sign erected, constructed or maintained on a building with the principal support of said sign being the building, including specifically the painting of signs or displays on the exterior surface of the building.

**AWNING, CANOPY OR MARQUEE SIGN** – a sign that is mounted or painted on or attached to an awning, canopy or marquee. Such sign shall not project above, below or beyond the awning, canopy or marquee.

**FREE-STANDING SIGN** – a sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structures.

**PORTABLE SIGN** – any sign displayed only during business hours and located within the business property lines. Portable signs are temporary and/or seasonal by definition.

**ROOF SIGN** – a sign which is erected, constructed or maintained on, above or as part of the roof of any building.

**SEASONAL SIGN** – A temporary sign intended for seasonal use or a special event.

**SIGN** – Any announcement, display, advertisement or illustration placed to be seen from any street or public way.

**TEMPORARY SIGN** – any seasonal sign, exterior poster, handbill, advertisement, banner, or other material which is not intended to remain more than 120 days at a particular location, with the exception of political signs and real estate signs.

**B. General Sign Provisions**

1. No signs or any other advertising structure shall be erected, altered or replaced which is not in accordance with the standards established in this chapter and the Uniform Construction Code of the State of New Jersey. No signs or any other advertising structures or devices shall be permitted in the Borough except as specified in this ordinance. The Code Enforcement Officer or a duly-designated representative shall deem the type, location, use and/or purpose of each sign appropriate.
2. All signs shall be maintained in good condition and state of repair. If the Code Enforcement Officer or a duly-designated representative shall find that any sign is unsafe, insecure or in need of repair, or is not maintained in proper condition, the Code Enforcement Officer shall give written notice to the permittee thereof. If the permittee fails to repair or remove it within ten (10) days after such notice, such sign may be removed by the Code Enforcement Officer at the expense of the permittee or owner of property on which it is located. The Code Enforcement Officer or a duly-designated representative may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily at the expense of the permit holder or owner of the premises upon which the sign is located and without notice to said persons.
3. The area of a sign shall be measured around the outside edges of a framed or enclosed sign or by the area utilized by isolated words and/or symbols, including the background. The area shall not include any supporting framework and incidental bracing. A sign with two sides shall be measured for area by using the surface of one side of the sign only.
4. Attached signs shall be firmly attached to the exterior wall of a building and shall not project more than fifteen inches (15") from the building or extend above the height of the building.
5. Where permitted, all free-standing lighted signs shall be supplied with electric power from underground service.
6. No sign may be placed on or attached to a building or erected on a property for any purpose other than to advertise an approved activity or use conducted on the same premises.
7. No sign of any type shall be permitted to obstruct driving vision, traffic signal, traffic directional and identification signs, other signs, or windows of the building on which they are located. No sign shall be attached to trees, stumps, utility poles or other signs, but shall be free-standing or attached to the building exterior or fence in an approved manner.

8. No sign shall use mechanical, electrical, or computerized devices to rotate, flash, display movement or the illusion of movement, project moving images, or use auditory devices to emit sound within any zone. Computerized signs, such as LED message boards which may exchange messages at timed intervals, are permitted in non-residential zones provided each message does not contain text or graphics that rotate, flash, display movement or the illusion of movement, project moving images, or use auditory devices to emit sound, and are further subject to the applicable sections of this ordinance.
9. All illuminated signs shall be arranged to reflect the light and glare away from adjoining premises and away from adjoining highways. No sign with red, green, or blue illumination in a beam shall be erected in any location in order to avoid resembling an emergency light. Neon tubing or bare bulb illumination is prohibited on all signs.
10. Informational and direction signs. Signs identifying street number designations, postal boxes, on-site directional and parking signs, and security warning signs shall be permitted, subject to a maximum area of one square foot (1 s.f.) which shall not be considered in calculating other sign limitations. Such signs shall be attached to the building or located within the property lines and shall not block any sidewalk or public right-of-way. Traffic control signs shall conform to the latest Manual on Uniform Traffic Control Devices for Streets and Highways, United States Department of Transportation, Federal Highway Administration.
11. Signs shall not be permitted on any canopy, awning or marquee, other than signs built into and forming a part of the structure of the canopy, awning or marquee.

C. Real Estate For Sale, Rent, Or Lease And "Open House" Signs

1. Only one (1) unlighted free-standing, attached, or window sign advertising the sale, rental, or lease of property, or portion of the property, shall be permitted on a lot or building.
2. If there is more than one dwelling unit on a property, then one real estate sign may be displayed for each unit on the property which has a separate address and a separate owner. If the same owner owns two or more units on a property, then only one sign shall be permitted on the property for all units owned by that owner.
3. The dimensions of a free-standing, attached, or window sign shall be a maximum of twenty-four and one-half inches (24.5") by thirty inches (30") measured around the outside edges of the frame or enclosure or by the area utilized by isolated words and/or symbols, including the background. A sign with two sides shall be measured for area by using the surface of one side of the sign only. The area shall not include any supporting framework and incidental bracing. For the purposes of this ordinance, an informational container (e.g., brochure box) intended to complement the information on the sign shall not be included in the sign area, provided that the

- container is attached to the one permitted sale, rent, or lease sign and that the dimensions of the container are no larger than is necessary to hold 8 ½" x 11" brochures
4. Free-standing signs shall be located on the subject property in plain view, shall not block any sidewalk or public right-of-way, and shall be removed when the property is no longer available for sale, rent, or lease. The top of each sign shall not be higher than forty-two inches (42") above the ground, measured from the average grade at the supporting structure line to the top of the sign.
  5. Open House signs. The following restrictions shall apply to "open house" real estate signs:
    - a. Only one sign may be placed on each lot or building being sold. A maximum of three (3) directional signs may be placed off-site, but shall not be placed on private property owned by another person without that owner's written permission.
    - b. The person(s), real estate firm, or entity that conducts any "open house" and places signs as described herein shall notify the borough code enforcement office via electronic mail to [seasideparkcode@seasideparknj.org](mailto:seasideparkcode@seasideparknj.org). Said notice shall be delivered upon placement of the "open house" sign on the lot or building being sold, and shall contain the name and telephone number of the individual responsible for said "open house;" certification that signs have been placed in accordance with all provisions of this ordinance; and the time at which said "open house" shall conclude. The individual responsible for said "open house" shall, by noon (12:00 p.m.) of the day immediately following any "open house" notify the borough code enforcement office via electronic mail as described above that all related signs have been removed in accordance with the provisions of this ordinance.
    - c. The single open house sign placed on the lot or building being sold shall include, at minimum, the name and telephone number of the person(s), real estate firm, or entity conducting said open house. Said sign shall not be larger than twenty-four and one-half inches (24.5") by thirty inches (30"), and the top of said sign shall not be higher than forty-two inches (42") above the ground. Said sign shall be located on the subject property in plain view, but shall not block any sidewalk or public right-of-way.
    - d. Directional "open house" signs shall, at minimum, identify the person(s), real estate firm, or entity that owns said signs. Directional signs for said "open house" shall be placed not more than seven (7) hours in advance of the time at which said "open house" is to conclude. Directional signs shall not block any sidewalk or public right-of-way.
    - e. The "open house" sign on the lot or building being sold shall be placed not more than seventy-two (72) hours in advance of the time at which said "open

house” is to conclude. The “open house” signs, placed on the subject property, and all directional signs, shall be removed immediately, that day, upon the conclusion of said “open house.”

- f. No “open house” sign shall be illuminated. Attachments to “open house” signs shall be attached firmly thereto and must be constructed of material that is certified as biodegradable or otherwise environmentally sensitive.

#### D. Residential Signs

1. For the purposes of this section, residential signs are defined as follows:

**SIGN, RESIDENTIAL** – Any sign depicting the name, location, or occupants of a home, multiple-dwelling apartment, townhouse, and/or condominium facility on properties used for approved residential activities.

2. Permitted residential signs:

- a. One (1) residential sign attached to each building which identifies the premises name, location, or occupants, and subject to a maximum height of six (6) inches and width of eighteen (18) inches.

- b. One (1) free-standing or attached sign which identifies the premises name, location, or occupants or indicating the private nature of a driveway or premises, subject to a maximum area of nine (9) square feet and maximum height of four (4) feet measured to the highest point of the sign which is located within the property lines and shall not block any sidewalk or public right-of-way.

- c. Multiple-dwelling apartment, townhouse, and condominium facilities shall only be permitted one (1) sign on the lot or building subject to a maximum area of nine (9) square feet and maximum height of four (4) feet measured to the highest point of the sign. Such signs shall be attached to the building or located within the property lines and shall not block any sidewalk or public right-of-way.

#### E. Commercial And Non-Residential Signs

Signs on properties used for approved commercial and non-residential activities shall be subject to zoning approval and permitted as follows:

1. Upon the termination of any business, all signs connected with that business must be removed within ten (10) days of the tenant vacating the space.
2. Civic, religious, philanthropic, or political organizations may erect temporary signs prior to a special event provided that permission is granted by the governing body.

3. Temporary and/or seasonal signs. Temporary special event or seasonal-type signs may be permitted under the following conditions:
  - a. The Code Enforcement Officer or a duly-designated representative deems the type, location, use and/or purpose of such sign appropriate.
  - b. A temporary or seasonal sign permit is obtained.
  - c. One (1) portable sign, one-sided or two-sided, shall be permitted on the lot or building subject to a maximum height of four (4) feet measured to the highest point of the sign, width of three (3) feet, and depth of three (3) feet, including frame and support features. Portable signs shall not block any sidewalk or public right-of-way. All other signs may not exceed twelve (12) square feet.
  - d. The sign is not illuminated.
  - e. The sign is displayed for no more than 120 days in any one year.
  - f. No more than one temporary sign per enterprise or establishment may be displayed and not more than one permit shall be issued in any one year.
  
4. Signs Advertising Contractors, Architects, Builders, Artisans, or Other Trades.
  - a. One temporary, unlighted sign advertising the contractor, architect, builder, artisan, or other trade may be permitted on a vacant lot, in addition to one sign temporarily advertising the sale, rental, or lease of property, or portion of the property, subject to the terms of this section.
  - b. Unlighted signs advertising contractors, architects, builders, artisans, or other trades shall be permitted on a lot actively under construction. Such signs shall be removed immediately upon the issuance of a certificate of occupancy.
  - c. In a case where limited construction is being performed on a developed property (e.g., building addition, driveway replacement, painting, etc.), one temporary sign advertising the contractor, architect, builder, artisan, or other trade may be permitted on a residential lot, in addition to one sign temporarily advertising the sale, rental, or lease of property, or portion of the property, during the actual performance of the service being provided by the specific contractor, architect, builder, artisan, or other trade as specified on the advertising sign. Such temporary sign shall be removed immediately upon the completion of the described service.
  - d. The dimensions of a free-standing sign advertising contractors, architects, builders, artisans, or other trades shall be a maximum of twenty-four inches (24") by twenty-four inches (24") measured around the outside edges of the frame or enclosure or by the area utilized by isolated words and/or symbols, including the background. The area shall not include any supporting framework and incidental bracing. A sign with two sides shall be measured for area by using the surface of one side of the sign only. Such signs shall be located at least two feet from the property line or one-half of the distance to



the building line if the setback is less than two feet and shall not block any sidewalk or public right-of-way. The top of each sign shall not be higher than thirty inches (30") above the ground, measured from the average grade at the supporting structure line to the top of the sign.

5. Attached Signs. One (1) or more signs attached to the building subject to an aggregate maximum area of twenty (20) square feet. Such signs shall be permitted for one street on which the building has frontage. In buildings with more than one (1) commercial or non-residential unit, the maximum sign area shall be calculated for the building frontage of each unit separately. Any building having a frontage of more than fifty (50) feet shall be permitted an additional four (4) square feet of sign area for each additional fifty (50) feet of building frontage.
6. Interior Window Signs. Interior signs on windows shall not be considered in computing the number or area of permitted signs. Interior window signs shall not exceed twenty-five (25) percent of the individual window where the sign is displayed.
7. Boardwalk Signs. Attached and free-standing signs shall be permitted for approved commercial activities located in the Boardwalk Zoning District subject only to the following limitations:
  - a. Signs which are visible from Ocean Avenue shall be subject to the requirements of Paragraph E (Attached Signs) above.
  - b. All other signs shall not be subject to these limitations or subject to the prohibition on mechanical or electrical devices to revolve, flash, or display movement or the illusion of movement: the prohibition on the use of red, green, or blue illumination in a beam in order to avoid resembling an emergency light; or the prohibition on the use of neo tubing or bare bulk illumination.
  - c. No sign attached to a building shall extend above the building height.
  - d. No free-standing sign shall exceed the maximum permitted building height.
  - e. No sign shall extend from one building to another above any walkway or public right-of-way.
8. Church and School Signs. Churches and schools shall be permitted one (1) attached sign subject to a maximum area of twenty (20) square feet. Churches and schools shall also be permitted one (1) free-standing sign subject to a maximum area of twenty (20) square feet, height of ten (10) feet measured to the highest point of the sign, and set back a minimum of eight (8) feet from all property lines.

E. Signs On Public Property And Street Right-Of-Ways

The placement of any sign on public property or within any public right-of-way is prohibited without approval by resolution of the governing body.

F. Enforcement

The Code Enforcement Officer of the Borough of Seaside Park or a duly-designated representative is hereby designated as the enforcement officer of the provisions of this Chapter.

G. Violations And Penalties

Any person who violates any one (1) or more sections of this ordinance shall be subject to a fine of not more than one thousand (\$1,000) for each separate offense and/or confinement in the Ocean County Jail for a period of not more than ninety (90) days.

§25-625 SOIL EROSION AND TOPSOIL

All major site plans and major subdivisions shall incorporate consideration on preventing soil erosion, including dune restoration along the ocean beachfront. The purpose is to control beach erosion and strengthen the dune barriers while also preventing soil erosion in all areas of the borough in order to minimize the damage and public costs associated with sand covering sidewalks, clogging storm drains, and, along the ocean, the loss of dune protection from storms.

A. Data Required

1. A plan showing the areas of a lot to be planted (seed, sod or shrubs) and those portions along the dune line of the beachfront that will be planted with beach grass.
2. Any proposed changes in contours such as berming and how the berm will be landscaped to avoid future erosion.

B. General Design Principles

1. Grading, foundation preparation and other soil disturbance shall be done in a manner to minimize soil erosion. The duration of its exposure shall be kept within practical limits and either temporary seeding, mulching or other suitable stabilization measures shall be used to protect exposed areas during construction or other land disturbances. Drainage provisions shall accommodate run-off and water run-off shall be minimized through the retention of lawn and landscaped areas rather than excess paving.

2. Grading and Filling. All berming and filling shall be with clean fill and/or top soil.
3. Soil Removal and Redistribution. Excavation in excess of that required to construct approved structures and facilities shall be prohibited. Any application proposing the disturbance of more than five thousand (5,000) square feet of surface area of land shall comply with the "Soil Erosion and Sediment Control Act" (Ch 251, P.L. 1975) except that the following are exempt:
  - a) Land disturbance associated with the construction of a single family dwelling unit unless such unit is a part of a proposed subdivision, site plan, zoning variance, or building permit application involving two (2) or more such single family dwelling units.
  - b) Land disturbance of five thousand (5,000) square feet or less of the surface area of land for the accommodation of construction for which the Standard Building Code of the State of New Jersey would require a building permit.
  - c) Use of land for gardening primarily for home consumption.
  - d) Percolation tests and/or soil borings.

## §25-626 STORMWATER CONTROL

*Adopted 5-24-06 by Ordinance No. 1387*

## A. Scope and Purpose.

1. Policy Statement. Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural Best Management Practices (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 quantity, and groundwater recharge.
2. Purpose. It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for "major development," as defined in subsection B.
3. Applicability.
  - a) 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:
    - 1) Non-residential major developments; and
    - 2) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

- b) This ordinance shall also be applicable to all major developments undertaken in the Borough of Seaside Park.
4. 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 ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.
- B. 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.

BMP – Best Management Practices.

CAFRA PLANNING MAP – the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

CAFRA CENTERS, CORES, OR NODES – those areas within boundaries accepted by the Department pursuant to N.J.A. 7:8E-5B.

COMPACTION – the increase in soil bulk density.

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

COUNTY REVIEW AGENCY – 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 – the New Jersey Department of Environmental Protection.

DESIGNATED CENTER – a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

DESIGN ENGINEER – 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** – the division of a parcel of land into two 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.

**ENVIRONMENTALLY CRITICAL AREA** – 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 Departments Landscape Project as approved by the Departments Endangered and Nongame Species Program.

**EMPOWERMENT NEIGHBORHOOD** – 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** – the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**IMPERVIOUS SURFACE:** a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

**INFILTRATION** – is the process by which water seeps into the soil from precipitation.

**MAJOR DEVELOPMENT** – any “development” that provides for ultimately disturbing one 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** – any city, borough, town, township, or village.

**NODE** – an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

**NUTRIENT** – a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

**PERSON** – any individual, corporation, company, partnership, firm, association, the Borough of Seaside Park, 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** – any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical waste, 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** – the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

**SEDIMENT** – solid material, mineral or organic, that is in suspension, is being transported, or has moved from its site of origin by air, water or gravity as product of erosion.

**SITE** – the lot or lots upon which a major development is to occur or has occurred.

**SOIL** – all unconsolidated mineral and organic material of any origin.

**STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)** – 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 states future redevelopment and revitalization efforts.

**STATE PLAN POLICY MAP** – the geographic application of the State Development and Redevelopment Plans goals and statewide policies, and the official map of these goals and policies.

**STORMWATER** – water resulting from precipitation (including rain and snow) that runs off the lands 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 RUNOFF** – water flow on the surface of the ground or in storm sewers, resulting from precipitation.

**STORMWATER MANAGEMENT BASIN** – 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** – 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.

**TIDAL FLOOD HAZARD AREA** – 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 – a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

URBAN REDEVELOPMENT AREA – previously developed portions of areas: (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes; (2) Designated as CAFRA Centers, Cores or Nodes; (3) Designated as Urban Enterprise Zones; and (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

WATERS OF THE STATE – the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS or WETLAND – 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.

- C. General Standards – 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 subsection D. 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 standard are applicable under a regional stormwater management plan of Water Quality Management Plan adopted in accordance with Department rules. Such alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in this ordinance.
  3. For site improvements regulated under the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21, the RSIS shall apply in addition to this section except to the extent the RSIS are superseded by this section or alternative standards applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.
- D. Stormwater Management Requirements for Major Development.

1. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with subsection J.
2. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department 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 muhlnebergi* (bog turtle).
3. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of subsections D.6 and D.7:
  - a) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
  - b) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
  - c) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
4. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of subsections D.6 and D.7 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:
  - a) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
  - b) 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 requirement of subsections D.6 and D.7 to the maximum extent practicable;
  - c) The applicant demonstrates that, in order to meet the requirements of subsection D.6 and D.7, existing structures currently in use, such as homes and buildings, would need to be condemned; and
  - d) 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 D.4.c above within the upstream drainage area of the receiving stream that would provide additional opportunities to mitigate the requirements of subsections D.6 and D.7 that were not achievable on-site.
5. Nonstructural Stormwater Management Strategies.
  - a) To the maximum extent practicable, the standards in subsections D.6 and D.7 shall be met by incorporating nonstructural stormwater management strategies



set forth at subsection D.5 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 Subsection 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

- b) Nonstructural stormwater management strategies incorporated into site design shall:
  - 1) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
  - 2) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
  - 3) Maximize the protection of natural drainage features and vegetation;
  - 4) 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;
  - 5) Minimize land disturbance including clearing and grading;
  - 6) Minimize soil compaction;
  - 7) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
  - 8) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
  - 9) Provide other source controls to prevent or minimize the use or expose 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:
    - (a) Site design features that help to prevent accumulation of trash and debris in drainage systems; including features that satisfy subsection D.5.c below;
    - (b) Site design features that help to prevent discharge of trash and debris from drainage systems;
    - (c) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
    - (d) When establishing vegetation after land disturbances, 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.

- c) Site design features identified under subsection D.5.b(9)(b) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see subsection D.5.c(4) below.
  - 1) 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 of surface water body under that grate:
    - (a) 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
    - (b) 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 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, 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.

- 2) 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 or more clear spaces) shall have an area no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
- 3) This standard does not apply:
  - (a) 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;
  - (b) Where flows from the water quality design storm as specified in subsection D.7.a are conveyed through any devices (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:
    - (i) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
    - (ii) A bar screen having a bar spacing of 0.5 inches.

- (c) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1”) spacing between the bars, to the elevation of the water quality design storm as specified in subsection D.7.a; or
  - (d) 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.
- d) Any land area used as a nonstructural stormwater management measure to meet the performance standards in subsections D.6 and D.7 shall be dedicated to a government agency, subjected to a conservation restriction file with the Ocean County Clerks 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.
- e) Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manuel. The BMP Manual may be obtained from the address identified in subsection G, or found on the Departments website at [www.njstormwater.org](http://www.njstormwater.org).
6. Erosion Control, Groundwater Recharge and Runoff Quantity Standards.
- a) This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control storm water runoff quantity impacts of major development.
    - 1) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act.
    - 2) The minimum design and performance standards for groundwater recharge are as follows:
      - (a) The design engineer shall use the assumptions and factors from stormwater runoff and groundwater recharge calculations at subsection E. either:
        - (i) Demonstrate through hydrologic and hydraulic analysis at the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
        - (ii) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2- year storm is infiltrated.
      - (b) This groundwater recharge requirement does not apply to projects within the “urban redevelopment area” or to projects subject to (3) below.
      - (c) The following types of stormwater shall not be recharged:

- (i) Storm water from areas of high pollutant loading. High pollutants 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 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 the 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 of 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; by-products, industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
  - (d) The design engineer shall assess the hydraulic impact on the ground water table and designed 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 system and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- 3) In order to control stormwater runoff quality impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at subsection E, complete one of the following:
  - (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10 and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - (b) 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 two, 10 and 100 year storm events and that the increased volume or change in timing of stormwater runoff we’ll 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 a drainage area;

- (c) Designed stormwater management measures so that the post-construction peak run-off rates for the two, 10 and 100 years storm events are 50, 75 and 80 percent, respectively, of the pre-construction 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 a tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or
- (d) The tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied in the increased volume of stormwater runoff could increase flood damages below the point of discharge.

b) Any application for a new agricultural development that meets the definition of major development at subsection B 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 the agriculturally related products.

#### 7. Stormwater Runoff Quality Standards.

- a) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the development site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 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 designed storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality designs storm, as reflected in Table 1. The calculations of the volume of runoff may take into account the implementations of non-structural and structural stormwater management measures.

Table 1. Water Quality Design Storm Distribution

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	1.200
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		

- b) 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 subsection G, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in subsection G. 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.

- c) If more than one BMP in series is necessary to achieve the required 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	40-60
Infiltration Structure	80
Manufactured Treatment Device	See subsection F.3
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

- d) If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the sub-areas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average,
- e) 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 subsection D.6 and D.7.
- f) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in subsection G.

- g) 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.
- h) 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:
  - 1) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
    - (a) 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.
    - (b) Encroachment within the designated special water resource protection area under subsection (a) 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 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed this subsection shall be subject to review and approval by the Department.
  - 2) 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.
  - 3) 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:



- (a) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
  - (b) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
  - (c) Temperature shall be addressed to ensure no impact on the receiving waterway;
  - (d) 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;
  - (e) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
  - (f) All encroachments proposed under this section shall be subject to review and approval by the Department.
- c) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan. If a stream corridor protection plan for a waterway subject to subsection D.7.h 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 G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in 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 150 feet as measured perpendicular to the waterway subject to this subsection.
- d) Subsection D.7.h does not apply to the construction of one 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.
- E. Calculation of Stormwater Runoff and Groundwater Recharge.
1. Stormwater runoff shall be calculated in accordance with the following:
- a) The design engineer shall calculate runoff using one of the following methods:
    - 1) The USDA Natural Resources Conservation Service (NRCS) methodology, including the National 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

- 2) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
  - b) 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 hydrological condition. The term “runoff coefficient” applies to both the NRCS methodology at subsection E.1.a(2). 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 years without interruption prior to the time of application. If more than one land cover have existed on the site during the five 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).
  - c) In computing pre-construction 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 pre-construction stormwater runoff rates and volumes.
  - d) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff and/or 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.
  - e) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined as 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.
2. Groundwater recharge may be calculated in accordance with the following:
    - a) 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.
- F. Standards for structural Stormwater Management Measures.
1. Standards for structural stormwater management measures are as follows:

- a) 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).
  - b) 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-inch (1”) 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-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of subsection H.4.
  - c) 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.
  - d) At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
  - e) Stormwater management basins at subsection H.
2. 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 quality, groundwater recharge and water quality design and performance standards established by subsection D of this ordinance.
  3. Manufactured treatment devices may be used to meet the requirements of subsection D of this ordinance provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.
- G. Sources for Technical Guidance.
1. 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.
    - a) 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.
- b) The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.
2. Additional technical guidance for stormwater management measures can be obtained from the following:
    - a) The “Standards for Soil Erosion and Seiment 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, and (609) 292-5540.
    - b) 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, 9609) 292-5540.
- H. Safety Standards for Stormwater Management Basins.
1. 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.
  2. Requirements for Trash Racks, Overflow Grates and Escape Provisions.
    - a) 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:
      - 1) The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
      - 2) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
      - 3) The average velocity of flow through a clean trash rack is not to exceed 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.
      - 4) 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 300 lbs/ft sq.

- b) 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:
  - 1) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
  - 2) The overflow grate spacing shall be no less than two inches across the smallest dimension.
  - 3) 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 300 lbs./ft sq.
- c) For purposes of this subsection, 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:
  - 1) 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 subsection H.3 a free-standing outlet structure may be exempted from this requirement.
  - 2) 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 feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet above the permanent water surface. See subsection H.4 for an illustration of safety ledges in a stormwater management basin.
  - 3) 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.
3. Variance of Exemption from Safety Standards.
  - a) A variance or exemption from the safety standards for stormwater management basin may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance of exemption will not constitute a threat to public safety.
4. Illustration of Safety Ledges in a New Stormwater Management Basin.

See Addendum A at end of Chapter 6.

I. Requirements for a Site Development Stormwater Plan

1. Submission of Site Development Stormwater Plan.

- a) 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 subsection I.3 below as part of the submission of the applicant's application for subdivision of site plan approval.
- b) The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
- c) The applicant shall submit six (6) copies of the materials listed in the checklist for site development stormwater plans in accordance with subsection I.3 of this ordinance.

2. 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 of 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.

3. Checklist Requirements. The following information shall be required:

- a) Topographic Base Map. The review 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 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, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown.
- b) Environmental Site Analysis. A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetland, 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.
- c) 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 area, 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 elevation. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

- d) Land Use Planning and Source Control Plan. This plan shall provide a demonstration of how the goals and standards of subsections C through F 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.
- e) Stormwater Management Facilities Map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
  - 1) 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.
  - 2) Details of all stormwater management facility design, 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.
- f) Calculations.
  - 1) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in subsection D of this ordinance.
  - 2) When the proposed stormwater management control measures (e.g. infiltration basins) depends on the hydrologic properties of soil, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pots shall be determined based on what is needed to determine the suitability and distribution of soils present at the control measure.
- g) Maintenance and Repair Plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of subsection J.
- h) Waiver from Submission Requirements. The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in subsections I.3.a through I.3.f 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.

## J. Maintenance and Repair.

### 1. Applicability.

- a) Projects subject to review as in subsection A.3 of this ordinance shall comply with the requirements of subsections J.2 and J.3.

### 2. General Maintenance.

- a) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- b) 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.
- c) 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 leased the entire residential development or project.
- d) If the person responsible for maintenance identified under subsection J.2.b above is not a public agency, the maintenance plan and any future revisions based on subsection J.2.g below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- e) Preventive and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs of 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.
- f) The person responsible for maintenance identified under subsection J.2.b 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.
- g) The person responsible for maintenance identified under subsection J.2.b above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.



- h) The person responsible for maintenance identified under subsection J.2.b 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 subsections J.2.f and J.2.g above.
  - i) The requirements of Sections 10.B.3 and 10.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
  - j) 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 of 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.
3. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance of maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

#### §25-627 STREETS

- A. All developments shall be served by paved streets. All utilities, drains, and other facilities located under the road paving shall be installed prior to the placing of any road surfacing material where new or reconstructed roads are part of the development. Streets not shown on the Master Plan or Official Map shall provide for the appropriate extension of existing streets.
- B. Development bounded by any arterial or collector street shall minimize access to said streets by either having driveways intersect minor streets, or consolidating driveways with abutting properties. Where circumstance(s) may dictate that a driveway enter an arterial or collector street, the lot shall provide on-site turnaround facilities and abutting lots may be required to share one (1) curb cut.
- C. Street rights-of-way shall be measured from lot line to lot line. The continuation of an existing street shall have the same right-of-way and paving width as the existing street, but in no case less than fifty (50) feet of right-of-way with thirty (30) feet of paving between curbs.
- D. No Street shall have a grade less than 0.5%.
- E. Intersecting street centerlines shall not be less than seventy-five (75) degrees. Approaches to all intersections shall follow a straight line for at least one hundred (100) feet measured along the curb. No more than two (2) street centerlines shall meet or

intersect at any one (1) point. Intersections shall be rounded at the curblineline with a curblineline radius based on the street with the largest radius: Arterial @ forty (40) feet; collector @ thirty (30) feet; and local streets @ twenty (20) feet.

- F. Sight triangles shall be provided as required in Section 25-624.
- G. Dead-end (cul-de-sac) streets shall be prohibited. All streets shall have two (2) points of ingress/egress.
- H. No Street shall have a name which duplicates or nearly duplicates in spelling or phonetic sound the name of existing streets so as to be confused therewith. The continuation of an existing street shall have the same name. The names of new streets shall be approved by the approving authority.
- I. Streets shall be constructed in accordance with the following standards and specifications. Roadways including subgrade, subbase, base courses and pavements shall be constructed in accordance with N.J.D.O.T. Standard Specifications, as modified herein. All subsurface utilities including service connections to each lot (terminating at least two (2) feet behind any sidewalk) and all storm drains shall be installed prior to the construction of final pavement surfaces.
  - 1. The pavement shall be the responsibility of the developer and shall be based upon traffic loading projections and field sampling and laboratory analysis of the subgrade soils along the proposed streets. The design shall follow current recommendations of the Asphalt Institute, the Portland Cement Concrete Association or such other generally recognized standards as may be acceptable to the Municipal Engineer. Pavement shall be of one (1) type throughout the development and be either bituminous concrete flexible pavement or Portland cement concrete rigid pavement.
    - a) Rigid Portland cement paving shall be expansion joint type paving utilizing Type A expansion joints (any alternate type joints shall be approved by the Municipal Engineer), shall be reinforced, constructed with Class B air entrained concrete and shall have a minimum thickness of six and one-half (6.5) inches for local and collector streets and eight (8) inches for arterial streets.
    - b) Flexible bituminous concrete pavements shall have an equivalent structural depth of at least ten (10) inches for local and collector streets with a minimum wearing surface of not less than one and one-half (1.5) inches of compacted pavement, Type FABC-1; a minimum compacted bituminous stabilized base course of not less than two and one-half (2.5) inches; and a dense graded aggregate base course to provide the remaining depth. Arterial streets shall have an equivalent structural depth of at least thirteen (13) inches with a minimum wearing surface of not less than two (2) inches of compacted pavement, Type FABC-1; a minimum compacted bituminous stabilized base course of not less than three (3) inches; and a dense graded aggregate base to provide the remaining depth. Bituminous stabilized base may be substituted for aggregate base on a ratio of one (1) part stabilized base to three (3) parts aggregate base.

2. Where sub-base conditions are of such nature that surfacing would be inadvisable without first treating the sub-base, these areas shall be suitably excavated and filled with a suitable sub-base material as determined by the Municipal Engineer. Where required by the engineer, a system of Type F underdrains shall be constructed beneath the surface of the paving and connected to a suitable drain. After the sub-base material has been properly placed and compacted, the surfacing material shall be applied.
3. Subbase and/or Aggregate Base Courses
  - a) Bituminous concrete pavements (and stabilized bases) may be constructed on subgrade without subbase or aggregate base courses provided the subgrade can be satisfactorily prepared as described above. If used, graded aggregate base courses shall be at least four (4) inches thick and be Soil Aggregate, Type 5, Class A; or Type 2, Class A or B.
  - b) Portland cement concrete pavements must be constructed with a minimum of six (6) inches of a granular type subbase Type 4, Class E. Any subbase course of aggregate base course shall have a minimum thickness of four (4) inches.
4. Bituminous Base Courses.
  - a) Bituminous base courses for use with bituminous concrete pavements shall consist of plant-mixed bituminous stabilized base course (stone mix or gravel mix) except that N.J.D.O.T. requirements for the construction of the base course shall be amended to allow the laying of the base course with a single lift maximum thickness not exceeding four (4) inches.
  - b) Prior to placement of any bituminous stabilized base course, the finished surface of any underlying subbase or aggregate base shall receive a prime coat.
5. Bituminous Pavements. Bituminous pavements shall consist of a bituminous concrete surface course Type FABC-1. The bituminous pavement wearing surface should generally not be installed until just prior to the time the streets are prepared for final acceptance. Prior to the installation of a bituminous concrete surface, the bituminous base course shall be inspected by the Municipal Engineer. Any areas of the base course in need of repair shall be removed and replaced at the direction of the Municipal Engineer. If the Municipal Engineer directs, a leveling course of FABC material shall be placed on any uneven or below grade base courses prior to the placement of finished pavement. Pavement surfaces shall be placed only with permission of the Municipal Engineer.
6. Alternate Pavement Types. If alternate pavement types are proposed either for decorative purposes, physical restrictions, existing conditions, or shortages in certain construction materials, a detail of the type and/or location of alternate pavement types shall be submitted for approval. Approval shall be based upon the equipment, materials and methods proposed for use, and the Municipal Engineer's inspection, testing and approval of a section of such pavement. If the Municipal Engineer does not approve the sample section of pavement, the developer shall replace it with permitted pavement.

## §25-628 STREET LIGHTING AND STREET SIGNS

*Amended 5-24-06 by Ordinance No. 1387*

- A. Street Lighting. Street lighting standards of a type and number consistent with those now those now in the borough shall be considered as part of a major site plan or subdivision application. Streetlights shall be installed at either new street intersections or where the lot proposed for development is missing a light that would otherwise complete a pattern of street lighting in the area. The developer shall provide for the installation of underground service for street lighting.
- B. Street Signs. Street signs shall be of a type, design and material consistent with existing street signs and shall be approved by the approving authority on advice of the Municipal Engineer. There shall be at least two (2) street signs furnished at each four-way intersection and one (1) street sign at each “T” intersection. All signs shall be installed free of visual obstruction.

## §25-629 TRAILERS AND CAMPERS

No travel trailer, camper, van, or other recreational vehicle, including boats, shall be used for dwelling purposes, sleeping quarters, or the conduct of business. They may, however, be parked (unoccupied) in the rear yards of the owner's property, or at abutting docks in the case of boats.

## §25-630 YARDS

*Amended 09-01-09 by Ordinance No. 1488.*

No open space providing front, side, or rear yard space for one (1) building shall be considered as providing the yard provisions of another. A lot with frontage on two (2) or more streets, including corner lots, shall have building setback from each street not less than the required front yard, unless otherwise specifically stated in this ordinance.

## §25-631 WATER SUPPLY

The developer shall arrange for water service to each lot, dwelling unit or use within the development and curb boxes shall be tagged and designated for identification as to each unit.

ARTICLE 7  
ZONING PROVISIONS

§25-701 ZONES *Amended 09-01-09 by Ordinance No. 1488.*

The borough is divided into zones as enumerated in this Article and as shown on the zoning map.

§25-702 ZONING MAP *Amended 09-01-09 by Ordinance No. 1488.*

The boundaries of the zones are established on the map entitled “Zoning Map” dated September 1, 2009 which accompanies and is made part of this ordinance.

§25-703 INTERPRETATION OF ZONING BOUNDARIES

*Amended 09-01-09 by Ordinance No. 1488.*

- A. Zoning boundaries are intended to follow street centerlines, lot lines, The boardwalk, bulkheads and/or continuations of lot lines, unless otherwise indicated By dimensions on the zoning map. Any disputed boundary line shall be determined by The Board of Adjustment. Zoning boundaries extend vertically in both directions from ground level.
- B. Where a street or public way serves as the zoning boundary and it is lawfully vacated, the former centerline shall be the zoning boundary.
- C. **Riparian Rights**. Nothing in this ordinance grants rights contrary to or supersedes the requirements for obtaining riparian rights.

§25-704 PROHIBITED USES *Amended 09-01-09 by Ordinance No. 1488.*

All uses not expressly permitted in this ordinance are prohibited.

§25-705 EXISTING USES *Amended 09-01-09 by Ordinance No. 1488.*

Any use, building or structure legally existing at the time of the enactment of this ordinance may be continued in accordance with section 25-616 even though such use, building or structure may not conform with the provisions of this ordinance.

## §25-706 RESIDENTIAL ZONE

*Amended 09-01-09 by Ordinance No. 1488.*

- A. **Purpose.** The purpose of the Residential Zone is to control the overall density of development and the unique problems created by the increase in seasonal occupancy, limitations have been included on the minimum lot size as well as standards for building and lot coverage. All intended to provide greater assurance of light, air and open space consistent with the goals of the Borough's Master Plan by controlling the impact of development and residential density on parking, traffic, community facilities, infrastructure and storm water runoff.
- B. **Principal Uses of Land and Buildings.**
1. Detached single family dwellings.
  2. Public.
- C. **Accessory Uses Permitted.**
1. **Garages and sheds** with specific prohibition against the use of accessory buildings, boats or recreation vehicles, or the construction of new accessory buildings for residential purposes.
    - a) Only one (1) detached garage and one (1) shed per building lot.
    - b) The minimum side yard setback for an accessory structure is five (5) feet.
    - c) The minimum rear yard setback for an accessory structure is five (5) feet.
    - d) Maximum building dimensions:
 

	<u>Garage(detached)</u>	<u>Shed</u>
Height (feet)	16	10
Building square footage	576	100
    - e) Garage and sheds are to be included in calculating compliance with maximum lot coverage. The placement of a shed is restricted to the rear yard.
  2. **Swimming pools.**

Pools are not considered as part of the lot coverage.

    - (a) For lots with a single family dwelling, swimming pools, as an accessory use, shall be set back at least five (5) feet from the rear lot line and twenty (20) feet from the street right-of-way and not less than the required minimum side yard setbacks applicable to the single family dwelling.
    - (b) All setbacks shall be measured from the lot line to the edge of the water for in-ground pools and to any part of the supporting structure or deck for above ground pools. In-ground pools shall be no more than one (1) foot above the original grade of land.
    - (c) Above ground pools shall have a maximum height of four (4) feet, as calculated from original grade, to any part of the surface deck.
- D. **Conditional Uses.** None

**E. Area, Yard and Bulk Requirements.**

**Lots.** Any lot legally existing at the time of the enactment of this ordinance that is less than 5,000 square feet but not less than 2,500 square feet can be issued a building permit to construct a structure without an application for a variance to the appropriate land use board provided that on the date of permit issuance, the structure shall conform to all of the regulations within the applicable zone set forth in this ordinance.

Note: Nothing may project into the required setbacks except as follows:

- a) On-grade decks with planking at least one-quarter (1/4”) inch apart and open to exposed soil below the deck and at a maximum height of eight (8) inches.
- b) Cornices, eaves and soffits, including rain gutters, only above the first story and limited to three (3) feet in front and rear and two (2) feet on side.
- c) Unsupported Overhang – defined as a portion of roof or wall that extends beyond the façade of a structure. An unsupported overhang shall not protrude more than 24 inches beyond the building façade. No component of the overhang shall be located at an elevation lower than the top of the first floor. Unsupported overhangs shall not be utilized as habitable space or storage.

Minimum Lot Area (square feet).....5,000

Note: Lot area -See also section 25-614 and 25-616.

Minimum Lot Width (feet)..... 50

Minimum Lot Depth (feet)..... 50

Minimum Front Yard (feet)..... 20\*

\*Corner Lots Only – Corner lots are required to provide front yard setbacks along lot lines adjacent to any street. Only if an adjacent property has an existing front yard setback less than twenty (20) feet, one (1) front yard setback on the same side may be reduced equal to that of the adjacent property. Front yard setback shall not be reduced to a dimension less than fifteen (15) feet under any circumstances.

**Minimum Side Yard (feet)**

- a) The following formula will be used to calculate combined side yard setbacks:

Lot square footage multiplied by 0.003 = minimum combined setback.

With a minimum side yard setback being not less than one-third (1/3) of the calculated combined side yard setback but in the case of lots less than 5,000 square feet, the side yard setback shall be not less than four (4) feet.

- b) Properties 5,000 sq. ft. or greater shall have at least a fifteen (15) feet combined setback and at least an individual side setback not less than five (5) feet.

**Minimum Rear Yard (feet).....20**

Note: If all other setbacks are met, the minimum rear setback shall be fifteen (15) feet.

**Maximum Building Coverage (sq. ft.)**

Maximum building coverage, including detached garage and shed, shall be calculated using the following formula:

$$\text{Lot Area sq. ft.} \times 0.4 = \text{Maximum allowable exterior square footage of building, detached garage and shed.}$$

**Floor-Area-Ratio (sq. ft.) Maximum Building Size**

Maximum building size shall be calculated using the following formula:

$$\text{Lot Area sq. ft.} \times 0.9 = \text{Maximum allowable gross floor area (sq. ft.) of building.}$$

**Maximum Lot Coverage (%).....65**

Detached garage and shed are to be included in calculating compliance with Maximum lot coverage.

**Maximum Building Height (feet).....35**

- a) Height is the vertical distance to the highest point of the building measured from the average elevation of the top of the curb line along the front of the lot.
- b) The maximum height of a building shall be calculated using the following Formula: Lot area (sq. ft.) divided by 250 plus 15 = maximum building height.
- c) Properties greater than or equal to 5,000 sq. ft. – building height restricted to 35 feet.

**Maximum Number of Stories..... 3**

**Minimum Off-Street Parking.**

1. Four or less bedrooms – two (2) parking spaces with minimum dimensions of nine feet (9’) X eighteen feet (18’).
2. Five bedrooms or more – Three (3) parking spaces with minimum dimensions of nine feet (9’) X eighteen feet (18’).
3. Only one (1) curb cut per building lot. A curb cut shall be a minimum width of ten (10) feet but not greater than twelve (12) feet, measured at the face of the curb.
4. Each garage parking space, with minimum dimensions of 9 feet X 18 feet, shall be counted as one (1) off-street parking space.

F. **Prohibited Uses.** All uses not expressly permitted in this ordinance are prohibited.



## §25-707 BUSINESS ZONE

*Amended 09-01-09 by Ordinance No. 1488.***A. Purpose.**

The purpose of this zone is to encourage the development of both commercial and residential properties by providing for a more expansive use of the area through less restrictive regulations while controlling density, off-street parking and minimizing storm water runoff.

**B. Principal Uses of Land and Buildings.**

1. Detached Single Family Dwellings.
2. Two Family Dwellings.
3. Multiple Dwelling Units (three or more units).
4. Affordable Housing (COAH) – Provided it fronts Central Avenue and is in accordance with all Area, Yard and Bulk requirements of building uses within the Business Zone.
5. Offices, Retail stores and Restaurants.
6. Mixed Use within one structure, provided it includes a combination of the following uses: residential, offices, retail stores or restaurants.
7. Churches – Provided they front Central Avenue and contain no residences and no other non-residential uses other than a school.
8. Schools – Provided they front Central Avenue and contain no residences and no other non-residential uses.
9. Public.

**C. Accessory Uses Permitted.****1. Swimming Pools**

Pools are not considered as part of lot coverage.

**Single and Two Family Dwellings**

- a) For lots with a single family or two family dwelling, swimming pools, as an accessory use, shall be set back at least five (5) feet from the rear lot line and twenty (20) feet from the street right-of-way and not less than the required minimum side yard setbacks applicable to single family and two family dwellings.
- b) All setbacks shall be measured from the lot line to the edge of the water for in-ground pools and to any part of the supporting structure or deck for above ground pools. In-ground pools shall be no more than one (1) foot above the original grade of land.
- c) Above ground pools shall have a maximum height of four (4) feet, as calculated from original grade, to any part of the surface deck.

Multiple (3 or more units) Residential Dwelling & Mixed Use Buildings

- a) Swimming pools as an accessory use shall be permitted only as in-ground pools which shall be constructed no higher than one (1) foot above the original grade of the land. The edge of the water shall be set back at least twenty (20) feet from any street right-of-way and at least fifteen (15) feet from any other property line.

2. **Detached garages and sheds** with specific prohibition against the use of accessory buildings, boats or recreation vehicles, or the construction of new accessory buildings for residential purposes.

- a) Only one (1) detached garage and one (1) shed per building lot. The shed shall be restricted to the rear yard.
- b) The minimum side yard setback for either a garage or shed is five (5) feet.
- c) The minimum rear yard setback for either a garage or shed is five (5) feet.
- d) Maximum building dimensions:
 

<u>Garage (detached)</u>	<u>Shed</u>
Height (feet)	16
Building square footage	576
	100
- e) Detached garages and sheds are to be included in calculating compliance with maximum lot coverage.

D. **Conditional Uses.** None

E. **Area, Yard and Bulk Requirement**

- a) All properties must front on Central Avenue to be considered as within the Business Zone.
- b) Corner lots: Setbacks requirements on side streets are to conform to the front setback requirements of the Residential Zone.
- c) Nothing may project into the required setbacks except as follows:
  - (1) On-grade decks with planking at least one-quarter (1/4") inch apart and open to exposed soil below the deck and at a maximum height of eight (8) inches.
  - (2) Cornices, eaves and soffits, including rain gutters, and above the first story but limited to three (3) feet in front and rear and two (2) feet on side.
  - (3) Unsupported Overhang – defined as a portion of roof or wall that extends beyond the façade of a structure. An unsupported overhang shall not protrude more than 24 inches beyond the building façade. No component of the overhang shall be located at an elevation lower than the top of the first floor. Unsupported overhangs shall not be utilized as habitable space or storage.

**d) BUSINESS ZONE - CENTRAL AVENUE BETWEEN 1ST AND 9TH AVENUES**

<b>DIMENSIONS</b>	<b>1 &amp; 2 Family Dwellings</b>	<b>Multiple (3 units or more) Dwellings</b>	<b>Mixed Use</b>	<b>Church</b>	<b>School</b>	<b>Retail Stores Offices &amp; Restaurants</b>	<b>Public</b>
Min Lot Size (sq. ft.)	5,000	7,500	5,000	10,000	20,000	5,000	5,000
Min Width (feet)	50	50	50	100	100	50	50
Min Depth (feet)	50	50	50	100	100	50	50
Min. Front Yard (feet)	5	5	5	20	20	5	5
Min. Side Yard (feet)	5/side	5/side	5/side	10/side	10/side	5/side	5/side
Min Rear Yard (feet)	20	10	10	20	20	10	10
Max Bldg Coverage (%)	40	40	40	35	25	40	40
Max Lot Coverage (%)	65	65	65	75	75	65	65
Maximum Stories	3	3	3	1	1	3	3
Max Bldg Height (feet)	*	35	*	35	25	*	*

**\*Same as Residential Zone**

F. **Density:** For every 2,500 square feet of lot area, one unit or permitted use is allowed.

G. **Buffer requirements.** See 25-604.

H. **Minimum Off-Street Parking.**

Only one (1) curb cut per building lot. A curb cut shall be a minimum width of ten (10) feet but not greater than twelve (12) feet, measured at the face of the curb.

One & Two Family Dwellings

1. One (1) parking space per dwelling unit.
2. Each garage parking space, with minimum dimensions of 9 feet X 18 feet, shall be counted as one (1) off-street parking space.

Restaurant

- (1) One (1) space per three (3) seats.
- (2) All off-street parking spaces are to be located in the rear or side of the building.

Multiple Dwellings, Offices, Retail Stores & Mixed Use (excluding restaurants)

- (1) One parking space per unit or use.
- (2) All off-street parking spaces are to be located in the rear or side of the building.

- I. **Prohibited Uses.** All uses not expressly permitted in this ordinance are prohibited.

§25-708

MIXED USE ZONE

*Amended 09-01-09 by Ordinance No. 1488.***A. Purpose.**

The purpose of this zone is to encourage the development of a broader range of permitted uses with less restrictive regulations while controlling density, off-street parking and minimizing storm water runoff.

**B. Principal Uses of Land and Buildings.**

1. Detached Single Family Dwellings.
2. Two Family Dwellings.
3. Multiple Dwelling Units (three or more units).
4. Affordable Housing (COAH) – Provided it fronts Central Avenue and is in accordance with all Area, Yard and Bulk requirements of building uses within the Mixed Use Zone.
5. Professional Offices.
6. Mixed Use within one structure provided it includes a combination of the following uses: residential and professional offices.
7. Churches – Provided they front Central Avenue and contain no residences and no other non-residential uses other than a school.
8. Schools – Provided they front Central Avenue and contain no residences and no other non-residential uses.
9. Public.

**C. Accessory Uses Permitted.****1. Swimming Pools**

Pools are not considered as part of lot coverage.

Single and Two Family Dwellings

- a) For lots with a single family or two family dwelling, swimming pools, as an accessory use, shall be set back at least five (5) feet from the rear lot line and twenty (20) feet from the street right-of-way and not less than the required minimum side yard setbacks applicable to single family and two family dwellings.
- b) Setback requirements shall be measured from the lot line to the edge of the water for in-ground pools and to any part of the supporting structure or deck for above ground pools. In-ground pools shall be no more than one (1) foot above the original grade of land.
- c) Above ground pools shall have a maximum height of four (4) feet, as calculated from original grade, to any part of the surface deck.

Multiple (3 or more units) Residential Dwellings & Mixed Use Buildings.

- a) Swimming pools as an accessory use shall be permitted only as in-ground pools which shall be constructed no higher than one (1) foot above the original grade of the land. The edge of the water shall be set back at least twenty (20) feet from any street right-of-way and at least fifteen (15) feet from any other property line.

**2. Detached garages and sheds** with specific prohibition against the use of accessory buildings, boats or recreation vehicles, or the construction of new accessory buildings for residential purposes.

- a) Only one (1) detached garage and one (1) shed per building lot. The shed shall be restricted to the rear yard.
- b) The minimum side yard setback for either a garage or shed is five (5) feet.
- c) The minimum rear yard setback for either a garage or shed is five (5) feet.
- d) Maximum building dimensions:

	<u>Garage (detached)</u>	<u>Shed</u>
Height (feet)	16	10
Building square footage	576	100
- f) Detached garages and sheds are to be included in calculating compliance with maximum lot coverage.

D. Conditional Uses. NoneE. Area, Yard and Bulk Requirement

- a) All properties must front on Central Avenue to be considered within the Mixed Use Zone.
- b) Corner Lots: Setback requirements on side streets are to conform to the front setback requirements of the Residential Zone.
- c) Nothing may project into the required setbacks except as follows:

- (1) On-grade decks with planking at least one-quarter (1/4”) inch apart and open to exposed soil below the deck and at a maximum height of eight (8) inches.
- (2) Cornices, eaves and soffits, including rain gutters, and above the first story but limited to three (3) feet in front and rear and two (2) feet on side
- (3) Unsupported Overhang – defined as a portion of roof or wall that extends beyond the façade of a structure. An unsupported overhang shall not protrude more than 24 inches beyond the building façade. No component of the overhang shall be located at an elevation lower than the top of the first floor. Unsupported overhangs shall not be utilized as habitable space or storage.

**d) MIXED USE ZONE - CENTRAL AVENUE EXCLUDING  
PROPERTIES BETWEEN 1ST & 9TH AVENUES**

<b>DIMENSIONS</b>	<b>1 &amp; 2 Family Dwellings</b>	<b>Multiple (3 units or more) Dwellings</b>	<b>Mixed Use (Offices &amp; Residential)</b>	<b>Church</b>	<b>School</b>	<b>Public</b>
Min Lot Size (sq. ft.)	5,000	7,500	5,000	10,000	20,000	5,000
Min Width (feet)	50	50	50	100	100	50
Min Depth (feet)	50	50	50	100	100	50
Min. Front Yard (feet)	5	5	5	20	20	5
Min. Side Yard (feet)	5/side	5/side	5/side	10/side	10/side	5/side
Min Rear Yard (feet)	20	10	10	20	20	10
Max Bldg Coverage (%)	40	40	40	35	25	40
Max Lot Coverage (%)	65	65	65	75	75	65
Maximum Stories	3	3	3	1	1	3
Max Bldg Height (feet)	*	35	*	35	25	*

**\*Same as Residential Zone**

F. **Density** – For every 2,500 square feet of lot area, one unit or permitted use is allowed per lot.

G. **Buffer requirements.** See 25-604.

H. **Minimum Off-Street Parking.**

1. Only one (1) curb cut per building lot. A curb cut shall be a minimum width of ten (10) feet but not greater than twelve (12) feet measured at the face of the curb.
2. One (1) parking space, with minimum dimensions of nine feet (9') X eighteen feet (18'), per dwelling unit.
3. Each garage parking space, with minimum dimensions of 9 feet X 18 feet, shall be counted as one (1) off-street parking space.

Multiple Dwellings, Offices & Mixed Use

1. One parking space, with minimum dimensions of nine feet (9') X eighteen feet (18'), per dwelling unit or use.
2. All off-street parking spaces are to be located in the rear or side of the building.

I. **Prohibited Uses.** All uses not expressly permitted in this ordinance are prohibited.

§25-709 MULTIPLE DWELLING ZONE

*Amended 09-01-09 by Ordinance No. 1488.*

A. **Purpose.** The purpose of this zone is to control the overall density of residential development and the unique problems created by the increase in seasonal occupancy, limitations have been included on the minimum lot size as well as standards for building and lot coverage. All intended to provide greater assurance of light, air and open space consistent with the goals of the Borough's Master Plan.

B. **Principal Uses of Land and Buildings.**

1. Detached single family dwellings.
2. Two Family Dwelling
3. Multiple Dwelling Units (3 or more)
- 4 Public.

C. **Accessory Uses Permitted.**

1. **Garages and sheds** with specific prohibition against the use of accessory buildings, boats or recreation vehicles, or the construction of new accessory buildings for residential purposes.
  - a) Only one (1) detached garage and one (1) shed per building lot.
  - b) The minimum side yard setback for either a garage or shed is five (5) feet.
  - c) The minimum rear yard setback for either a garage or shed is five (5) feet.

- |                                 |                         |             |
|---------------------------------|-------------------------|-------------|
| d) Maximum building dimensions: | <u>Garage(detached)</u> | <u>Shed</u> |
| Height (feet)                   | 16                      | 10          |
| Building square footage         | 576                     | 100         |
- e) Garage and sheds are to be included in calculating compliance with maximum lot coverage. The placement of a shed is restricted to the rear yard.

## 2. **Swimming pools.**

Pools are not considered as part of the lot coverage.

### Single Family and Two Family Dwellings

- (a) For lots with a single family or two family dwelling, swimming pools, as an accessory use, shall be set back at least five (5) feet from the rear lot line and twenty (20) feet from the street right-of-way and not less than the required minimum side yard setbacks applicable to the single family dwelling.
- (b) All setbacks shall be measured from the lot line to the edge of the water for in-ground pools and to any part of the supporting structure or deck for above ground pools. In-ground pools shall be no more than one (1) foot above the original grade of land.
- (c) Above ground pools shall have a maximum height of four (4) feet, as calculated from original grade, to any part of the surface deck.

### Multiple (3 or more units) Residential Dwellings.

Swimming pools as an accessory use shall be permitted only as in-ground pools which shall be constructed no higher than one (1) foot above the original grade of the land. The edge of the water shall be set back at least twenty (20) feet from any street right-of-way and at least fifteen (15) feet from any other property line.

## D. **Conditional Uses.** None

## E. **Area, Yard and Bulk Requirements.**

- a. All buildings must front North Ocean Avenue to be considered within the Multiple Dwelling Zone.
- b. Corner Lots: Setback requirements on side streets are to conform to the front setback requirements of the Residential Zone.
- c. Nothing may project into the required setbacks except as follows:
- 1) On-grade decks with planking at least one-quarter (1/4") inch apart and open to exposed soil below the deck and at a maximum height of eight (8) inches.
  - 2) Cornices, eaves and soffits, including rain gutters, only above the first story and limited to three (3) feet in front and rear and two (2) feet on side.
  - 3) Unsupported Overhang – defined as a portion of roof or wall that extends beyond the façade of a structure. An unsupported overhang shall not protrude more than 24 inches beyond the building façade. No component of the overhang shall be located at an elevation lower than the top of the first floor. Unsupported overhangs shall not be utilized as habitable space or storage.



d.

**MULTIPLE DWELLING USE ZONE  
NORTH OCEAN AVENUE**

DIMENSIONS	1 & 2 Family Dwellings	Multiple Dwelling (3 units or more)	Public
	Min Lot Size (sq. ft.)	5,000	7,500
Min Width (feet)	50	50	50
Min Depth (feet)	50	50	50
Min. Front Yard (feet)	Footnote 1	20	20
Min. Combined Side Yard (feet)	Footnote 1		
Min. Side Yard Setback/side	Footnote 1	Footnote 1 5	Footnote 1 5
Min Rear Yard (feet)	1	20	20
Max Bldg Coverage (%)	40	40	40
Max Lot Coverage (%)	65	65	65
Maximum Stories	3	3	3
Max Bldg Height (feet)	Footnote 1		Footnote 1

**Footnote 1 - Same as Residential  
Zone**

F. **Density** For every 2,500 square feet of lot area, one unit or use is allowed.

G. **Buffer Requirements** See 25-604

H. **Minimum Off-Street Parking.**

1. Four or less bedrooms – two (2) parking spaces, each with minimum dimensions of nine feet (9’) X eighteen feet (18’), per dwelling unit.
2. Five bedrooms or more – Three (3) parking spaces, each with minimum dimensions of nine feet (9’) X eighteen feet (18’), per dwelling unit.
3. Only one (1) curb cut per building lot. A curb cut shall be a minimum width of ten (10) feet but not greater than twelve (12) feet measured at the face of the curb.
4. Each garage parking space, with minimum dimensions of 9 feet X 18 feet, shall be counted as one (1) off-street parking space.

- I. **Prohibited Uses.** All uses not expressly permitted in this ordinance are prohibited.

§25-710 BOARDWALK ZONE

*Amended 09-01-09 by Ordinance No. 1488.*

- A. **Purpose.** The purpose of this zone is to provide a designated area within the Borough for the high density commercial boardwalk development within its present location. It is a seasonal area of mixed commercial uses including games, amusements, rides and retail sales.

- B. **Principal Uses of Land and Buildings.**

1. Amusement arcades, games, stands and rides.
2. Miniature golf courses.
3. Restaurants, snack bars and taverns.
4. Retail stores.
5. Public.

- C. **Accessory Uses Permitted:** None

- D. **Conditional Uses Permitted:** None

- E. **Area, Yard & Bulk Requirements**

Minimum Lot Area	15,000 square feet
Minimum Lot Frontage (footnote 1)	50 feet
Minimum Lot Width (footnote 2)	50 feet
Minimum Lot Depth	300 feet
Minimum Front, Side & Rear	0 feet
Maximum Building Height but not more than two (2) stories (footnote 3)	30 feet
Maximum number of stories (footnote 3)	2
Maximum building coverage – building and Boardwalk (%) [footnote 4]	100%
Maximum Lot coverage (%)	100%

**Footnotes:**

1. The frontage shall be along a suitable improved and accepted public street and there shall be direct access from the lot to the public street to provide access for fire fighting and emergency equipment.
2. Lot width shall be determined to be the shortest straight line distance between side lot lines measured between the points on each side lot line located forty (40) feet from the street right-of-way.
3. Except rides which may have structures greater than 30' in height, as previously approved as part of a site plan review, but in any event not higher than fifty (50) feet.

4. No building shall encroach upon any fire lane, boardwalk easement or public right-of-way.

F. **Minimum Off-Street Parking.** None

- G. **Hours of Operation.** All amusement arcades, games, stands and rides within this district shall cease operation after 11:00PM and before 7:00AM from October 15<sup>th</sup> to May 15<sup>th</sup> of each calendar year with the exception of Friday and Saturday evenings when said businesses shall cease by 12:00AM (midnight) and not begin before 7:00AM.

- H. **Prohibited Uses.** All uses not specifically permitted in this ordinance are prohibited.

§25-711 PUBLIC ZONE.

*Amended 09-01-09 by Ordinance No. 1488.*

A. **Purpose.**

This zone is included in order to indicate the existing public properties and those areas characterized by unique natural resources.

B. **Principal Uses of Land and Buildings.**

1. Public uses including, but not limited to schools, parks, playgrounds, recreation areas, municipal buildings, public utilities and public parking areas and related public services.
2. Open space, dunes restoration and pedestrian activities associated with walking and swimming as well as related public services.
3. The Seaside Park Marina Utility and Seaside Park Yacht Club but limited to the berthing of boats at designated docks and berths, and the storage of boats and trailers.
4. Public.

C. **Accessory Uses Permitted.** None

D. **Conditional Uses Permitted.** None

E. **Area, Yard & Bulk Regulations.**

1. Borough radio or tower facilities and water storage tanks shall have no height limitations except that they shall comply with any requirements of the Federal Aviation Agency.

F. **Minimum Off-Street Parking.**

1. Parking for public uses shall be the subject of site plan review considering: Borough maintenance, on-site emergency or business vehicles storage; and whether the general public comes to the site for business, public purposes or recreation and how many employees work at the site.

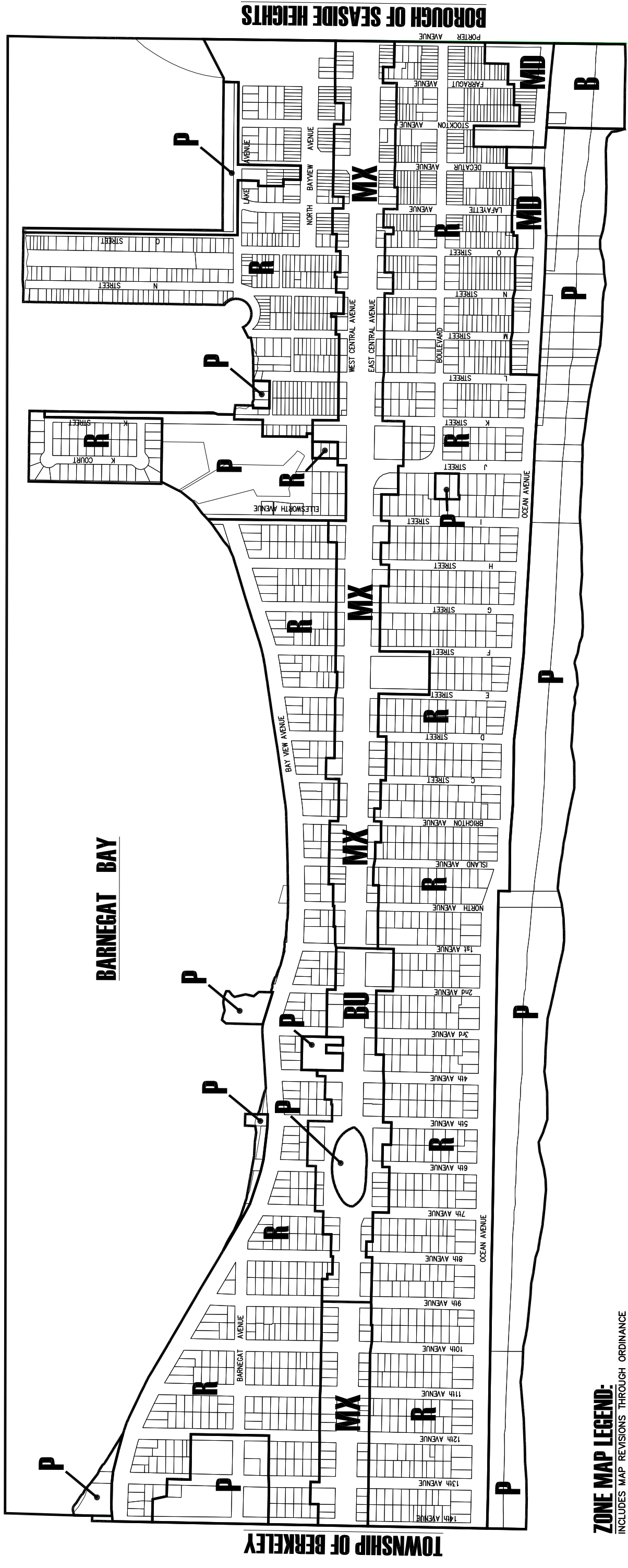
- a) The minimum parking shall be one (1) space per employee and one (1) space per public vehicle stored at the site.
- b) Marina Utility and Seaside Park Yacht Club. One space per berth or dock space.

G. **Prohibited Uses.** All uses not expressly permitted in this ordinance are prohibited.

§25-712 CHECKLISTS

*Amended 09-01-09 by Ordinance No. 1488.*

1. Minor Site Plan, completeness Checklist.
2. Minor Subdivision Plat, completeness Checklist.
3. Map Filing Law, Checklist.
4. Evaluation Checklist.
5. Major Site Plan Completeness Checklist.
6. Major Subdivision.
7. Major Site Plan.
8. Grading and Drainage Plan.
9. As-built Plan.



**ZONE MAP LEGEND:**

INCLUDES MAP REVISIONS THROUGH ORDINANCE 1488 ADOPTED AUGUST 27th, 2009  
 BASE MAP SOURCES:  
 OCEAN COUNTY GIS DEPARTMENT, LAST REVISED DECEMBER 2008.  
 ZONE BOUNDARIES DEVELOPED WITH REFERENCE TO BOROUGH TAX MAPS CURRENT THROUGH JULY 2009.

- R** RESIDENTIAL ZONE
- BU** BUSINESS ZONE
- MX** MIXED USE ZONE
- MD** MULTI DWELLING ZONE
- B** BOARDWALK ZONE
- P** PUBLIC ZONE



GRAPHIC SCALE  
 1 inch = 600 ft.

**ZONE MAP BOROUGH OF SEASIDE PARK  
 OCEAN COUNTY, NEW JERSEY**



CONSULTING AND MUNICIPAL ENGINEERS  
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 DATED: SEPTEMBER 1, 2009