

CHAPTER LIV

LAND USE AND DEVELOPMENT

54-1 TITLE.

This chapter shall be known as the “Land use and Development Regulations of the Township of Rockaway.”
(Ord. No. 95-24 § 54-1)

54-2 PURPOSE.

It is the intent and purpose of this chapter to:

- a. Encourage action to guide the appropriate use or development of all lands in the Township in a manner which will promote the public health, safety, morals and general welfare.
- b. Secure safety from fire, flood, panic and other natural and man-made disasters.
- c. Provide adequate light, air and open space.
- d. Ensure that the development of Rockaway Township does not conflict with the development and general welfare of neighboring municipalities.
- e. Promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods and the entire Township as well as the preservation of the environment.
- f. Encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies.
- g. Provide sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements.
- h. Encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight.

- i. Promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- j. Promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land.
- k. Establish orderly and uniform procedures relating to land use and development regulation.
- l. Generally achieve and advance the various purposes of the Municipal Land Use Law, c. 291, P.L. 1975, as set forth in N.J.S. 40:55D-2.

(Ord. No.95-24 § 54-2)

54-3 SCOPE.

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically or implicitly repealed by this chapter, or any private restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto. Whenever this chapter imposes a greater restriction upon, including but not limited to, the use of buildings, structures or land, or upon the height of buildings or lot coverage, or required greater lot area, yards or other open spaces than are imposed or required by such rules, regulations, permits or by such private restrictions, the provisions of this chapter shall control.

(Ord. No. 95-24 § 54-3)

54-4 DEFINITIONS AND WORD USAGE.

54-4.1 Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings described:

Accessory Building or Structure – A building or structure occupied or devoted exclusively to an accessory use and on the same lot with and subordinate to a principal building or structure. More particularly, but not by way of limitation, an accessory building in a residential zone shall be construed to include detached garages, greenhouses, sheds, gazebos, and other roofed structures. Accessory structures shall be construed to include decks and swimming pools, but shall not be construed to include paving or at-grade patios. Where an “accessory building” is attached to a principal building by a breezeway, roof, wall, or the like, such “accessory building” shall be considered part of the principal building.

Accessory use shall mean a use customarily incidental and subordinate to the principal use upon any premises.

Addition shall mean an extension or increase in floor area or height of a building or structure.

Administrative Officer shall mean the Township Zoning and Planning Executive Secretary, unless a different Township official is designated by this chapter or by statute.

ADT shall mean average daily vehicular traffic movements for land uses of various types.

Adult day care facilities shall mean a building or buildings, or a part thereof, that provide social and/or recreational activities in a group setting, with some health monitoring, to adult persons who may not need regular medical attention during the day, but may need supervision for safety and activities of daily living.

Adult retirement community shall mean a development for residents of a minimum specified age that emphasizes social and recreational activities but may also provide personal services, limited health facilities, and transportation, and which are regulated through the Federal Fair Housing Act.

Age-restricted and elderly shall mean persons who are minimally fifty-two (52) years of age.

Agriculture shall mean the cultivation of soil and the raising and harvesting of products of the soil including but not limited to nursery, horticulture, forestry and animal husbandry, whether for profit, private or personal use.

Alteration of Building – A change in the supporting members of a building, an addition to or diminution of a building, a conversion of a building or part thereof, removal of a building from one location to another, or a change in use.

Apartment shall mean one (1) or more dwelling rooms, with private bath and kitchen facilities, comprising an independent self-contained dwelling unit in a larger building.

Applicant shall mean any developer submitting an application for development.

Application for development shall mean the application form and all accompanying documents required by ordinance for approval of a subdivision

plat, site plan, planned development, conditional use, zoning variance or direction for the issuance of a permit pursuant to N.J.S. 40:55D-34 or 36.

Assisted living facilities shall mean a building, or buildings, that provides a residential living environment assisted by congregate meals, housekeeping and personal services for elderly persons, who have temporary or periodic difficulties with one (1) or more essential activities of daily living, such as feeding, bathing, dressing or mobility.

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

Awning, Canopy or Marquee – A non-enclosed structure, permanently affixed to the wall of a building which is intended to serve as a covering over the ground below and the objects thereon. For purposes of calculating setbacks, awnings, canopies and marquees shall be construed to be a part of the building to which they are affixed.

Basement shall mean that portion of a building which is partly or completely below grade.

Bond shall mean an insurance agreement approved by the Township Council underwritten by a reputable insurance company, a portion of which may be cash as determined by the Township Planning Board, to provide financial surety for the act or default of an applicant in failing to comply with the standards of this Code and the conditions of his approved plan.

Buffer shall mean a strip of land containing natural woodlands, earth mounds, screening fence or wall, and/or other planted vegetation for the purpose of making a physical or visual barrier.

Building shall mean a combination of materials to form a construction adapted to permanent, temporary or continuous occupancy by any person, animal or thing, and having a roof.

Building Coverage – The percentage of a lot covered by all principal and accessory buildings, exclusive of uncovered and unenclosed decks, patios and porches attached thereto. Cantilevers and overhangs shall not be included in the calculation of building coverage if they do not extend more than two (2) feet from a building and are at least four (4) feet above the grade directly adjacent to the projection. Bay and bow windows shall not be included in the calculation of building coverage if they are constructed no lower than two (2) feet from the level of the finished floor of a residential structure and are no larger than sixteen (16) square feet.

Building height shall mean the vertical distance from grade plane to the average height of the highest roof structure.

Building line (or setback line) shall mean a line established by the zoning regulation within a lot establishing the minimum distance between any building or portion thereof and any front, side or rear property line.

“C” variance shall mean any variance which is not a “D” variance.

Canopy or marquee shall mean a roof-like shelter without sides, permanently affixed to the wall of a building, and providing overhead protection from the weather at an entrance to such building, which shall be construed to be a part of the building to which it is affixed.

Change of Use – The use of the building or land which is in any manner different from the previous use by way of function, operation, extent, products sold or manufactured or the like, including a change from one permitted use to another permitted use in the same zone.

Commercial Vehicle – Every type of vehicle used for commercial purposes, including but not limited to vehicles used to transport persons or property for compensation or used in the furtherance of and/or performance of a specific job or work function. This definition shall include any vehicle bearing commercial license plates and/or displaying advertisements or business insignia thereon, but not vehicles used for private or personal transportation, recreational vehicles or farm vehicles.

Common open space shall mean an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development and/or community. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development and/or community.

Common ownership shall mean ownership of two (2) or more contiguous lots of real property by one (1) person or by two (2) or more persons owning such property in any form of joint ownership.

Common/party wall shall mean a vertical wall and/or horizontal separation forming a structural part of two (2) buildings or of two (2) separately owned and/or rented units in the same building.

Community facilities shall mean buildings, structures, recreational devices, service systems and other facilities generally available to and/or operated for the benefit of Township residents, including, but not limited to swimming pools, tennis courts, building entries and passageways, roads, drainage systems, pedestrian and bicycle pathways, sewage treatment plants and other facilities operated or maintained by the township.

Community residence for the developmentally disabled shall mean any community residential facility licensed pursuant to P.L. 1966, c. 448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels.

Community shelter for victims of domestic violence shall mean any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P.L. 1979, c. 337 (C. 30:40-1-14), providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than fifteen (15) persons who have been victims of domestic violence, including any children or such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

Concept/informal plan shall mean the optional, initial development plan for subdivisions and/or site plans of sufficient accuracy and detail to be used for the purpose of informal review, evaluation and nonbinding comment by the Planning Board and meeting the requirements of this chapter.

Conditional use shall mean a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this chapter, and upon the issuance of any authorization therefore by the Planning Board.

Construction Equipment – Any equipment used in construction work, building or excavating, usually of substantial size, which is operated in conjunction with a commercial or industrial business, similar to but not normally registered as a vehicle (synonymous with "machinery").

Construction Vehicle – Every type of vehicle used in conjunction with construction work, building or excavating, including transportation or material, which is operated in conjunction with a commercial or industrial business.

Continuing care retirement community shall mean an age-restricted development that provides a continuum of accommodations and care, from independent living to long-term bed care, pursuant to contracts to provide such accommodations and care in exchange for the payment of regular fees and entrance fees.

Conventional shall mean development other than planned development.

“D” variance shall mean permission to depart from the literal requirements of the zoning regulations, Section 54-30 of this chapter, to permit:

- a. A use or principal structure in a district restricted against such use or principal structure;
- b. An expansion of a nonconforming use;
- c. Deviation from a specification or standard pertaining solely to a conditional use;
- d. An increase in the permitted floor area ratio as defined in Section 3.1 of P.L. 1975, c. 291 (C. 40:55D-4);
- e. An increase in the permitted density as defined in Section 3.1 of P.L. 1975, c. 291 (C. 40:55D-4), except as applied to the required lot area for a lot or lots for detached one (1) or two (2) dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision; or
- f. A height of a principal structure which exceeds by ten (10) feet or ten (10%) percent the maximum height permitted in the district for a principal structure.

Days shall mean calendar days.

Deck – An unroofed structure of wood, masonry, metal, stone, asphalt, or other substance, the floor level of which is supported by pillars or posts and elevated above finished grade more than one (1) foot. A deck may either be freestanding or attached to a building.

Density shall mean the permitted number of dwelling units per gross area of land to be developed.

Developer shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

Development shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure and any use or change in the use of any building or other structure, or land or

extension or use of land, for which permission may be required pursuant to this chapter.

Development regulations shall mean the Township zoning regulations, subdivision regulations, site plan regulations, Official Map regulations or any other Township regulation of the use and development of land, or amendment thereto, adopted and filed pursuant to this chapter.

District shall mean a zoning district.

Drainage right-of-way shall mean the lands required for the installation of stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water herein to safeguard the public against flood damage in accordance with Chapter 1 of Title 58 of the New Jersey Revised Statutes.

Dwelling unit shall mean a building or part of a building including bath, cooking and toilet facilities, designed and intended for occupancy as a residence by one (1) family. Types of dwelling units shall include:

- a. *Single-family detached dwelling* shall mean a freestanding residential building which contains one (1) dwelling unit and which has no common walls with other units.
- b. *Duplex* shall mean a residential structure designed and intended to contain two (2) dwelling units in which each dwelling unit is separated by a vertical common wall or separation.
- c. *Two-family dwelling* shall mean any building which is comprised of two (2) dwelling units, each of which contains a separate entrance and separate living, sleeping, sanitary and cooking facilities. The existence of a passageway between the two (2) dwelling units of a two-family dwelling as herein defined shall not be construed to render the building a single-family building.
- d. *Single-family attached dwelling or townhouses* shall mean a dwelling unit in a structure containing at least three (3) dwelling units in which each separate dwelling unit is attached to other similar dwelling units by one (1) or more common walls, or positions thereof, extending from the foundation to the roof and further provided each dwelling unit has a separate front and rear or side entrance at the

first floor level which provides direct access to said unit to and from the outdoors.

- e. *Multi-family dwellings or garden apartments* shall mean three (3) or more dwelling units in a structure sharing vertical common walls and common horizontal separations.

Elementary school shall mean any school that is licensed by a governmental agency of the State and meets the State requirements for elementary education.

Environmental Impact Statement shall mean a statement in written and mapped form, prepared by an applicant for any application for development, which will permit the Township Planning Board and Environmental Commission to assess the impact of a proposed project upon the environment, and which statement complies with all provisions of Chapter XXI.

Family shall mean a person or any number of persons related by blood, marriage or legal adoption, including in-servants and foster children, living together as a single nonprofit, housekeeping unit and using certain rooms and cooking facilities in common; or a group of persons, not necessarily related, in the manner aforesaid living together as a single, nonprofit, housekeeping unit, but not including the residents of a hotel or of a boarding house or lodging house serving more than two (2) paying guests and which would not create an overcrowded residential environment. Nothing herein contained shall be construed to prevent the placement of foster children in accordance with N.J.S. 40:55D-66(c).

Fast food restaurant shall mean any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption whether within the restaurant building or for carry-out with consumption off the premises, and whose principal method of operation includes the following characteristic: foods, frozen desserts, or beverages are usually served in edible containers or in paper, plastic or other disposable containers.

Final approval shall mean the official action of the Planning Board taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been completed or fulfilled and the required improvements have been installed and guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

Final plat shall mean the final map of all or a portion of the subdivision which is presented to the Planning Board or Board of Adjustment for final

approval in accordance with these regulations, and which final map when approved, shall be filed with a County Recording Officer.

Floor area/gross floor area shall mean the aggregate area of those interior portions of a building enclosed by an exterior wall, and measured from the interior face of the exterior wall, excluding, however, unfinished attic or basement floors, open porches, breezeways and garages, except that enclosed porches and patios which are heated and used year-round may be counted in computing the floor area. Notwithstanding the above, if any part or area of a basement floor in a building shall be devoted to the permitted principal use, including but not limited to retail sales, services or office space, such part or area shall be included in the computation of floor area where such computation determines off-street parking requirements under the required parking section of this chapter.

Floor area ratio shall mean the gross floor area of a building or buildings compared to the total area of the site.

Garage, private shall mean a detached accessory building or portion of principal building designed primarily for the storage of licensed vehicles.

Garage, public or gasoline service station shall mean any building, structure, lot or land in or upon which a business, service or industry involving the fueling, maintenance or servicing, and storage in connection therewith, of motor vehicles is maintained, conducted, operated or rendered.

Garden apartment – see Dwelling Unit Types above.

Garden Center – A commercial establishment selling plants and garden products, seeds, fertilizer, tools, topsoil, mulch, stone, and other related items primarily at retail to the public.

Gazebo – A freestanding accessory structure with a roof but no walls.

General development plan shall mean a comprehensive plan for the development of a planned development, as provided by this chapter.

Governing body shall mean the Township Council of the Township of Rockaway.

Grade shall mean the average finished ground elevation adjoining a building at project completion, or the slope of a road, path, swale, or other surface expressed as a percentage.

Grade plane shall mean a reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the

finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

Highway business/commercial shall mean retail shopping outlets and professional offices customarily located along State or Federal highways.

Historic site shall mean any real property, manmade structure, natural object or configuration or any portion or group of the foregoing of historical, archaeological, cultural, scenic or architectural significance.

Homeowners Association shall mean a duly incorporated organization composed of all owners of property in a development.

House of worship shall mean a church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar belief; a special purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

Impervious Coverage – The percentage of a lot covered by all impervious surfaces, including, but not limited to, buildings, structures, pavement, and other land improvements that are highly resistant to infiltration by water, but not including above-ground pools, paver patios, paver walkways, and paver driveways.

Independent living facilities shall mean a building, or buildings or part thereof, offering individual fully functional residency for elderly persons in a community setting where meals may be shared and other social activities provided.

Interested party shall mean, in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the Township, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this chapter or whose rights to use, acquire or enjoy property under this chapter or under any other law of this State or of the United States have been denied, violated or infringed by an action or failure to act under this chapter or the Municipal Land Use Law.

kennel shall mean a structure devoted to the boarding, care and/or breeding of dogs and cats.

Lot shall mean 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. Notwithstanding the above, and notwithstanding any delineation on the Township Tax Map, if contiguous nonconforming lots are in common ownership and shall have been treated by the owner or owners as one (1) lot, the entire land area so treated shall, for the purposes of administrating and enforcing this chapter, be construed to be one (1) "lot." Notwithstanding the above, a lot in the R-B district shall be defined as a parcel of land that is bounded on all sides by the ring road, a public thoroughfare and throat roads or a subdivision creating a separate lot approved by the Planning Board, or a parcel of land that may be leased.

Lot area shall mean the total square-unit content of any lot as measured within the lot lines.

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

Lot, depth shall mean the distance between the front and rear property lines of any lot. If a lot shall not have parallel rear and front lines, the average of such distances taken at ten (10) foot intervals and perpendicular to the front street side line throughout the width of the lot shall constitute the lot depth.

Lot frontage shall mean that portion of a lot which is contiguous with a street right-of-way. In the case of a through lot, the lot frontage shall be considered that same block front; provided that in case there has been no clearly defined frontage established, the owner may, when applying for a building permit, specify on his permit application which lot line shall be considered the lot frontage. A corner lot shall be deemed to have frontage on any abutting street. "Lot frontage" shall be synonymous with "front lot line."

Lot line, front – See "*Lot frontage*" above.

Lot line, rear shall mean that lot line most nearly opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lots, the rear lot line shall be an imaginary line parallel to the front lot line and passing through that portion of the lot line which is most distant from the front lot line.

Lot line, side shall mean any lot line other than a front or rear lot line. On a corner lot, all lot lines other than front lot lines shall be deemed to be side lot lines.

Lot width shall mean the straight line distance between the two (2) side lot lines of any lot. Unless this chapter specifically indicates otherwise, the lot width shall be measured at the required front yard setback line.

Maintenance guarantee shall mean any security which may be accepted by a municipality for the maintenance of any improvements required by this chapter, including but not limited to cash, surety bonds and letters of credit under the circumstances specified by this chapter.

Major subdivision shall mean any subdivision not classified as a minor subdivision.

Mall entity shall mean that part of the R-B district contained within and circumscribed by the ring road.

Master Plan shall mean a composite of one (1) or more written or graphic proposals for the development of the Township as set forth in and adopted pursuant to Section 19 of Chapter 291, Laws of New Jersey 1975.

Mezzanine shall mean an intermediate level or levels between the floor and ceiling of any story within an aggregate floor area of not more than one-third (1/3) of the area of the room in which the level or levels are located.

Minor Site Plan – The development plan of one (1) or more lots which does not involve planned development, any new street, alteration of existing traffic patterns, or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42, and which is limited to the following classes of development:

- A. Interior renovations of an existing building; or
- B. Building additions and the construction of any accessory structure, provided that such uses are specifically permitted in the zone district and that such alteration or construction does not exceed two thousand (2,000) square feet in ground coverage; or
- C. Alteration or improvement of the exterior façade of an existing building, such as new windows, doorways, or siding material; or
- D. The improvement of existing site facilities (i.e., parking, drainage, generators or similar equipment)

Minor Site Plan Committee – A committee of at least three (3) Planning Board members appointed by the Chairman of the Board for the purpose of reviewing site plan applications for proper compliance with this chapter and reporting back to the Planning Board as to its findings. Nothing herein shall be construed as granting power to the Site Plan Committee to give any approvals or agree to any modifications of the

preliminary site plan requirements. Notwithstanding any other provision of this chapter, the Committee's power and authority shall be limited to recommendation to the entire Board for action or final decision.

Minor Subdivision – A subdivision of land for the creation of not more than four (4) lots, including the parent lot, and fronting on an existing public street or private street approved by the Planning Board; provided that such subdivision does not involve a planned development, any new street, or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42. Notwithstanding the above, in the event that more than one (1) minor subdivision application is submitted for any tract of land or part thereof within a five (5) year period from the date of approval of the first minor subdivision, and if both subdivisions combined would meet the definition of a “major subdivision,” the subsequent subdivision shall be construed as a major subdivision and processed accordingly.

Minor Subdivision Committee – A committee of at least three (3) Planning Board members appointed by the Chairman of the Board for the purpose of reviewing subdivision applications in accordance with the provisions of this chapter and such other duties relating to land subdivision which may be conferred on this Committee by the Board and the Board's by-laws. Notwithstanding any other provision of this chapter, the Committee's power and authority shall be limited to recommendation to the entire Board for action or final decision.

Municipal agency shall mean the Township Planning Board or Board of Adjustment or Township Council when acting pursuant to this chapter and any agency created by this chapter that is acting pursuant to this chapter.

Municipal buildings and public uses shall mean any use by a municipality of any property owned by it or leased to it, including but not limited to, libraries, municipal buildings, public utility buildings and structures, Department of Public Works buildings and facilities, Fire Department stations and Police Department stations.

Municipal use shall mean any use by the Township of Rockaway of any property owned or leased by it.

Neighborhood business/commercial shall mean retail shopping outlets designed and intended to serve day-to-day or convenience needs of the residents of an immediate neighborhood.

Nonconforming lot shall mean a lot the area, dimension or location of which was lawful prior to the adoption, revision or amendment of the zoning regulations, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

Nonconforming structure shall mean a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of the zoning regulations, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision, or amendment.

Nonconforming use shall mean a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

Nonresidential Zones/Districts – Those zone districts established in this chapter and known as B-1, B-2, R-B, O-1, O-2, O-3, OB-RL, PED, I and M zone districts. In addition, those portions of the OR-3, *ORI-EH* and R-P districts which are used for nonresidential purposes shall be construed to be nonresidential zone districts.

Nursing home facilities shall mean a building or buildings or part thereof, that provide a residential living environment assisted by nursing care and services for elderly persons who, because of their physical or mental condition, require nursing care and services above the level of room and board.

Occupancy or occupied shall mean the residing of a person or persons in a dwelling unit overnight, or the installation, storage or use of equipment, merchandise or machinery in any commercial, public or industrial building.

Official Map shall mean a map adopted by ordinance pursuant to Article 5 of Chapter 291, Laws of New Jersey 1975. Such map shall be deemed conclusive with respect to the location and width of streets and public drainage ways and the location and extent of flood control basins and public areas including public parks, playgrounds, trails, paths and other recreation areas, public open spaces, scenic and historic sites, sites for schools and other public buildings and structures, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence.

Off-tract shall mean 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.

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

Open space shall mean any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use of enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those buildings, structures, streets and off-street

parking and other improvements that are designed to be incidental to the natural openness of the land.

Outdoor Storage – The accumulation, collection, stockpiling or warehousing of vehicles, merchandise, materials, and machinery outside the enclosed confines of a building, including, but not limited to, sand, gravel, dirt, asphalt, lumber, pipes, plumbing supplies, metal, concrete, insulation, construction equipment, construction vehicles, delivery/service vehicles, household equipment, other vehicles, and containers utilized for storage purposes. The term “outdoor storage” shall not include the outdoor display of merchandise for sale on the premises.

Outpatient rehabilitation facilities shall mean a building or buildings, or a part thereof, which provides medical, physical therapy, and social or psychological services in a coordinated manner to persons who come to the facility to receive services and depart from the facility on the same day.

Owner shall mean any individual, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in the land sought to be processed for development under this chapter.

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

Parking space shall mean a space either outdoors or enclosed within a structure, denoted by painted lines and used for the parking of a motor vehicle outside of the street right-of-way. The term “parking space” shall not include any aisle or driveway used for access.

Patio – An unroofed structure of wood, masonry, metal, stone, asphalt, or other substance, the floor level of which is at or within one (1) foot of the finished grade.

Performance guarantee shall mean any security which may be accepted by the Township, including but not limited to surety bonds, cash and letters of credit under the circumstances specified in this chapter in lieu of a requirement that certain improvements be made before the Planning Board or other municipal agency approves a subdivision plat or site plan.

Person shall mean and include any person, individual, business entity, partnership, association, corporation, company, organization or legal entity of any kind or nature.

Planned development shall mean unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development.

Plat shall mean the map or maps of a subdivision.

Porch – A roofed, above-grade structure that may be open or enclosed and is attached to or accessible from the principal building or structure.

Preliminary approval shall mean the conferral of certain rights pursuant to Section 34, 36, and 37 of P.L. 1975, c. 291, prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

Preliminary plat shall mean the preliminary map indicating the proposed layout of the subdivision which is submitted to the administrative office for Planning Board or Board of Adjustment consideration and preliminary approval and meeting the requirements of this chapter.

Preliminary site plan shall mean the preliminary development plan indicating the proposed layout of the site which is submitted to the administrative office for Planning Board or Board of Adjustment consideration and preliminary approval and meeting the requirements of this chapter.

Principal use or structure shall mean a principal use is the primary or predominant use of any lot. A principal structure is one devoted to the principal use.

Private clubhouse shall mean a building and related facilities owned or operated by a corporation or association serving a private residential development, established for the social and recreational enrichment of its members, not for profit, whose members pay dues and meet certain prescribed qualifications for membership, and which shall include clubhouse as well as office and maintenance facilities serving the private residential community.

Private school shall mean any building or group of buildings, the use of which meets State requirements for elementary or secondary education and which does not secure the major part of its funding from any governmental agency.

Private swimming pool shall mean any artificially constructed basin or other structure for the holding of water for use by the possessor, his family or guests, for swimming, diving and other aquatic sports and recreation. The term “swimming pool” does not include any plastic, canvas or rubber pool temporarily erected upon the ground, holding less than five hundred (500) gallons of water.

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

Public areas shall mean public parks, playgrounds, trails, paths and other recreation areas; other public open spaces; scenic and historic sites; and sites for schools and other public buildings and structures.

Public school shall mean any building or group of buildings, the use of which meets State requirements for elementary or secondary education and which is part of a school district that serves as a unit for State financing and administration of elementary and secondary education.

Public utility facilities shall mean telephone and electric lines, poles, equipment and structures, water or gas pipes, mains, valves or structures, or sewer pipes, valves or structures, maintained, operated and conducted for the service, convenience, necessity, health and welfare of the general public, whether owned by any arm of the local, State or Federal government or by any privately owned public utility corporation.

Public view shall mean visible from a public thoroughfare, public lands or buildings or navigable waterways.

Quorum shall mean the majority of the full authorized membership of a municipal agency.

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

Regional business/commercial shall mean retail shopping outlets and/or general offices used, designed and intended to serve the shopping needs of the entire Township as well as additional regional demand beyond the Township boundaries.

Residential cluster shall mean an area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space as an appurtenance.

Residential Zones/Districts – Those zone districts established in this chapter and known as R-20AC, R-5AC, R-88, R-40, R-20, R-13, RMF-5, RMF-8, and RMF-15.

Resubdivision shall mean the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law, or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

Search area shall mean that geographic area (which may or may not extend beyond municipal boundary lines) within which additional wireless telecommunications facilities are required to provide reliable and adequate coverage consistent with the licensing requirements of the Federal Communications Commission (FCC).

Secondary school shall mean any school that is licensed by a governmental agency of the State and authorized to award diplomas for secondary education.

Senior housing shall mean multi-family housing designed for persons fifty-two (52) years of age or older.

Shed – An unheated and/or non-air-conditioned building, whether on a permanent or temporary foundation, designed and intended for storage, but not for storage of an automobile, and accessory to the permitted use on the premises.

Sign shall mean any device, freestanding, or attached to a building or structure or erected, painted, represented or reproduced upon or in any building or structure, which displays, reproduces or includes any letter, work, name, number, model, insignia, banner, design, device or representation used for one (1) or more of the following purposes: to identify the premises or occupant or owner of the premises; to advertise the sale or rental or use of all or any part of any premises, including that upon which it is displayed; to direct vehicular or pedestrian traffic, other than State, County or municipal highway and roadway markers, and shall include any announcement, declaration, demonstration, display, illustration, insignia or any representation used to advertise or intended to advertise or promote the interests of any person. The term “sign” shall not be construed to mean any non-illuminated sign in the interior of any structure unless specifically designated as such in the zoning regulations of this chapter.

Freestanding sign shall mean any sign which is not attached to any building.

Single ownership shall mean ownership of a separate parcel of real property, whether by one (1) person or by two (2) or more persons owning property as joint tenants, as tenants by the entirety, or as tenants in common not adjacent to land in the same ownership.

Site plan shall mean a development plan of one (1) or more lots on which is shown the information required by Section 54-28, plus any other information reasonably necessary and required in order to make an informed determination pursuant to this chapter.

Site Plan or Tenancy Committee shall mean a committee of at least three (3) Planning Board or Board of Adjustment members appointed by the chairman of the respective Board for the purpose of reviewing site plan applications for proper compliance with this chapter and reporting back to the Planning Board or Board of Adjustment as to its findings. Nothing herein shall be construed as granting power to the Site Plan Committee to give any approvals or agree to any modifications of the preliminary site plan requirements. Notwithstanding any other provision of this chapter, the Committee's power and authority shall be limited to recommendation to the entire Board for action or final decision.

Story shall mean that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Story above grade shall mean any story having its finished floor surface above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is (1) more than six (6) feet above grade plane; (2) more than six (6) feet above the finished ground level for more than fifty (50%) percent of the total building perimeter; or (3) more than twelve (12) feet above the finished ground level at any point.

Street shall mean any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing State, County or municipal roadway; which is shown upon a plat heretofore approved pursuant to law; which is approved by official action as provided by this chapter; or which is shown on a plat duly filed and recorded in the office of the County Recording Officers prior to the appointment of a planning Board and the grant to such Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

Within and adjacent to the R-B district, the following terms are also used for streets:

- a. *Access roads* shall mean those roads which provide access to parking areas from throat roads and ring roads which service only the internal circulation of designated parking areas.
- b. *Public thoroughfare* shall mean Mt. Hope Avenue and Mt. Pleasant Avenue.
- c. *Ring road* shall mean the circumferential collector street circumscribing the mall entity and all ancillary parking areas inside said collector street.
- d. *Throat roads* shall mean those three (3) divided streets which connect Mt. Hope Avenue with the ring road and those two (2) divided streets which connect Mt. Pleasant Avenue with the ring road.

Street sideline shall mean the outermost line of the whole area devoted to street purposes on either side thereof. Street sideline is synonymous with street right-of-way line, but generally throughout this chapter, the former is used in conjunction with existing streets and the latter is used in conjunction with proposed streets.

Structure shall mean 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.

Subdivider shall mean any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or for another.

Subdivision shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter, if no new streets are created:

- a. Divisions of land found by the Planning Board or Subdivision Committee to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size;
- b. Divisions of property by testamentary or intestate provisions;
- c. Divisions of property by court order, including but not limited to judgments of foreclosures;

- d. Consolidation of existing lots by deed or other recorded instrument;
- e. The conveyance of one (1) or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the Administrative Officer to conform to the requirements of this chapter and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the Township. The term “subdivision” shall also include the term “resubdivision”.

Subdivision Committee shall mean a Committee of at least three (3) Planning Board members appointed by the Chairman of the Board for the purpose of reviewing subdivisions in accordance with the provisions of this chapter and such other duties relating to land subdivision which may be conferred on this Committee by the Board and the Board’s by-laws. Notwithstanding any other provision of this chapter, the Committee’s power and authority shall be limited to recommendation to the entire Board for action or final decision.

Temporary Storage Container – A portable containerized property storage facility or unit intended to be temporarily utilized upon the exterior of residential premises only as provided and regulated at Section 54-30.8.b.6 (a) for the purpose of storing all types of items of personal and household property either to facilitate movement of such property to commercial storage facilities or to facilitate the moving of persons from household unit to household unit.

Tower height shall mean height measured from the lowest finished graded at the base of the tower to the highest point on the tower or antenna, excluding 10-foot lightning arrester.

Townhouse – See Dwelling Unit Types above.

Trailer - A container which may be transported over the road by traction and which is used or may be used for purposes of hauling goods, objects or materials of any kind.

Transcript shall mean the typed or printed verbatim record of the proceedings or reproduction thereof.

Wireless telecommunications antenna shall mean a system of electrical conductors that transmit or receive radio frequency signals, digital signals, analog signals or electromagnetic waves for wireless communications.

Wireless telecommunications equipment compound shall mean a fenced-in area which houses any combination of wireless telecommunications structures, buildings, antennas, equipment and/or towers.

Wireless telecommunications structures, antennas, equipment and/or towers shall mean buildings and/or structures and equipment for the receiving, sending or conditioning of wireless telecommunications except for satellite dish antennas, which shall be regulated under subsection 54-30.9a of the Land Use and Development Ordinance of the Township of Rockaway. For purposes of this definition, wireless telecommunications structures, antennas, equipment and/or towers may be collectively referred to herein as “wireless telecommunications facilities.” This definition shall not include any tower height, as defined herein that is under sixty (60) feet and which is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

Wireless telecommunications tower shall mean a vertical structure designed for intended to support wireless telecommunications antennas.

Yard, front shall mean an open, unoccupied space (unless occupied by a use or structure specifically permitted by this chapter) extending across the full width of any lot and lying between the street right-of-way and the nearest line of any building on such lot. On corner lots, any yards facing any abutting streets shall be deemed front yards for the purposes of this chapter.

Yard, rear shall mean an open, unoccupied space (unless occupied by a use or structure specifically permitted by this chapter), extending across the full width of any lot between the rear line of any principal building thereon and the rear lot line of the lot.

Yard, side shall mean an open, unoccupied space (unless occupied by a use or structure specifically permitted by this chapter), located between the front yard and the rear yard of any lot and between either side lot line and the side line of the principal building nearest thereto.

(Ord. No. 95-20 § 4; Ord. No. 95-24 § 54-4; Ord. No. 98-1 § 1; Ord. No. 99-19 §§ 2, 8, 9; Ord. No. 00-19 § 2; Ord. No. 05-10 §§ 1, 2; Ord. No. 05-10A §§ 1, 2; Ord. No. 11-3; Ord. No. 12-16 §§ 1,2 Ord. No. 13-07)

54-4.2 Terms and Word Usage.

In the construction of this chapter, the present tense shall include the future, the singular number shall include the plural and the plural the singular. The word “shall” is always used in its mandatory and its permissive sense. The word “used” shall include the words “arranged, designed or intended to be used.” Whenever a term or word used in this chapter is not

specifically defined in this section, but is defined in the Municipal Land Use Law, c.291, P.L. 1975, such term or word shall be given the meaning set forth in the definition of same as found in said law, unless a different meaning is clearly indicated from the context of this chapter.
(Ord. No. 95-24 § 54-5)

54-5 PLANNING BOARD.

54-5.1 Planning Board Established.

There is hereby established in the Township of Rockaway a Planning Board of nine (9) members and two (2) alternates, pursuant to the Municipal Land use Law.
(Ord. No. 95-24 § 54-6)

54-5.2 Membership; Appointment.

The Planning Board shall consist of four (4) classes of members, plus alternates, as follows:

- a. Class I: The Mayor of the Township.
- b. Class II: One (1) of the officials of the Township other than a member of the Township Council, to be appointed by the Mayor.
- c. Class III: A member of the Township Council to be appointed by it.
- d. Class IV: Six (6) citizens of the Township of Rockaway to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment, except that one (1) such member may be a member of the Zoning Board of Adjustment, and one (1) such member may be a member of the Board of Education. For the purpose of this qualification, membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by stated, shall not be considered the holding of municipal office.
- e. One (1) member of the Environmental Commission shall be a Class IV member, unless there be among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member common to the

Planning Board and the Environmental Commission shall be deemed a Class II member.

- f. There shall be two (2) alternate members of the Planning Board appointed by the Mayor. Alternate members shall meet the qualifications of Class IV members of the Planning Board. Alternate members shall be designated at the time of appointment by the Mayor as “Alternate No. 1” and Alternate No. 2”.

(Ord. No. 95-24 § 54-6A)

54-5.3 Terms of Office.

The terms of office for Planning Board members shall be as follows:

- a. The term of the Class I member shall correspond to his official tenure.
- b. The term of the Class II and Class III members shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission.
- c. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.
- d. The term of a Class IV member who is also a member of the Zoning Board of Adjustment or Board of Education shall terminate when he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.
- e. The term of all Class IV members shall be for four (4) years, except as provided otherwise herein.
- f. The term of alternate members shall be for two (2) years.
- g. All terms shall run from January 1 of the year in which the appointment is made.
- h. Nothing contained herein shall affect the terms of any present members of the Planning Board, all of whom shall

continue as members until the completion of the terms for which they were appointed.

(Ord. No. 95-24 § 54-6B)

54-5.4 Planning Board Committees.

A Minor Site Plan Committee and Minor Subdivision Committee may be established by the Planning Board Chairperson in accordance with § 54-8 and § 54-9, respectively, for the purpose of reviewing, reporting, and making recommendations to the full Board regarding site plan and subdivision applications pending before the Board. The Planning Board Chairperson may also appoint from among the members of the Board such other committees as the Chairperson may deem advisable in carrying out the functions of the Planning Board.

(Ord. No. 95-24 § 54-6C; Ord. No. 13-07)

54-5.5 Citizens' Advisory Committee.

The Mayor may appoint one (1) or more persons as a citizens' advisory committee to assist or collaborate with the Planning Board in its duties. Such person(s) shall have no power to vote or take other action required of the Planning Board. Such person(s) shall serve at the pleasure of the Mayor.

(Ord. No. 95-24 § 54-6D)

54-5.6 Powers and Duties of the Planning Board.

The Planning Board shall follow the provisions of the Municipal Land use Law and this chapter, and accordingly shall have authority to:

- a. Prepare, adopt, and amend a master plan or component part thereof;
- b. Exercise control over and review of subdivisions, site plans and conditional uses, including certain variances and building permits. Notwithstanding the above, the Planning Board shall not have the power to review and approve site plans, subdivisions or conditional uses when such applications involved a "D" variance;
- c. Perform informal review of concept plans for development as provided this chapter;
- d. Make recommendations to the Township Council concerning adoption or amendment of development regulations and an Official Map;

- e. Direct the issuance of building permits for buildings or structures in certain areas shown on an Official Map, when such building permits also require subdivision, site plan or conditional use approval;
- f. Direct the issuance of building permits for buildings or structures on a lot not related to a street, when such building permits also require subdivision, site plan or conditional use approval;
- g. Make recommendations to the Township Council concerning the relationship of capital projects to the Master Plan;
- h. Prepare a capital improvements program, if authorized by the Township Council;
- i. Participate in the preparation and review of programs or plans required by State or Federal law or regulation;
- j. Assemble data on a continuing basis as part of a continuous planning process; and
- k. Perform such other advisory duties as are assigned to it by ordinance or resolution of the Township Council for the aid and assistance of the Township Council or other agencies or officers.

(Ord. No. 95-24 § 54-6E)

54-6 ZONING BOARD OF ADJUSTMENT.

54-6.1 Zoning Board of Adjustment Established.

There is hereby established in the Township of Rockaway a Zoning Board of Adjustment of seven (7) members and four (4) alternates, pursuant to the Municipal Law Use Law.

(Ord. No. 95-24 54-7; Ord. No. 05-6 § 1)

54-6.2 Membership; Appointment.

Qualifications for and appointment as members of the Zoning Board of Adjustment shall be as follows:

- a. No member may hold any elective office or position under the municipality.
- b. All members shall be citizens of the Township of Rockaway.

- c. All members shall be appointed by the Township Council.
- d. Alternate members shall be designated as “Alternate no. 1”, “Alternate No. 2,” “Alternate No. 3,” and “Alternate No. 4” by the Township Council at the time of appointment.

(Ord. No. 95-24 § 54-7A; Ord. No. 05-6 § 2)

54-6.4 Powers and Duties of the Zoning Board of Adjustment.

The Zoning Board of Adjustment shall follow the provisions of the Municipal Land Use Law and this chapter, and accordingly shall have authority to:

- a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning regulations;
- b. Hear and decide requests for interpretation of the Zoning Map or zoning regulations or for decisions upon other special questions upon which the Board is authorized to pass by any zoning regulation or official map regulation, in accordance with this chapter and the Municipal Land Use Law;
- c. Hear and decide requests for variances. Notwithstanding the above, the Zoning Board of Adjustment shall not have the power to hear and decide variances if the application also requires subdivision, site plan or conditional use approval, unless the application involves a “D” variance;
- d. Exercise control over and review of subdivisions, site plans and conditional uses, only when such applications involved a “D” variance;
- e. Direct the issuance of building permits for buildings or structures in certain areas shown on an Official Map, unless such building permits also require subdivision, site plan or conditional use approval;
- f. Direct the issuance of building permits for buildings or structures on a lot not related to a street, unless such building permits also require subdivision, site plan or conditional use approval; and

- g. Prepare at least once a year, a report for the Township Council and Planning Board, based upon its review of its decisions on applications and appeals for variances since any previous report. The report shall be adopted by resolution of the Zoning Board of Adjustment, and shall comment on the zoning regulations which were the subject of variance requests, and shall make recommendations for any amendments to the zoning regulations that the Board may deem appropriate based upon prior variance applications.

(Ord. No. 95-24 § 54-7C)

54-7 PROVISIONS APPLICABLE TO BOTH THE PLANNING BOARD AND THE ZONING BOARD OF ADJUSTMENT.

The following provisions shall apply to both the Planning Board and the Zoning Board of Adjustment:

54-7.1 Vacancies.

A vacancy in any membership position, including alternate members, occurring otherwise than by expiration of term shall be filled for the unexpired term only. Appointment of members to fill vacant positions shall be as above provided.

(Ord. No. 95-24 § 54-8A)

54-7.2 Removal of Members.

Any member or alternate member, other than the Class I member of the Planning Board, after a public hearing if requested by the member, may be removed by the Township Council for cause. Such hearing shall be conducted pursuant to the dictates of due process. The accused member shall receive at least thirty (30) days written notice of the hearing, which notice shall include the specific charges made. The accused member shall have the right to counsel. In the event that any member(s) of the Council have brought charges, the Council member(s) shall not participate in the removal hearing or action.

(Ord. No. 95-24 § 8B)

54-7.3 Officers.

Each Board shall elect a chairperson and vice-chairman from their members, provided that in the case of the Planning Board, only Class IV members may hold such positions. Each Board shall select a secretary, who may either be a member of the Board or a municipal employee.

(Ord. No. 95-24 § 54-8C)

54-7.4 Attorney, Other Experts and Staff.

There is hereby created the positions of Attorney for the Planning Board and Attorney for the Zoning Board of Adjustment. Each Board may employ, or contract for, and fix the compensation of legal counsel to fill such positions, who shall not be the Township Attorney.. Each Board may also employ, or contract for, and fix the compensation of a licensed professional planning consultant or such other additional experts, staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriate by the Township Council for the Board's use.
(Ord. No. 95-24 § 54-8D)

54-7.5 Funding of Expenses.

The Township Council shall make provision in its budget and appropriate funds for the expenses of the Planning Board and the Zoning Board of Adjustment.
(Ord. No. 95-24- § 54-8D)

54-7.6 Rules and Regulations.

Each Board shall adopt, and may amend reasonable rules and regulations, not inconsistent with this chapter, the Municipal Land Use Law or with any applicable ordinance, for the administration of its functions, powers and duties. A copy of the rules shall be maintained in the office of the Administrative Officer, and shall be furnished to any person upon request. A reasonable fee may be charge for provision of a copy of the rules.
(Ord. No. 95-24 § 54-8F)

54-7.7 Meetings.

The following provisions shall apply to the meetings of the Planning Board and the Zoning Board of Adjustment:

- a. *Schedule of Meetings; Special Meetings.* Each Board shall by its rules fix the time and place for holding its regular meetings. Regular meetings of each Board shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development to process. The schedule of meeting shall be filed with the Township Clerk, posted upon the Township bulletin board, and sent to two (2) newspapers with circulation in the Township, one of which shall be the official newspaper of the Township.

- b. *Meetings Open to Public; Executive Sessions.* All regular meetings and special meetings shall be open to the public except to the extent that the public may be excluded from any such meeting or portion thereof in accordance with requirements of the Open Public Meetings Act (P.L. 1975, c. 231, N.J.S. 10:4-6 et seq.). Meetings shall be held on notice to the Board members and the public in accordance with this chapter and the Open Public Meetings Act. An executive session for the purpose of discussing and studying any matters to come before the agency shall not be deemed a regular or special meeting within the meeting of this chapter.
- c. *Quorum; Conflict of Interest; Appointment of Additional Members.* No action shall be taken at any meeting without a quorum being present. No regular, alternate or temporary member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.

If the Planning Board lacks a quorum because any of its regular or alternate members is prohibited from acting on a matter due to a conflict of interest, regular members of the Zoning Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Planning Board. Regular members of the Zoning Board of Adjustment shall be called in order of seniority of continuous service to the Zoning Board of Adjustment. If a choice has to be made between regular members of equal seniority, the Chairman of the Zoning Board of Adjustment shall make the choice. There shall be called only the minimum number of members of the Zoning Board of Adjustment as are necessary to establish a quorum of the Planning Board to act on the matter.

If the Zoning Board of Adjustment lacks a quorum because any of its regular or alternate members is prohibited from acting on a matter due to a conflict of interest, Class IV members of the Planning Board shall be called upon to serve, for that matter only, as temporary members of the Zoning Board of Adjustment. Class IV members of the Planning Board shall be called in order of seniority of continuous service to the Planning Board. If a choice has to be made between Class IV members of equal seniority, the Chairman of the Planning Board shall make the choice. There shall be called only the minimum number of Class IV members of the Planning Board as are necessary to establish a quorum of the Zoning Board of Adjustment to act on the matter.

- d. *Majority Vote Required.* All actions shall be taken by a majority vote of the members of the Board present at the meeting, except as otherwise provided by this chapter and the Municipal Land Use Law.

- e. *Participation of Alternate Members.* Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of regular members. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, the alternates shall vote in sequential order, with Alternate No. 1 voting first.

- f. *Minutes.* Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be available for public inspection during normal business hours at the office of the Administrative Officer after their approval by the Board. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for his use.

(Ord. No. 95-24 § 54-8G; Ord. No. 05-6 § 3)

54-7.8 Exclusive Authority of Boards.

Any power expressly authorized by this chapter or the Municipal Land Use Law to the Planning Board or the Zoning Board of Adjustment shall not be exercised by any other body, except as otherwise provided by the Municipal Land Use Law.

(Ord. No. 95-24 § 54-8H)

54-8 Minor Site Plan Committee; Tenancy Review

54-8.1 Minor Site Plan Committee.

- a. Establishment: An advisory committee, to be known as the “Minor Site Plan Committee,” is hereby established for the purpose of reviewing site plan applications for proper compliance with this chapter and reporting back to the Planning Board as to its findings, but without power to take official action required of the Planning Board.

- b. Membership; Terms.

1. The Minor Site Plan Committee shall consist of at least three (3) Planning Board members, who shall be appointed by and serve at the pleasure of the Planning Board Chairperson.
 2. All appointments of members, except to fill vacancies, shall take effect upon the first of January of each year, for the length of his/her official tenure as a member of the Planning Board. If a vacancy shall occur otherwise other than by an expiration of term, it shall be filled by appointment, as above provided, for the unexpired term.
- c. Powers and Duties: The Minor Site Plan Committee shall follow the provisions of this chapter and shall accordingly exercise its power as follows:
1. All applications for minor site plan approval filed with the Planning Board shall be reviewed by the Minor Site Plan Committee prior to those applications being presented to the Board in order to determine compliance with the ordinances of the Township of Rockaway and the statutes of the State of New Jersey as they pertain to land development.
 2. Within thirty (30) days of receipt of the site plan, the Committee shall issue to the Planning Board a written report which will advise the Board whether or not the Committee, in its opinion, determines that the application is in compliance with the ordinances of the Township of Rockaway and the laws of the State of New Jersey as they pertain to land development.
 3. Further, the Committee shall offer its opinion as to the acceptability of the plan of land development presented by the applicant.
 4. Nothing herein shall be construed as granting power to the Minor Site Plan Committee to give any approvals or agree to any modifications of the preliminary site plan requirements. Notwithstanding any other provision of this chapter, the Committee's power and authority shall be limited to recommendation to the entire Board for action or final decision.
- d. Employment of Counsel, Experts and Staff. Subject to the prior approval of the Planning Board, the Minor Site Plan Committee may employ, or contract for, and fix the compensation of legal counsel, who shall not be the Township Attorney, as well as such other experts, staff and services as it may deem necessary. The Committee

shall not authorize expenditures which exceed, exclusive of grants, the amount appropriated by the Planning Board for its use.

54-8.2 Tenancy Review.

- a. Tenancy applications for a change in occupancy or for a change from a permitted use to another permitted use which does not generate or result in any need for variance relief or involve any exterior alterations for an existing nonresidential building shall be reviewed administratively by the Zoning Officer.
- b. The Zoning Officer may, as appropriate, refer the application to one (1) or more of the following Township employees or consultants: Construction Code Official; Traffic Safety Officer; Police Department; Township Engineer; Utility Superintendent; Health Officer; Fire Official; and/or Township Planner.
(Ord. No. 13-17)

54-9 Minor Subdivision Committee.

54-9.1 Establishment.

An advisory committee, to be known as the “Minor Subdivision Committee,” is hereby established for the purpose of reviewing subdivision applications for proper compliance with this chapter and reporting back to the Planning Board as to its findings, but without power to take official action required of the Planning Board.

54-9.2 Membership; Terms.

- a. The Minor Subdivision Committee shall consist of at least three (3) Planning Board members, who shall be appointed by and serve at the pleasure of the Planning Board Chairperson.
- b. All appointments of members, except to fill vacancies, shall take effect upon the first of January of each year, for the length of his/her official tenure as a member of the Planning Board. If a vacancy shall occur otherwise other than by an expiration of term, it shall be filled by appointment, as above provided, for the unexpired term.

54-9.3 Powers and Duties.

The Minor Subdivision Committee shall follow the provisions of this chapter and shall accordingly exercise its power as follows:

- a. All applications for minor subdivision approval filed with the Planning Board shall be reviewed by the Minor Subdivision Committee prior to those applications being presented to the Board in order to determine compliance with the ordinances of the Township of Rockaway and the statutes of the State of New Jersey as they pertain to land development.
- b. Within thirty (30) days of receipt of the plat, the Committee shall issue to the Planning Board a written report which will advise the Board whether or not the Committee, in its opinion, determines that the application is in compliance with the ordinances of the Township of Rockaway and the laws of the State of New Jersey as they pertain to land development.
- c. Further, the Committee shall offer its opinion as to the acceptability of the plan of land development presented by the applicant.
- d. Notwithstanding any other provision of this chapter, the Committee's power and authority shall be limited to recommendation to the entire Board for action or final decision.

54-9.4 Employment of Counsel, Experts and Staff.

Subject to the prior approval of the Planning Board, the Minor Subdivision Committee may employ, or contract for, and fix the compensation of legal counsel, who shall not be the Township Attorney, as well as such other experts, staff and services as it may deem necessary. The Committee shall not authorize expenditures which exceed, exclusive of grants, the amount appropriated by the Planning Board for its use.

(Ord. No. 13-17)

54-10—54-13 RESERVED

54-14 HEARINGS.

54-14.1 When Required.

Public hearings shall be required for the following:

- a. The Planning Board or Zoning Board of Adjustment, as applicable, shall hold a hearing on each application for development.

- b. The Planning Board shall hold a hearing on any adoption, revision or amendment of the Master Plan.
- c. The Planning Board of Township Council, as applicable, shall hold a hearing on any adoption, revision or amendment of the capital improvement program.
- d. The Zoning Board of Adjustment shall hold a hearing on appeal from the action of the Administrative Officer or other administrative appeal within its jurisdiction.
- e. The Zoning Board of Adjustment shall hold a hearing on every request for an interpretation of the zoning regulations or request pertaining to a special question within the Board's jurisdiction.
- f. The Township Council shall hold a hearing on any adoption, revision or amendment of this chapter or any other development regulations, including all modifications of zoning requirements initiated at the request of a private party and changes to the classification or boundaries of a zoning district pursuant to N.J.S.A. 40:55D-62.1.
- g. The Township Council shall hold a hearing on appeal from the action of the Zoning Board of Adjustment approving an application for development involving a "D: variance.

(Ord. No. 95-24 § 54-9; Ord. No. 04-21 § 1)

54-14.2 Rules, Hearing Dates.

The agency holding the hearing shall make the rules governing such hearings. Upon the filing of an appeal or complete application, the appropriate agency shall schedule a hearing date in accordance with its rules.

(Ord. No. 95-24 § 54-10)

54-14.3 Notice of Hearing; When Required.

Public notice as specified herein shall be given for all hearings involving the following:

- a. Any application for development which involves a request for a variance;
- b. An application for concept plan review;

- c. An application for preliminary site plan approval, exclusive of a minor site plan;
- d. An application for preliminary major subdivision approval;
- e. The adoption, revision or amendment of the Master Plan, including informal discussions for same initiated at the request of a private party;
- f. The adoption, revision or amendment of this chapter or any other development regulation, including informal discussions for same initiated at the request of a private party, all modifications of zoning requirements initiated at the request of a private party and changes to the classification or boundaries of a zoning district pursuant to N.J.S.A. 40:55D-62.1;
- g. The adoption, revision or amendment of the capital improvement program;
- h. Any appeal to the Township Council from the action of the Zoning Board of Adjustment approving an application for development involving a “D” variance.

(Ord. No. 95-24 § 54-11; Ord. No. 04-21 § 2)

54-14.4 Notice of Hearings for Development Applications.

The following provisions shall apply to public notice of hearings for development applications:

- a. *Content.* Public notice of hearings for development applications, including variance applications, shall state the following:
 - 1. The date, time and place of the hearing;
 - 2. The nature of the matters to be considered;
 - 3. An identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Township Tax Assessor’s office; and
 - 4. The location and times at which any maps and documents for which approval is sought are available for inspection in the office of the Administrative Officer.

b. *Service of Notice; Parties Entitled to Notice.* Public notice shall be given by the applicant. Notice shall be given at least ten (10) days prior to the date of the hearing. The date of the hearing shall not count as one of the ten (10) days. Public notice shall be given by publication in the official newspaper of the Township, if there be one, or in a newspaper of general circulation in the Township. Notice shall also be given to members of the public as follows:

1. Notice of hearing shall be given to the owners, as shown on the current tax duplicates, of all real property located within the State and within two hundred (200) feet in all directions of the property which is the subject of such hearing. This requirement shall be deemed satisfied by notice to the 1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or 2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given as follows:

(a) Notice shall be given by 1) serving a copy thereof on the property owner as shown on the current tax duplicate, or his agent in charge of the property, or 2) mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate.

(b) Notice to a partnership owner may be made by service upon any partner.

(c) Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

(d) Notice to a condominium association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas.

2. Notice of hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.
3. Notice shall be given by personal service or certified mail to the County Planning Board of hearings on applications for development involving property adjacent to an existing County road or proposed road shown on the official County map or on the County master Plan, adjoining other County land or situated within two hundred (200) feet of a municipal boundary.
4. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development involving property adjacent to a State highway.
5. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds one hundred and fifty (150) acres or five hundred (500) dwelling units. The notice shall include a copy of any maps or documents required to be on file with the Administrative Officer pursuant to the checklists contained in Section 54-28.
6. Notice of hearings on an application for development involving a major subdivision or preliminary site plan, excluding minor site plans, shall be given to a public utility, cable television company or local utility which possesses a right-of-way or easement within the Township and which has registered with the Township in accordance with the Municipal Land Use Law, by: 1) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or 2) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.

- c. *Request for Certified List of Property Owners Within Two Hundred (200) Feet.* Upon written request of an applicant,

the Administrative Officer shall, within seven (7) days, make and certify a list from the current tax duplicates of the names and addresses of owners to whom the applicant is required to give notice. In addition, the Administrative Officer shall include on the list the name, addresses and positions of those persons who, not less than seven (7) days prior to the date on which the applicant requested the list, have registered to receive notice as a public utility, cable television company or local utility. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner or to any public utility, cable television company or local utility not on the list shall not invalidate any hearing or proceeding.

- d. *Effect of Mailing Notice.* Any notice made by certified mail as stipulated above shall be deemed complete upon mailing.
- e. *Proof of Service of Notice.* The applicant for development shall file an affidavit of proof of service with the Planning Board of the Zoning Board of Adjustment, as appropriate, at least two (2) days prior to the date of the hearing for which notice is required.

(Ord. No. 95-24 § 54-12)

54-14.5 Notice of Hearings for the Master Plan.

The following provisions shall apply to public notice of hearings for adoption, revision or amendment of the Master Plan:

- a. *Content.* Public notice of hearings for adoption, revision or amendment of the Master Plan shall state the following:
 - 1. The date, time and place of the hearing;
 - 2. The nature of the matters to be considered; and
 - 3. The location and times at which any maps and documents which are the subject of the adoption, revision or amendment are available for inspection in the office of the Administrative Officer.
- b. *Service of Notice; Parties Entitled to Notice.* Notice shall be given by the Planning Board at least ten (10) days prior to the date of the hearing. The date of the hearing shall not count as one of the ten (10) days. Public notice shall be given by publication in the official newspaper of the

Township, if there be one, or in a newspaper of general circulation in the Township. Notice shall also be given to the following parties as specified below:

1. Notice shall be given by personal service or certified mail to the clerk of an adjoining municipality of all hearings on adoption, revision or amendment of a Master Plan involving property situated within two hundred (200) feet of such adjoining municipality.
2. Notice shall be given by personal service or certified mail to the County Planning Board of all hearings on the adoption, revision or amendment of the Township Master Plan. Such notice shall include a copy of any such proposed Master Plan, or any revision or amendment thereto.
3. Notice shall be given by personal service or certified mail to the County Planning Board of the adoption, revision or amendment of the Township Master Plan. Such notice shall be given not more than thirty (30) days after the date of such adoption, revision or amendment and shall include a copy of the Master Plan, or revision or amendment thereto.

- c. *Effect of Mailing Notice.* Any notice made by certified mail as stipulated above, shall be deemed complete upon mailing.

(Ord. No. 95-24 § 54-13)

54-14.6 Notice of Hearings for Development Regulations or Capital Improvement Program.

The following provisions shall apply to public notice of hearings for capital improvement programs or adoption, revision or amendment of this chapter and other development regulations, except modifications of zoning requirements initiated at the request of a private party and changes to the classification or boundaries of a zoning district pursuant to N.J.S.A. 40:55D-62.1:

- a. *Content.* Public notice of hearings for capital improvement programs or adoption, revision or amendment of this chapter and other development regulations, except modifications of zoning requirements initiated at the request of a private party and changes to the classification or boundaries of a zoning district pursuant to N.J.S.A. 40:55D-62.1, shall provide the following:

1. A statement of the date, time and place of the hearing;
2. A statement of the nature of the matters to be considered; and
3. The location and times at which any maps and documents which are the subject of the adoption, revision or amendment are available for inspection in the office of the Administrative Officer. In the case of notice to the County Planning Board, a copy of the proposed or adopted development regulation, official map, capital improvement program or any proposed or adopted revision or amendment thereto, as the case may be, shall be included with the notice.

b. *Service of Notice; Parties Entitled to Notice.* Notice shall be given by the Township Council at least ten (10) days prior to the date of the hearing. The date of the hearing shall not count as one of the ten (10) days. Notice shall be given to the following parties as specified below:

1. Notice shall be given by personal service or certified mail to the clerk of an adjoining municipality of all hearings on adoption, revision or amendment of any development regulation involving property situated within two hundred (200) feet of such adjoining municipality.
2. Notice shall be given by personal service or certified mail to the County Planning Board of all hearings on the adoption, revision or amendment of any development regulation.
3. Notice shall be given by personal service or certified mail to the County Planning Board of the adoption, revision or amendment of the Township capital improvement program or official map. Such notice shall be given not more than thirty (30) days after the date of such adoption, revision or amendment.

c. *Effect of Mailing Notice.* Any notice made by certified mail as stipulated above shall be deemed complete upon mailing.

(Ord. No. 95-24 § 54-14; Ord. No. 04-21 § 3)

54-14.6.1 Notice of Hearings for Modifications of Zoning Requirements Initiated at the Request of a Private Party, Except Changes to Classification or Boundaries of a Zoning District Pursuant to N.J.S.A. 40:55D-62.1.

The following provisions shall only apply to public notice of hearings for modifications of zoning requirements initiated at the request of a private party, except changes to the classification or boundaries of a zoning district pursuant to N.J.S.A. 40:55D-62.1:

- a. *Content.* Public notice of hearings shall state the following:
 1. The date, time and place of the hearing;
 2. The nature of the matters to be considered;
 3. An identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Township Tax Assessor's office; and
 4. The location and times at which any maps and documents for which approval is sought are available for inspection in the office of the Administrative Officer.

- b. *Service of Notice; Parties Entitled to Notice.* Public notice shall be given by the party who requested the modification of the zoning requirement. Notice shall be given at least ten (10) days prior to the date of the hearing. The date of the hearing shall not count as one of the ten (10) days. Public notice shall be given by publication in the official newspaper of general circulation in the Township. Notice shall also be given by the party who requested the modification of the zoning requirement to members of the public as follows:
 1. Notice of the hearing shall be given to the owners, as shown on the current tax duplicates, of all real property located within the State and within two hundred (200) feet in all directions of the property which is the subject of such hearing. Notice shall be given as follows:
 - (a) Notice shall be given by 1) serving a copy thereof on the property owner as shown on the current tax duplicate, or his agent in charge of the

property, or 2) mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate.

- (b) Notice to a partnership owner may be made by service upon any partner.
 - (c) Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
 - (d) Notice to a condominium association, horizontal property regime, community trust or homeowner's association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation, in addition to notice to unit owners, co-owners, or homeowners on account of such common elements or areas.
- c. *Request for Certified List of Property Owners Within Two hundred (200) Feet.* Upon written request of a private party who is initiating modifications of zoning requirements, the Administrative Officer shall, within seven (7) days, make and certify a list from the current tax duplicates of the names and addresses of owners to whom the party is required to give notice. The party shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing.
 - d. *Effect of Mailing Notice.* Any notice made by certified mail as stipulated above shall be deemed complete upon mailing.
 - e. *Proof of Service of Notice.* The party shall file an affidavit of proof of service with the Township Council at least two (2) days prior to the date of the hearing for which notice is required.

(ord. No. 04-21 § 4)

54-14.6.2 Notice of Hearings for Modifications of Zoning Requirements Including Only Changes to Classification or Boundaries of a Zoning District Pursuant to N.J.S.A. 40:55D-62.1.

All public notice of hearings for the modification of zoning requirements including only changes to the classification or boundaries of a zoning district shall be in accordance with the notice requirements of N.J.S.A. 40:55D-62.1. (Ord. No. 04-21 § 5)

54-14.7 Filing of Maps and Documents; Deadline.

Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing, during normal business hours in the office of the Administrative Officer. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents. (Ord. No. 95-24 § 54-15)

54-14.8 Witnesses; Evidence.

The following provisions shall govern the testimony of witnesses and production of evidence at hearings conducted pursuant to this chapter:

- a. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties. The provisions of the “County and Municipal Investigations Law,” P.L. 1953, c. 38 (C.2A:67A-1 et seq.) shall apply.
- b. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer. The right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- c. Technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.

(Ord. No. 95-24 § 54-16)

54-14.9 Voting Procedures.

The following provisions shall be the voting procedures for public hearings held pursuant to this chapter. Noting herein shall be construed to contravene any act providing for procedures for governing bodies.

- a. All actions shall be taken by a majority vote of the members present at the hearing, except as otherwise provided by this chapter and the Municipal Land Use Law.
- b. A member of the Township agency who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, if such member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the agency that he has read such transcript or listened to such recording.
- c. Failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application.

(Ord. No. 95-24 § 54-17)

54-14.10 Record of Proceedings.

The Township agency conducting the hearing shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The agency shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense, pursuant to the fees established by this chapter. The transcript shall be certified in writing by the transcriber to be accurate.

(Ord. No 95-24 § 54-18)

54-14.11 Record of Decision.

The Township agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The township agency shall provide the findings and conclusions through either: 1) a resolution adopted at a meeting held within the time period provided in this chapter for action by the Township agency on the application for development, 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 Township agency voted to grant or deny approval. The following provisions shall apply to memorializing resolutions:

- a. Only the members of the Township agency 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.

- b. An action to deny resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.
- c. The vote on any memorializing resolution shall be deemed to be a memorialization of the action of the Township agency and not to be an action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required below.

(Ord. No. 95-24 § 54-19)

54-14.12 Failure to Adopt Resolution.

If the Township agency fails to adopt a resolution or memorializing resolution as hereinabove specified, 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 to Superior Court, including attorney's fees, shall be assessed against the Township.

(Ord. No. 95-24 § 54-20)

54-14.13 Mailing, Filing and Publication of Decision.

Following adoption of the resolution of the Township agency, the resolution shall be mailed, filed and published as follows:

- a. A copy of the decision shall be mailed by the Township agency within ten (10) days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge, and to all who request a copy of the decision, for a fee as specified in Section 54-15.
- b. A copy of the decision shall also be filed by the Township agency in the office of the Township Clerk. The Township Clerk shall make a copy of such filed decision available to any interested party for a fee as specified in Section 54-15, and available for public inspection at his office during the hours of 9:00 a.m. to 4:00 p.m.
- c. A brief notice of the decision shall be published in the official newspaper of the Township, if there be one, or in a newspaper of general circulation in the Township. Such publication shall be arranged by the Township Clerk;

provided that nothing contained in this chapter shall be construed as preventing the applicant from arranging such publication if he so desires. The Township shall charge the applicant the cost of the publication. The published notice shall include a statement advising that copies of the resolution of the Board have been filed in the office of the Board and in the office of the Town Clerk, and that such copies are available for inspection at the offices.

(Ord. No. 95-24 § 54-21)

54-14.14 Fees and Payments to be Paid Prior to Approval.

All permits, determinations, resolutions or certificates of approval are subject to the payment of all fees provided for in this chapter. No approvals shall be given by any Township agency until proof has been submitted to the agency that the requisite fees have been paid to the Administrative Officer.

(Ord. No. 95-24 § 54-22)

54-14.15 Payment of Taxes and Assessments Prior to Approval.

It shall be a condition of any approval by a Township agency pursuant to this chapter that proof be submitted that no taxes or assessments for local improvements are due or delinquent on the property for which any approval is sought.

(Ord. No. 95-24 § 54-23)

54-14.16 Disclosure of Ownership Required.

A corporation or partnership applying to the Planning Board, Zoning Board of Adjustment or to the Township Council, as provided herein, for permission to subdivide a parcel of land into six (6) or more lots, or applying for a variance to construct a multiple dwelling of twenty-five (25) or more family units or for approval of a site to be used for commercial purposes, shall disclose the ownership of the corporation or partnership as follows:

- a. The corporation shall list the names and addresses of all stockholders or individual partners owning at least ten (10%) percent of its stock of any class or at least ten (10%) percent of the interest in the partnership, as the case may be.
- b. If a corporation or partnership owns ten (10%) percent or more of the stock of a corporation, or ten (10%) percent or greater interest in a partnership, subject to disclosure pursuant to this section, that corporation or partnership shall list the names and addresses of its stockholders holding ten (10%) percent or more of its stock or of ten (10%)

percent or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the non-corporate stockholders and individual partners exceeding the ten (10%) percent ownership criterion established in this section have been listed.

- c. The Planning Board, Zoning Board of Adjustment or Township Council shall not approve any application of any corporation or partnership that does not comply with the provisions of this section.
- d. Any corporation which conceals the names of the stockholders owning ten (10%) percent or more of its stock, or of the individual partners owning a ten (10%) percent or greater interest in the partnership, as the case may be, shall be subject to a fine of one thousand (\$1,000.00) dollars to ten thousand (\$10,000.00) dollars which shall be recovered in the name of the Township of Rockaway in any court of record in the State in a summary manner pursuant to “The Penalty Enforcement Law.”

(Ord. No. 95-24 § 54-24)

54-15 FEES, DEPOSITS, GUARANTEES AND OTHER PAYMENTS.*

*See also Appendix B, Ordinances of the Shade Tree Commission.

54-15.1 Filing Fees for Development Applications or Appeals.

The following fees shall be required to be filed with any application, appeal or other matter pursuant to this chapter. Fees shall be nonrefundable and shall be paid by cashier’s check, certified check, bank money order or cash to the Administrative Officer. The filing fee shall be used to defray the administrative costs of processing the application or appeal. In the case of proposals requiring a combination of approvals, such as subdivision, site plan and/or variance(s), the applicant shall pay a fee equal to the sum of the fees for each required approval.

- a. *Subdivisions.*
 - 1. Informal Subdivision Review by Planning Board: One-half (1/2) of the filing fee that would be required for preliminary subdivision application for the same development. The amount of the filing fee for informal subdivision review shall be a credit toward the filing

fees for subsequent preliminary subdivision application.

2. Minor Subdivision: Three hundred (\$300.00) dollars.
3. Preliminary Major Subdivision: Four hundred (\$400.00) dollars plus one hundred (\$100.00) dollars for each lot in the proposed subdivision.
4. Revised Preliminary Major Subdivision: During the course of review of an application for a preliminary major subdivision, and prior to preliminary approval, the applicant may submit a revised application, including revised plans and other materials, for consideration by the reviewing agency without being subject to an additional filing fee.
5. Amended Preliminary Major Subdivision: If after receiving preliminary major subdivision approval, but prior to the expiration of such protections resulting from preliminary approval as provided by N.J.S.A. 40:55D-49, and prior to receipt of final approval, the applicant seeks amended preliminary major subdivision approval, the filing fees shall be two hundred (\$200.00) dollars, plus seventy-five (\$75.00) dollars for each lot affected by the proposed amendment.
6. Final Major Subdivision: Two hundred (\$200.00) dollars, plus one hundred (\$100.00) dollars for each lot in the proposed subdivision. In the event that application for final approval is by stages or sections of development as provided by this chapter, the fees shall be based upon the state or section of development for which approval is sought.
7. Amended Final Major Subdivision: If after receiving final major subdivision approval, but prior to the expiration of such protections resulting from final approval as provided by N.J.S.A. 40:55D-52, the applicant seeks amended final major subdivision approval, the filing fees shall be one hundred twenty-five (\$125.00) dollars, plus fifty (\$50.00) dollars for each lot affected by the proposed amendment.

b. *Site Plans.*

1. Informal Site Plan Review by Planning Board: One-half (1/2) of the filing fee that would be required for preliminary site plan application for the same development. The amount of the filing fee for informal site plan review shall be a credit toward filing fees for subsequent preliminary site plan application.
2. Minor Site Plan: Three hundred (\$300.00) dollars.
3. Minor Site Plan/Tenancy (no board review): Two hundred (\$200.00) dollars.
4. Preliminary Major Site Plan, Nonresidential Use:
 - (a) Seven hundred fifty(\$750.00) dollars plus
 - (b) Seventy-five (\$75.00) dollars for the first twenty thousand (20,000) square feet of lot area, or fraction thereof, plus
 - (c) Twenty (\$20.00) dollars for each ten thousand (10,000) square feet of lot area over twenty thousand (20,000) square feet, or fraction thereof, up to 871,200 square feet (20 acres) of lot area or the total area of disturbance, whichever is greater, plus
 - (d) Fifty (\$50.00) dollars for the first one thousand (1,000) square feet, or fraction thereof, of floor area of any new building, or alteration of or addition to any existing building on the subject property, plus
 - (e) Ten (\$10.00) dollars for each one thousand (1,000) square feet, or fraction thereof, of floor area over one thousand (1,000) square feet for new buildings or additions.
5. Preliminary Major Site Plan, residential use: One hundred (\$100.00) dollars for each acre, or part thereof, within the development site, plus forty (\$40.00) dollars for each market rate dwelling unit within the development.

6. Revised Preliminary Major Site Plan: During the course of review of an application for a preliminary major site plan, and prior to preliminary approval, the applicant may submit a revised application, including revised plans and other materials, for consideration by the reviewing agency without being subject to an additional filing fee.
 7. Amended Preliminary Major Site Plan: If after receiving preliminary major site plan approval, but prior to the expiration of such protections resulting from preliminary approval as provided by N.J.S.A. 40L55D-49, and prior to receipt of final approval, the applicant seeks amended preliminary major site plan approval, the filing fees shall be equal to one-half (1/2) of the filing fee charged for preliminary approval.
 8. Final Major Site Plan: One-half (1/2) of the filing fee that was required for preliminary site plan application for the same development. In the event that application for final approval is by stages or sections of development as provided by this chapter, the fees shall be based upon the stage or section of development for which approval is sought.
 9. Amended Final Major Site Plan: If after receiving final major site plan approval, but prior to the expiration of such protections resulting from final approval as provided by N.J.S.A. 40:55D-52, the applicant seeks amended final major site plan approval, the filing fees shall be equal to one-half (1/2) of the filing fee charged for final approval.
- c. *Conditional Use Review by the Planning Board.* Review of conditional use applications by the Planning Board shall require a fee of five hundred (\$500.00) dollars, plus any site plan application fee otherwise applicable.
 - d. *General Development Plan.* Review of general development plan applications by the Planning Board shall require a fee of one thousand (\$1,000.00) dollars.
 - e. *Variances, Interpretations and Certain Permits.*

1. “D” variances: Seven hundred fifty (\$750.00) dollars for each variance, with a maximum of one thousand five hundred (\$1,500.00) dollars for each application.
 2. Variances Other than “D” Variances: One hundred fifty (\$150.00) dollars for each variance, with a maximum of four hundred fifty (\$450.00) dollars for each application.
 3. Interpretation of Zoning Map, Zoning Regulations, or other Special Questions: Four hundred (\$400.00) dollars for each interpretation or special question.
 4. Permit for Structure in the Bed of a Mapped Street, Public Drainage Way, Flood control Basin or Public Area on Official Map: Two hundred fifty (\$250.00) dollars for each violation.
 5. Permit for Structure on a Lot Not Related to a Street: Two hundred fifty (\$250.00) dollars for each violation.
- f. *Special Meetings.* For each special meeting held at the request of an applicant or applicants, there shall be a fee of five hundred (\$500.00) dollars. In the event that more than one (1) applicant requests and is heard at the same special meeting, the five hundred (\$500.00) dollar fee shall be divided and paid equally by the applicants. The filing fee for special meetings shall be in addition to any other required filing fee.
- g. *Appeals.*
1. Appeal from Decision of Administrative Officer. An appeal pursuant to N.J.S.A. 40:55D-70a shall be accompanied by a filing fee of five hundred (\$500.00) dollars for each appeal.
 2. Appeal to Township Council: An appeal to the Township Council pursuant to N.J.S.A. 40:55D-17a shall be accompanied by a filing fee of one thousand (\$1,000.00) dollars.
- h. *Request to Amend Master Plan, Zoning Map or Land Use Ordinance:* Seven hundred fifty (\$750.00) dollars for each amendment requested.

i. *Revised Appeals Prior to Decision.* During the course of review of an appeal and prior to any decision on the matter, the appellant may submit a revised appeal for consideration by the reviewing agency without being subject to an additional filing fee.

54-15.2 Payment for Professional or Expert Services; Escrow Deposits.

In addition to the filing fees and any other fees or payments required by this chapter, the applicant for any development application, appeal or other matter pursuant to this chapter shall be responsible to reimburse the Township for payments made to professional or experts for services rendered to the Township related to such application, appeal or other matter. Such services may be performed by Township professionals and/or outside professionals or experts. Department heads, upon review of developer applications to the Board shall advise the Township Engineer and the Township Administrator of the need for particular consulting services, if any, including, but not limited to acoustics, fire prevention, storm water management, sanitary sewers, water supply and traffic. Such services shall also include review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of this chapter or the Municipal Land Use Law. The Township Engineer and Township Administrator shall review the submissions of the department heads and shall make a recommendation to the Planning Board or Zoning Board of Adjustment, as appropriate, as to retention of professionals or expert services. The following provisions shall apply to the reimbursement of such payments:

- a. *Initial Deposits for Professional Services.* At the time of the filing of an application for development, appeal, or other matter pursuant to this chapter, the applicant shall pay to the Administrative Officer an initial deposit for professional services in an escrow account. The amount of the deposit required shall be reasonable in regard to the scale and complexity of the development. The amount of the initial deposit required shall be established in accordance with the following schedule. Deposits shall be paid by cashier's check, certified check, bank money order or cash. In the case of proposals requiring a combination of approvals, such as subdivision, site plan and/or variance(s), the applicant shall deposit an amount equal to the sum of the deposits required for each application. Any deposits which remain unused after final approval has been granted and plans signed in the case of a plan review or after improvements have been approved in a project improvement, will be

returned pursuant to the close out procedures set forth in subsection 54-15.5b of the Township of Rockaway Code.

1. Subdivisions. The amount of the deposit shall be calculated based on the number of proposed lots as follows:
 - (a) Informal Subdivision Review by Planning Board: One-half (1/2) of the deposit that would be required for preliminary subdivision application for the same development.
 - (b) Minor Subdivision: Seven hundred fifty (\$750.00) dollars.
 - (c) Preliminary Major Subdivision: One thousand (\$1,000.00) dollars, plus two hundred (\$200.00) dollars for each lot in the proposed subdivision.
 - (d) Revised Preliminary Major Subdivision: During the course of review of an application for a preliminary major subdivision, and prior to preliminary approval, the applicant may submit a revised application, including revised plans and other materials, for consideration by the reviewing agency without being subject to an additional escrow deposit.
 - (e) Amended Preliminary Major Subdivision: If after receiving preliminary major subdivision approval, but prior to the expiration of such protections resulting from preliminary approval as provided by N.J.S.A. 40:55D-49, and prior to receipt of final approval, the applicant seeks amended preliminary major subdivision approval, the applicant shall make an escrow deposit of one thousand (\$1,000.00) dollars, plus two hundred (\$200.00) dollars for each lot affected by the proposed amendment.
 - (f) Final Major Subdivision: Seven hundred fifty (\$750.00) dollars, plus one hundred (\$100.00) dollars for each lot in the proposed subdivision. In the event that application for final approval is by stages or sections of development as provided by this chapter, the deposit shall be based upon the stage or section of development for which approval is sought.

(g) Amended Final Major Subdivision: If after receiving final major subdivision approval, but prior to the expiration of such protections resulting from final approval as provided by N.J.S.A. 40:55D-52 the applicant seeks amended final major subdivision approval, the escrow deposit shall be seven hundred fifty (\$750.00) dollars, plus one hundred (\$100.00) dollars for each lot affected by the proposed amendment.

2. Site Plans. The amount of the deposit shall be based on one (1) or more of the following: the area of the site to be developed, the square footage of buildings to be constructed, or an additional factor for circulation-intensive sites, such as those containing drive-through facilities as follows:

(a) Informal Site Plan Review by Planning Board: One-half (1/2) of the deposit that would be required for preliminary site plan application for the same development.

(b) Minor Site Plan: Seven hundred fifty (\$750.00) dollars.

(c) Minor Site Plan/Tenancy (no Board review): No fee.

(d) Preliminary Major Site Plan, Nonresidential Use:

(1) One thousand (\$1,000.00) dollars, plus

(2) One hundred (\$100.00) dollars for the first twenty thousand (20,000) square feet of lot area, or fraction thereof, plus

(3) Twenty (\$10.00) dollars for each ten thousand (10,000) square feet of lot area, or fraction thereof, over twenty thousand (20,000) square feet, up to 871,200 square feet (20 acres) of lot area or the total area of disturbance, whichever is greater, plus

(4) One hundred (\$100.00) dollars for the first one thousand (1,000) square feet, or fraction thereof, of floor area of any new building, or alteration of or addition to any existing building on the subject property, plus

- (5) Twenty (\$20.00) dollars for each one thousand (1,000) square feet, or fraction thereof, of floor area over one thousand (1,000) square feet for new buildings or additions.
- (e) Preliminary Major Site Plan, residential Use: One hundred (\$100.00) dollars for each acre, or part thereof, within the development site, plus fifty (\$50.00) dollars for each market dwelling unit within the development.
- (f) Revised Preliminary Major Site Plan: During the course of review of an application for a preliminary major site plan, and prior to preliminary approval, the applicant may submit a revised application, including revised plans and other materials, for consideration by the reviewing agency without being subject to an additional escrow deposit.
- (g) Amended Preliminary Major Site Plan: If after receiving preliminary major site plan approval, but prior to the expiration of such protections resulting from preliminary approval as provided by N.J.S.A. 40:55D-49, and prior to receipt of final approval, the applicant seeks amended preliminary major site plan approval, the escrow deposit shall be equal to one-third (1/3) of the escrow deposit required for preliminary approval.
- (h) Final Major Site Plan: The escrow deposit shall be equal to one-half (1/2) of the preliminary major site plan escrow deposit. In the event that application for final approval is by stages or sections of development as provided by this chapter, the escrow deposit shall be based upon the stage or section of development for which approval is sought.
- (i) Amended Final Major Site Plan: If after receiving final major site plan approval, but prior to the expiration of such protections resulting from final approval as provided by N.J.S.A. 40:55D-52, the applicant seeks amended final major site plan approval, the escrow deposit shall be equal to one-half (1/2) of the escrow deposit required for final approval.

3. Conditional Use Review by the Planning Board. Review of conditional use applications by the Planning Board shall require an initial deposit of five hundred (4500.00) dollars, plus any site plan application deposit otherwise applicable.
4. General Development Plan. Review of general development plan applications by the Planning Board shall require an initial deposit of two thousand (\$2,000.00) dollars.
5. Variances, Interpretations and Certain Permits.
 - (a) “D” Variances: One thousand (\$1,000.00) dollars for each variance, up to a maximum two thousand (\$2,000.00) dollars initial deposit.
 - (b) Variances Other than “D” Variances: No deposit required if associated with another category of application, two hundred fifty (\$250.00) dollars for each variance if professional services are required by the Township agency, up to a maximum seven hundred fifty (\$750.00) dollars.
 - (c) Interpretation of Zoning Map, Zoning Regulations, or other Special Questions: Seven hundred fifty (\$750.00) dollars for each interpretation or special question.
 - (d) Permit for Structure in the Bed of a Mapped Street, Public Drainage Way, Flood Control Basin or Public Area on Official Map: No deposit required if associated with another category of application. If not associated with another category of application, two hundred fifty (\$250.00) dollars for each violation if professional services are required by the Township agency.
 - (e) Permit for Structure on a Lot Not Related to a Street: No deposit required if associated with another category of application. If not associated with another category of application, two hundred fifty (\$250.00) dollars for each violation if professional services are required by the Township agency.
6. Appeals.
 - (a) Appeal from Decision of Administrative Officer: An appeal pursuant to N.J.S.A. 40:55D-70a shall be

accompanied by a deposit of seven hundred fifty (\$750.00) dollars for each decision appealed from, if professional services are required by the Township agency.

- (b) Appeal to Township Council: An appeal to the Township Council pursuant to N.J.S.A. 40:55D-17a shall be accompanied by a deposit of one thousand (\$1,000.00) dollars for each appeal, if professional services are required by the Council.

7. Request to Amend Master Plan, Zoning Map or Land Use Ordinance. A request made to the Planning Board to discuss a possible amendment to the Master Plan, Zoning Map or Land use Ordinance shall require an initial deposit of one thousand five hundred (\$1,500.00) dollars for each amendment requested.

- b. *Subsequent Deposits for Professional Services.* In the event that the amount in the individual account for professional services should become depleted to less than twenty-five (25%) percent of the initial deposit required by this chapter, and if the Administrative Officer determines that additional funds are necessary to cover the cost of processing the application, the Administrative Officer shall notify the applicant immediately of such depletion. Upon receiving such notice, the applicant shall deposit additional funds as necessary to make the amount in the account not less than fifty (50%) percent of the initial deposit required by this chapter for professional services.
- c. *Failure to maintain Deposit for Professional Services.* If the required funds for professional services are not deposited in a timely manner, the Administrative Officer shall notify the Township agency having jurisdiction over the application, and shall send copies of the notification to the Township Finance Director. Upon receipt of the copy of notification, the Finance Officer shall immediately inform the Mayor and Township Council of the notification. No further action shall be taken on the application unless the deposits have been made by the applicant as required above. In the event that the time for action by a Township agency, or any extension thereof, as required by this chapter shall expire prior to the payment of the required deposits, the reviewing agency shall have the option of dismissing the application.
- d. *Vouchers for Payment of Professional Services.* All payments charged to a deposit required by this section shall be made

pursuant to written monthly vouchers for each application from the professional(s) submitted to the Chief Financial Officer of the Township. It must identify the individual performing the service, and for each date the services performed, the hours expended to one-quarter hour increments, the hourly rate, and the expenses which were incurred for services provided.

1. If the services are provided by a professional employee of the Township, the Township employee shall prepare and submit to the Township's Chief Financial Officer a statement providing the same information which is required on the voucher on a monthly basis.
 2. The professional is required to forward an informational copy of the voucher or statement submitted to the Township's Chief Financial Officer simultaneously to the applicant. The Chief Financial Officer must then prepare and forward a statement to the application which includes an accounting of funds and lists all deposits, interest earnings, any disbursements, and the cumulative balance of the escrow account. If the monthly charges are one thousand (\$1,000.00) dollars or less the information will be provided on a monthly basis. If the monthly charges exceed one thousand (\$1,000.00) dollars, this information will be provided on a monthly basis.
 3. The Chief Financial Officer of the Township will also provide the applicant with a notice of insufficient escrow or deposit balance if the escrow account or deposit contains insufficient funds to enable the Township or approving authority to perform required application reviews or improvement inspections. If order for work to continue on the development or the application, the applicant must, within ten (10) days, post a deposit to the account in an amount to be agreed upon by the Township or approving authority and the applicant. The Township retains the right to suspend work pursuant to subsection 54-15.2c if there are insufficient escrow deposit funds.
- e. *Rates of Payment for Professional Services.* If the salary, staff support and overhead for a professional are provided by the Township, the hourly rate charged shall not exceed two hundred (200%) percent of the sum of the products resulting from multiplying (1) the hourly base salary of the professional by (2) the number of hours spent by the professional upon review of the application for development or inspection of the developer's

improvements. For other professionals, the charge to the deposit shall be at the same rate as all other work of the same nature by the professional for the Township. Rates for professional services shall be in accordance with a schedule of professional fees filed annually with the Administrative Officer and maintained in the office of the Township Clerk for public inspection. Payments to consultants for fees under this section shall be made in accordance with subsections 54-15.8 and 54-15.9 of this chapter.

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

(Ord. No. 95-24 § 54-26; Ord. No. 00-16 §§ 1-5; Ord. No. 01-13 § 1; Ord. No. 03-02 §§ 1, 2; Ord. No. 04-7 §§ 1, 2; Ord. No. 11-2 § 10)

54-15.3 Inspection Fees.

The developer shall reimburse the Township for all reasonable inspection fees paid to the Township Engineer for the inspection of improvements required pursuant to this chapter. Prior to the initiation of any construction approved pursuant to this chapter, the developer shall deposit with the Administrative Officer sufficient funds to reimburse the Township for inspection fees paid to the Township Engineer. Deposits shall be paid by cashier's check, certified check, bank money order or cash. The Township Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

Any deposits which remain unused after final approval has been granted and plans signed in the case of a plan review or after improvements have been approved in a project improvement, will be returned pursuant to the close out procedures set forth in subsection 54-15.5b of the Township of Rockaway code.

The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of developments under construction and review by outside consultants when application is of a nature beyond the scope of the expertise of the professional normally utilized by the municipality.

Deposits shall be as follows:

- a. The developer shall deposit for the inspection fees and amount with the Township not to exceed, except for extraordinary circumstances, the greater of five hundred (\$500.00) dollars or five (5%) percent of the cost of improvements, which cost shall be determined pursuant to this chapter.
- b. For those developments for which the reasonably anticipated fees are less than ten thousand (\$10,000.00) dollars, fees may, at the option of the developer, be paid in two (2) installments. The initial amount deposited by a developer shall be fifty (50%) percent of the reasonably anticipated fees. When the balance on deposit drops to ten (10%) percent of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall deposit the remaining fifty (50%) percent of the anticipate inspection fees.
- c. For those developments for which the reasonably anticipated fees are ten thousand (\$10,000.00) dollars or greater, fees may, at the option of the developer, be paid in four (4) installments. The initial amount deposited by a developer shall be twenty-five (25%) percent of the reasonably anticipated fees. Then the balance on deposit drops to ten (10%) percent of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of twenty-five (25%) percent of the reasonably anticipated fees.
- d. If the salary, staff support and overhead for a Municipal professional are provided by the Municipality, the charges shall not exceed two hundred (200%) percent of the sum of the products resulting from multiplying (1) the hourly based salary, which shall be established annually, by ordinance, of each of the professionals by (2) the number of hours spent by the respective professional upon review on the application for development or inspection of the developer's improvements, as the case may be. For other professionals the charge shall be at the same rate as all other work of the same nature by the professional for the Municipality when fees are not reimbursed or otherwise imposed on applicants or developers.

- e. The only cost that shall be added to any such charges shall be actual out-of-pocket expenses of any such professionals or consultants including normal and typical expenses incurred in processing applications and inspecting improvements.
- f. If the Municipality retains a different professional or consultant in the place of the professional originally responsible for development, application review, or inspection of improvements, the Municipality or approving agency shall be responsible for all time and expenses of the new professional to become familiar with the application or the project and the municipality or approving authority shall not bill the applicant or charge the deposit or the escrow account for any such services.

(Ord. No. 95-24 § 54-27; Ord. NO. 00-16 § 6)

54-15.4 Performance and Maintenance Guarantees.

Before recording of final subdivision plats or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65d, the Township agency may require and shall accept performance and maintenance guarantees for the purpose of assuring the installation and maintenance of on-tract improvements. Such performance and maintenance guarantees shall be in accordance with the following standards:

- a. *Performance Guarantees.* The following provisions shall apply to the administration of performance guarantees:
 - 1. Amount of Performance Guarantee. The performance guarantee for the installation of those improvements required shall be in favor of the Township in an amount equal to one hundred twenty (120%) percent of the cost of such improvements. The cost of the improvements shall be determined by the Township Engineer based on documented construction costs for public improvements prevailing in the general area of the Township. The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which estimate shall be appended to each performance guarantee posted by the obligor.
 - 2. Appeal of Disputed Performance Guarantee Amounts. The developer may appeal the Township Engineer's

estimate of the cost of improvements for purposes of furnishing a performance guarantee. Such appeal shall be made to the Township Council. The Township Council shall decide the appeal within forty-five (45) days of receipt of the appeal in writing by the Township Clerk. After the developer posts a guarantee with the Township based on the cost of the installation of improvements as determined by the Township Council, he may institute legal action within one (1) year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guarantee.

3. Form of Guarantee. At least ten (10%) percent of the performance guarantee shall be in the form of cash or a certified check made payable to the Township of Rockaway. The balance of the performance guarantee shall be in the form of any security which may be accepted by the Township and approved by the Township Attorney, including but not limited to surety bonds, cash, and letters of credit; provided that the Township shall only accept an irrevocable letter of credit if it:
 - (a) Constitutes an unconditional payment obligation of the issuer running solely to the Township for an express initial period of time of at least one (1) year but no more than two (2) years from the date of final approval;
 - (b) Is in the amount determined by the Township Engineer or Township Council, as applicable, as provided herein, less the amount of any other forms of guarantee furnished;
 - (c) Is issued by a banking or savings institution authorized to do and doing business in the State of New Jersey; and
 - (d) Permit the Township to draw upon the letter of credit if the obligor fails to furnish another letter of credit which complies with the provisions of this section thirty (30) days or more in advance of the expiration date of the letter of credit or such longer period in advance thereof as is stated in the letter of credit.

4. Time Allowed for Completion of Improvements. The performance guarantee shall state the time period within which all improvements are to be installed by the developer. No performance guarantee shall run for a term longer than two (2) years, except as provided otherwise by this chapter.
5. Extension of Time Allowed for Completion of Improvements. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Township Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty (120%) percent of the cost of the installation at the time of the resolution. The cost of installation shall be determined by the Township Engineer as provided herein for the initial cost determination.
6. Failure to Complete Improvements Within Time Specified. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected. The Township may, either prior to or after receipt of the proceeds thereof, complete such improvements or use the funds to restore the property to a safe condition so that the subject property in its unfinished development state does not adversely affect the public safety or adversely impact the environment. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law".
7. Release of Performance Guarantee. Release of performance guarantees shall be in accordance with the following procedure:
 - (a) Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Township Council that the Township Engineer prepare a list of all

uncompleted or unsatisfactory completed improvements. The request to the Township Clerk, with a copy of the request to be sent to the Township Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor.

- (b) Upon receiving the obligor's request, the Township Engineer shall inspect all improvements covered by the obligor's request and shall file a detailed list and report, in writing, with the Township Council, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.
- (c) The detailed list prepared by the Township Engineer shall be in accordance with the itemized cost estimate prepared by the Township Engineer, which estimate shall have been appended to the performance guarantee as required herein. The list prepared by the Township Engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory.
- (d) The report prepared by the Township Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement. The recommended reduction shall be in accordance with the itemized cost estimate prepared by the Township Engineer, which cost estimate shall have been appended to the performance guarantee as required herein.
- (e) The Township Council, by resolution, shall either approve the improvements determined to

be complete and satisfactory by the Township Engineer, or reject any or all of these improvements. The cause for any rejection shall be stated in the Council's resolution. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification as required herein, shall be followed.

- (f) For accepted improvements, the Township Council shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted. Any authorized reduction shall be in accordance with itemized cost estimate prepared by the Township Engineer, which cost estimate shall have been appended to the performance guarantee as required herein. The resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the Township Engineer.
- (g) Any partial reduction granted in the performance guarantee as provided herein shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.
- (h) Upon adoption of the resolution by the Township Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty (30%) percent of the amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements.

- 8. Failure of Township Engineer or Council to Act. If the Township Engineer or Township council fails to act on the request for release of a performance guarantee within the time required herein, the obligor may apply to the court in

the manner provided below; provided that nothing herein shall be construed to limit the right of the obligor to contest by legal proceedings any determination or the Township Council or the Township Engineer.

- (a) If the Township Engineer fails to send or provide the list and report as requested by the obligor as required herein within forty-five (45) days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Township Engineer to provide the list and report within a stated time. The cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
- (b) If the Township Council fails to approve or reject the improvements determined by the Township Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days from the receipt of the Township Engineer's report, the obligor may apply to the court in a summary manner for an order compelling within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Township Engineer, which cost estimate shall have been appended to the performance guarantee as required herein. The cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

b. *Maintenance Guarantees.* After final acceptance of required improvements, a maintenance guarantee shall be required to be posted with the Township. Except as specifically provided otherwise below, maintenance guarantees shall be administered in the same manner as performance guarantees as provided by this chapter.

- 1. Amount of Maintenance Guarantee. The maintenance guarantee shall be in favor of the Township of

Rockaway in an amount equal to fifteen (15%) percent of the cost of such improvements. The cost of the improvements shall be determined by the Township engineer in the same manner as provided herein for performance guarantees.

2. Form of Guarantee. The maintenance guarantee shall be in the form of any security which may be accepted by the Township and approved by the Township Attorney, including but not limited to surety bonds, cash and letters of credit; provided that acceptance of irrevocable letters of credit shall be subject to the same conditions as provided herein for performance guarantees.

3. Time Required for Maintenance Guarantee. The maintenance guarantee shall be required to run for a period of two (2) years, which shall be stated in the guarantee.

c. *Exception for Improvements Related to Other Jurisdictions.* In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Township for such utilities or improvements.

d. *Final Approval by Stages or Sections of Development.* In the event that final approval is by stages or sections of development as provided by this chapter, the provisions of this section shall be applied by stage or section of development.

(Ord. No. 95-24 § 54-28)

54-15.5 Administration of Deposits.

Deposits received for professional services employed by the Township to review applications for development, for Township inspection fees in accordance with this chapter, or to satisfy the guarantee requirements of this chapter shall be administered in accordance with the following provisions:

a. *Deposits to be Held in Escrow.* Whenever an amount of money in excess of five thousand (\$5,000.00) dollars shall be deposited by an applicant with the Township, the money, until repaid or applied to the purposes for which it is deposited, including the applicant's portion of the interest

earned thereon, except as otherwise provided in this chapter, shall continue to be the property of the applicant and shall be held in trust by the Township. Deposits received pursuant to this section shall be held in escrow and deposited in a banking institution or savings and loan association in New Jersey insured by an agency of the Federal government, or any other fund or depository approved for such deposits by the State of New Jersey. Such deposits shall be placed in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The Township shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit.

- b. *Refund of Deposits; Interest.* Any of the funds remaining in the deposit or escrow accounts after the approving authority has granted final approval and signed the subdivision plat or site plan or after the improvements have been approved the applicant shall send written notice by certified mail to the Chief Financial Officer of the Municipality and the approving authority and to the relevant municipal professional, that the application or the improvements are completed. After receipt of notice, the professional shall render a final bill to the Chief Financial Officer of the Municipality within thirty (30) days, and shall also send a copy to the applicant at the same time. The Chief Financial Officer shall render a written final accounting to the applicant on the uses to which the deposit was put within forty-five (45) days of receipt of the final bill. For deposits or escrow accounts over five thousand (\$5,000.00) dollars placed in an interest bearing account pursuant to this chapter, refunds of interest shall be made as follows:

1. The Township shall not be required to refund an amount of interest paid on a deposit which does not exceed one hundred (\$100.00) dollars for the year.
2. If the amount of interest exceeds one hundred (\$100.00) dollars for the year, that entire amount shall belong to the applicant and shall be refunded to him by the Township annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the Township may retain for administrative expenses a sum equivalent to no more than thirty three and one

third (33 1/3) of that entire amount, which shall be in lieu of all other administrative and custodial expenses. (Ord. No. 95-24 § 54-29; Ord. No. 00-16 § 7)

54-15.6 Miscellaneous Fees.

The fees for the following actions shall be required to be paid by the applicant at the time the request for the action is made. Fees shall be nonrefundable and shall be paid by certified check or bank money order to the Administrative Office.

- a. *Zoning Permit.* Fifty (\$50.00) dollars.
- b. *Certificate of Subdivision Approval.* A certificate issued pursuant to N.J.S.A. 40:55D-56 shall require a fee of fifty (\$50.00) dollars.
- c. See Section 2-48.li for copy fees.
- d. *Publication of Decision of Township Council from Appeal.* Publication of the decision of the Township Council from an appeal made pursuant to N.J.S.A. 40:55D-17a shall require a fee equal to the cost of the publication.
- e. *Charges for Transcripts of Record of Proceedings for Appeal to Township Council and Charges for Transcripts of Record of Proceedings by an Interested Party.* Transcripts arranged for the use of the Township Council in connection with an appeal for record of proceedings made pursuant to N.J.S.A. 40:55D-17a shall require a deposit of fifty (\$50.00) dollars or the estimated cost of such transcription, whichever is less. Transcripts of record of proceedings for other purposes requested by an interested party shall be arranged for and paid for by the interested party.
- f. *List of Property Owners Within Two Hundred (200) Feet.* A list of property owners and utilities within two hundred (200) feet of a property shall require a fee of twenty-five (\$0.25) cents per name, or ten (\$10.00) dollars, whichever is greater.

(Ord. No. 95-24 § 54-30; Ord. No. 98-25 § 1; Ord. #11-2 § 11)

54-15.7 Exemptions.

Charitable, philanthropic, fraternal and religious nonprofit organizations holding a tax exempt status under the Federal Internal Revenue Code of 1954

(26 U.S.C. Section 501(c) and (d) are exempt from the payment of any fees under this section. Projects of the Township of Rockaway and the Township Board of Education are exempt from the provisions of this section. (Ord. No. 95-24 § 54-31; Ord. 96-20 § 1)

54-15.8 Applicant Notification to Dispute Charges; Appeal of Decision Regarding Disputed Charge.

The following provisions shall govern the method by which an applicant may dispute a charge made by a professional for services rendered and for appealing resolution of disputed charge to County Construction Board.

- 1, An applicant shall notify in writing the governing body with copies to the Chief Financial Officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for service rendered to the Municipal in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges.
2. The Township Engineer, as the designee of the governing body, pursuant to N.J.S.A. 40:55D-53.2a, shall within forty-five (45) days, if the applicant has received an informational copy of the professional's voucher or sixty (60) days, if the applicant has received the municipal statement of activity against his deposit or escrow account, attempt to remediate any disputed charges. The parties to remediation before the Planning Board shall be the applicant and the municipal professional or consultant. If the applicant and the Planning Board agree as to disputed amounts, the amount that they agree upon shall be considered a settlement of the dispute and the consultant shall receive the settlement amount. The settlement amount shall be disbursed by the Chief Financial Officer after the Planning Board notifies him of the settlement. The time frame for filing an appeal with the County Construction Board of Appeals as set forth in paragraph 3 of this subsection shall not be stayed notwithstanding any remediation procedure which takes place between the parties.
3. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals within forty-five (45) days of receiving a copy of the professional's voucher, or within sixty (60) days of receiving a municipal statement of activity against his deposit or escrow account, any charge to an

escrow account, or a deposit by any municipal professional or consultant, or the cost of the installation of improvements estimated by the Municipal Engineer.

4. An applicant shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the Municipality, approving authority, and any professional whose charge is the subject of the appeal.
5. An applicant shall file an appeal in writing with the County Construction Board of Appeals within forty-five (45) days from receipt of the informational copy of the professional's voucher, except that if the professional has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within sixty (60) days from receipt of the municipal statement of activity against the deposit or escrow account.
6. An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six (6) months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant need not appeal each charge individually.

(Ord. No. 00-16 § 8)

54-15.9 Pending Appeals.

During the pendency of any appeal, the Municipality or approving authority shall continue to process, hear and decide the application for development, and to inspect the development in the normal course, and shall not withhold, delay, or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this section.

1. The Chief Financial Officer of the Municipality shall not pay any disputed charges out of any escrow account. The applicant shall inform the Chief Financial officer of the dispute in writing as set forth in subsection 15.8.1 of this chapter. The Chief Financial Officer shall wait to hear from the Planning Board if the motion has been settled. If there is a settlement the chief Financial Officer shall pay the settled amount to the professional or consultant. If there is no settlement and the applicant has filed an appeal the Chief

Financial Officer shall wait for the results of the appeal before disbursing funds from the applicant's account.

(Ord. No. 00-16 § 9)

54-16 APPEALS.

54-16.1 Appeal Alleging Erroneous Administrative Officer Decision.

Appeals to the Zoning Board of Adjustment may be taken by any interested party when it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the Administrative Officer of the Township based on or made in the enforcement of the zoning regulations, Section 54-30. The following provisions shall apply to such appeals:

- a. Appeals must be taken within twenty (20) days of the decision of the Administrative Officer.
- b. A notice of appeal shall be filed with the Administrative Officer, specifying the grounds of the appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- c. Fees required by this chapter shall be submitted with the notice of appeal, as well as proof of payment of taxes and assessments.
- d. An appeal to the Zoning Board of Adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the officer from whose action the appeal is taken certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown.
- e. A public hearing shall be held in accordance with the provisions for hearings in this chapter.
- f. The appellant shall give public notice of the hearing in the manner specified for development applications in this chapter; provided that the parties entitled to notice shall be

as specified in subsection 54-14.4b, 1. If the appeal is made by an interested party other than the owner of the property which was the subject of the decision by the Administrative Officer, notice shall also be sent to the property owner. Affidavits of proof of service of notice shall be submitted at least two (2) business days prior to the hearing.

- g. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirements, decision, interpretation or determination appealed from and to that end shall have all the powers of the Administrative Officer from whom the appeal is taken.
- h. The Zoning Board of Adjustment shall render a decision not later than one hundred twenty (120) days after the date the appeal is taken from the Administrative Officer.

(Ord. No. 95-24 § 54-32)

54-16.2 Request for Interpretation or Other Special Questions.

The Zoning Board of Adjustment shall hear and decide requests for interpretation of the zoning map or zoning regulations, Section 54-40, for decisions upon other special questions upon which the Board is specifically authorized to pass by this chapter. The following provisions shall apply to such requests:

- a. An application form shall be completed and shall be accompanied by a specific written request which outlines that part of the zoning map, zoning regulations or official map for which an interpretation is sought, or outlines the special question that the Board is asked to consider.
- b. Fifteen (15) copies of the application form and all accompanying documentation shall be submitted to the Administrative Officer for the Board.
- c. Fees required by this chapter shall be submitted with the request, as well as proof of payment of taxes and assessments.
- d. A public hearing shall be held in accordance with the provisions for hearings in this chapter.
- e. The appellant shall publish notice of the hearing on the request in the official newspaper of the Township, if there be one, or in a newspaper of general circulation in the

Township. If the request for interpretation or special question concerns a specific property, the appellant shall also give public notice of the hearing in the manner specified for development applications in this chapter; provided that the parties entitled to notice shall be as specified in subsection 54-14.4b, 1. If the request is made by a person other than the owner of the specific property which is the concern of the interpretation or special question, notice shall also be sent to the property owner. Affidavits of proof of service of notice shall be submitted at least two (2) business days prior to the hearing.

(Ord. No. 95-24 § 54-33)

54-16.3 Appeal for Issuance of Permits for Areas on Official Map.

Appeals to the Zoning Board of Adjustment may be taken from a refusal by the Administrative Officer to issue a permit for any building or structure in the bed of any street or public drainage way, flood control basin or public area reserved on the Official Map; provided that if the proposed development requires approval by the Planning Board of a subdivision, site plan or conditional use, the Planning Board shall also hear any appeal pursuant to this section. A developer may also file an application for development with the appropriate Board under this section without prior application to the Administrative Officer. The following provisions shall apply to such appeals or applications:

- a. In case of an appeal from the decision of an Administrative Officer, the procedures outlined in subsections 54-16.1a and b. shall be followed.
- b. Any appeal or application pursuant to this section shall be required to submit fifteen (15) copies of a map showing the property in question and the location of the proposed building and/or structure in relation to the bed of the mapped street or public drainage way, flood control basin or public area reserved on the Official Map. In addition, fees required by this chapter shall be submitted with the notice of appeal, as well as proof of payment of taxes and assessments.
- c. An appeal pursuant to this section shall stay all proceedings in the same manner as specified in subsection 54-16.1d.
- d. A public hearing shall be held in accordance with the provisions for hearings in this chapter.

- e. The appellant shall give public notice of the hearing in the manner specified for development applications in this chapter; provided that the parties entitled to notice shall be as specified in subsection 54-14.4b, 1 of this chapter. Affidavits of proof of service of notice shall be submitted at least two (2) business days prior to the hearing.
- f. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the refusal of the Administrative Officer and direct the issuance of a permit subject to the following provisions:
 - 1. There must be a showing by the appellant, and the Board must find, that the subject property cannot yield a reasonable return to the owner unless a building permit is granted.
 - 2. Any decision of the Board to direct the issuance of a permit pursuant to this section shall only be by an affirmative vote of a majority of the full authorized membership of the Board.
 - 3. Any decision of the Board to direct the issuance of a permit pursuant to this section shall be in accordance with terms and conditions which will as little as practicable increase the cost of opening such street, or tend to cause a minimum change of the Official Map, and the Board shall impose reasonable requirements as a condition of granting the permit so as to promote the health, morals, safety and general welfare of the public.
- g. The Zoning Board of Adjustment shall render a decision not later than one hundred twenty (120) days after the date 1) an appeal is taken from the Administrative Officer or 2) a development applicant is certified to be complete pursuant to this chapter.

(Ord. No 95-24 § 54-34)

54-16.4 Appeal for Permits for Lot Not Abutting a Street.

Appeals to the Zoning Board of Adjustment may be taken from a refusal by the Administrative Officer to issue a permit for any building or structure on a lot which does not abut a street giving access to such building or structure; provided that if the proposed development requires approval by the Planning Board of a subdivision, site plan or conditional use, the Planning Board shall

also hear any appeal pursuant to this section. A developer may also file an application for development with the appropriate Board under this section without prior application to the Administrative Officer. The following provisions shall apply to such appeals or applications:

- a. In case of an appeal from the decision of an Administrative Officer, the procedures outlined in Subsections 54-16.1a, and b. shall be followed.
- b. Any appeal or application pursuant to this section shall be required to submit fifteen (15) copies of a map showing the property in question and the manner by which access will be provided to the building and/or structure, including the location of the nearest street from which access may be obtained. In addition, fees required by this chapter shall be submitted with the notice of appeal, as well as proof of payment of taxes and assessments.
- c. An appeal pursuant to this section shall stay all proceedings in the same manner as specified in subsection 54-16-1d.
- d. A public hearing shall be held in accordance with the provisions for hearings in this chapter.
- e. The appellant shall give public notice of the hearing in the manner specified for development applications in this chapter; provided that the parties entitled to notice shall be as specified in subsection 54-14.4b, 1. Affidavits of proof of service of notice shall be submitted at least two (2) business days prior to the hearing.
- f. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the refusal of the Administrative Officer and direct the issuance of a permit subject to the following provisions:
 1. There must be a showing by the appellant, and the Board must find, that the refusal to issue a permit would entail practical difficulty or hardship, or that the circumstances of the case do not require the building or structure to be related to a street.
 2. Any decision of the Board to direct the issuance of a permit pursuant to this section shall be in accordance with terms and conditions which will provide adequate access for firefighting equipment, ambulances and

other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the Official Map or on the circulation plan element of the Township Master Plan.

- g. The Zoning Board of Adjustment shall render a decision not later than one hundred twenty (120) days after the date 1) an appeal is taken from the Administrative Officer or 2) a development application is certified to be complete pursuant to this chapter.

(Ord. No. 95-24 § 54-35)

54-16.5 “C” Variance Appeals.

Appeals to the Zoning Board of Adjustment may be taken for relief from the zoning regulations, Section 54-30. Notwithstanding the above, if the proposed development requires approval by the Planning Board of a subdivision, site plan or conditional use, the Planning Board shall also hear any such variance appeals, except for “D” variances. A developer may file an application for development with the appropriate Board under this section without prior application to the Administrative Officer. The following provisions shall apply to “C” variance appeals or applications:

- a. In case of an appeal from the decision of an Administrative Officer, the procedures outlined in subsections 54-16.1 and b. shall be following.
- b. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the same Board that approved the variance.
- c. Any appeal or application pursuant to this section shall be required to submit the information required by the checklist in Section 54-28.
- d. An appeal pursuant to this section shall stay all proceedings in the same manner as specified in subsection 54-16.1d.
- e. A public hearing shall be held in accordance with the provisions for hearing in this chapter.

- f. The appellant shall give public notice of the hearing in the manner specified for development applications in this chapter,; provided that the parties entitled to notice shall be as specified in subsection 54-14.4b, 1. Affidavits of proof of service of notice shall be submitted at least two (2) business days prior to the hearing.

- g. The Zoning Board of Adjustment may grant a “C” variance to allow departure from the zoning regulations subject to the following provisions:
 - 1. There must be a showing by the appellant, and the Board must find, the following:
 - (a) The strict application of the specific zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of the subject property due to 1) exceptional narrowness, shallowness or shape of the subject property, 2) exceptional topographic conditions or physical features uniquely affecting the subject property, or 3) an extraordinary and exceptional situation uniquely affecting the subject property or the structures lawfully existing thereon; or
 - (b) The purposes of the Municipal Land Use Law would be advanced by the requested variance, and the benefits of the variance would substantially outweigh any detriment.
 - 2. There must be a showing by the appellant, and the Board must find, that:
 - (a) The variance can be granted without substantial detriment to the public good; and
 - (b) The grant of the variance will not substantially impair the intent of the zone plan and zoning regulations.

- h. The Zoning Board of Adjustment shall render a decision not later than one hundred twenty (120) days after the date 1) an appeal is taken from the Administrative Officer or 2) a

development application is certified to be complete pursuant to this chapter.

(Ord. No. 95-24 § 54-36)

54-16.6 “D” Variance Appeals.

In particular cases, appeals to the Zoning Board of Adjustment may be taken for “D” variance requests. A developer may also file an application for a “D” variance with the Zoning Board of Adjustment without prior application to the Administrative Officer. Whenever the proposed development involves a “D” variance, the Zoning Board of adjustment shall also hear any subdivision, site plan, conditional use application and any other variance applications required for the development the following provisions shall apply to “D” variance appeals or applications:

- a. In case of an appeal from the decision of an Administrative Officer, the procedures outlined in subsections 54-16.1a and b. shall be followed.
- b. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Planning Board.
- c. Any appeal or application pursuant to this section shall be required to submit the information required by the checklist in Section 54-28.
- d. An appeal pursuant to this section shall stay all proceedings in the same manner as specified in subsection 54-16.1d.
- e. A public hearing shall be held in accordance with the provisions for hearings in this chapter.
- f. The appellant shall give public notice of the hearing the manner specified for development applications in this chapter; provided that the parties entitled to notice shall be as specified in subsection 54-14.4b, 1. Affidavits of proof of service of notice shall be submitted at least two (2) business days prior to the hearing.
- g. The Zoning Board of Adjustment may grant a “D” variance to allow departure from the zoning regulations subject to the following provisions:

1. There must be a showing by the appellant, and the Board must find, the following:
 - (a) Special reasons exist justifying the grant of the variance;
 - (b) The variance can be granted without substantial detriment to the public good; and
 - (c) The grant of the variance will not substantially impair the intent of the zone plan and zoning regulations.
2. Any decision of the Board to grant a “D” variance pursuant to this section shall only be by an affirmative vote of at least five (5) members of the Board.

- h. The Zoning Board of Adjustment shall render a decision not later than one hundred twenty (120) days after the date 1) an appeal is taken from the Administrative Officer or 2) a development application is certified to be complete pursuant to this chapter.

(Ord. No. 95-24-§ 54-37)

54-16.7 Appeals to the Township Council.

Any interested party may appeal to the Township Council any final decision of the Zoning Board of Adjustment approving an application for development involving a “D” variance. The following provisions shall apply to such appeals:

- a. Appeals to the Township Council shall be made within ten (10) days of the date of publication of the final decision of the Zoning Board of Adjustment.
- b. The appeal to the Township Council shall be made by serving the Township Clerk in person or by certified mail with a notice of appeal specifying the grounds thereof, the name and address of the appellant and the name and address of his attorney, if represented.
- c. An appeal pursuant to this section shall stay all proceedings in the same manner as specified in subsection 54-16.1d.

- d. The appellant shall, within five (5) days of service of the notice of the appeal, arrange for a transcript pursuant to subsection 54-14.9 for use by the Township Council and pay a deposit as specified in Section 54-15, or within thirty-five (35) days of service of the notice of appeal, submit a transcript as otherwise arranged to the Township Clerk; otherwise, the appeal may be dismissed for failure to prosecute.
- e. Notice of the meeting to review the record below shall be given by the Township Council by personal service or certified mail to the appellant, or to his attorney, if represented, to those entitled to notice of a decision pursuant to subsection 54-14.12a, and to the Zoning Board of Adjustment at least ten (1) days prior to the date of the meeting.
- f. The appeal shall be decided by the Township Council only upon the record established before the Zoning Board of Adjustment. The parties may submit oral and written argument on the record at such meeting, and the Township Council shall provide for verbatim recording and transcripts of such meeting pursuant to subsection 54-14.9.
- g. The Township Council may reverse, remand, or affirm with or without the imposition of conditions the final decision of the Zoning Board of Adjustment granting a “D” variance.
- h. The affirmative vote of a majority of the full authorized membership of the Township Council shall be necessary to reverse or remand to the Zoning Board of Adjustment or to impose conditions on or alter conditions to any final action of the Zoning Board of Adjustment; otherwise the final action of the Zoning Board of Adjustment shall be deemed to be affirmed. A tie vote of the Township Council shall constitute affirmance of the decision of the Zoning Board of Adjustment.
- i. The Township Council shall conclude a review of the record below not later than ninety-five (95) days from the date of publication of notice of the decision below pursuant to subsection 54-14.12c, unless the applicant consents in writing to an extension of such period.

- j. Failure of the Township Council to hold a hearing and conclude a review of the record below and to render a decision within the period specified in paragraph I, above shall constitute a decision affirming the action of the Zoning Board of Adjustment.
- k. The Township Council shall mail a copy of the decision to the appellant, or if represented, then to his attorney, without separate charge, and for a fee as provided by Section 54-15, to any interested party who has requested it, not later than ten (10) days after the date of the decision.
- l. A brief notice of the decision shall be published in the official newspaper of the Township, if there be one, or in a newspaper of general circulation in the Township. Such publication shall be arranged by the Township Clerk; provided that nothing herein shall be construed as preventing the applicant from arranging such publication if he so desires. The Township Council shall require a fee for the publication as specified in Section 54-15.
- m. Nothing in this section shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication of the decision of the Township Council, whether arranged by the Council or the applicant.

(Ord. No. 95-24 § 54-38)

54-16.8 Default Approvals.

Failure of the Board to render a decision on any appeal pursuant to this section within the required one hundred twenty (120) day period, or within such further time as may be consented to by the appellant, shall constitute a decision favorable to the appellant. An appellant shall comply with the following provisions whenever the appellant wishes to claim approval of his application for development by reason of the failure of the Board to grant or deny approval within the required time period:

- a. The applicant shall provide notice of the default approval to the Board and to all those entitled to notice by personal service or certified mail of the hearing on the application for development; but for purposes of determining who is entitled to notice, the hearing on the application for development

shall be deemed to have required public notice pursuant to subsection 54-14.3.

- b. The applicant shall arrange publication of a notice of default approval in the official newspaper of the township, if there be one, or in a newspaper of general circulation in the Township.
- c. The applicant shall file an affidavit of proof of service and publication with the Administrative Officer, who in the case of a minor subdivision or final approval of a major subdivision, shall be the officer who issues certificates pursuant to subsection 54-21.15.

(Ord. No. 95-24 § 54-39)

54-16.9 Expiration of Variances.

Variances granted after the effective date of this ordinance by the Planning Board of the Zoning Board of Adjustment shall expire unless the development associated with the variance is promptly completed. The following provisions shall apply:

- a. In the case of a variance from the Zoning Board of Adjustment which does not require subsequent subdivision or site plan approvals from the Board, the required building permits must be obtained within six (6) months of the date of the resolution of approval or within six (6) months of the date that all conditions of approval, if any, have been satisfied, whichever occurs later, or the variance will expire. In addition, the required certificate of occupancy must be obtained within twelve (12) months of the date or the variance will expire.
- b. In the case of a variance from the Planning Board or the Zoning Board of Adjustment which requires subsequent subdivision, site plan or conditional use approvals from the Board, the required building permits must be obtained prior to the date of expiration of the period of statutory protection against changes in the zoning regulations, which periods are provided in Section 54-21, or the variance will expire. In addition, the required certificate of occupancy must be obtained within twelve (12) months of the date or the variance will expire.
- c. In the case of a variance from the Planning Board or the Zoning Board of Adjustment which requires subsequent

subdivision, site plan or conditional use approvals from the Board, all such subsequent applications shall be filed and approved within twelve (12) months of the date of the resolution approving the original variance, or within twelve (12) months of the date that all conditions of the approval for the original variance, if any, have been satisfied, whichever occurs later, or the variance will expire.

- d. The Planning Board or the Zoning Board of Adjustment, as applicable, may, upon good cause shown in writing, extend the expiration dates for variance specified in paragraphs a., b., and c. above, provided that the extension is applied for prior to or within ten (10) days of the date upon which the variance would otherwise expire.
- e. Should the developer fail to meet the deadlines for the expiration of variance specified in this subsection, the relief shall be deemed to be automatically rescinded by the Board unless the developer, within ten (10) days of the required deadline, provides in writing sufficient cause to show why such relief should not be rescinded. Should the developer submit a written showing of cause, the Board shall hold a public hearing on the request by the developer, with public notice to be served the same as in the original application for relief.

(Ord. No. 95-24 § 54-40)

54-17 -54-20 RESERVED.

54-21 SITE PLAN AND SUBDIVISION REVIEW PROCEDURES.

54-21.1 When Required.

Prior to the issuance of a building permit, zoning permit or certificate of occupancy for any development, a site plan application shall be submitted to and approved by resolution of the Planning Board in accordance with the requirements of this section. Prior to the filing of any plat, deed or other recorded instrument for the subdivision of land with the County Recording Officer, a subdivision application shall be submitted to and approved by resolution of the Planning Board in accordance with the requirements of this section. The resolution of the Zoning Board of Adjustment shall substitute for that of the Planning Board whenever the Zoning Board of Adjustment has jurisdiction over a subdivision or site plan pursuant to this chapter. Notwithstanding the above, the following developments shall be exempt from site plan review and approval:

- a. Subdivision or individual lot applications for detached one or two (2) dwelling unit buildings; and
- b. A proposed interior alteration or change in occupancy that does not involve a change of use, any change to the exterior of the building or any exterior site improvements except for wall-mounted signs.

(Ord. No. 95-24 § 54-41)

54-21.2 Classification of Site Plans and Subdivisions.

Applications for site plan and/or subdivision approval shall be classified as one (1) or more of the following, as defined by this chapter:

- a. Conceptual Site Plan.
- b. Conceptual Subdivision.
- c. General Development Plan.
- d. Minor Site Plan.
- e. Minor Subdivision.
- f. Preliminary major Site Plan.
- g. Preliminary Major Subdivision.
- h. Final Site Plan.
- i. Final Subdivision.

(Ord. No. 95-24 § 54-42)

54-21.3 Filing of Applications.

- a. An application for site plan or subdivision approval shall be filed with the Administrative Officer for the Board having jurisdiction over the application. Required forms and checklists for the application shall be available in the office of the Administrative Officer for the respective Board, and shall be provided to the applicant prior to formal submission of an application.
- b. Applications must be accompanied by the required drawings, documents, fees and other data as required by the completeness checklists in this chapter. The applicant may

produce other documents, records, or testimony at the hearing to substantiate, clarify or supplement the previously filed maps and documents.

- c. Any maps and documents for which approval is sought shall be submitted at least twenty-one (21) days before the date of the public hearing at which the application will be heard.

(Ord. No. 95-24 § 54-43)

54-21.4 Simultaneous Application.

The Planning Board or the Zoning Board of Adjustment, as applicable, shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval, and shall have the power to review and approve or deny variance requests simultaneously with any of the above applications, without the developer being required to make further application to the Board, or the Board being required to hold further hearings.

(Ord. No. 95-24 § 54-44)

54-21.5 Completeness Determination.

- a. An application for development shall be complete for purposes of commencing the applicable time period for action by the Board when so certified by the Board or its authorized committee or designee.
- b. The applicant shall be notified in writing whether the application has been determined complete or incomplete by the Board or its authorized committee or designee within forty-five (45) days of the date of submission of an application. An application shall be determined complete if all of the items required by the appropriate completeness checklists have been submitted.
- c. In the event that the agency, committee or designee does not certify the application to be complete or incomplete 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.
- d. The applicant may request that one (1) or more of the submission requirements be waived. A written request, explaining the basis for such request(s) must be submitted for such waiver requests in order to be considered. The Board or its authorized committee shall grant or deny the

waiver request within forty-five (45) days of receipt of the written request.

- e. 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. The Board may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter 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 any revisions in the accompanying documents so required by the Board.

54-21.6 General Review Procedures.

- a. After an application has been determined to be complete, the Administrative Officer shall forward the application to the Planning Board of the Zoning Board of Adjustment for public hearing, depending on which Board has jurisdiction. Hearings shall be conducted in accordance with the procedures outlined in this chapter.
- b. After an application has been determined to be complete, and prior to the public hearing, the Administrative Officer shall refer the application to the following persons or agencies for report and recommendation to the Board:
 - 1. Township Engineer.
 - 2. Township Health Officer.
 - 3. Chief of the Rockaway Township Fire Department.
 - 4. Township Environmental Commission.
 - 5. Township Shade Tree Commission.
 - 6. Planning Consultant for the Board.
 - 7. Such other consultants which have been directed by the Board to review and comment on the application, as well as other Township, County, State and Federal officials and agencies having appropriate jurisdiction

and as directed by the Board. Such referral to other governmental officials or agencies shall not relieve the applicant of the responsibility of applying independently to and receiving approval from such agencies as required by law.

- c. The Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further applications to the Board, or the Board being required to hold further hearings.
- d. The Board shall grant or deny an application within the following time periods, or within such further time as may be consented to by the applicant. The time period required below for action shall begin on the date that an application is determined to be complete.
 - 1. Conceptual Site Plan and Conceptual Subdivision: no time limit.
 - 2. General Development Plan: ninety-five (95) days.
 - 3. Minor Site Plan: forty-five (45) days.
 - 4. Preliminary Major Site Plan, ten (10) acres of land or less and ten (10) or fewer dwelling units: forty-five (45) days.
 - 5. Preliminary Major Site Plan, more than ten (10) acres of land or more than ten (10) dwelling units: ninety-five (95) days.
 - 6. Final Site Plan: forty-five (45) days.
 - 7. Minor Subdivision: forty-five (45) days.
 - 8. Preliminary Major Subdivision, ten (10) or fewer lots: forty-five (45) days.
 - 9. Preliminary Major Subdivision, more than ten (10) lots: ninety-five (95) days.
 - 10. Final Major Subdivision: forty-five (45) days.
 - 11. Conditional Use Site Plan: ninety-five (95) days.

12. Simultaneous or Consecutive Applications. Whenever an applicant seeks simultaneous approval of a subdivision, site plan, conditional use, variance request and/or direction for issuance of a permit, the longest time period for action by the Board, whether it be for subdivision, site plan, conditional use, variance or direction for issuance of a permit, shall apply to the simultaneous application. In the event that the applicant elects to submit separate consecutive applications, the time period for action provided by this chapter shall apply to each individual application.

- e. If the Board requires any substantial amendments in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development.
- f. If the proposed development complies with this chapter and the Municipal Land Use Law, the Board shall grant site plan and/or subdivision approval.
- g. Prior to the Board returning the approved preliminary subdivision plat or site plan drawings to the applicant, the applicant shall submit six (6) copies of the approved plan to the Administrative Officer. Prior to the signing and return of a final major subdivision plat or final major site plan, the applicant shall be required to submit the following with the Administrative Officer:
 - 1. Three (3) black-on-white prints;
 - 2. Three (3) cloth prints; and
 - 3. One (1) translucent tracing cloth copy.

(Ord. No. 95-24 § 54-46)

54-21.7 Conceptual Site Plans and Subdivisions.

At the request of the developer, the Planning Board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. Submission of a concept plan is optional with the developer. Informal review of a concept plan is intended to enable the Board and the developer to discuss and evaluate principles and potential problems involved before the applicant has gone to the

expense of completing detailed engineering drawings as required for formal plan review and approval. The procedures for filing, determination of completeness and review shall be as provided by this section. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.
(Ord. No. 95-24 § 54-47)

54-21.8 General Development Plans.

Any developer of a parcel of land greater than one hundred (100) acres in size for which the developer is seeking approval of a planned development may submit a general development plan to the Planning Board prior to the granting of preliminary approval of that development by the Planning Board as provided by this section. In addition to the procedures for filing, completeness determination and review provided by this section, the following provisions shall apply to general development plans:

- a. The term of the effect of the general development plan approval shall be determined by the Planning Board using the guidelines set forth in paragraph b below, provided that the term of the effect of the approval shall not exceed twenty (20) years from the date upon which the developer receives final approval of the first section of the planned development pursuant to this chapter.
- b. In making its determination regarding the duration of the effect of approval of the development plan, the Planning Board shall consider; the number of dwelling units or amount of nonresidential floor area to be constructed, prevailing economic conditions, the timing schedule to be followed in completing the development and the likelihood of its fulfillment, the developer's capability of completing the proposed development, and the contents of the general development plan and any conditions which the Planning Board attaches to the approval thereof.
- c. In the event that a developer who has general development plan approval does not apply for preliminary approval for the planned development which is the subject of that general development plan approval within five (5) years of the date upon which the general development plan has been approved by the Planning Board, the Township shall have cause to terminate the approval.
- d. Notwithstanding any provision of this chapter, the Municipal Land Use Law, or an ordinance or regulation adopted

pursuant thereto after the effective date of the approval, the planned development shall be developed in accordance with the general development plan approved by the Planning Board.

- e. Upon the completion of each section of the development as set forth in the approved general development plan, the developer shall notify the Administrative Officer, by certified mail, as evidence that the developer is fulfilling his obligations under the approved plan. For the purpose of this subsection, "completion" of any section of the development shall mean that the developer has acquired a certificate of occupancy for every residential unit or every nonresidential structure, as set forth in the approved general development plan and pursuant to Section 15 of P.L. 1975, c. 217. If the Township does not receive such notification at the completion of any section of the development, the Township shall notify the developer, by certified mail, in order to determine whether or not the terms of the approved plan are being complied with.
- f. If a developer does not complete any section of the development within eight (8) months of the date provided for in the approved plan, or if at any time the municipality has cause to believe that the developer is not fulfilling his obligations pursuant to the approved plan, the Township shall notify the developer, by certified mail, and the developer shall have ten (10) days within which to give evidence that he is fulfilling his obligations pursuant to the approved plan. The Township thereafter shall conduct a hearing to determine whether or not the developer is in violation of the approved plan. If, after such a hearing, the Township finds good cause to terminate the approval, it shall provide written notice of same to the developer and the approval shall be terminated thirty (30) days thereafter.
- g. In the event that a development which is the subject of an approved general development plan is completed before the end of the term of the approval, the approval shall terminate with the completion of the development. For the purposes of this subsection, a development shall be considered complete on the date upon which a certificate of occupancy has been issued for the final residential or nonresidential structure in the last section of the development in accordance with the timing schedule set forth in the approved general

development plan and the developer has fulfilled all of his obligations pursuant to the approval.

- h. The following provisions shall apply to the modification of an approved general development plan:
 - 1. Except as provided hereunder, once a general development plan has been approved by the Planning Board, it may be amended or revised only upon application by the developer approved by the Planning Board.
 - 2. A developer, without violating the terms of the general development approval, may, in undertaking any section of the planned development, reduce the number of residential units or amount of nonresidential floor space by no more than fifteen (15%) percent or reduce the residential density or nonresidential floor area ratio by no more than fifteen (15%) percent; provided, however, that a developer may not reduce the number of residential units to be provided pursuant to the Fair Housing Act, P.L. 1985; c. 222, without prior Township approval.
 - 3. The developer shall be required to gain the prior approval of the Planning Board if, after approval of the general development plan, the developer wishes to make any variation in the location of land uses within the planned development or to increase the density of residential development or the floor area ratio of nonresidential development in any section of the planned development.
 - 4. In the event that the developer seeks to modify the proposed timing schedule of the approved general development plan, such modification shall require the approval of the Planning Board. The Planning Board shall, in deciding whether or not to grant approval of the modification, take into consideration prevailing economic and market conditions, anticipated and actual needs for residential units and nonresidential space within the Township and the region, and the availability and capacity of public facilities to accommodate the proposed development.

(Ord. No. 95-24 § 54-48)

54-21.9 Minor Site Plans.

In addition to the procedures for filing, completeness determination and review provided by this section, the following provisions shall apply to minor site plans:

- a. Upon a determination that the application is complete, an application for minor site plan approval filed with the Planning Board shall be referred to the Minor Site Plan Committee, which shall make recommendations to the full Board in accordance with § 54-8. Following receipt of the Minor Site Plan Committee's report, the Planning Board shall take action on the application within the time periods prescribed pursuant to § 54-21.6.d.
- b. Notwithstanding the above, an applicant may apply to the Minor Site Plan Committee for a waiver from notice and public hearing on a minor site plan application, in accordance with the following:
 1. In order to qualify for a waiver, the minor site plan must conform to the definition of "minor site plan," as set forth in § 54-4.
 2. The Minor Site Plan Committee, in determining whether or not a waiver should be granted, shall, as appropriate, refer the application to one (1) or more of the following Township employees or consultants: Zoning Officer; Construction Code Official; Traffic Safety Officer; Police Department; Township Engineer; Utility Superintendent; Health Officer; Fire Official; and/or Township Planner.
 3. The Minor Site Plan Committee may grant or deny the request for waiver or may refer the request to the full Board if there is any question as to the action that should be taken.
 4. An applicant may appeal any denial of a waiver by the Minor Site Plan Committee to the full Planning Board.
 5. If an application lies outside the scope of this procedure or if the application is denied, the applicant may apply for minor site plan approval.

- c. Minor site plan approval shall be deemed to be final approval of the site plan by the Board, provided that the Board may condition such approval on terms ensuring the provision of improvements pursuant to N.J.S.A. 40:55D-38, D-39, D-41 and D-53.
- d. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two (2) years after the date of minor site plan approval.

(Ord. No. 95-24 § 54-49; Ord. 13-17)

54-21.10 Minor Subdivisions.

In addition to the procedures for filing, completeness determination and review provided by this section, the following provisions shall apply to minor subdivisions:

- a. Upon a determination that the application is complete, an application for minor subdivision approval filed with the Planning Board shall be referred to the Minor Subdivision Committee, which shall make recommendations to the full Board in accordance with § 54-9. Following receipt of the Minor Subdivision Committee’s report, the Planning Board shall take action on the application within the time periods prescribed pursuant to § 54-21.6.d.
- b. Notwithstanding the above, an applicant may apply to the Minor Subdivision Committee for a waiver from notice and public hearing on a minor subdivision application, in accordance with the following:
 - 1. In order to qualify for a waiver, the minor subdivision must conform to the definition of “minor subdivision,” as set forth in § 54-4.
 - 2. The Minor Subdivision Committee, in determining whether or not a waiver should be granted, shall, as appropriate, refer the application to one (1) or more of the following Township employees or consultants: Zoning Officer; Construction Code Official; Traffic Safety Officer; Police Department; Township Engineer; Utility Superintendent; Health Officer; Fire Official; and/or Township Planner.

3. The Minor Subdivision Committee may grant or deny the request for waiver or may refer the request to the full Board if there is any question as to the action that should be taken.
 4. An applicant may appeal any denial of a waiver by the Minor Subdivision Committee to the full Planning Board.
 5. If an application lies outside the scope of this procedure or if the application is denied, the applicant may apply for minor subdivision approval.
- c. Minor subdivision approval shall be deemed to be final approval of the subdivision by the Board, provided that the Board may condition any such approval on terms ensuring the provision of improvements pursuant to N.J.S.A. 40:55D-38, D-39, D-40 and D-53.
 - d. Approval of a minor subdivision shall expire one hundred and ninety (190) days from the date on which the resolution of Township approval is adopted unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law", or a deed clearly describing the approved minor subdivision, is filed by the developer with the County Recording Officer, the Township Engineer and the Township Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the Chairperson and Secretary of the Board before it will be accepted by the County Recording Officer.
 - e. The Board may extend the one hundred ninety (190) day period for filing a minor subdivision plat or deed if the developer proves to the reasonable satisfaction of the Board: 1) that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities, and 2) that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

- f. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date on which the resolution of minor subdivision approval is adopted, provided that the approved minor subdivision shall have been duly recorded with the County Recording Officer.

(Ord. No 95-24 § 54-50; Ord. 13-17)

54-21.11 Preliminary Major Site Plans and Preliminary Major Subdivisions.

In addition to the procedures for filing, completeness determination and review provided by this section, the following provisions shall apply to preliminary major site plans and preliminary major subdivisions:

- a. Preliminary approval of a major site plan or preliminary major subdivision shall, except as provided otherwise below, confer upon the applicant the following right for a three (3) year period from the date on which the resolution of preliminary approval is adopted:
 - 1. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and, in the cause of a site plan, any on-tract improvements required to be installed, except that nothing herein shall be construed to prevent the Township from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety;
 - 2. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary major site plan or preliminary major subdivision, as the case may be; and
 - 3. That the applicant may apply for and the Board may grant extensions of such preliminary approval for additional periods of at least one (1) year, but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

- b. In the case of a preliminary major site plan or preliminary major subdivision for an area of fifty (50) acres or more, the Board may grant the rights referred to above for such period of time, longer than three (3) years, as shall be determined by the Board to be reasonable taking into consideration 1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, 2) economic conditions, and 3) the comprehensiveness of the development. The applicant may apply for thereafter and the Board may thereafter grant an extension to preliminary approval for such additional period of reasonable taking into consideration 1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, and 2) the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, 3) economic conditions and 4) the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.
- c. Whenever the Board grants an extension of preliminary major site plan or preliminary major subdivision approval as indicated above and the preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.

(Ord. No. 95-24 § 54-51)

54-21.12 Final Major Site Plans and Final Major Subdivisions.

In addition to the procedures for filing completeness determination and review provided by this section, the following provisions shall apply to final major site plans and final major subdivisions:

- a. The Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions of preliminary approval and, in the case of a major subdivision, the standards prescribed by the “Map Filing Law”.
- b. In the case of a planned unit development, planned unit residential development or residential cluster, the Board may

permit minimal deviations from the conditions of preliminary approval necessitated by a change of conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for preliminary approval.

- c. 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 Board may for good cause shown extend the period of recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat.
- d. The Board may extend the ninety-five (95) day or one hundred ninety (190) day period if the developer proves to the reasonable satisfaction of the Board 1) that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and 2) that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Board.
- e. The developer may apply for a filing extension either before or after the original expiration date.
- f. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer by preliminary approval, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date on which the resolution of final approval is adopted, provided that in the case of a major subdivision the rights conferred herein shall expire if the plat has not been duly recorded within the time period provided above.
- g. Notwithstanding any other provisions of this chapter, the granting of final approval to the development or section of the development terminates the time period of protection for the preliminary approval granted to the same development or section of the development.
- h. If the developer has followed the standards prescribed for final approval, and, in the case of a subdivision, has duly

recorded the plat as required above, the Board may extend such period of protection for extensions of one (1) year, but not to exceed three (3) extensions.

- i. In the case of a subdivision or site plan for a planned development of fifty (50) acres or more, conventional subdivision or site plan for one hundred and fifty (150) acres or more, or site plan for development of a nonresidential floor area of two hundred thousand (200,000) square feet or more, the Board may grant the rights referred to in paragraph f. above for such period of time, longer than two (2) years, as shall be determined by the Board to be reasonable taking into consideration 1) the number of dwelling units and nonresidential floor area permissible under final approval, 2) economic conditions and 3) the comprehensiveness of the development. The developer may apply for thereafter, and the Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Board to be reasonable taking into consideration 1) the number of dwelling units and nonresidential floor area permissible under final approval, 2) the number of dwelling units and nonresidential floor area remaining to be developed, 3) economic conditions and 4) comprehensiveness of the development.
- j. The developer may apply for an extension either before or after what would otherwise be the expiration date. Whenever the Board grants an extension of final approval pursuant to paragraph g. or h. above and the final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date.

(Ord. No. 95-24 § 54-52)

54-21.13 Planned Developments.

In addition to the procedures for filing, completeness determination and review provided by this section, the following provisions shall apply to applications which involve planned development:

- a. *Variation in Density or Intensity.* The standards for permitting variation in density or intensity in a planned development shall be as set forth in the specific district regulations in Section 54-30. In the case of cluster development, the maximum number of lots which may be permitted shall be computed by providing the Board with a

plan which shows a subdivision concept layout of the property as it could be developed as a conventional subdivision in conformance with all the regulations of the Land use Ordinance. This subdivision concept plan shall provide all the information required pursuant to subsection 54-28.4 and shall also include road profiles, a wetlands delineation pursuant to the National Wetlands Inventory Map and a flood plain delineation pursuant to the most recent Federal Flood Insurance Rate Map. The cluster development shall be entitled to the same number of lots that the conforming conceptual subdivision would be entitled to, taking into account good planning, zoning, and engineering principles as determined by the Board.

- b. *Development Timing for Uses and Dwelling Types.* The standards for the development timing for the various uses and/or dwelling types in a planned development shall be as set forth in the specific district regulations in Section 54-30.
- c. *Open Space Ownership and Maintenance.* Any subdivision which involves planned development shall either dedicate any resulting open space land to the Township or shall make provision for the establishment of an open space organization which shall own and maintain the open space for the benefit of owners or residents of the Development. Any area to be dedicated to the Township for open space purposes under the terms of this section shall be at a location and shape as approved by the Planning Board. If any open space areas are to be owned and maintained by an organization for the benefit of owners and residents of the development, then the following provisions shall apply:
 - 1. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development. Thereafter, such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the Township of Rockaway.
 - 2. In the event that such organization shall fail to maintain the open space in reasonable order and condition, the Planning Board may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the

organization has failed to maintain the open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be cured within thirty-five (35) days thereof, and shall state the date and place of a hearing thereon. The hearing shall be held within fifteen (15) days of the notice.

3. At the hearing on deficiencies in maintenance, the Planning Board may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed sixty-five (65) days within which they shall be cured.
4. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within thirty-five (35) days or any permitted extension thereof, the Township, in order to preserve the open space and maintain the same for a period of one (1) year may enter upon and maintain such land. The entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners.
5. Before the expiration of the year in paragraph 4. Above, the Planning Board shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon fifteen (15) days written notice to such organization and to the owners of the development, show cause why such maintenance by the township shall not, at the election of the Township, continue for a succeeding year.
6. If at the hearing the Planning Board shall determine that such organization is ready and able to maintain the open space in a responsible condition, the Township shall cease to maintain the open space at the end of the year.
7. If at the hearing the Planning Board shall determine such organization is not ready and able to maintain the open space in a reasonable condition, the Township may, at its discretion, continue to maintain the open space during the next succeeding year, subject to a similar hearing and determination, in each

year thereafter. The decision of the Planning Board in any such case shall constitute a final administrative decision subject to judicial review.

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

D. *Findings for Planned Development.* Prior to the approval of any planned development, the Board must find the following facts and conclusions:

1. That departures by the proposed development from the zoning regulations otherwise applicable to the subject property conform to the zoning regulations authorizing such departures by planned developments in Section 54-30;
2. That the proposals for maintenance and conservation the common open space are reliable, and the amount, location and purpose of the common open space are adequate;
3. That provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;
4. That the proposed planned development will not have a reasonably adverse impact upon the area in which it is proposed to be established; and
5. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

(Ord. No. 95-24 § 54-53)

54-21.14 Conditional Approvals.

The Planning Board of the Zoning Board of Adjustment, in granting any approval, may require reasonable conditions designed to further the intent and purpose of this chapter and the Municipal Land use Law. The following provisions shall apply to conditional approvals:

a. *Conditions Precedent.*

1. Whenever any application for development is approved subject to specified conditions intended to be fulfilled before the approval becomes effective, the conditional approval shall lapse and become null and void unless all specified conditions, other than those conditions pertaining to other governmental approvals as indicated in N.J.S. 40:55D-22b, are fulfilled within one hundred ninety (190) days of the date of conditional approval. The applicant may, for good cause shown, apply for, and the Board may grant, extensions of time within which such conditions must be fulfilled as the Board may deem appropriate under the circumstances. Applications for such extension must be made prior to the expiration of the period within which conditions were previously required to be fulfilled.
2. Proof that applications have been filed with all other agencies having jurisdiction over any aspect of the application for development shall forthwith be filed with the Board.
3. The fulfillment of all other conditions precedent shall forthwith be reported in writing to the Board, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be signed or any required building permit or occupancy permit be issued.
4. When all conditions have been fulfilled with respect to any minor or major subdivision, the applicant shall, within thirty (30) days of the fulfillment of all such conditions, submit his deed or plat for signature in accordance with N.J.S. 40:55D-47 or 40:55D-54 or any such approval shall lapse and be of no force and

effect; provided, however, that the applicant may, for good cause shown, obtain an extension either before or after the lapse of the thirty (30) days within the reasonable exercise of the Board's judgment.

5. For purposes of calculating the time period within which conditions must be fulfilled, such time periods shall commence from the date on which the resolution of approval was adopted.

b. *Conditions Subsequent.*

1. Whenever any application for development is approved subject to conditions, which by their terms are incapable of being fulfilled, or are not required to be fulfilled prior to the final approval of the application, the performance of which are not guaranteed by bonds or securities of any type, failure to fulfill any such condition within six (6) months from the date of the final approval of the application for development shall be grounds for the issuance of a stop work order by the enforcing official and the withholding of any certificate of occupancy or any other approval until such condition or conditions are fulfilled.
2. Nothing herein contained shall be construed as preventing the Board from specifying a longer period of time within which any specific condition must be fulfilled, or from granting, upon an ex parte application, and extension of time for good cause shown.
3. The fulfillment of all conditions shall be reported in writing to the Board, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be signed or any required building permit, occupancy permit, zoning permit or other required approve be issued.
4. For purposes of calculating the time period within which conditions must be fulfilled, such time periods shall commence from the date on which the resolution of approval was adopted.

- c. *County Planning Board Approval.* Whenever review or approval of an application by a County Planning Board is required by section 5 of P.L. 1968, c. 285 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P.L. 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- d. *Other Governmental Approvals.* In the event that development proposed by an application requires an approval by a governmental agency other than the Planning Board, the Zoning Board of Adjustment or a County Planning Board, the Board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency; provided that the Board shall make a decision on any application within the time periods provided as has been agreed to by the applicant unless the Board is prevented or relieved from so acting by the operation of law..

(Ord. No. 95-24 § 54-54)

54-21.15 Default Approvals.

Failure of the Planning Board or the Zoning Board of Adjustment to act within the periods prescribed therein shall constitute an approval of the application, and a certificate of the Administrative Officer as to the failure of the Board to act shall be issued on the request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, as required by the Municipal Lane Use Law, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats. The following provisions shall apply whenever an applicant wishes to claim approval of his application for development by reason of the failure of the Board to grant or deny approval within the time period provided herein:

- a. The applicant shall provide notice of the default approval to the municipal agency and to all those entitled to notice by personal service or certified mail of the hearing on the application for development; but for purposes of determining who is entitled to notice, the hearing on the application for development shall be deemed to have required public notice pursuant to subsection 54-14.3.
- b. The applicant shall arrange publication of a notice of the default approve in the official newspaper of the Township, if

there be one, or in a newspaper of general circulation in the Township.

- c. The applicant shall file an affidavit of proof of service and publication with the administrative officer, who in case of a minor subdivision or final approval of a major subdivision, shall be the officer who issues certificates pursuant to subsection 54-21,15,

(Ord. No. 95-24 § 54-55)

54-21.16 Extensions of Approvals Due to Delay in Obtaining Other Governmental Approvals.

The Planning Board shall grant an extension of any site plan or subdivision approval for a period determined by the Board, but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before: 1) what would otherwise be the expiration, or 2) the ninety-first (91st) day after the date on which the developer receives the last of the legally required approvals from the other governmental entities, whichever occurs later. An extension granted pursuant to this section shall not preclude the Board from granting any other extensions permitted herein or by any other law.

No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the Planning Board as indicated on the instrument by the signature of the Chairman and Secretary of the Planning Board or a certificate has been issued pursuant to subsection 54-21.15. The signatures of the Chairman and Secretary of the Planning Board shall not be affixed until the developer has posted the guarantees required pursuant to subsections 54-15.4 and 54-21.16.

(Ord. No 95-24 § 54-56)

54-21.17 Developer's Agreements.

Prior to any construction and coincident with the furnishing of the performance guarantee by the developer, the developer shall enter into a developer's agreement with the Township Council incorporating all of the terms and conditions of approval as required by the Planning Board. No cutting of trees or vegetation, and no excavation, earth moving or installation of infrastructure shall be permitted until the developer's agreement is executed between the Township Council and the developer. No Township official shall

sign an approved preliminary subdivision or site plan until the required developer's agreement has been executed.

The developer's agreement shall require a site restoration bond in the amount of ten thousand (\$10,000.00) dollars to be posted as part of preliminary approval. The bond is intended to provide the Township with a cash guarantee prior to the installation of public improvements required pursuant to subsection 54-21.18. The site restoration bond shall be in cash or certified check made payable to the Township of Rockaway. The bond shall be refunded upon the filing of the performance guarantee required pursuant to subsection 54-15.4 and 54-21.18.
(Ord. No. 95-24 § 54-57)

54-21.18 Required Improvements; Performance Guarantees.

- a. All on-site improvements for site plans, and all public improvements for subdivisions, shall be installed and any required off-tract improvements shall be installed or a pro rata share of such off-tract improvements paid prior to final approval; provided that the Township may accept a performance guarantee for all or some of the required improvements in lieu of installation of the improvements prior to final approval. If a developer posts a performance guarantee as provided by this chapter, the Board shall condition the issuance of building permits, demolition permits or certificate of occupancy, as the Board deems appropriate, upon the timely installation of improvements. No building permit for the construction of any structure other than public improvements as required pursuant to paragraph b. below shall be issued for any portion of a property that has been granted preliminary approval by the Planning Board until such time as final approvals have been granted by the Board.

- b. The following improvements shall be required for all major subdivisions, in accordance with the provisions in Section 54-29:
 - 1. Street pavement and curbs;
 - 2. Sidewalks and driveway aprons;
 - 3. Street lighting;
 - 4. Street signs, traffic signs and striping;

5. Street trees;
6. Monuments;
7. Potable water facilities, if the development is within the service area for same as shown on the Township Master Plan;
8. Water facilities for fire-fighting purposes;
9. Sanitary sewer facilities, if the development is within the service area for same as shown on the Township Master Plan;
10. Storm drainage facilities;
11. Electric, telephone, gas and cable television service, as applicable;
12. Any related improvements that may be necessary to provide any of the improvements required above; and
13. Any off-tract improvements required pursuant to the provisions in subsection 54-21.19.

- c. All improvements as shown on an approved site plan, plus any off-tract improvements required by subsection 54-21.19 shall be required to be installed in accordance with the provisions in Section 54-29.

(Ord. No. 95-24 § 54-58)

54-21.19 Off-Tract Improvements.

As a condition of preliminary approval and prior to any construction or the filing of an application for final approval of a subdivision or site plan, the applicant shall have made cash payments or other forms of payment acceptable to the Township, and/or installed with the consent of the Township, for any required off-tract improvements. The following provisions shall apply:

- a. *Determination of Required Improvements.* The Planning Board or the Zoning Board of Adjustment, as applicable, shall determine the nature of off-tract improvements to be required. Such determinations shall be consistent with the Township Master Plan circulation and utility elements, and

may include street and related improvements, water, sewer and drainage facilities, and easements therefor.

- b. *Determination of Total Cost of Improvements.* The cost of installation of the required off-tract improvements shall be determined by the Planning Board with advice of the Township Engineer and appropriate Township agencies.
- c. *General Criteria in Determining Proportion of Costs to be Paid by Applicant.* The proportion of the total cost to be paid by the applicant for off-tract improvements shall be determined by the Board, with the assistance of the appropriate Township agencies, based on the following criteria:
 1. Total cost of the off-tract improvements;
 2. Increase in market values of the property affected and any other benefits conferred;
 3. Needs created by the application;
 4. Population and land use projections for the general area of the applicant's property and other areas to be served by the off-tract improvements;
 5. Estimated time of construction of the off-tract improvements;
 6. Condition and periods of usefulness of the off-tract improvements, which periods may be based upon the criteria of N.J.S. 40A:2-22; and
 7. Any other reasonable criteria the Board feels is necessary to protect the public health, safety and welfare.
- d. *Criteria in Determining Proportion of Costs to be Paid by Applicant for Specific Improvements.* In addition to and notwithstanding the provisions of paragraph c. above, the following criteria may be considered in determining the proportion of the total cost to be paid by the applicant for the following specific off-tract improvements:

1. Proportion of costs for street pavement, curbs, sidewalks, shade trees, streetlights, street signs, traffic lights and related improvements and easements therefor may also be based upon the anticipated increase of traffic generated by the development. In determining such traffic increase, the Board may consider traffic counts, existing and projected traffic patterns, quality of roads and sidewalks in the area and other factors related to the need created by the development and the anticipated benefit thereto.
2. Proportion of costs for drainage facilities may also be based upon the drainage conditions created by or affected by a particular development, considering:
 - (a) Percentage relationship between the acreage of the development and the acreage of the total drainage basin;
 - (b) Use of the site and the amount of area to be covered by impervious surfaces on the site; and
 - (c) Use, condition or status of the remaining area of the drainage basin.
3. Proportion of costs for water supply and distribution facilities may also be based upon the additional facilities necessitated by the Total anticipated water use requirements of the development and other properties in the general area benefiting therefrom.
4. Proportion of costs for sanitary sewer facilities may also be based upon the percentage relationship between the total anticipated volume of sewage effluent of the development and other properties served by the sewer facility and the capacity of the facility. The calculation shall include the lines and other appurtenances leading to and servicing the development property. Consideration may also be given to the types of effluent and particular problems requiring special equipment or added costs for treatment. In the event that the applicant's property shall be permitted to be connected to existing sewer facilities, the applicant shall pay a charge or be assessed in accordance with law.

- e. *Manner of Implementation.* After the estimated total cost of construction and the application's proportion of the total cost has been determined, the Township Council shall determine whether the off-tract improvement is to be implemented by the Township as a general or local improvement, or by the applicant under a formula providing for partial reimbursement by the Township for benefits to properties other than the subdivision or site plan.

- f. *Deposit for Improvements.* When the manner of implementation has been determined by the Township Council, the applicant may be required to provide a cash deposit or other deposit acceptable to the Township, in accordance with the following:
 - 1. If the improvement is to be constructed by the Township as a general improvement, the applicant shall be required to deposit an amount equal to the difference between: a) the total cost of the improvement and b) the estimated amount, if less than the total cost, that all properties which are to be serviced by the improvement, including the subject property, will be specifically benefited by the improvement.

 - 2. If the improvement is to be constructed by the Township as a local improvement, the applicant shall be required to deposit an amount equal to: a) the amount specified in paragraph 1. Above, plus b) the estimated amount that the subject property will be specifically benefited by the improvement.

 - 3. If the improvement is to be constructed by the applicant, the applicant shall be required to deposit an amount equal to the estimated cost of the improvement, less an offset for benefits to properties other than the subject property.

- g. *Payment for Applicant's Share of the Cost of Improvement.* The applicant's proportion of the total cost of off-tract improvements shall be paid by the applicant to the Township Treasurer, who shall provide a suitable depository, and such funds shall be used only for the off-tract improvements for which they are deposited, or for other improvements serving the same purpose. In the event that the amount of the deposit pursuant to paragraph f. above is less than the

applicant's proportion of the total cost determined pursuant to paragraphs c. and d. above, then the applicant shall be required to pay the proportion. In the event that the amount of the deposit pursuant to paragraphs f. above is more than the applicant's proportion of the total cost determined pursuant to paragraphs c. and d. above, then the Township shall reimburse the applicant, or his successors or assigns, for the difference between the deposit and the applicant's proportion.

- h. *Refund of Payments for Failure of Township to Make Improvements.* If after a period of ten (10) years from the date of payment by an applicant for off-tract improvements to be constructed by the Township, construction of such off-tract improvements has not been initiated, the Township shall refund any and all deposits made by the applicant for such improvements, together with the accumulated interest or other income earned on the deposit, if any.
- i. *Dispute of Amount of Applicant's Contribution.* If the applicant and the Board cannot agree on the amount of the applicant's proportion of the total cost of the off-tract improvement, or on the determination made by the officer or Board charged with the duty of making assessments as to special benefits and if the off-tract improvement is to be constructed as a local improvement, no approval shall be granted for the application. Where a developer pays the amount determined under protest, he shall institute legal action within one (1) year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.
- j. *Assessments of Properties.* Upon receipt from the applicant of his proportion of the total cost of the off-tract improvement, the Township may adopt a local improvement ordinance for the purpose of construction of the off-tract improvements based upon the actual cost thereof. Any portion of the cost of the improvement not defrayed by a deposit by the applicant may be assessed by the Township against any property owners who benefit from the improvement. Any assessments made against the applicant or his successors or assigns for benefits conferred shall be first offset by a credit for the payment made by the applicant pursuant to paragraph g. above. The applicant or his successors or assigns shall not be liable for any part of any assessment for such improvements unless the assessment

exceeds the credit for payment previously made, and then only to the extent of the deficiency.

- k. *Credit for Work Performed.* In the event that the applicant, with the Township's consent, decides to install and construct the off-tract improvement, or any portion thereof, the certified cost shall be treated as a credit against any future assessment for that particular off-tract improvement or portion thereof constructed by the Township in the same manner as if the applicant had made a payment pursuant to paragraph g. above.
- l. *Installation of Improvements by Applicant.* At the discretion and option of the Township and with the consent of the applicant, the Township may enter into a contract with the applicant providing for the construction of off-tract improvements by the applicant upon contribution by the Township of the remaining unallocated portion of the cost of the off-tract improvement. In the event that the Township so elects to contribute to the cost and expense of installation of the off-site improvements by the applicant, the portion contributed by the Township shall be subject to possible certification and assessment as a local improvement against benefiting property owners in the manner provided by law, if applicable.
- m. *Compliance with Design Criteria.* Should the applicant and the Township enter into a contract for the construction and erection of the off-tract improvement to be done by the applicant, he shall observe all requirements and principles of this chapter in the design of such improvements.

(Ord. No. 95-24 § 54-59)

54-21.20 Selling Before Final Subdivision Approval.

If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which Township approval is required by this chapter or any other ordinance pursuant to the Municipal Land Use Law, such person shall be subject to a penalty not to exceed one thousand (\$1,000.00) dollars and each lot disposition so made may be deemed a separate violation.

In addition to the foregoing, the Township may institute and maintain a civil action for injunction relief and to set aside and invalidate any conveyance

made to such a contract of sale if a certificate of compliance has not been issued in accordance with subsection 54-21.21. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two (2) years of the date of the recording of the instrument of transfer, sale or conveyance of the land or within six (6) years, if unrecorded. (Ord. No. 95-24 § 54-60)

54-21.21 Certification of Subdivision Approval.

The prospective purchaser, prospective mortgagee, or any other person interested in any land which forms part of a subdivision, or which formed part of such subdivision subsequent to August 1, 1973, may apply in writing to the Administrative Officer for the issuance of a certificate certifying whether or not such subdivision has been approved by the Board. The following provisions shall apply to the issuance of the certificates:

- a. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.
- b. The Administrative Officer shall make and issue such certificate within fifteen (15) days after the receipt of such written application and the fees therefor.
- c. Each such certificate shall be designated as “certificate as to approval of subdivision of land”, and shall certify:
 1. Whether there exists in the Township a duly established Planning Board and whether there is an ordinance controlling subdivision of land adopted under the authority of the Municipal Land Use Law;
 2. Whether the subdivision, as it relates to the land shown in the application, has been approved by the Planning Board or Zoning Board of Adjustment, as applicable, and if so, the date of such approval and any extensions and terms thereof, showing that subdivision of which the lands are a part is a validly existing subdivision.
 3. Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement

of approval as provided in the Municipal Land Use Law.

- d. The Administrative Officer shall charge a fee for such certificate as provided in Section 54-15, which fee shall be paid by the administrative officer to the Township of Rockaway.
- e. The Administrative Officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his office.
- f. Any person who shall acquire for a valuable consideration an interest in the lands covered by any such certificate of approval of a subdivision in reliance upon the information contained therein shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the Township pursuant to the provisions of subsection 54-21.20.
- g. If the Administrative Officer designated to issue any such certificate fails to issue the same within fifteen (15) days after receipt of an application and fees, any person acquiring an interest in the lands described in such application shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the Township pursuant to subsection 54-21.20.
- h. Any such application addressed to the Township Clerk shall be deemed to be addressed to the proper designated officer and the Township shall be bound thereby to the same extent as though the same was addressed to the designated official.

(Ord. No. 95-24 § 54-61)

54-21.22 Exception in Application of Subdivision or Site Plan Regulation.

The Board, when acting upon applications for minor site plan, minor subdivision, preliminary major site plan or preliminary major site plan approval, shall have the power to grant such exceptions from the requirements in this chapter for site plan or subdivision approval as may be reasonable and within the general purpose and intent for the provisions for site plan and subdivision review and approval, if the literal enforcement of one (1) or more provisions of this chapter regulating site plan and subdivision applications is impracticable or will exact undue hardship because of peculiar conditions

pertaining to the land in question. Notwithstanding the above, there shall be no deviation from the zoning regulations, Section 54-30, authorized by this section.

(Ord. No. 95-24 § 54-62)

54-21.23 Reservation of Public Areas.

If the Township Master Plan or Official Map provides for the reservation of designated streets, public drainage ways, flood control basins, or public areas within the proposed development, the Board may require that such streets, ways, basins or areas be shown on the plat in locations and sizes suitable to their intended uses before approving the subdivision or site plan. The following provisions shall apply to such reservation:

- a. The Board may reserve the location and extent of such streets, ways, basins or areas shown on the plat for a period of one (1) year after the approval of the final plat or within such further time as may be agreed to by the developer.
- b. Unless during such period or extension thereof the Township shall have entered into a contract to purchase or institute condemnation proceedings according to law for a fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations.
- c. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instance, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation. The determination of such fair market value shall include, but not be limited to, consideration of the real property taxes apportioned to the land reserved and prorated for the period of reservation.
- d. The developer shall be compensated for the reasonable increased cost of legal, engineering, or other professional services incurred in connection with obtaining subdivision approval or site plan approval, as the case may be, caused by the reservation of areas on the Master Plan or Official Map.

- e. The provisions of this section shall not apply to streets and roads, flood control basins or public drainage ways necessitated by the subdivision or land development and required for final approval.

(Ord. No. 95-24 § 54-63)

54-21.24 Approvals Binding.

Any site plan or subdivision approved by the Board pursuant to this section shall be binding upon the applicant and his heirs, executors, successors or assigns. Any deviation from an approved site plan or subdivision, or any failure to adhere to the conditions of approval shall be deemed a violation of this chapter and shall be subject to the enforcement and penalties prescribed by this chapter.

(Ord. No. 95-24 § 54-64)

54-22---54-27 RESERVED.

54-28 SUBMISSION REQUIREMENTS FOR DEVELOPMENT APPLICATIONS*

(*see also Ordinances of the Shade Tree Commission – Appendix B)

This section sets forth the submission requirements for the various categories of applications to the Planning Board and the Zoning Board of Adjustment.

- a. In order to be determined complete for review by the Board, all of the required information must be submitted; provided that the applicant may request that one (1) or more of the submission requirements be waived. A written request, explaining the basis for such request(s) must be submitted for such waiver requests in in order to be considered. The Board or its authorized committee shall grant or deny the waiver request within forty-five (45) days of receipt of the written request.
- b. If more than one (1) application category is to be considered by the Board, the applicant shall be required to submit the information required for all off the individual applications.
- 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 Board may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter or any revision 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 any revisions in the accompanying documents so required by the Board.

(Ord. No. 95-24 § 54-65)

54-28.2 Requirements for All Applications.

- a. Twenty-five (25) copies (if submitting to the Planning Board of twenty (20) copies (if submitting to the Zoning Board of Adjustment) of the appropriate application form(s), completed and signed. If any item is not applicable to the applicant, it should so be indicated on the application form(s).
- b. Twenty-five (25) copies (if submitting to the Planning Board of twenty (20) copies (if submitting to the Zoning Board of Adjustment) of any required plot plan, site plan, or subdivision plan, signed and sealed by the professional who prepared the plot plan, site plan, or subdivision plan, provided that the owner of a single-family detached or two-family dwelling may sign the plans for an application if he has prepared them. Any plan submitted as part of an application to a Township agency shall be prepared by an individual pursuant to the regulations in N.J.A.C. 13:27, 13:40 and 13:41, as amended.
- c. Receipt indicating that applicable fees and initial escrow deposits are paid.
- d. A certificate from the Tax Collector indicating that all taxes and assessments for the subject property are paid up to and including the most recent collection period.
- e. Affidavit, of ownership. If application is not the owner, applicant's interest in land must be indicated; e.g., tenant, contract/purchaser, lien holder, etc., and permission of property owner to file the application must be submitted.
- f. If applicant is a corporation or partnership applying to the Board or the Council for permission to subdivide a parcel of

land into six (6) or more lots, or applying for a variance to construct a multiple dwelling of twenty-five (25) or more family units or for approval of a site to be used for commercial purposes, list the names and addresses of all stockholders or individual partners owning at least ten (10%) percent of its stock if any class as required by N.J.S. 40:55D-48.1 and 48.2.

- g. A statement from the property owner granting permission for the Board and any of its experts to enter the subject premises for purposes of inspection in relation to a development application.
- h. Statements as to any requirements for which waiver or variance is sought, together with a statement of reasons why same should be granted.
- i. For minor site plans, minor subdivisions, preliminary major site plans and preliminary major subdivisions, a statement of any and all approvals which are required from other government or quasi-governmental entities.
- j. If approval from the Morris County Planning Board is required pursuant to P.L. 1968, c. 285, a copy of the application submitted to the Morris County Planning Board.
- k. For minor subdivisions, preliminary major site plans and preliminary major subdivisions, one of the following:
 - 1. Letter of interpretation from the N.J.D.E.P.E. indicating the absence of freshwater wetlands, or indicating the presence and verifying the boundaries of freshwater wetlands, and classifying same by resource value;
 - 2. Letter of exemption from the N.J.D.E.P.E. certifying that the proposed activity is exempt from the Freshwater Wetlands Protection Act, and regulations promulgated thereunder.
 - 3. Copy of any application made to the N.J.D. E.P.E. for any permit concerning a proposed regulated activity in or around freshwater wetlands; or
 - 4. Documentation from a qualified professional demonstrating that no wetlands exist on the subject

property, and demonstrating that no wetlands exist on adjacent property that would affect or limit development on the property which is the subject of the development application.

1. For minor site plans, minor subdivisions, preliminary major site plans, preliminary major subdivisions and variance applications, a copy of any protective covenants or deed restrictions, if any affecting the property in question; provided that if none exist, an affidavit from the owner certifying that no such covenants or restrictions exist shall be submitted.

(Ord. No. 95-24 § 54-66; Ord. No. 08-22 §§ 1, 2)

54-28.3 Informal (Concept) Site Plans.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for an informal site plan applications:

- a. A general description of the proposed development and a preliminary assessment of its effect on the site, adjacent properties, the neighborhood and the Township as a whole, including but not necessarily limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities and drainage.
- b. A key map showing location of tract to be considered in relation to the surrounding area, within at least three hundred (300) feet of the subject property.
- c. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
- d. Scale of map, both written and graphic. The scale shall contain no more than fifty (50) feet to the inch.
- e. North arrow.
- f. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, lot coverage, height, floor area ration, density and number of parking spaces, both as to required and proposed for the subject property.

- g. The location and width of any abutting streets, both right-of-way and pavement.
- h. The boundaries of the site in question, with dimensions of same.
- i. Location of existing easements or rights-of-way including power lines.
- j. Contours to determine the natural drainage of the land. Intervals shall be: up to ten (10%) percent grade –two (2) feet; over ten (10%) percent grade – five (5) feet.
- k. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity.
- l. Location of existing and proposed buildings and their setbacks from property lines.
- m. Preliminary floor plans and building façade elevations for existing and proposed buildings.
- n. Location of existing and proposed parking, loading, access and circulation improvements.
- o. Location and description of existing and proposed landscaping.

(Ord. No. 95-24 § 54-67)

54-28.4 Informal (Concept) Subdivisions.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all informal subdivision applications:

- a. A general description of the proposed development and a brief assessment of its effect on the site, adjacent properties, the neighborhood and the Township as a whole, including but not necessarily limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities and drainage.
- b. A key map showing location of tract to be considered in relation to the surrounding area, within at least three hundred (300) feet of the subject property.

- c. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
- d. Scale of map, both written and graphic. The scale shall contain no more than fifty (50) feet to the inch.
- e. North arrow.
- f. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, lot areas, lot widths, lot coverage, floor area ratios, and density, both as to required and proposed, for the subject property.
- g. The location and width of any abutting streets, both right-of-way and pavement.
- h. The boundaries of the tract in question, with dimensions of same.
- i. Existing and proposed property lines, with dimensions of same.
- j. Location of existing easements or rights-of-way including power lines.
- k. Contours to determine the natural drainage of the land. Intervals shall be: up to ten (10%) percent grade – two (2) feet; over (10%) percent – five (5) feet.
- l. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity.
- m. Location of existing buildings and their setbacks from property line.

(Ord. No. 95-24 § 54-68)

54-28.5 General Development Plans.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all general development plans:

- a. A general land use plan indicating the tract area and general locations of the land uses to be included in the planned development. The total number of dwelling units and amount of nonresidential floor area to be provided and proposed land area to be devoted to residential and nonresidential use shall be set forth. In addition, the propose types of nonresidential uses to be included in the planned development shall be set forth, and the land area to be occupied by each proposed use shall be estimated. The density and intensity of use of the entire planned development shall be set forth, and a residential density and a nonresidential floor area ratio shall be provided. The land use plan shall be at a scale consisting of no more than two hundred (200) feet per inch.
- b. A circulation plan showing the general location and types of transportation facilities, including facilities for pedestrian access within the planned development and any proposed improvements to the existing transportation system outside the planned development.
- c. An open space plan showing the proposed land area and general location of parks and any other land areas to be set aside for conservation and recreational purposes and a general description of improvements proposed to be made thereon, including a plan for the operation and maintenance of parks and recreational lands.
- d. A utility plan indicating the need for and showing the proposed location of sewage and water lines, any drainage facilities necessitated by the physical characteristics of the site, proposed methods for handling solid waste disposal, and a plan for the operation and maintenance of proposed utilities.
- e. A storm water management plan setting forth the proposed method of controlling and managing storm water on the site.
- f. An environmental inventory including a general description of the vegetation, soils, topography, geology, surface hydrology, climate and cultural resources of the site, existing man-made structures or features and the probable impact of the development on the environmental attributes of the site.
- g. A community facility plan indicating the scope and type of supporting community facilities which may include, but not

limited to, educational or cultural facilities, historic sites, libraries, hospitals, firehouses and police stations.

- h. A housing plan outlining the number of housing units to be provided and the extent to which any housing obligation assigned to the Township pursuant to the Fair Housing Act (P.L. 1985, c.222) will be fulfilled by the development.
- i. A local service plan indicating those public services which the applicant proposes to provide and which may include, but not be limited to, water, sewer, cable and solid waste disposal.
- j. A fiscal report describing the anticipated demand on Township services to be generated by the planned development and any other financial impacts to be faced by the Township or applicable school districts as a result of the completion of the planned development. The fiscal report shall also include a detailed projection of property tax revenues which will accrue to the County, municipality and school district according to the timing schedule provided under paragraph k. of this subsection, and following the completion of the planned development in its entirety.
- k. A proposed timing schedule in the case of a planned development whose construction is contemplated over a period of years, including any terms or conditions which are intended to protect the interests of the public and of the residents who occupy any section of the planned development prior to the completion of the development in its entirety. The timing schedule shall indicate the number of dwelling units and nonresidential floor area proposed to be constructed in each section of the development, the residential density and floor area ratio for each section of the development, and shall detail how the sub-plans and impacts described in paragraphs a. through j. above will be implemented and affected for each section of the development.

(Ord. No. 95-24 § 54-69)

54-28.6 Minor Site Plans.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all minor site plans:

- a. A description of the proposed development and use and a brief assessment of its effect on the site, adjacent properties, the neighborhood and the Township as a whole, including but not necessarily limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities and drainage. Also indicated shall be the number of employees, the times of operation, the number and frequency of shipments and deliveries, and the nature of materials and chemicals used on the site.
- b. Title block, containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
- c. Space for signatures of Chairman and Secretary of the Board.
- d. Scale of map, both written and graphic. The scale shall consist of no more than fifty (50) feet to the inch.
- e. North arrow.
- f. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, lot coverage, lot area, height, floor area ratio, density and number of parking spaces, both as to required and proposed, for the subject property.
- g. The boundaries of the site in question, with dimensions of same.
- h. Location of existing easements or rights-of-way including power lines.
- i. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity.
- j. Location of existing and proposed buildings and their setbacks from property lines.
- k. Floor plans for existing and proposed buildings, showing the use and layout of internal space.

- l. Location of existing and proposed parking, loading, access and circulation improvements, as well as signs.
- m. If alterations to the existing building façade are proposed, elevations showing the nature of the construction.
- n. Location and description of existing and proposed landscaping.

(Ord. No. 95-24 § 54-70)

54-28.7 Minor Subdivisions.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all minor subdivision applications:

- a. A general description of the proposed development and a preliminary assessment of its effect on the site, adjacent properties, the neighborhood and the Township as a whole, including but not necessarily limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities and drainage.
- b. A statement indicating what, if any, subdivisions have affected the subject property during the five (5) years prior to the date the application was filed.
- c. A key map showing location of tract to be considered in relation to the surrounding area, within at least three hundred (300) feet of the subject property.
- d. Title block containing name of applicant and owner, preparer, existing lot and block numbers, date prepared and date of last amendment.
- e. Space for signatures of Chairman and Secretary of the Board.
- f. The name of all adjacent property owners.
- g. Scale map, both written and graphic. The scale shall consist of no more than fifty (50) feet to the inch.
- h. North arrow.
- i. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all

setbacks, lot areas, lot widths, lot coverage, floor area ratios, and density, both as to required and proposed, for the subject property.

- j. The location and width of any abutting streets, both right-of-way and pavement.
- k. The boundaries of the tract in question, with bearings and distances of same.
- l. Existing and proposed property lines for the lots in question, with bearings and distances of same.
- m. Location of existing easements or rights-of-way including power lines.
- n. Contours to determine the natural drainage of the land. Intervals shall be: up to ten (10%) percent grade – two (2) feet; over ten (10%) percent grade – five (5) feet.
- o. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity.
- p. Location of existing and proposed buildings and other improvements.
- q. Location of existing wells and septic systems and/or location of connections to public water and sanitary sewer systems.
- r. Soil erosion and sedimentation control plan, if required pursuant to P.L. 1975, c. 251.
- s. Location of any required dedication or reservation for streets or any area shown on the Official Map.

(Ord. No. 95-24 § 54-71)

54-28.8 Preliminary Major Site Plans.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all preliminary major site plans:

- a. An environmental impact statement, prepared in accordance with Chapter XXI of the Township Code.

- b. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
- c. Space for signatures of Chairman and Secretary of the Board and the Township Engineer.
- d. Scale of map, both written and graphic. The scale shall consist of no more than fifty (50) feet to the inch.
- e. North arrow.
- f. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, building and impervious coverage, lot area, building height, floor area ration, density, number of parking spaces, and slope disturbance, both as to required and proposed, for the subject property.
- g. The boundaries of the site in question, with dimensions of same. Where it is physically impossible to show the entire property on the required sheet, a key map is permitted.
- h. Location of existing easements or rights-of-way, including power lines.
- i. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity. If such features are located on adjacent property, but have the potential to effect the site development, they shall be shown.
- j. Existing and proposed topographic contours of the site and adjacent areas affecting the site. Contour intervals shall be no greater than: ten (10%) percent grade or less – two (2) feet; over ten (10%) percent grade – five (5) feet.
- k. Proposed spot grades at the corners of all buildings and in appropriate pavement locations if new buildings or paved areas are proposed, or if regarding near existing buildings is proposed.
- l. Location of existing and proposed buildings and their setbacks from property lines, plus the location of existing buildings and paved areas on adjacent properties.

- m. Floor plans and elevation drawings for existing and proposed buildings, showing the use and layout of internal space, and front, rear and side building façade elevations, both at a scale not exceeding eight (8) feet per inch.
- n. Location and design of existing and proposed parking, loading, access and circulation improvements, showing dimensions of same.
- o. Existing and proposed signs, including the size, materials, nature of construction, location and any illumination of same.
- p. Existing and proposed site illumination, including height and location of fixture, type of fixture and bulb, pole material, and manufacturer's isocandela diagram superimposed upon the site plan.
- q. Existing and proposed utility service, including septic systems with test hole locations and soil log information, connections to sanitary sewers, wells, connections to water mains, fire hydrants, etc.
- r. Existing and proposed storm drainage design and improvements, including a map showing the entire drainage area, the drainage area contributing to each pertinent drainage structure and drainage tabulation sheets showing calculations for each drainage area. Provisions for rooftop drainage shall also be shown.
- s. Soil erosion and sedimentation control plan, if required pursuant to P.L. 1975, c.251.
- t. Location and description of existing and proposed landscaping. Information for proposed landscaping shall include common and scientific names, number of plants, planted size and root specification.
- u. Location of any required dedication or reservation for streets or any area shown on the Official Map.
- v. The location and design of fences, walls, sidewalks and similar improvements to be proposed.

- w. The location and design of solid waste disposal containers, recycling containers and monitoring wells, if such wells are required by this chapter or the Board.
- x. Construction details and specification sufficient to illustrate the nature of site improvements, including but not necessarily limited to the following, when appropriate: paving, curbing, walls, fences, utility and storm drainage structures, soil erosion control structures, tree protection devices, light fixtures and standards, signs, planting and staking details, and barrier-free access design.

(Ord. No. 95-24 § 54-72)

54-28.9 Preliminary Major Subdivisions.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all preliminary major subdivisions:

- a. An environmental impact statement, prepared in accordance with Chapter XXI of the Township Code.
- b. Title block containing name and address of the applicant and owner, plat preparer, lot and block numbers, date prepared and date of last amendment.
- c. The proposed name of the subdivision.
- d. Space for signatures of Chairman and Secretary of the Board and the Township Engineer.
- e. Scale of map, both written and graphic. The scale shall consist of no more than fifty (50) feet to the inch.
- f. North arrow.
- g. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, building and impervious coverage, tract and lot areas (existing and proposed), floor area ratio, density, and slope disturbance, both as to required and proposed, for the subject property.
- h. A key map showing location of the tract to be considered in relation to the surrounding area, within at least three hundred (300) feet of the subject property.

- i. The name of all adjacent property owners, and the names of adjacent subdivisions, if any.
- j. The boundaries of the tract in question, with dimensions of same.
- k. Existing and proposed property lines for the lots in question, with dimensions of same, and tentative lot and block numbers.
- l. Location of existing and proposed easements or rights-of-way, including power lines, drainage easements, access easements, stream encroachment lines, sight easements, utility easements, existing schools and parks, and the location of areas to be reserved for public use or other common areas.
- m. The location and width of any abutting streets, both right-of-way and pavement, and any railroad rights-of-way.
- n. The location, dimensions and profiles for all proposed streets, sidewalks, and alleys to a minimum distance of two hundred (200) feet beyond the tract boundaries.
- o. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity. If such features are located on adjacent property, but have the potential to affect the site development, they shall be shown.
- p. Existing and proposed topographic contours of the site and adjacent areas affecting the site. Contour intervals shall be no greater than: ten (10%) percent grade or less – two (2) feet; over ten (10%) percent grade – five (5) feet.
- q. Location of existing buildings and structures and their setbacks from property lines.
- r. Existing and proposed utility service, including septic systems, test hole locations and soil log information, sanitary sewer mains and connections to same, wells, water mains and connections to same, fire hydrants, etc.
- s. Existing and proposed storm drainage design and improvements, including a map showing the entire drainage area, the drainage area contributing to each pertinent

drainage structure and drainage tabulation sheets showing calculations for each drainage area.

- t. Soil erosion and sedimentation control plan, if required pursuant to P.L. 1975, c. 251.
- u. Location and description of proposed street trees, reforestation and any landscaping. Information shall include common and scientific names, number of plants, planted size and root specification.
- v. Location of any required dedication or reservation for streets or any area shown on the Official Map.
- w. The location and design of fences, walls, sidewalks and similar improvements to be proposed.
- x. Construction details and specifications sufficient to illustrate the nature of site improvements, including but not necessarily limited to the following, when appropriate: paving, curbing, walls, fences, utility and storm drainage structures, soil erosion control structures, tree protection devices, light fixtures and standards, signs, planting and staking details, and barrier-free access design.
- y. Any preliminary major subdivision in the I, OB-RL and PED districts, or in any situation that has the potential for discharge of any pollutant or contaminant on or into the ground or water shall show the location of all monitoring wells as regulated in subsection 54-30.10 and as required by the Township Engineer and the Township Health Department.

(Ord. No. 95-24 § 54-73)

54-28.10 Final Major Site Plans.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all final major site plans:

- a. Those items required for preliminary major site plans pursuant to subsection 54-28.8, paragraphs b. through x., shown in final form.
- b. Information sufficient to demonstrate that all of the conditions of preliminary approval have been satisfied.

(Ord. No. 95-24 § 54-74)

54-28.11 Final Major Subdivisions.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all final major subdivisions:

- a. Those items required for preliminary major subdivisions pursuant to subsection 54-28.9, paragraphs b. through y., shown in final form.
- b. The required front, side and rear setback lines pursuant to the zoning regulations, Section 54-30, on all lots.
- c. The location and description of all monuments.
- d. All lot lines, showing bearings and distances to the nearest hundredth of a foot.
- e. All lot areas, to the nearest tenth of a square foot.
- f. The radius and central angle of all arcs and curves along all street lines.
- g. Block and lot numbers assigned by the Tax Assessor, and street addresses assigned by the Post office, for each of the lots.
- h. The location of all telephone, electric, gas and cable television lines and easements.
- i. Information sufficient to demonstrate that all of the conditions of preliminary approval have been satisfied.
- j. Certification from a licensed surveyor as to the accuracy of the details on the plat and as to compliance with provisions of the Map Filing Law.
- k. Certification from the Township Engineer as to the plat's compliance with the provisions of the Map Filing Law and all applicable Township ordinances and requirements.
- l. A statement from the Township Engineer that he has received a map showing all utilities in exact location and elevation identifying those portions already installed and those to be installed, and that the developer has installed all improvements in accordance with all Township regulations,

and/or a statement by the Township Clerk that proper performance guarantees have been posted with the Township Council for the installation of required improvements.

- m. When approval of a plat is required by an officer or agency of the Township, County or State, approval shall be referenced and certified on the plat.

(Ord. No. 95-24 § 54-75)

54-28.12 “C” Variance Applications.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all applications for a “C” variance to the Zoning Board of Adjustment, and for all such applications before either the Planning Board or the Zoning Board of Adjustment when the variance application has been bifurcated from any other applications which may be required by this chapter:

- a. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
- b. Space for signatures of Chairman and Secretary of the Board.
- c. Scale of map, both written and graphic. The scale shall consist of no more than fifty (50) feet to the inch.
- d. North arrow.
- e. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, building and impervious coverage, lot area, building height, floor area ration, density, number of parking spaces, and slope disturbance, both as to required and proposed, for the subject property.
- f. A copy of the certified list of property owners within two hundred (200) feet of the subject property prepared by the Tax Assessor.
- g. A key map showing location of the tract to be considered in relation to the surrounding area, within at least two hundred (200) feet of the subject property.

- h. The boundaries of the site in question, with dimensions of same. Where it is physically impossible to show the entire property on the required sheet, a key map is permitted.
- i. Location of existing easements or rights-of-way, including power lines.
- j. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas, and rock outcrops, as well as locations of mining activity. If such features are located on adjacent property, but have the potential to affect the site development, they shall be shown.
- k. Existing and proposed topographic contours of the site and adjacent areas affecting the site. Contour intervals shall be no greater than five (5) feet.
- l. Location of existing and proposed buildings, including accessory buildings, and their setbacks from property lines. Lines indicating the minimum required front, side and rear setbacks for principal buildings shall also be shown. The approximate location of existing buildings and paved areas on adjacent properties shall also be shown.
- m. If new building, expansion of existing buildings or interior renovations are proposed, floor plans for existing and proposed buildings shall be submitted, showing the use and layout of internal space, at a scale not exceeding eight (8) feet per inch.
- n. Location of existing and proposed parking, loading, access and circulation improvements, showing dimensions of same.
- o. Existing and proposed signs, if any, including the size, materials, nature of construction, location and any illumination of same. If no signs are proposed, a statement indicating same shall be submitted.
- p. Existing and proposed utility service, including septic systems with test hole locations and soil log information (if a new system is proposed), connections to sanitary sewers, wells and connections to water mains.
- q. The location and design of fences, walls, sidewalks and similar improvements to be proposed.

(Ord. No. 95-24 § 54-76)

54-28.13 “D” Variance Applications.

In addition to the requirements indicated in subsection 54-28.2, the following information shall be submitted for all applications for a “D” variance to the Zoning Board of Adjustment, including those cases when the variance application has been bifurcated from any other applications which may be required by this chapter:

- a. A general description of the proposed development and a preliminary assessment of its effect on the site, adjacent properties, the neighborhood and the township as a whole, including but not necessarily limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities and drainage.
- b. A key map showing location of tract to be considered in relation to the surrounding area, within at least three hundred (300) feet of the subject property.
- c. Title block containing name of applicant and owner, preparer, lot and block numbers, date prepared and date of last amendment.
- d. Scale of map, both written and graphic. The scale shall contain no more than fifty (50) feet to the inch.
- e. North arrow.
- f. Zoning district in which parcel is located, and the zone district of adjacent property, with a table indicating all setbacks, lot coverage, height, floor area ration, density and number of parking spaces, both as to required and proposed for the subject property.
- g. The location and width of any abutting streets, both right-of-way and pavement.
- h. The boundaries of the site in question, with dimensions of same.
- i. Location of existing easements or rights-of-way including power lines.

- j. Contours to determine the natural drainage of the land. Intervals shall be: up to ten (10%) percent grade – two (2) feet; over ten (10%) percent grade – five (5) feet.
- k. Location of natural features, including woodlands, streams and other water bodies, wetlands, flood hazard areas and rock outcrops, as well as locations of mining activity.
- l. Location of existing and proposed buildings and their setbacks from property lines.
- m. Preliminary floor plans and building façade elevations for existing and proposed buildings.
- n. Location of existing and proposed parking, loading, access and circulation improvements.
- o. Location and description of existing and proposed landscaping.
- p. A copy of the certified list of property owners within two hundred (200) feet of the subject property prepared by the Tax Assessor.

(Ord. No. 95-24 § 54-77)

54-29 DESIGN GUIDELINES, STANDARDS AND CONSTRUCTION SPECIFICATIONS.

54-29.1 Purpose.

This section provides design guidelines, design standards and construction specifications which shall apply to all applications for site plan or subdivision approval.

(Ord. No. 95-24 § 54-78)

54-29.2 General Design Guidelines.

Site plans and subdivisions shall be designed to:

- a. Be consistent with the Township Master Plan, Official Map and with the zoning regulations, Section 54-30;
- b. Consider County, regional and State plans for the Township, and to conform to all applicable regulations of the County, State or Federal governments, as well as any regional entities having jurisdiction;

- c. Minimize negative impacts to the natural and manmade environment, including wetlands, areas prone to flooding, stream corridors, steep slopes, surface and ground water systems, significant stands of vegetation, wildlife, historical structures and sites, existing structures, neighborhood character and the fiscal stability of the community; and
- d. Advance the purposes of this chapter and the Municipal Land Use Law, as applicable.

(Ord. No. 95-24 § 54-79)

54-29.3 Blocks and Lots.

- a. *General.* The layout of blocks and lots shall be designed to:
 - 1. Be compatible with the lot and block patterns established in the neighborhood, as appropriate;
 - 2. Minimize negative impacts to the natural and man-made environments;
 - 3. Provide for a well-designed system for circulation and access; and
 - 4. Provide a suitable amount of land on each lot that will enable appropriate development according to this chapter without undue environmental impact.
- b. *Conformance with Zoning.* Whenever a new lot is formed from a part of any other lot or lots, the assembly or separation shall be effected in such a manner as not to impair any of the requirements of this chapter. No subdivision shall be permitted which results in a change in area, width, or front, side or rear yard that fails to comply in every respect with the required provisions of the district in which it is located.
- c. *Lot Shape.* Lots shall be shaped to enable proper use, maintenance of and access to the lot, and in keeping with the planned future development of the area, as indicated in the Master Plan and zoning regulations. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.

- d. *Suitability of Lots for Development.* The Board may, after adequate investigation, withhold approval of any lot which in its opinion is not suitable for its intended use due to factors such as, but not limited to, rock formations, surface or underground mines, flooding, wetlands, soil conditions, presence of hazardous materials, excessive slopes, etc.
- e. *Reserve Access Strips.* No subdivision showing reserve strips controlling access to streets shall be approved unless the control and disposal of land comprising such strips has been placed in the Township Council under conditions approved by the Board and the Council.
- f. *Block Length.* No block for a grid street system shall exceed the following lengths:
 - 1. R-20AC, R-5AC and R-88 Districts: three thousand (3,000) feet.
 - 2. R-20 District: two thousand (2,000) feet.
 - 3. Reserved.
 - 4. R-13 District: one thousand one hundred twenty-five (1,125) feet.
- g. Each lot must front upon an approved street at least fifty (50) feet in width.
- h. Pedestrian crosswalks may be required, at the Planning Board's discretion, on blocks of two thousand plus (2,000+) feet. Crosswalks shall consist of a ten (10) foot right-of-way width, with a five (5) foot wide paved surface. Lighting and landscaping may, at the Board's discretion be required.
- i. Where extra width has been provided for road widening through dedication or easement, setbacks shall be measured from such dedication or easement line.

(Ord. No. 95-24 § 54-80; Ord. No. 99-19 § 2)

54-29.4 Streets.

The following standards shall apply for all streets which are within the jurisdiction of the Township. When the standards for required improvements are not indicated herein, the developer shall following the improvement standards indicated in the latest edition of the N.J.D.O.T. Standard

Specifications for Road and Bridge Construction, and which is available for inspection in the office of the Township Engineer.

- a. *General.* Streets, driveways, aisles and sidewalks shall be designed to:
 1. Permit the safe, efficient and orderly movement of vehicular and pedestrian traffic;
 2. Discourage heavy volumes of through traffic on minor streets and in residential areas;
 3. Provide for anticipated future volumes and speeds of traffic;
 4. Provide for adequate access and movement of emergency and service vehicles, including police and fire-righting equipment, school buses, street maintenance vehicles, garbage trucks, delivery vehicles, etc.;
 5. Provide access to adjacent properties without unduly interfacing with the flow of traffic;
 6. Provide a simple and logical street pattern; and
 7. Provide an attractive streetscape.
- b. *Street Width.* The width of street pavement shall be according to the following standards:
 1. Arterial Streets: sixty-six (66) foot r.o.w., forty-eight (48) foot cartway.
 2. Collector Streets: sixty (60) foot r.o.w., forty (40) foot cartway.
 3. Neighborhood through Roads: fifty (50) foot r.o.w., thirty (30) foot cartway.
 4. Minor Streets (moderate traffic volume, as determined by Planning Board): fifty (50) foot r.o.w., twenty-eight (28) foot cartway.

5. Minor Streets (light traffic volume, as determined by Planning Board): fifty (50) foot r.o.w., twenty-four (24) foot cartway.
 6. Substandard Street Widths: Applicant shall dedicate additional width, along one side of the street, equivalent to one-half (1/2) the required width.
- c. *Street Grades.* The minimum and maximum grades of streets shall be as follows:
1. Minimum Grade. All streets shall have a minimum grade of three-quarter (0.75%) percent.
 2. Maximum Grade. Streets shall be constructed with the following maximum grades:
 - (a) Arterial Streets: four (4%) percent, provided that the street grade may not exceed three (3%) percent within fifty (50) feet of an intersection.
 - (b) Collector Streets and Neighborhood Through Roads: six (6%) percent, provided that the street grade may not exceed five (5%) percent within fifty (50) feet of an intersection.
 - (c) Minor Streets: nine (9%) percent, provided that the street grade may not exceed five (5%) percent within fifty (50) feet of an intersection.
- d. *Horizontal Curves.* The following standards shall apply to the construction of horizontal curves for streets:
1. All streets shall be constructed with a minimum centerline radius appropriate to the street classification. The following standards shall apply, provided that the Planning Board may require greater radii when conditions warrant:
 - (a) Arterial Streets: as determined by the Board.
 - (b) Collector Streets; three hundred (300) feet.
 - (c) Neighborhood Through Roads: one hundred fifty (150) feet.

- (d) Minor Streets: one hundred (100) feet.
- 2. Sight easements shall be provided at horizontal curves when it is determined by the Planning Board and the Township Engineer that same are necessary for proper visibility. The boundaries of the easement shall be determined based upon conditions which exist at the curve.
- e. *Tangents Between Reverse Curves.* All streets shall be constructed with a minimum tangent between reverse curves in accordance with the following schedule:
 - 1. Arterial Streets: as determined by the Board.
 - 2. Collector Streets: one hundred fifty (150) feet.
 - 3. Neighborhood Through Roads: one hundred (100) feet.
 - 4. Minor Streets: fifty (50) feet.
- f. *Vertical Curves.* All changes in grade shall be connected by vertical curves of sufficient length to provide a smooth transition and proper sight distance according to recommended design practice. Vertical curves for all minor streets shall have a minimum “K” value of thirty (30) for both crest and sag curves. All other streets shall be designed with vertical curves as required by the Planning Board review based upon street conditions.
- g. *Street Intersections.* The following standards shall apply to intersections:
 - 1. Street intersections shall be as nearly at right angles as possible and in no case shall the angle of intersection be less than seventy-five (75) degrees.
 - 2. New intersections along one (1) side of an existing street shall, if possible, be aligned with any existing intersections on the opposite side of the street. Use of “T” intersections shall be encouraged. When neither “T” intersections or properly aligned four-way intersections are possible, intersections shall be offset by at least one hundred seventy-five (175) feet between intersection centerlines.

3. Curbs shall be rounded at all intersections in accordance with the following schedule. When an intersection involves streets of more than one (1) classification. The curb radius for the higher street classification shall apply.
 - (a) Arterial Streets: as determined by the Board.
 - (b) Collector Streets: thirty-five (35) feet.
 - (c) Neighborhood Through Roads: thirty (30) feet.
 - (d) Minor Streets: twenty-five (25) feet.

4. Sight easements shall be provided at all intersections, and shall include the area on each street corner that is bounded by the right-of-way lines and the line which connects the two (2) sight or “connecting points” located on each of the centerlines of the intersecting streets. The first sight point shall be located on the centerline of the side street, twenty (20) feet from the pavement edge of the through street, measured perpendicular to the through street. The second sight point shall be located on the centerline of the through street, at a distance, measured along the street centerline, from the intersection of the street centerlines as indicated in the following schedule:

<u>Posted Speed Limit On Through Street</u>	<u>Distance to Sight Point</u>
25	300’
30	350’
35	400’
40	475’
45	550’
50	600’

5. Street Jogs shall have centerline offsets of not less than one hundred fifty (150) feet.

h. *Dead-End Streets.* The following standards shall apply to dead-end streets:

1. The maximum length of dead-end streets shall be related to the district within which the lots front on the street are located, in accordance with the following schedule. The length shall be measured along the centerline of the street from the extreme dead-end of the right-of-way line at the turning circle to the centerline of the nearest intersecting through street.

<u>Zone</u>	<u>Maximum Length</u>
R-20AC, R-5AC, R-88	2,200 feet
R-20	1,000 feet
R-13	750 feet

2. There shall be a turnaround provided at the end of all dead-end streets with a minimum outside curb radius of fifty (50) feet, and a minimum right-of-way radius of sixty (60) feet. Whenever possible, the turnaround shall be tangent to the right side of the street as one approaches the turnaround.
3. Street signs indicating the dead-end nature of the street shall be posted by the developer within fifty (50) feet of the intersection with a through street.
4. If a dead-end street is of a temporary nature, a turnaround shall be provided and provisions made for future extension of the street, and reversion of the excess r.o.w. to the adjacent properties.

i. *Street Pavement.* All streets shall be paved in accordance with the following standards:

1. Arterial Streets, or Streets Carrying Substantial Volumes of Truck Traffic: Six (6) inches thick quarry process stone base, plus five (5) inches thick quarry process stone base, plus five (5) inches thick stabilized base, plus three (3) inches thick wearing course.
2. Collector Streets or Neighborhood Through Roads: Six (6) inches thick quarry process stone base, plus five (5)

inches thick stabilized base, plus two (2) thick inches wearing course.

3. Minor Streets: Six (6) inches thick quarry process stone base, plus four (4) inches thick stabilized base, plus two (2) inches thick wearing course.

- j. *Private Streets.* Any private street proposed for any development shall follow the same provisions required for public streets.

(Ord. No. 95-24 § 54-81; Ord. No. 99-19 § 2)

54-29.5 Curbs.

Streets, parking areas, loading areas, driveways for nonresidential and multi-family residential developments, and other paved areas required by the Board shall be bounded by curbs constructed according to the following standards:

- a. Curbs shall be constructed of granite blocks, with each block having a ten (10%) to twelve (12) inch vertical length.
- b. Curbs shall be set in a Class B concrete base at least four (4) inches thick in front and rear of the granite block, and at least six (6) inches thick below the block. The combined block and concrete base shall have a minimum vertical dimension of eighteen (18) inches.
- c. Curbs shall have a six (6) inch exposed vertical face above the finished pavement surface.
- d. The exposed curb face shall have a one (1) inch rake away from the pavement.
- e. Joints between granite blocks shall be one half (1/2) to three quarters (3/4) inch thick.
- f. Curbs shall be depressed at all driveway openings and sidewalk crossings.

(Ord. No. 95-24 § 54-82)

54-29.6 Sidewalks.

Where required, sidewalks shall be constructed in accordance with the following standards:

- a. Sidewalks running parallel to streets shall be set back at least four (4) feet from the face of the street curb. Sidewalks located in parking areas or similar situations where vehicles may overhang the curb shall be set back at least two and one-half (2.5) feet from the curb, or shall be constructed to have a minimum width of six (6) feet, which dimension shall not include the curb thickness.
- b. Sidewalks shall be at least four (4) feet wide, except where a greater width is required by paragraph a. above, or where site conditions warrant a greater width.
- c. Sidewalks shall be constructed of Class B concrete, four (4) inches thick, with a four thousand five hundred (4,500) p.s.i. twenty-eight (28) day compressive strength. The concrete shall be placed on a six (6) inch thick quarry process stone bed course. At vehicle crossings, the concrete shall be six (6) inches thick, with a six (6) inch thick quarry process stone bed course, and shall be reinforced with welded wire fabric mesh or equivalent.
- d. Sidewalks shall be pitched at a minimum 1:48 pitch one-quarter ((1/4) inch for every foot), in order to provide for adequate run-off. If the sidewalk is within the street right-of-way, the run-off shall be directed toward the street curb.
- e. Sidewalks shall not be lowered or depressed at driveway crossings, except where deemed necessary by the Township Engineer for safety purposes.

(Ord. No. 95-24 § 54-83)

54-29.7 Driveway Aprons.

A driveway apron is the area between the sidewalk and the edge of the paved portion of the road. All driveway aprons shall be flared and constructed of Class C concrete, six (6) inches thick, with a six (6) inch thick quarry process stone bed course, and shall be reinforced with welded wire fabric mesh or equivalent.

(Ord. No. 95-24 §54-84; Ord. No. 05-3 § 1)

54-29.8 Stormwater Management.

All streets and properties shall be designed to safely accommodate anticipated stormwater flows. All storm water drainage improvements shall comply with the Surface Water Management Ordinance, Chapter XXV Stormwater Control of the Township Code.

- a. Where stormwater or other type of surface water is to be discharged on or over other lands not owned by the owner of the property which is the subject of the development application, formal easements, duly executed and acknowledged by each and every owner affected, must be provided prior to any action of the Board. Where stormwater or other type of surface water is discharged into existing streams or waterways, provisions must be made for off-site drainage improvements. Where an application proposes to divert, relocate or otherwise encroach upon an existing stream or waterway, approval must be obtained from the proper State agency.

(Ord. No. 95-24 § 54-85; Ord. No. 06-14 § 1; Ord. No. 06-45 § 1)

54-29.9 Street Trees.

The following standards shall apply to the placement of street trees:

- a. Street trees shall be placed outside of the street right-of-way, on both sides of the street, but no further than twenty (20) feet from the street curb. Street trees shall be spaced at fifty (50) foot intervals or as otherwise approved by the Planning Board.
- b. Street trees shall be located where they will not interfere with utility lines or pipes located above or below the ground, where they will not interfere with the proper distribution of light from street lighting fixtures, and where they will not interfere with proper sight distance. Street trees shall be spaced as indicated from the following objects:

<u>Object</u>	<u>Minimum Distance</u>
Fire hydrant	8 feet
Light pole	25 feet
Street corner (measured from intersection of curb lines)	40 feet

- c. The choice of formal or naturalistic design shall be based upon the recommendation of the Shade Tree Commission, after review of site and neighborhood characteristics.
- d. All street trees shall have a minimum truck caliper of two to two and one-half (2 to 2.5) inches at the time of installation.

They shall be balled and burlapped, nursery grown. And certified disease free.

(Ord. No. 95-24 § 54-86)

54-29.10 Lighting.

Illumination for streets and properties shall be designed in accordance with the following standards:

- a. *General.* Site lighting shall be designed to:
 - 1. Provide adequate illumination in appropriate locations for site users and the general public for purposes of traffic and pedestrian safety, security, property and building identification, and aesthetic improvement;
 - 2. Prevent excessive illumination and glare; and
 - 3. Provide proper orientation and shielding of fixtures in order to prevent undue illumination of adjacent properties.
- b. *Street lighting.* Light fixtures and standards shall be installed in accordance with the standards and specifications of the utility company providing the service.
- c. *Minimum Illumination Levels.* All site areas shall be adequately lighted to insure safe movement of persons and vehicles in parking lots, access drives and loading zones at building entrances and for the intended use of the premises as approved by the Planning Board. In parking and loading areas, there shall be provided illumination in accordance with the following table. For other site areas, the minimum illumination shall be as determined by the Board, taking into account site conditions and the intended use of the property.

	<i>General Parking and Pedestrian Area</i>	<i>Vehicle Use Area (only)</i>
<u>Level of Activity*</u>	<u>Minimum Footcandles**</u>	<u>Average Footcandles**</u>
High	0.9	2.0
Medium	0.6	1.0
Low	0.2	0.5

*As determined by the Planning Board.

** Maintained horizontal footcandles on the pavement.

- d. *Uniformity Ratio.* In parking and loading areas, lighting shall be uniformly distributed in accordance with the following table:

<i>General Parking and Pedestrian Area</i>	<i>Vehicle Use Area (only)</i>	
<u>Level of Activity*</u>	<u>Uniformity Ratio**</u>	<u>Uniformity Ratio**</u>
High	4:1	3:1
Medium	4:1	3:1
Low	4:1	4:1

*As determined by the Planning Board.

** Average to minimum illumination level on the pavement.

- e. *Illumination at Property Lines.* The light intensity of site lighting shall not exceed five tenths (0.5) footcandle along any property line, or three tenths (0.3) footcandle along any property line abutting a property used or zoned for use as a residence. Fixtures shall be set back a distance equal to the height of the fixture from any property line abutting a property used or zoned for use as a residence.
- f. *Shielding of Fixtures.* All lighting fixtures shall be directed downward and shall be equipped with the necessary shielding so as to prevent the direct source of light from being visible from any point beyond the property lines of the premises upon which the lighting structure is located. The shielding shall restrict the apex angle of the cone of illumination to a maximum one hundred fifty (150) degrees.
- g. *Height of Fixtures.* No freestanding light fixture shall exceed a height of twenty-five (25) feet. No wall-mounted fixture shall exceed the height of the wall to which it is attached, or twenty-five (25) feet, whichever is less.
- h. *Spotlights and Floodlights.* Spotlights and floodlights shall be so located and directed so as not to project light beyond

the surface being illuminated or to create a nuisance or hazard.

- i. *Conflicts with Trees and Buildings.* Lighting fixtures and standards shall be located to avoid the creation of excessive areas of shadow from buildings and shade trees. Light poles shall be spaced at least twenty-five (25) feet from the trunk of any shade tree.
- j. *Protection from Vehicles.* Light poles which may be subject to impact from motor vehicles shall be mounted upon a reinforced concrete base at least three (3) feet high, and shall be set back at least three (3) feet from the curb face or edge of the pavement, as applicable.
- k. *Duration of Illumination.* Duration of operation of all lighting and maximum lumen power permitted shall be as determined satisfactory by the Planning Board with due regard to whether any limitations imposed will deprive the applicant of a reasonable use of his property and whether the application will be detrimental to the public health and general welfare or to the property and personal rights of the abutting owners. Provision shall be made for the reduction in the intensity of illumination to the minimum needed for security purposes when the facility is not in operation.

(Ord. No. 95-24 § 54-87)

54-29.11 Street Name Signs. The following provisions shall apply to the placement of street name signs:

- a. Street name signs shall be placed at all street intersections, including those intersections where new streets intersect an existing street.
- b. Street name signs shall be a type approved by the Township Engineer, and shall be placed in locations approved by the Township Engineer. There shall be provided two (2) signs on each pole; one (1) for each intersecting street.
- c. No name applied to any street shall duplicate or so nearly resemble the name of any existing street within the Township or nearby locations outside the Township as to cause confusion. When a street is proposed as an extension of an existing street, the proposed street shall use the same name as the existing street. Street names shall be given prior to preliminary subdivision approval by the Board.

(Ord. No. 95-24 § 54-88)

54-29.12 Monuments. All monuments shall be designed, constructed and located as required by the Map Filing Law.

(Ord. No. 95-24 § 54-89)

54-29.13 Grading and Soil Disturbance.

- a. *General.* The grading of land for development shall be designed to:
 1. Minimize disturbance of steep slopes and vegetation;
 2. Minimize as well as balance the amount of cut and fill, and minimize the transportation of soil and other materials to and from the site;
 3. Minimize the potential for erosion, sedimentation, landslides and subsidence; and
 4. Prevent undue concentration or alteration of storm water flows;
 5. Avoid directing runoff over walks and paved areas, where the freezing of such runoff would create hazardous conditions for vehicles and pedestrians;
 6. Protect ground water supplies, including aquifer recharge areas;
 7. Enable safe and convenient access to properties, seeking to avoid excessive or insufficient slopes for paved areas and to avoid steps for pedestrian walks; and
 8. Enable appropriate maintenance of properties.
- b. *Soil Erosion and Sedimentation Control.* All developments in all districts shall protect streams, lakes and ponds from sedimentation damage, and shall prepare a Soil Erosion and Sediment Control Plan in accordance with and if required by P.L. 1975, c.251, and shall submit the plan as part of the application before the Board.
- c. *Preservation of Topsoil.* No topsoil shall be removed from the site or used as spoil. Topsoil which is removed as part of

subdivision or site plan construction shall be stockpiled in accordance with the requirements for soil erosion or sedimentation control. Topsoil moved during the course of construction shall be redistributed so as to provide at least six (6) inches of cover to all areas of the site, and shall be stabilized by seeding and/or planting.

- d. *Man-Made Slopes.* The following provisions shall apply to the grading of man-made slopes:
1. Unpaved areas adjacent to buildings shall be sloped to direct surface water and roof drainage, including snow melt, away from buildings at a minimum slope of five (5%) percent, or four horizontal to one vertical (4:1).
 2. Unpaved areas not adjacent to buildings shall be graded to provide a slope of no less than two (2%) percent, unless it is demonstrated that soil permeability provides adequate drainage with lesser slopes.
 3. Lawn areas shall be graded to provide a slope of no greater than twenty-five (25%) percent, or four horizontal to one vertical (4:1).
 4. Grass banks and other banks to be maintained by machines shall be graded to provide a slope of no greater than thirty-three (33%) percent, or three horizontal to one vertical (3:1).
 5. Planted banks which are not to be maintained by machines shall be graded to provide a slope of no greater than forty (40%) percent, or two and one-half horizontal to one vertical (2.5:1).

(Ord. No 95-24 § 54-90)

54-29.14 Buildings. Buildings shall be designed and placed so as to:

- a. Promote a desirable and harmonious visual environment;
- b. Minimize the need for site grading, cut and fill, and vegetative disturbance;
- c. Avoid overpowering or dominating adjacent properties;

- d. Enhance the character of the surrounding neighborhood and the Township as a whole;
 - e. Provide for appropriate access by vehicles, including emergency and service vehicles, and pedestrians; and
 - f. Enable service by the appropriate utilities.
- (Ord. No. 95-24 § 54-91)

54-29.15 Off-Street Parking and Loading, Circulation and Access.

- a. *General.* Off-street parking and loading facilities shall be designed to:
 - 1. Provide adequate space in appropriate locations for vehicles of employees, patrons, and visitors and for shipping and delivery vehicles, including future space needs;
 - 2. Be compatible with the internal circulation system of a site;
 - 3. Avoid substantial negative impacts to adjacent properties;
 - 4. Discourage illegal and improper parking of vehicles;
 - 5. Provide only the minimum amount of pavement necessary to meet site needs, and to avoid a “sea of pavement” appearance;
 - 6. Ensure proper drainage;
 - 7. Provide for access by disabled persons; and
 - 8. Allow for appropriate property maintenance and security.
- b. *Location.*
 - 1. All off-street parking and loading facilities shall be located on the same lot with the building they are serving.
 - 2. Off-street parking is permitted in any front, side and rear yard in any nonresidential zone, subject to plan

approval by the Board. Notwithstanding the above, any parking area located in the front yard of a nonresidential zone shall not be permitted closer than fifteen (15) feet to the front street line and the parking area pavement shall be devoted exclusively to landscaping, maintained in good condition, except for such driveway area as may be necessary to furnish ingress and egress into the required parking area that may cross the fifteen (15) foot landscaped area*

* See Land use and Development Appendix A following this chapter for off-street parking requirements for nonresidential land uses.

3. Off-street parking is permitted in any side or rear yard for multifamily residential uses and for nonresidential uses permitted in a residential district.
 4. Parking areas shall be located no closer than ten (10) feet to any side or rear property line, provided that a thirty (30) foot setback shall be required for property in the I, M, O-1, O-2, OB-RL, OR-3 and PED Zones.
 5. Loading areas for receipt and delivery are permitted in the side and rear yard, and must be located at least ten (10) feet from any property line, provided that a twenty-five (25) foot setback shall be required where the loading area abuts a residential use or zone.
- c. *Dimensions of Parking and Loading Spaces.* Parking and loading spaces shall be designed to provide a rectangular area with the following minimum dimensions, which shall exclude any roadway, driveway or access aisle adjacent to the parking or loading space: A minimum 9 x 20 foot parking stall shall be required, provided that any lot containing a supermarket shall be required to have 10 x 20 foot spaces. See paragraph h., below, for regulations pertaining to parking spaces for the handicapped. Loading space dimensions shall be 12 x 35 feet, provided that a 12 x 60 foot floor loading stall shall be required for tractor trailers.
- d. *Driveways and Access Aisles.* All parking areas and structures shall be provided with adequate means of ingress and egress which shall be designed to meet the following standards:

1. Driveways for parking and loading facilities shall comply with the following width standards:

<u>Use Category</u>	<u>Minimum/Maximum Width</u>	
	<u>One-Way Driveway</u>	<u>Two-Way Driveway</u>
Multi-Family Residential	12'/12'	20'
Nonresidential	12'/15'	24'/30'

2. Access aisles serving parking areas for multi-family residential and nonresidential uses shall have the following minimum widths, provided that any access aisle less than twenty-four (24) feet wide shall only be permitted if designed for one-way traffic only.

<u>Angle of Parking Spaces</u>	<u>Minimum Aisle Width</u>
0 degree angle (parallel)	12'
30 degree angle	11'
45 degree angle	13'
60 degree angle	18'
90 degree angle	24'

3. The maneuvering area for loading areas shall meet the following standards:

<u>Vehicle Type</u>	<u>Loading Space Depth</u>	<u>Maneuvering Area Depth</u>	<u>Total Depth</u>
Tractor Trailer	60 feet	45 feet	105 feet
All Other Vehicles	35 feet	30 feet	65 feet

4. Roadways and parking areas shall be designed so that no through street serves as the access aisle for parking or loading areas.
5. In the following situations, off-street parking and loading areas shall be designed so that all vehicles

may turn around within the parking or loading area, thus preventing the necessity of any vehicle backing into a public street:

- (a) In all multi-family residential and nonresidential districts;
 - (b) For all multi-family residential and nonresidential uses which may exist or be permitted in residential districts; and
 - (c) For all properties which front upon a collector or arterial road as designated in the Township Master Plan.
6. The centerline of all driveways serving multi-family residential and nonresidential uses shall be located at least two hundred (200) feet from the centerline of the intersection of any two (2) streets.
 7. No driveway shall be constructed in any district other than the R-20AC, R-5AC, R-88, R-20 and R-13 districts that exceeds a grade of eight (8%) percent.
- e. *Pavement.*
1. All off-street parking areas and driveways for nonresidential districts shall be surfaced with either bituminous concrete pavement with a three (3) inch stabilized base and one and one-half (1.5) inch surface course mix number 5, or six (6) inches of reinforced concrete, or the equivalent as approved by the Township Engineer.
 2. All parking areas and driveways for residential uses in residential districts shall be paved in accordance with the requirements set forth in subsection 54-30.12b,5.
 3. Provision shall be made for adequate drainage facilities for all parking and loading areas and other paved areas. All such installations shall be connected with an adequate, approved system and shall be adequate to accommodate the storm drainage runoff of the facility it is designed to serve. All drainage facilities shall be approved by the Township Engineer prior to the Board approval.

4. Pavement for parking and loading areas shall be designed to provide a minimum slope of one half (0.5%) percent and a maximum slope of five (5%) percent.

f. *Striping and Signs.*

1. All spaces within any parking or loading area shall be clearly marked and maintained to show the arrangement of spaces within the parking and loading areas.
2. In the R-B Regional Business district, each parking space shall be marked on the pavement by a double painted line eighteen (18) inches on center.
3. Parking spaces designed for disabled persons shall have the International Symbol of Accessibility painted on the pavement of the spaces, and shall be identified with a sign displaying the symbol and appropriate wordage to include “DISABLED PERSONS WITH VALID ID ONLY” and a penalty notice for violations as required by law.
4. No sign other than entrance, exit, identification and conditions-of-use signs shall be maintained in any parking area. No such sign shall be larger than four (4) square feet in area.

g. *Parking for Disabled Persons.* In any parking lot designed to accommodate the public, designated parking spaces for handicapped persons shall be required as follows:

<u>Total Parking Spaces In Lot</u>	<u>Required Number of Handicapped Spaces</u>
Up to 50	1
51 to 200	2
Over 200	2 plus 1% of total spaces

The parking stalls for the handicapped shall be designed with an eight (8) foot width with adjacent access aisle at least five (5) feet wide.

- h. *Pedestrian Circulation.* Paved walkways will be provided as necessary to insure safe pedestrian circulation throughout the parking lots and into building entrances.
- i. *Compliance with Highway Access Management Codes.* All developments shall conform with any State highway access management code adopted by the Commissioner of Transportation under section 3 of the “State Highway Access Management Act,” P.L. 1989, c. 32 (C.27:7-91), and any County access management codes adopted by the County under C.27:16-1, as such codes may apply to the development.

(Ord. No. 95-24 § 54-92; Ord. No. 99-19 § 2; Ord. No. 05-5 § 1)

54-29-16 Water Supply.

- a. *Provision of Adequate Supply.* The developer shall make an adequate supply of water available to each property within the development, with the supply subject to the approval of the Board, Township Engineer and the Township Health Department. Subdivisions shall be connected to an existing public water supply system if: a) the property is located within the proposed service area for same pursuant to the Township Master plan or other official documents, and b) public service is available within a reasonable distance. If public service is not available, or is not available within a reasonable distance, the Board may nonetheless require the installation of water mains for the future provision of water, or alternatively, payment in lieu of installation, if the property is located within the propose service area indicated in the Master Plan or other official document.
- b. *Looped System.* Distribution mains shall be connected into loops so that the supply may be brought to the consumer from more than one (1) direction. Dead ends shall not be permitted without permission of the Township, and if permission is granted, a hydrant shall be placed at the end.
- c. *Pipe Size.* Water mains shall be a minimum diameter of six (6) inches unless another size is required as determined by the Township Water Department.
- d. *Fire Protection Facilities.* Fire protection facilities shall be provided for any development connected to a public water system. Hydrants shall be installed and connected in

locations approved by the Township. Hydrants shall be spaced so that each residence shall be within five hundred (500) feet of a hydrant. Hydrants shall be of a type and color approved by the Township Water Department.

Water cisterns for fire protection purposes shall be required for all developments not connected to a public water system. Where water cisterns are required, they shall be a minimum of fifteen thousand (15,000) gallons capacity, located within a maximum distance of two thousand (2,000) feet from any building construction (as measured along streets and driveways), be installed in accordance with manufacturer's specifications, and meet or exceed the engineering design and construction standards as specified in engineering drawing "Standard Detail for Fiberglass Water Storage Tank," prepared by Lisa Z. Ryden, Township Engineer, dated April 7, 1998, or any succeeding drawings specifically for this purpose.

In appropriate circumstances, additional fire protection facilities or payment in lieu of installation, may be required by the Board even if connection to a public water system is proposed, if in the opinion of the Board and The Rockaway Township Fire Chief, same are necessary to provide adequate fire protection.

- e. *Easements.* No water line shall be placed on private property unless the owner of the land is to own or operate the pipe, or an easement deeded to the Township is obtained. All easements shall be unrestricted, and shall be a minimum of twenty (20) feet wide or wider as circumstances warrant.

(Ord. No. 95-24 § 54-93; Ord. No. 98-17 § 1)

54-29.17 Sanitary Sewers and Septic Systems. The developer shall provide for the installation of sanitary sewers and/or septic systems to service the development in accordance with the following regulations:

- a. Subdivisions shall be connected to an existing sanitary sewer system if: a) the property is located within the proposed service area for same pursuant to the Township Master Plan or other official documents, and b) if public service is available within a reasonable distance.
- b. If public service is not available, or is not available within a reasonable distance, the Board may require the installation of water mains for the future provision of service, or alternatively, payment in lieu of installation, if the property is located within the proposed service area indicated in the Master Plan or other official document.

- c. Clean-outs must be furnished near the right-of-way line and at an interval of fifty (50) feet thereon.
- d. *On-site Septic Systems.* No site plan or subdivision relying on “on-site septic systems” will be approved by the Planning Board until the adequacy of the systems has been reviewed and approved by the Township Department of Community Services.

(Ord. No. 95-24 § 54-94; Ord. #11-10)

54-29.18 Electric, Telephone, Gas and Cable Television Service.

- a. The applicant shall arrange with the serving utility for the underground installation of the utility’s distribution supply lines, appurtenant equipment and service connections in accordance with the provisions of the applicable standards, terms and conditions incorporated as a part of its tariff as the same are then on file with Board of Regulator Commissioners.
- b. Prior to the grant of final approval, the developer shall submit to the Board a written instrument from each serving utility which shall evidence full compliance with the provisions of this section; provided, however, that lots of such subdivisions which abut existing streets where overhead electric or telephone distribution supply lines have theretofore been installed on any portion of the streets involved may be supplied with overhead service, but the service connections must be underground. The location of access facilities for servicing the utility shall be developed in conjunction with and as a part of the development application.
- c. The applicant shall provide, for that cable television company authorized to do business within the Township, easements and rights-of-ay necessary to the cable television company to serve the development.

(Ord. No. 95-24 § 54-95)

54-29.19 Landscaping and Buffers.

- a. *General.* Landscaping for site plans and subdivisions shall be designed to:
 - 1. Preserve and enhance the visual identity of the site, neighborhood and Township as a whole;

2. Mitigate the potentially harmful effects of soil and vegetative disturbance, lighting, and noise;
3. Buffer incompatible uses;
4. Screen various improvements, including buildings, parking and loading areas, utilities and drainage structures, storage areas, etc. from streets and adjacent properties;
5. No conflict with traffic safety, light fixtures, electric and telephone lines or other utilities.

b. *General Site Landscaping.*

1. Any part or portion of the site which is not used for buildings, accessory structures, loading or parking spaces or aisles, sidewalks and designated storage areas, and which does not contain existing vegetation to remain, shall be landscaped in accordance with an overall landscape planting plan, as approved by the Planning Board.
2. Natural wooded areas shall be preserved to the greatest extent possible. Existing vegetation that is to be retained shall be shown on the plan.
3. All landscaped portions of the site shall be maintained adequately throughout the year.

c. *Protection of Existing Vegetation.*

1. Existing vegetation shall be preserved to the maximum extent practicable. Existing vegetation to be preserved shall be shown on the plans submitted to the Board for any development approval.
2. Snow fences or silt fence shall be installed at the limits of disturbance as shown on the approved development plans, which shall be at a sufficient distance to prevent disturbance of the root systems or branches of the vegetation to be preserved.
3. Cut or fill near existing trees to be preserved shall require the installation of tree wells or retaining walls,

as appropriate, to maintain the existing grade above the roots of the tree.

- d. *Buffers.* A buffer in the form of landscaping, fences, berms and/or walls shall be provided by the developer of any nonresidential use which abuts a property used or zoned for use as a residence, and by the developer of any multifamily residential use which abuts a property used or zoned for use as a single-family or two-family residence. Any buffer provided between properties shall be sufficient to provide visual separation during all seasons and to minimize the effects of headlights from vehicles, light from structures, noise and the movements of people and vehicles. The following provisions shall apply:
1. When topographical conditions, existing vegetation or other conditions provide a sufficient buffer as determined by the Board, no additional buffer shall be required.
 2. Buffer widths shall be sufficient to accommodate the ultimate growth of any plantings in the buffer, but in any case no less than ten (10) feet in width.
 3. Trees and shrubs used in a buffer shall be at least six (6) feet high at the time of planting, and shall be maintained at above six (6) feet in height. If plantings are combined with a berm, the combined height of plantings and berm must be at least six (6) feet at the time of planting. Any fence or wall used for buffer screening must be six (6) feet high.
 4. Trees and shrubs used in a buffer shall be spaced to accommodate normal plant growth without overcrowding, and to provide a complete visual screen within three (3) years of planting. If necessary to achieve the above intent, double or triple staggered rows of plantings shall be provided.
 5. The choice of plant materials to be used in a buffer shall consider the ultimate growth characteristics of the plantings. Hardy, low-maintenance plants which are normally free from insect or disease problems shall be used. Plants which tend to lose their lower branches as they mature shall not be used, or they

shall be supplemented with other plants to provide a sufficient screen.

6. Landscaping, fences, berms and/or walls used for a buffer shall not cast excessive shade on adjacent properties, interfere with existing vegetation, cause drainage problems or interfere with adequate sight distance at driveways or street intersections.
7. Buffers shall be protected from impact by motor vehicles, and from the negative effects of road sale and snow plowing.

e. *Landscaping of Parking and Loading Areas.*

1. Properties with more than fifty (50) spaces shall provide at least one (1) shade tree within the perimeter of the parking area for every twenty-five (25) parking spaces.
2. Parking areas shall be separated by curbed, landscaped islands at least ten (10) feet in width between every six (6) rows (i.e. three (3) double bays) of parking spaces.
3. Parking areas with at least five (5) spaces shall be screened from the street with landscaping, fencing or a wall.
4. Widths of islands and planting areas shall be sufficient to accommodate the ultimate growth of any plantings in parking and loading areas, but in any case no less than five (5) feet in width.
5. Plantings shall be protected from impact by motor vehicles, and from the negative effects of road sale and snow plowing.
6. The choice of plant materials to be used in parking and loading areas shall consider the ultimate growth characteristics of the plantings. Hardy, low-maintenance plants which are normally free from destructive insect or disease problems shall be used.
7. Landscaping shall not cast excessive shade on adjacent properties, interfere with existing vegetation,

interfere with light fixtures or interfere with adequate sight distance for vehicles or pedestrians.

(Ord. No. 95-24 § 54-96)

54-29.20 Energy Conservation and Recycling.

- a. *General.* Site plans and subdivisions shall be designed, to the greatest degree practicable, in accordance with the following provisions:
 1. Streets and lots shall be oriented in order to permit buildings to be constructed to maximize solar gain. Where possible, streets shall run in an east-west direction, and the long axis of a lot shall run in a north-south direction.
 2. Development shall take advantage of topographic conditions in order to permit buildings to be constructed to maximize solar gain and in order to provide protection from winter winds. Where possible, development shall be oriented to south-facing slopes.
 3. Existing vegetation shall be preserved, and new landscaping provided, to enable vegetation to provide protection from winter winds and summer sun. Where practical, evergreen trees shall be placed on the north and west sides of buildings, and deciduous trees placed on the south and east sides of buildings.
 4. A recycling plan shall be submitted in compliance with the Statewide Mandatory Source Separation Act, as referred to in the Municipal Land use Law, N.J.S.A. 40:55D-28b(12). Any application to the Township Planning Board for subdivision or site plan approval for the construction of multi-family dwellings of three (3) or more units, single-family developments of fifty (50) or more units or any commercial, institutional or industrial development for the utilization of one thousand (1,000) square feet or more of land, shall submit a recycling plan that must contain, at a minimum, the following:
 - (a) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and

- (b) Locations documented on the applicant’s site plan that provide for convenient recycling opportunities for all owners, tenants and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the Municipal Recycling Coordinator.

Prior to the issuance of a certificate of occupancy by the Township of Rockaway, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials. The applicant shall make provisions for the indoor, or enclosed outdoor, storage and pickup of solid waste. Said provisions shall be approved by the Township of Rockaway engineer. (Ord. No. 95-24 § 54-97; Ord. No. 08-1 § 1)

54-29.21 Environmental Impact Statement.

No major subdivision shall receive preliminary approval and no major site plan shall receive preliminary approval until an environmental impact statement shall have been submitted to and approved by the Rockaway Township Planning Board pursuant to Chapter XXI of the Code of the Township of rockaway, New Jersey. (Ord. No. 95-24 § 54-98)

54-30 ZONING REGULATIONS.

54-30.1 Districts.

For the purpose of this chapter, the Township of Rockaway is hereby divided into the following districts:

R-20AC	Single-Family Detached Residential District
R-5AC	Single-Family Detached Residential District
R-88	Single-Family Detached Residential District
R-40	Single-Family Detached Residential District
R-20	Single-Family Detached Residential District
R-13	Single-Family Detached Residential District
RMF-5	Multi-Family Residential District
RMF-8	Multi-Family Residential District
RMF-15	Multi-Family Residential District
R-P	Residential/Professional District
OR1-EH	Office/Residential/Elder Housing Multi-Use District
OR-3	Office Residential/Multi-Use District

B-1	Neighborhood Business District
B-2	Highway Business District
R-B	Regional Business District
O-1	Office District
O-2	Office District
O-3	Office District
OB-RL	Office Building Research Laboratory District
PED	Planned Economic Development District
I	Industrial District
M	Mining District
CWR	Critical Water Resources District

(Ord. 95-20 § 1; Ord. No. 95-24 § 54-99; Ord. No. 99-19 §§ 2, 7, 8)

54-30.2 Zoning Map and Schedules.

- a. *Zoning Map; Boundaries.* The Zoning Map of the Township of Rockaway, as prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August 3, 1999, is hereby declared to be a part of this chapter. The district boundary lines are intended generally to follow railroad rights-of-way. The CWR district is intended to include lands designated as the “Recharge Zone” of the Unconsolidated Quaternary Aquifer in the Rockaway River Basin and a portion of the Black River Basin as set forth in the Federal Register Volume 49 Number 16, Tuesday, January 24, 1984, as indicated on the Zoning Map. Where a district boundary lines does not coincide with any such lines as above set forth, its location or relation to another boundary line indicated on the Zoning Map by means of figures expressing distance in feet from a street sideline or other boundary line. In cases of uncertainty or disagreements to the true location of any district boundary line, the determination thereof shall be with the Board of Adjustment.

- b. *Amendments to the Zoning Map.*
 - 1. Creation of the OR1-EH District. The Zone District for Lots 15 and 16 in Block 11303; Lots 48 through 51 in Block 11302, and Lots 54, 55, and 72 in Block 11301 was changed from OR1 to OR1-EH and the Zoning Map of the Township as prepared by Robert Catlin and Associates, City Planning Consultants, dated November 1995, was amended and revised to disclose that the above referenced Lots and Blocks are included in the new zone, OR1-EH. Lot 10 in Block 11301 is

hereby changed from R-20 to OR1-EH, as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August 3, 1999.

2. Amendments to the R-20 District. The Zone District for Block 11302 Lots 43 through 47 was changed from OR-1 to R-20, Medium Density Residential (20,000 square feet) and the Zoning Map of the Township of Rockaway as prepared by Robert Catlin and Associates, City Planning Consultants, dated November 1995, was amended and revised to disclose that the above referred Lots and Block were included in the R-20 District. All properties previously designated in the R-20M, Residential District, are hereby changed to R-20, Medium Density Residential (20,000 square feet), as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August 3, 1999.
3. Amendment to the R-5AC Single-Family Detached Residential District. All properties previously designated in the PRD-2, Planned Residential Development District – Lots 3, 4, 5, 5.05 and 6 in Block 20001 – are hereby changed to R-5AC as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August 3, 1999.
4. Amendments to the R-P residential/Professional District. The Zone District for Lot 6 in Block 22102 is hereby changed from I, Industrial, to R-P as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August 3, 1999.
5. Amendment to the R-13 Single Family Detached residential District. The Zone District for Lots 44, 45, 46, 46.01 and 47 in Block 11116 is hereby changed from RMF-8 to R-13 as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August 3, 1999.

6. Creation of the O-3 District. The Zone District for Lot 42 in Block 11116 is hereby changed from RMF-5 to O-3 Office District as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August 3, 1999.
7. Creation of the R-40 Single-Family Detached Residential District. The Zone District for Lots 2 and 2.01 in Block 10001 and for a portion of Lot 40 in Block 11403 is hereby changed from PRD-1 to R-40 as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated May, 1999 and revised to August, 1999.
8. Amendment to the R-20AC Single-Family Detached Residential District. The Zone District for Lot 3 in Block 10001 is hereby change from PRD-1 to R-20AC, as shown on the Zoning Map prepared by Burgis Associates, Inc., Community Planning and Development Consultants, dated may, 1999 and revised to August 3, 1999.

(Ord. No. 95-20 § 1; Ord. No. 95-24 § 54-100; Ord. No. 99-19 § 3)

54.30.3 Zoning Permits, Construction Permits and Certificates of Occupancy.

Prior to the commencement of a use, change of use or change of occupancy, and prior to the erection, construction, reconstruction, alteration, conversion, relocation or installation of a building or structure, a zoning permit shall be obtained from the Administrative Officer. The following provisions shall apply to the issuance of zoning permits:

- a. *Construction Permits.* Buildings or structures or parts thereof shall not be erected, razed, moved, extended, enlarged, altered or demolished unless and until a permit has been granted therefor by the Construction Official.
 1. Filing. Applications for construction permits shall be filed in triplicate with the Construction Official by owner or his agent, and shall state the intended use of the structure and the land.
 2. Required Submission.

- (a) The application shall be accompanied by detailed floor plans and specifications, utilities and mechanical service equipment, layout, and energy efficiency calculations (State Building Code).
- (b) New buildings or additions to existing buildings shall be accompanied by a plot plan showing existing and finished grades, open spaces, established building lines within the block upon which the land is located, a soil erosion control plan, retaining walls, a site disturbance and restoration plan and such other information as may be required to show that the proposed building or other structure shall comply with all of the requirements of this chapter for the district in which the premises is located. The plan shall be drawn to scale and shall show actual dimensions and figures.

3. Applications for Multi-family and Nonresidential Development.

- (a) The applicant for any construction or use in any RMF-5, RMF-8, RMF-15, R-P, OR-3, B-1, B-2, R-B, O-1, O-2, OB-RL, RED, I and M districts except for single-family detached and two (2) family dwellings, shall also submit in triplicate all plans of the proposed construction and development, including a general description of the proposed machinery, operation and products, if any, as well as an affidavit by the applicant acknowledging his understanding of the applicable performance standards and/or required conditions and his agreement to conform with same at all times.
- (b) If there is any reasonable doubt as to the likelihood of the intended use or construction conforming to the performance standards, required conditions or the Master Plan, or if the Planning Board finds that due to the nature of the intended uses the development plans should be reviewed by one (1) or more expert consultants, the Planning Board shall request a deposit of five hundred (\$500.00) dollars to be

placed in escrow, which will be used to defray the cost of the consultants' reviews and reports.

- (c) Upon receipt of the deposit in paragraph b. above, the Planning Board shall refer the application for investigation and report to one (1) or more expert consultants selected by the Board to advise on conformance with the performance standards, required conditions and/or Master Plan. A copy of any reports from the consultant(s) shall be promptly furnished to the applicant.
 - (d) Within forty-five (45) days of receipt of the report from the consultant(s), the Board shall render a decision regarding the application. A permit authorized and issued shall be conditioned on,. Among other things, conformance with the performance standards, required conditions and/or the Master Plan, as well as payment of any fees for review by the Board's consultant(s), which fees are in excess of the five hundred (\$500.00) dollars deposited initially. All monies not used to pay fees for review by the Board's consultant(s) shall be returned to the applicant.
- 4. All plans and specifications shall be signed by a licensed architect or a licensed professional engineer of the State of New Jersey; provided, however, that the owner of a single-family detached dwelling may sign the plans in the event he has prepared them and intends to occupy the premises. A plot plan only may be prepared and certified by a licensed land surveyor of the State of New Jersey.
 - 5. A construction permit shall not be issued for the erection, razing, moving, extending, enlargement, or alteration of any building or structure or any part thereof unless and until the plans and intended uses indicate that such building or structure is designed to conform in all respects to the provisions of this chapter and all other applicable ordinances of the Township.
 - 6. A construction permit shall not be issued until all real estate taxes and assessments have been paid.

7. Issuance of a construction permit shall negate the necessity for a zoning permit and shall supersede and revoke any zoning permit previously issued.
- b. *Zoning Permits.* If no construction permit shall have been issued previously, no land shall be occupied or used in whole or in part for any purpose whatsoever unless and until a zoning permit shall have been issued by the Zoning Officer.
1. A zoning permit shall be required for the use of any premises which does not contain a building.
 2. Whenever there shall be a change contemplated in the use of any premises which does not have a building upon it, a new zoning permit shall be required.
 3. The Zoning Officer shall issue or deny a zoning permit within seven (7) days of the application, unless site plan approval is required, in which case he shall issue a zoning permit within seven (7) days of the date of the resolution of site plan approval.
- c. *Certificates of Occupancy.* No building or structure hereafter erected or altered and no building in which the occupancy, use or tenancy shall have been changed, including a change from one permitted use to another kind of permitted use in the same district, as well as any change in tenancy for nonresidential use or in the nonresidential districts, shall be occupied or used in whole or in part for any purpose whatsoever unless and until a new site plan has been reviewed and approved by the Planning Board. Such approval shall be a prerequisite to the issuance of a new certificate of occupancy. In addition, the following provisions shall apply:
1. Notwithstanding the above provisions, a change in tenancy for business establishments and stores within the mall building in the R-B district shall not require the submission or approval of a site plan.
 2. Temporary certificates of occupancy shall not be issued by the Construction Official without first receiving approval from the Township Engineer, who shall ascertain the adequacy of required improvements installed to protect the general welfare of the public.

3. Every change in tenancy for a nonresidential use or in the nonresidential districts shall comply with Chapter 330, Laws of N.J., 1983 (Environmental Cleanup Responsibility Act).
 4. The Construction Official shall issue or deny a certificate of occupancy within ten (10) days of the application, unless site plan approval is required, in which case he shall issue the certificate of occupancy within ten (10) days of the date of the resolution of site plan approval.
- d. *Prerequisites for Issuance of Zoning Permits and Certificates of Occupancy.* No zoning permit or certificate of occupancy shall be issued by the Zoning Officer or Construction Official until he has ascertained that all of the requirements of this chapter and any other applicable Township or State regulations and ordinance, Board of Adjustment decisions, necessary resolutions of the Township Council and a site plan as approved by the Planning Board have been and are fully complied with. All improvements shown on any site plan shall have been installed on the premises in question before any zoning permit or certificate of occupancy, as the case may be, shall be issued.
- e. *Terms and Conditions of Zoning Permits and Certificates of Occupancy.* A zoning permit or certificate of occupancy shall specify the use of the land and/or building(s) and any terms or conditions imposed thereunder, including but not limited to the number of employees, required parking spaces and traffic impact. Any change in use, including a change from one permitted use in the same district, as well as any change in tenancy for other than a single-family detached, single-family attached, or multi-family dwelling shall be treated as a new use and a new zoning permit or certificate of occupancy, as the case may be, shall be required. The Planning Board shall review any change of use in the nonresidential districts prior to the issuance of a zoning permit or certificate of occupancy. Before any zoning permit or certificate of occupancy shall be issued for any such change in use, all provisions of this chapter shall be complied with in the same manner as if the new use were an initial use of land or a new structure or building.

- f. *Records.* It shall be the duty of the Construction Official and the Zoning Officer, respectively, to keep records of all applications for construction permits, certificates of occupancy or zoning permits and of all such permits and certificates issued, together with a notation of all special terms or conditions imposed thereunder. Each shall be responsible for the filing and safekeeping of all plans and specifications submitted to him with any application, and the same shall form a part of the records of his office and shall be available to all officials of the Township of Rockaway. Copies of any permits or certificates shall be furnished upon request to any person who shall have a right thereto by law.

(Ord. No. 95-24 § 54-101; Ord. No. 99-19 § 2)

54-30.4 Nonconforming Uses and Structures. The following provisions shall apply to uses and structures which lawfully existed prior to the adoption of the zoning regulations, Section 54-30, or any amendment thereof, but which do not presently conform to this section or amendment thereof:

- a. *Continuation Permitted.* Any nonconforming use or structure which lawfully existed at the time of adoption of this chapter or any amendment thereto may be continued upon the lot or in the structure so occupied. Any such nonconforming structure may be restored or repaired in the event of partial destruction thereof.
- b. *Subdivisions Involving Same.* No lot containing a nonconforming use shall be subdivided so as to reduce the lot area of such lot. No lot containing a nonconforming structure shall be subdivided so as to increase the degree or extent of the nonconforming condition.
- c. *Expansions or Alterations.* The following provisions shall apply to the expansion or structural alteration of nonconforming structures or uses:
 - 1. Any nonconforming use or structure which is nonconforming because of use shall not be enlarged, extended or structurally altered in any manner whatsoever.
 - 2. No nonconforming structure may be structurally altered if the alteration would increase the degree or extent of the nonconforming condition, or would create

any condition on the property that would not be in conformance with this chapter.

3. A nonconforming use or structure changed or altered to a conforming use or structure may not thereafter be changed back to a nonconforming use or structure.
 4. A nonconforming use or structure shall not be changed or altered to diminish the nature, degree or extent of the nonconforming condition in one (1) location while simultaneously increasing the nature, degree or extent of the nonconforming condition in another location on the property.
- d. *Abandonment of Nonconforming Uses.* Notwithstanding the provisions of paragraph a. above, in the event that there shall be an abandonment of any nonconforming use, such use shall not be permitted to continue. For purposes of administering this chapter, a nonconforming use shall be presumed to be abandoned if such use shall have ceased to operate for a period of twelve (12) consecutive calendar months, absent a showing by the property owner, and a finding by the Zoning Board of Adjustment, that the use has not been abandoned, notwithstanding the cessation of operation. Any such hearing on abandonment shall be processed as an appeal pursuant to N.J.S. 40:55D-70a.
- e. *Restoration or Repairs.* Nothing in this section shall prevent restoration or continuance of a nonconforming building or structure which is partially destroyed by fire, explosion, act of God, or of any public enemy, or the like, and nothing in this section shall prevent the strengthening or restoring to a safe and lawful condition of any part of any building declared unsafe by the Building Subcode Official, the Chief of the Township Fire Department or the Township Engineer.
- f. *Approved Projects.* Nothing in this section shall require any change in plans, construction or designated use of a structure or building for which a preliminary site plan and/or subdivision has been approved, provided the use and/or structure conforms to the terms of the approved plan, and provided that the period of protection provided by this chapter from changes in the zoning regulations has not expired.

- g. *Application for Certificate of Nonconforming Status.* The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant to this subsection may be made to the Administrative Officer within one (1) year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Zoning Board of Adjustment. Fees as required by this chapter shall accompany any such application. Denial by the Administrative Officer shall be appealable to the Zoning Board of Adjustment, and shall be processed as an appeal pursuant to N.J.S. 40:55D-70a.

(Ord. No. 95-24 § 54-102)

54-30.5 Nonconforming Lots. The following provisions shall apply to nonconforming lots as follows:

- a. *Vacant Lots.* The following provisions shall apply to any vacant lot which lawfully existed at the time of the adoption of the zoning regulations or any amendment thereto, but which presently does not conform to the zoning requirements for lot area, lot width, lot frontage, or lot location:
1. Such lots may be used for any use permitted in the district in which it is located, subject to the following requirements:
 - (a) At the time of and since the adoption of the zoning regulation making such lot nonconforming, the owner of the lot shall not have owned any adjoining property;
 - (b) The lot must be part of a recorded subdivision approved by the Planning Board or the Zoning Board of Adjustment; and
 - (c) All other applicable zoning regulations besides lot area, lot width, lot frontage or lot location must be complied with.
 2. Such lots shall not be subdivided so as to increase the degree or extent of any nonconforming lot condition or

so as to prevent compliance with this chapter by any reasonable future development on the property.

- b. *Developed Lots with a Structure.* The following provisions shall apply to any developed lot with a structure which lawfully existed at the time of the adoption of the zoning regulations or any amendment thereto, but which presently does not conform to the zoning requirements for lot area, lot width, lot frontage, or lot location.
 - 1. Such lots may be used for any use permitted in the district in which it is located, subject to the following requirements:
 - (a) At the time of and since the adoption of the zoning regulation making such lot nonconforming, the owner of the lot shall not have owned any adjoining property; and
 - (b) All other applicable zoning regulations besides lot area, lot width, lot frontage or lot location must be complied with.
 - 2. Such lots shall not be subdivided so as to increase the degree or extent of any nonconforming lot condition or so as to prevent compliance with this chapter by any reasonable future development on the property.

(Ord. No. 95-24 § 54-103; Ord. No. 02-18 § 1)

54-30.6 General Provisions. The following general provisions shall apply to all properties in all districts, unless the text indicates that the provision is applicable only in certain districts;

- a. *Conformance Required.* No land or premises may be used and no building or structure may be erected, razed, moved, extended, enlarged, or altered except in conformance with this chapter.
- b. *Equal Application.* The control and regulation of uses and structures by this chapter apply equally to the nature and extent of the uses and structures on the lot or lots upon which they are located.
- c. *Change of Use.*

1. A change of use from a nonconforming use to another nonconforming use shall not be permitted.
 2. A change of use from a nonconforming use to a conforming use shall not be permitted unless the structures and other improvements for the conforming use comply with the requirements of this chapter.
 3. A change of use from a conforming use to another conforming use shall not be permitted if this chapter has different requirements for the proposed use, unless the structures and other improvements for the proposed use comply with such different requirements.
- d. *Reductions Must Conform.* No lot, yard, parking area, setback, buffer or any open space shall be so reduced in area or dimension as to make it less than the minimum required by this chapter. No lot, yard, parking area, setback, buffer or any open space which is already less than the minimum required by this chapter shall be further reduced in area or dimension if such reduction does not comply with this chapter.
- e. *Subdivisions and Mergers.* Whenever a new lot is formed from a part of any other lot or lots, the assembly or separation shall be effected in such a manner so as not to impair any of the requirements of this chapter.
- f. *Yards.*
1. There shall be provided on every lot front, rear and side yards as required in the district in which the lot is located.
 2. All front yards must face upon a street and shall be of the size required for the particular district in which the lot is located. In the case of properties fronting upon a street with a right-of-way less than fifty (50) feet in width, or less than the proposed right-of-way width shown in the Township Master Plan, the required front yard shall be measured from a fifty (50) foot wide right-of-way or such wider right-of-way indicated in the Township Master Plan, as applicable. For purposes of this subsection, the location of the proposed right-of-way shall be determined taking into account the

existing right-of-way location in the vicinity and any alignment shown on the Township Master Plan.

3. No open space which has been counted or included as part of a side yard, rear yard, front yard, court or other open space as required by this chapter for one (1) building or lot may, by reason of change of ownership or for any other reason, be counted or included in the yard, court or other open space requirement of any other building or lot.
4. Projections and Encroachments. Unless otherwise permitted by this chapter, no part of any building shall extend beyond the foundation into any required yard or court, except as follows:
 - (a) Roof overhangs, cornices and eaves may project a maximum of two (2) feet over any required yard or court.
 - (b) Sills, leaders, belt courses and similar ornamental or structural features may project a maximum of six (6) inches into any required yard or court.
 - (c) An open fire balcony or fire escape may project into a required yard not more than four (4) feet.
 - (d) Ground story bay windows or oriels may project not more than three (3) feet into any required yard in any residential district.
 - (e) Chimneys with or without fireplaces may project not more than two (2) feet into any required yard in any residential district; provided the total area of encroachment shall not exceed twelve (12) square feet.
 - (f) No steps shall extend into any street right-of-way in any district. Unenclosed steps may extend a maximum of five (5) feet into any required front or rear yard.
 - (g) Awnings, canopies and marquees shall not extend into any street right-of-way in any district. Such awnings, canopies and marquees may project a maximum of five (5) feet into any required yard.
5. The sketch maps in the appendix* illustrate the delineation of yards for measurement purposes

regarding corner lots and other lots. Corner lots shall have a required front yard along each street line and one (1) required rear yard opposite a front yard, except as provided for in the sketch maps in the appendix. The rear yard shall be identified as that which is opposite the site's narrower front width. All other yards shall be considered side yards. The location of driveways, front doors or front facades shall not be relevant in regard to the foregoing regulation.

*Yard definition and building envelope may be found in Land use and Development Appendix A following this chapter.

g. *Corner Lots.*

1. All yards on corner lots abutting any street shall be construed as front yards and shall be subject to the front yard setback requirement of the district in which the lot is located. All other yards shall be measured in accordance with subsection 54-30.6f, 5.
2. On any corner lot in any residential district, no fence, structure, planting or shrubbery over thirty (30) inches in height above the level of the pavement at the center of the street opposite the point in question shall be erected or maintained within twenty-five (25) feet of the intersection formed by the projections of the two (2) street sidelines at the corner.

h. *Height Exceptions.* The height limitations required in each district shall not apply to that part of a house of worship such as a steeple, tower or minaret. House of worship buildings, school buildings and structures, masts, flagpoles, or any Township-owned, leased or operated building, structure or use shall not exceed forty-five (45) feet in height above the average elevation of the ground at the foundation of the structure. Notwithstanding the above, masts and flagpoles shall be set back from any property line a distance equal to or greater than the height of the mast or flagpole.

i. *Planting in Front Yards.* No hedge, shrubbery or planting on any lot in any residential district shall be permitted within three (3) feet of any street right-of-way line. The branches of all trees projecting beyond any such street right-of-way line shall be trimmed at all times to insure unobstructed vision

and shall be maintained to provide a clearance of at least eight (8) feet above the ground or sidewalk, as applicable.

- j. *Parking Decks Prohibited.* Parking decks shall be prohibited in all zone districts of the Township.

(Ord. No. 95-24 § 54-104; Ord. No. 99-19 § 1; Ord. No. 05-10 § 6; Ord. No. 05-10A § 6; Ord. 13-17)

54-30.7 Principal Buildings.

- a. *Number of Principal Buildings Restricted.*

1. No lot shall contain more than one (1) principal building or structure, except as permitted in the RMF-5, RMF-8, RMF-15, B-1, B-2, R-B, O-1, O-2, OR-3, OB-RL, PED, I and M districts as herein permitted and regulated.
2. Notwithstanding anything in this section to be contrary, lots in the R-13 district, all or portions of which are subject to leases initially on ninety (90) years or greater duration, which leases were in existence and which leaseholds contained a principal building or structure as of January 1, 1977, may contain more than one (1) principal building or structure on a lot, provided that:
 - (a) The fee owner of the lot owns the fee title to twenty (20) or more contiguous acres within the Township; and
 - (b) The individual leaseholds each contain no more than one (1) principal building or structure; provided, however, that if the leaseholds subject to subleases are in existence as of January 1, 1977, the restriction of one (1) principal building or structure shall apply to each individual subleasehold rather than the leasehold, and to the remaining portion of the leasehold, if any, not subject to a subleases; and
 - (c) The portion of the lot, if any, not subject to a lease shall contain no more than the particular buildings or structures in existence as of January 1, 1977; except as shall be authorized subsequent to that date by the relevant

Township official or agency pursuant to the Township Land Use Ordinance and other regulations of the Township.

3. More than one (1) principal building on a lot is permitted in the O-1, O-2, OR-3, OB-RL, PED, I and M districts; provided, however, where the districts are developed for nonresidential uses as permitted and regulated, the following requirements shall be complied with:
 - (a) The front, side and rear yard requirements shall be complied with for all buildings onsite.
 - (b) No building shall be closer to another building on-site than the sum of the heights of the buildings in question.
 - (c) The required off-street parking and loading for all buildings on-site shall be computed separately.
 - (d) Cumulative floor area and ground coverage of all buildings and structures on-site shall be used to compute and meet all other conditions of this chapter.

(Ord. No 95-24 § 54-105; Ord. No. 99-19 § 2)

54-30.8 Accessory Structures and Uses.

Accessory structures and accessory uses shall be located on the same lot as the principal building or structure to which they are accessory except as specifically set forth below in paragraph b,5. In addition, the following requirements shall apply to accessory structures and uses:

- a. *Requirements for Accessory Buildings in Residential Districts.* The following requirements shall apply to all accessory buildings in all residential districts:
 1. No accessory buildings, structures, or combination of accessory buildings and/or structures, shall cover a ground area more than twenty-five (25%) percent of the lot's rear yard area in the R13 and R20 Zones or more than twenty (20%) percent of the lot's rear yard area in all other residential zones.
 2. No accessory building shall exceed the height of the principal building or sixteen (16) feet, whichever results in the lesser height.

3. No accessory building shall be permitted in any front yard. Accessory buildings on corner lots shall comply with the minimum front yard requirements for principal buildings in the district for all street frontages.
4. Accessory buildings shall be set back a minimum distance of three (3) feet from any property line
5. All accessory buildings shall be located at least five (5) feet from any principal building located on the property or on any adjacent property, excluding overhangs. Where an accessory building is attached to a principal building by a breezeway, roof, wall, or the like, such accessory building shall be considered part of the principal building.
6. Garages for single family dwellings shall not contain space for more than three (3) motor vehicles.

b. *Requirements for Certain Structures in Residential Districts.* The following requirements shall apply to the specified accessory structures and uses in all residential districts:

1. Decks, patios and porches. Decks, porches, elevated patios and like structures which are attached to the principal building shall be permitted as accessory structures in all residential districts, subject to the following requirements:
 - (a) Decks, porches, elevated patios and like structures which are attached to the principal building shall be excluded from the calculation of building coverage, provided that such structures are neither roofed nor enclosed.
 - (b) Decks, porches, elevated patios and like structures which are attached to the principal building shall be subject to the minimum yard requirements for the principal building, except that such structures shall be permitted to encroach a maximum of twenty-five (25%) percent into the required rear yard, provided the principal building meets the rear yard setback requirements.
 - (c) Also see Section 54-30.8.a.1.
2. Private swimming pools are permitted as an accessory structure to all single-family detached dwellings, subject to the following requirements:
 - (a) No pool shall be closer than ten (10) feet to any rear lot line nor closer to the side lot line than the side yard setback requirement for the principal building.

- (b) No pool shall be permitted in the front yard. On corner lots no part of any private swimming pool shall be constructed within the required front yard setback for either street.
 - (c) Artificial lights used or maintained in connection with a private swimming pool shall be so located that the direct source of light is not visible from an adjacent property.
 - (d) No private swimming pool shall be used other than as an accessory use.
3. Family day care homes as defined in this chapter are permitted as accessory uses in all residential districts. The requirements for family day care homes shall be the same as for permitted single-family detached dwellings.
4. Parking and Storage of Commercial Vehicles, Non-Passenger Vehicles, and Recreational Vehicles. The outdoor storage or parking in the open of commercial vehicles, other non-passenger vehicles, and recreational vehicles in residential districts shall only be permitted as follows:
- (a) Commercial and other non-passenger vehicles:
 - (1) No more than one (1) commercial vehicle shall be permitted on a single lot in any residential district.
 - (2) The only commercial vehicles permitted to be stored outdoors in the RMF, R13, R20 and R40 zone districts are pickup trucks/vans without attachments registered for sixteen thousand (16,000) pounds or less.
 - (3) No commercial vehicle to be stored outdoors in all other residential zone districts shall exceed a gross weight of twenty-six thousand (26,000) pounds.
 - (4) No commercial vehicle to be stored outdoors in any residential zone district shall exceed a length of twenty-five (25) feet or a height of nine (9) feet.
 - (5) Commercial vehicles shall only be permitted on a driveway.
 - (6) All commercial vehicles shall be owned by or registered to the resident of the property or the resident's employer.
 - (7) Notwithstanding the provisions of paragraph (a) above, in all residential zones only one (1) commercial towing truck registered for twenty-six thousand (26,000) pounds or less

may be stored in a residential driveway during those times when that particular tower is on call for response to Township emergency towing needs.

(b) Recreational vehicles:

- (1) No more than two (2) recreational vehicles located outside shall be permitted on a single lot in any residential district.
- (2) No recreational vehicle to be stored outdoors in any residential zone district shall exceed a length of forty (40) feet, a width of nine (9) feet, or a height of thirteen (13) feet.
- (3) Recreational vehicles shall only be permitted in the side and rear yards, or on a driveway. Said vehicles not located on a driveway shall be set back a minimum of three (3) feet from the side and rear property lines.
- (4) All recreational vehicles shall be owned or leased by the resident of the property.
- (5) In no event shall unhitched trailers used for storage be permitted in residential districts, unless said trailer meets the definition of “temporary storage container,” as defined at Section 54-4.1, which shall be permitted only as provided and regulated at Section 54-30.8.b.6.(a).
- (6) At no time shall a recreational vehicle parked or stored on any lot be used for living, sleeping, or housekeeping purposes; provided, however, that recreational vehicles may be permitted, on a temporary basis, for residential purposes while repairs are being made to a dwelling damaged by fire or natural disaster which has been deemed by the Administrative Officer to be temporarily uninhabitable, and subject to the following:
 - [a] Application for permit. A permit must be obtained prior to habitation. Application for a permit shall be made in writing to the Administrative Officer and shall contain the following information:
 - [1] The name and address of the owner of the recreational vehicle.
 - [2] The owner and location of the site where the trailer is to be located.

- [3] A sketch showing the location of the trailer on the site, as well as roadway access, utility connections, and other such considerations.
 - [4] A letter from the Department of Community Services approving the proposed utility connections.
 - [5] An estimate from the contractor making the repairs of the time necessary to complete the repairs.
 - [6] A certification by the owner of the property that no use will be made of the damaged building until a certificate of occupancy is issued.
- [b] Fee. A fee of fifty dollars (\$50.00) shall accompany each application.
 - [c] Term of permit. A permit issued under this section shall be valid for a period of six (6) months. Thereafter, the homeowner must apply to the Administrative Officer for an extension of said permit. Only one (1) said extension shall be permitted.
 - [d] Revocation of permit. Any permit issued under this section shall be revoked if the Administrative Officer of Health Officer determines that the presence of the recreational vehicle is causing or is likely to cause a threat to the health, safety, or welfare of its occupants, or any other residents of the Township.
- (c) Nothing contained herein shall be construed to permit the outdoor storage of unlicensed, unregistered, abandoned, inoperable, wrecked, partially stripped or dismantled vehicles or vehicle parts of any kind in any residential district.
 - (d) Nothing contained herein shall be construed to prohibit the temporary storage or parking outdoors of construction vehicles and equipment connected with a permitted construction project, which are regulated at Section 54-30.8.h.
5. Septic Systems. A septic system shall be permitted to be located on a lot other than the lot containing the principal dwelling it serves, provided all of the following conditions are complied with:

- (a) The existing septic system that serves the dwelling must have malfunctioned (as defined in N.J.A.C. 7:9A-2.1) or is inadequate for the existing gallonage.
 - (b) The septic system may be expanded, however the septic gallonage cannot be expanded.
 - (c) All other regulations regarding the installation of septic systems continue to apply.
 - (d) Prior to the installation of the septic system, the owner of the principal dwelling must obtain an easement from the owner of the lot where the new septic system is to be located for permission to access, maintain, repair and replace said septic system. In the event the septic system is not located on a lot directly adjacent to the lot containing the principal dwelling, the owner of the principal dwelling must also obtain easements from the owners of each lot that must be crossed in order to access said septic system. Said fully executed easement(s) must be recorded in the Morris County Clerk's Office and submitted to the Township Tax Assessor and Township Health Department prior to installation of the septic system.
- c. *General Requirements in Nonresidential Districts.* The following requirements shall be met in all nonresidential districts:
- 1. No accessory building shall have a ground area greater than the ground area of the principal building on the property.
 - 2. No accessory building or structure shall exceed the height of the principal building or structure.
 - 3. No accessory building shall be permitted in any front yard.
 - 4. Accessory buildings in the side yard shall be set back from the property line a distance equal to or greater than the required side yard setback for the principal building on the lot.
 - 5. Accessory buildings in the rear yard shall comply with the side yard and rear yard setbacks required for principal buildings in the district, but in no case shall accessory buildings or above-grade structures built in the rear yard be closer to the rear lot line than one-half (1/2) the height of said buildings or structures.

6. No accessory building shall be closer to the principal building on the lot on which it is located than ten(10) feet, or the height of the accessory building, whichever is greater.

d. *Outdoor Storage in Nonresidential Districts.* Unless otherwise specified in this chapter, outdoor storage shall be permitted as an accessory use in all nonresidential zoning districts, subject to the following requirements:

1. Outdoor storage shall be permitted only in conjunction with the principal use conducted on the property.

(Outdoor storage must be located to the rear of the principal building to which it is accessory.

2. Outdoor storage shall be set back a minimum of twenty-five (25) feet from all property lines, unless a greater setback is required for principal buildings, in which case the greater setback shall apply.

3. A barrier shall be erected along the storage setback line to prevent encroachment by storage material. Such barrier shall consist of curbing, fencing, guard rail, and/or substantial landscaping, as required by the approving Board.

4. No outdoor storage articles shall exceed a height of sixteen (16) feet.

5. All outdoor storage shall be screened from adjoining properties and streets by means of fencing and landscaping, as required by the approving Board.

6. Outdoor storage of nursery stock, accessory to a garden center, which cannot ordinarily be accommodated indoors, is permitted within the front and side yard setbacks of the principal building, subject to the following:

(a) Nursery stock shall be set back a minimum of twenty-five (25) feet from all property lines and the street right-of-way.

(b) Nursery stock shall occupy no more than fifty percent (50%) of the yard in which it is located.

(c) Nursery stock shall consist exclusively of plant material.

1. Nothing contained herein shall be construed to permit any manufacturing, compounding, processing, fabrication, or assembly of goods to be conducted outdoors. Such uses or operations, where permitted, shall be conducted wholly within a completely enclosed building.
 2. Nothing contained herein shall be construed to limit the parking of vehicles at loading docks during the course of loading and unloading, as regulated at Section 54-30.12.
- e. *Outdoor Storage.* In all residential zoning districts, outdoor storage shall be a prohibited use, except to the extent provided below:
- (a) Temporary storage containers shall be permitted as follows:
 - (1) Temporary storage containers shall only be kept on a developed, single-family residential lot as a temporary structure accessory to the existing dwelling.
 - (2) No more than one (1) temporary storage container shall be permitted per property.
 - (3) Said container shall be placed on a paved surface and shall be set back a minimum of three (3) feet from all property lines and the street right-of-way.
 - (4) Said container shall be set back a minimum of five (5) feet from any building.
 - (5) Said container shall be no larger than ten (10) feet wide, twenty (20) feet long and ten (10) feet high.
 - (6) Said container shall be permitted for a period not to exceed ninety (90) days, with one (1) extension up to ninety (90) days.
 - (7) A permit for said container shall be obtained from the Administrative Officer. A fee of fifty dollars (\$50.00) shall be charged for the initial permit, with an additional fee of the same amount for any extension which may be granted by the Administrative Officer.
 - (b) Parking and storage of commercial vehicles, non-passenger vehicles, and recreational vehicles shall be permitted as set forth at Section 54-30.8.b.4.
 - (c) Nothing contained herein shall be construed to restrict the outdoor storage of items customarily incidental to a residential use, including, but not limited to, firewood intended for use on the premises and refuse and recycling materials which are temporarily stored in closed

containers and awaiting collection. However, discarded furniture, household appliances, accumulation of household items or other debris, salvaged materials, junk or wastes of any kind are expressly prohibited.

- (d) Nothing contained herein shall be construed to limit the outdoor display and sale of farm produce, storage of farm machinery or vehicles for use on a farm, or storage of the products of agricultural uses for a farm, which are regulated at Section 54-31.
- (e) Outdoor storage is only permitted in the side and rear yards and driveway. The item stored outside may not protrude beyond the projection of the driveway or the front of the dwelling into the front yard.
- f. *Parsonages.* A parsonage is considered a permitted accessory use to a place of worship in all residential zones where places of worship are permitted. A parsonage shall meet the minimum setback, height and coverage requirements for the zone in which the parsonage is located.
- g. Outdoor Display of Merchandise in Nonresidential Districts. Unless otherwise specified in this chapter, the outdoor display of merchandise shall be permitted as an accessory use in all nonresidential zoning districts, subject to the following requirements:
 - 1. The merchandise to be displayed outdoors shall be for sale on the premises and by the principal business conducted on the property.
 - 2. The merchandise to be displayed outdoors shall be located no closer than fifteen (15) feet from any property line and twenty-five (25) feet from any street right-of-way and residential district.
 - 3. The area devoted to the outdoor display of merchandise shall be no greater than ten percent (10%) of the gross floor area of the principal building.
 - 4. The area devoted to the outdoor display of merchandise shall not encroach into any required walkway, off-street parking or loading area, or public sidewalk, street or right-of-way and shall in no way obstruct any required emergency access lanes.
 - 5. Said merchandise shall be permitted to be displayed outdoors only during normal business hours and shall not otherwise be used as an outdoor storage area.

- h. Temporary Structures on a Construction Site. Transportable or wheel-based structures or other temporary structures used for sales, office, storage, or other purpose incidental to and in connection with a permitted construction project may be placed on a construction site in any zone district, subject to the following requirements:
 - 1. In order to ensure that the location, placement and site conditions relating to such structures will not adversely impact any adjoining property or street, nor create any adverse environmental condition, such structures shall require the approval of the Construction Official.
 - 2. Any such structures shall be removed from the site prior to the issuance of the last certificate of occupancy for the permitted construction project.
- (Ord. No. 95-24 § 54-106; Ord. No. 96-20 § 2; Ord. No. 06-8 § 1; Ord. No. 06-30 §1; Ord. #07-29 §§ 1, 2; Ord. #11-10; Ord. 13-17)

54-30.9 Special Requirements for Certain Uses.

Notwithstanding any contrary provisions of this chapter, the following requirements shall apply to the uses specified below, which requirements shall be in addition to all other applicable requirements of this chapter. The following provisions shall not be considered to be conditional uses.

- a. *Antennas.* Radio and television antennas, including satellite dish antennas, may be installed, erected and maintained as accessory uses on a lot which contains a principal structure within all districts, but only in accordance with the provisions of this section. The term “antenna” as used herein, shall include any system of wires, poles, rods, reflecting discs or similar devices, which system is external to or attached to the exterior of any building. Antennas shall include devices having active elements in any direction and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna. The height of an antenna shall be the total maximum to which it is capable of being raised and shall be measured from the highest point of the finished grade adjacent to the structure if ground-mounted or from the peak of the roof if roof-mounted.

All antennas shall be subject to the following:

- 1. Development Standards. All antennas shall be located, designed, constructed, treated and maintained in compliance with the requirements of the International Building Code 2009 New Jersey Edition, as may be amended and

supplemented in the future and replaced with future editions, the Uniform Construction Code, as may be amended and supplemented in the future, and the requirements set forth below. The intent of the requirements below is to advance and achieve health, safety and aesthetic interests and objectives.

2. Residential Districts.

- (a) Antennas, other than satellite dish antennas, shall meet the following requirements:
 - (1) No lot shall contain more than two (2) antennas.
 - (2) No antenna shall be located in a front yard.
 - (3) Roof-mounted antennas of any type shall not extend higher than fifteen (15) feet above the highest point of the roof.
 - (4) Ground-mounted, accessory antennas of any type shall not extend higher than sixty (60) feet above adjacent ground level.
 - (5) Antennas located in a side yard shall meet the side yard setback requirement for principal buildings.
 - (6) Antennas located in a rear yard shall meet the property line setback requirement applicable to accessory buildings established in subsection 54-30.8, but in no event shall be located closer to a property line than one-half (1/2) the height of the antenna.
- (b) Satellite dish antennas in excess of one (1) meter in diameter shall meet the following requirements which will enhance the public health, safety and aesthetic and general welfare objectives of this subsection without unnecessarily burdening the federal interest in ensuring access to satellite services and in promoting fair and effective competition among competing communication service providers:
 - (1) Only satellite receiving antennas shall be permitted.

- (2) They shall not be located in a front yard;
 - (3) They may be located on the roof providing they are not visible from the street or project above any roof line;
 - (4) The minimum distance between any satellite dish to any lot line shall be three (3) feet;
 - (5) Only one (1) satellite dish antenna shall be permitted for each dwelling unit; and
 - (6) In the event the applicant can demonstrate that the satellite dish antenna will not function properly or provide adequate reception in accordance with the above requirements, the Board of Adjustment shall grant a variance upon the showing of adequate proofs.
- (c) Satellite dish antennas one (1) meter in diameter or less must comply with the Federal Communication Commission's provisions on satellite dish antennas.
3. Multi-Family Housing Districts. Antennas located in multi-family housing developments shall meet the requirements of paragraph 2(a)-(c) above.
4. Business, Commercial and Mixed Use Districts.
- (a) Antennas, other than satellite dish antennas in the R-P, OR-3, B-1, B-2, R-B, O-1, O-2 and OR-3 districts shall meet the requirements of paragraph 2(a) above.
 - (b) Satellite dish transmitting and receiving antennas larger than two (2) meters shall be permitted in accordance with the following conditions which will enhance the public health, safety, aesthetic and general welfare objectives of this ordinance which would not unnecessarily burden the federal interests in ensuring access to satellite services and in promoting fair and effective competition among competing communications service providers.
 - (1) Only one (1) such antenna per building shall be permitted;

- (2) No satellite dish antenna shall be located on any front yard;
 - (3) Satellite dish antennas shall be located a minimum of ten (10) feet from any line; and
 - (4) The satellite dish shall be securely anchored to a concrete pad and the surrounding area shall be suitably landscaped.
 - (c) Satellite dish antennas two (2) meters in diameter or less must comply with the Federal Communication Commission's provisions on satellite dish antennas.
5. Research Laboratory and Industrial Districts.
 - (a) Antennas, other than satellite dish antennas, in the OB-RL, PED, I and M districts shall meet the following requirements:
 - (1) No antenna shall be located in a front yard.
 - (2) An antenna may be erected on the roof of a building, provided that the building, including the antenna, falls within the height limits established for the district. Ground-mounted antennas shall not exceed seventy (70) feet in height.
 - (3) An antenna located in a side yard or a rear yard shall be located at least forty (40) feet from a property line, but no less than the height of the antenna.
 - (b) Satellite dish antennas shall meet the requirements set forth in paragraph 4(b) and (c) above.
6. General Regulations. Applicable to all antennas under this section which are necessary for the health and safety of the Township's residents:
 - (a) No portion of an antenna array shall extend beyond the property lines or into any front yard area. Guy wires shall not be anchored within any front yard area but may be attached to the building.

- (b) Ground-mounted antennas shall be any antenna which is base mounted directly in the ground, even if such antenna is supported or attached to the wall of a building. Fixed-guyed antenna towers shall be fascia-mounted or guyed according to approved standards. Wire antennas that are not self-supporting shall be supported by objects within the property lines but not within any front yard areas.
- (c) The antenna, including guy wires, supporting structure and accessory equipment, shall be located and designed so as to minimize to the greatest extent possible the visual impact on surrounding properties and from public streets. Antennas should be screened from view through the addition of anti-climb fencing and architectural features or evergreen landscaping that harmonize with the elements and characteristics of the property; provided, however, that no screening shall be required which would inhibit adequate reception. Screening by fencing or plantings may be waived if natural terrain and landscaping provide adequate screening. The materials used in constructing the antenna shall not be unnecessarily bright, shiny, garish or reflective, and all antennas shall blend with the surrounding environment.
- (d) Antennas shall meet all manufacturers' specifications. The mast or tower shall be of noncombustible and noncorrosive hardware, such as brackets, turnbuckles, clips and similar type equipment subject to rust or corrosion, and shall be protected with a zinc or cadmium coating by either galvanizing or a sherardizing process after forming. These finishes are selected to guard against corrosion and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals.
- (e) Power control and signal cables to or from the antenna shall be by underground conduit.

7. Review and Approval.

- (a) Residential Antennas, Other than Satellite Dish Antennas. All residential antennas, other than satellite dish antennas must meet the requirements for that particular zoning district as set forth above and

shall be subject to the review and approval of the Zoning Officer. Each application shall be accompanied by a report prepared by the installer of the antenna explaining why the proposed location was selected over other locations. If all the requirements for such antennas have been met, the Zoning Officer shall grant his approval. Any requested variance from the requirements of this section or appeal from the decision of the Zoning Officer shall be made to the Board of Adjustment. When deemed necessary by the Zoning Officer, the Township may consult, at the applicant's expense, with an expert in the field of antenna installations for guidance in evaluating an applicant's report when a deviation from the requirements of this section is requested. The applicant shall post a fee calculated by the Zoning Officer, but not to exceed five hundred (\$500.00) dollars, to cover such expense, in the form of cash or a certified check, and against which such review expenses shall be charged. All sums not actually so expended shall be returned to the applicant at the time the permit is either issued or denied.

- (b) Residential Satellite Dish Antennas. Residential dish antennas must meet the requirements for that particular zoning district as set forth above and shall be subject to the review and approval of the Zoning Officer. If all the requirements set forth above are met, the Zoning Officer shall grant his approval. Any requested variance from the requirements of this section or appeal from the decision of the Zoning Officer shall be made to the Board of Adjustment.
- (c) Nonresidential Antennas. Anything to the contrary notwithstanding, in addition to meeting the requirements set forth above for these particular districts, all nonresidential antenna applicants shall submit site plan applications in accordance with the Land Use Ordinances of the Township of Rockaway. Such applications will be reviewed by the appropriate body as set forth in the Municipal Land Use Law.

- 8. Prohibitions. No antenna or antenna structure located in the Township, regardless of when it was erected, shall be used as a sign or as a supporting structure for any sign or lettering.

9. Enforcement.

- (a) All antennas shall be maintained in good condition and in accordance with all requirements of this subsection.
- (b) All antennas shall be subject to periodic reinspection. No additions, changes or modifications shall be made to an antenna, unless the addition, change or modification is in conformity with the Township building code.

b. *Wireless Telecommunications Equipment and Facilities.*

- 1. Purpose. The purpose of this subsection is to provide sound land use policies, procedures and regulations for the location and placement of wireless telecommunications structures, antennas and equipment within the Township of Rockaway in order to protect the community from the adverse impacts of wireless telecommunications facilities and to preserve the scenic and historic and environmental character of the countryside that the Rockaway Township Master Plan seeks to protect. This subsection seeks to meet the mandate of the Telecommunications Act of 1996, and at the same time, without limiting the generality of the foregoing, to:
 - (a) Protect residential areas and land uses from the adverse impacts of towers and antennas;
 - (b) Encourage the location of towers in nonresidential areas and along major transportation corridors;
 - (c) Utilize Township-owned or encourage use of privately-owned commercial properties;
 - (d) Minimize the total number of towers within the Township;
 - (e) Strongly encourage co-location on existing tower sites as a primary option rather than construction of additional single-use towers;
 - (f) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

- (g) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape, screening, and innovative camouflaging techniques;
 - (h) Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of tower structures.
- 2. Permitted Use/Conditional Use Treatment. Notwithstanding anything in this subsection to the contrary, the installation of wireless telecommunications antennas on existing structures, subject to site plan approval under subsection 54-30.9b7 and consistent with the visual compatibility requirements of subsection 54-30.9b3, below, shall be a permitted use in all nonresidential zone districts and a conditional use in all residential zone districts of the Township.
- 3. Visual Compatibility Requirements.
 - (a) Wireless telecommunications antennas on existing structures or buildings and wireless telecommunications towers shall be designed, located and screened to blend with and into the existing natural or built surroundings so as to eliminate to the maximum extent practicable, adverse visual impacts through the use of color and camouflaging, architectural treatment, recent technological advancements, landscaping, and other appropriate means which shall minimize the visual impact of such antennas and towers on neighboring residences and the character of the Township as a whole.
 - (b) Wireless telecommunications antennas on existing structures or buildings and wireless telecommunications towers shall be placed to ensure that historic districts, historically significant views, streetscapes, and landscapes are not visually impaired. The views of and vistas from architecturally and/or historically significant structures shall not be impaired or diminished by the placement of telecommunications facilities.

- (c) The wireless telecommunications equipment compound shall be located and screened from residential areas and the public way.
- (d) The wireless telecommunications equipment compound shall be enclosed within a solid wooden fence not less than seven (7) feet nor more than eight (8) feet high, as approved by the Township Engineer. Such fence shall include a locking security gate. The height of the equipment building shall not exceed twelve (12) feet.
- (e) A wireless telecommunications equipment compound not more than three thousand (3,000) square feet in area may be erected in support of wireless telecommunications antenna but only if:
 - (1) It is situated behind existing vegetation, tree cover, structures, buildings or terrain features which will shield completely the wireless telecommunications equipment compound from public view; or
 - (2) When a location completely out of public view is not possible, a landscape buffer not less than twenty (20) feet in width shall be provided outside the fence enclosing the wireless telecommunications equipment compound, to shield completely the facility from public view. Landscaping shall include native evergreen and deciduous trees not less than eight (8) feet high at the time of planting. The number of trees to be planted shall be the equivalent of staggered double rows at fifteen (15) feet on center around the compound perimeter; and
- (f) A wireless telecommunications equipment compound shall be maintained in accordance with the site plan approved for it in a serviceable, safe and aesthetically pleasing manner.

4. Construction of New Freestanding Wireless Telecommunication Antennas or Towers. New construction of free standing wireless telecommunications towers is not a permitted use in any zone within the Township. An applicant for a use variance to the Zoning Board of

Adjustment to permit the construction of a new wireless telecommunications tower must present evidence of the following items to demonstrate to the Board that such variance may be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Township Zone Plan and Zoning Ordinance:

- (a) (i) The wireless telecommunications network layout and its coverage area requirements and (ii) the need for new wireless telecommunications facilities at the specific proposed location within the Township. The applicant shall also provide evidence of any and all alternate wireless network plan designs which would not require the applicant to construction a wireless telecommunications tower at the proposed location.
- (b) That the applicant has exercised its best efforts to locate the wireless telecommunications antennas on existing buildings or structures within the applicant's search area. In order to meet its burden on this issue, the applicant shall provide to the Board copies of all correspondence from and between the wireless telecommunications provider and the property owners of the existing buildings or structures. Evidence demonstrating that no existing wireless telecommunications tower or building or structure can accommodate the provider's proposed antenna may consist of any one or more of the following reasons:
 - (1) No existing towers or structures are located within the geographic area that is necessary to meet the provider's radio frequency engineering requirement to provide reliable coverage.
 - (2) Existing towers or structures are not of sufficient height, cannot be made to be sufficient height to meet the provider's radio frequency engineering requirements, or do not have sufficient structural strength to support the provider's proposed antenna and related equipment.
 - (3) The applicant's proposed antenna would cause electromagnetic interference with

antennas on the existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicants' proposed antennas.

- (4) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are patently unreasonable. Actual direct costs exceeding new tower design, development, and construction are presumed to be patently unreasonable.
- (5) The applicant demonstrates to the Board's satisfaction that there are other limiting factors that render existing towers and structures unsuitable.

The failure of the applicant to present evidence of the foregoing shall constitute a rebuttable presumption that the applicant has not exercised its best efforts as required herein.

- (c) The locations of all existing communications towers and other structures of one hundred (140) feet in height or less within the applicant's search area. The applicant shall provide competent testimony by a radio frequency engineer regarding the suitability of each location so identified by the applicant in light of the design of the wireless telecommunications network, and the alternate network designs identified pursuant to subsections 54-30.9b.4(a) above.
- (d) Where a suitable location on an existing tower or other structure is found to exist, but the applicant is unable to secure an agreement to co-locate its equipment on said tower or other structure, the applicant shall provide sufficient and credible written evidence of its attempt or attempts to co-locate.
- (e) A full, complete description of all alternative technologies not requiring the use of towers or

other structures to provide the services y the applicant through the use of a new tower.

- (f) That the applicant has exercised its best efforts to site new wireless antennas and equipment within the applicant's search area according to this subsection. Without otherwise limiting the nature of the evidence to be provided by the applicant, the applicant shall provide to the Board the block and lot number of any parcel for which the wireless provider has attempted to secure a lease or purchase agreement and copies of all correspondence from and between the wireless provider and the property owner; the failure of the applicant to present evidence of the foregoing shall constitute a rebuttable presumption that the applicant has not exercised its best efforts as required herein; and
- (g) Compliance with the Township standard that no wireless telecommunications towers shall require lighting affixed thereto, unless required by the FCC, FAA or any other governmental agency regulations or requirements.

5. Bulk Standards for Construction of New Free Standing Towers. An applicant proposing to construct a free standing wireless telecommunications tower who has satisfied the requirements of subsection 54-30.9b4, above, shall comply with the following bulk standards. Variances from the bulk standard shall be reviewed pursuant to N.J.S.A. 40:55D-70(c).

(a) Minimum lot size

(1) Residential zone As required by the zone district in which located, or five (5) acres, whichever is greater.

(2) Nonresidential zone

<u>Tower height</u>	<u>Minimum Lot Size</u>
Less than 100 feet	2 acres

100 feet to 120 feet 5 acres

More than 120 feet 10 acres

(b) Minimum setback of free standing wireless telecommunications tower from:

(1) Any property line

<u>Tower height</u>	<u>Minimum Setback</u>
Up to 100 feet	135 feet
Over 100 feet	200 feet or twice The height of the tower whichever is greater.

(2) Any existing residence

1000 feet

(3) Any wireless telecommunications tower

5,280 feet

(c) Minimum setback for equipment compound from any property line The zone district setback requirements for any accessory building.

(d) Maximum tower height of free standing wireless telecommunication tower (exclusive of lightning rod) 140 feet from average grade

(e) Maximum height of attached antenna 10 feet beyond the highest elevation of the new free standing tower

6. Bulk Standards for Construction of Antennas on Existing Structures. Any applicant proposing to construct a wireless telecommunication antenna who has satisfied the requirements of subsection 54-30.9b2 above shall comply with the following bulk standards:

- | | | |
|-----|---|--|
| (a) | Minimum setback for equipment compound from any property line. | The zone district setback requirements for any accessory building. |
| (b) | Maximum antenna height of wireless telecommunication antenna (exclusive of lightning rod) | 140 feet from average grade of existing structure. |

7. Site Plan Application Requirements.

- (a) All site plans shall include the site boundaries; tower and/or antenna, location; existing and proposed structure, including accessory structures; existing and proposed ground-mounted equipment; vehicular parking and access; and use structures and land use designations on the site and abutting parcels.
- (b) A landscape plan drawn to scale showing proposed landscaping, including species type, size, spacing, other landscape features, and existing vegetation to be retained, removed or replaced.
- (c) A report from a qualified expert certifying that the wireless telecommunications tower or antenna and equipment compound comply with the latest structural and wind loading requirements as set forth in the Building Officials and Code Administrators (BOCA) International Inc., Code; or the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard, entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures: (or equivalent), as it may be updated or amended; or, such other code as may apply to these facilities, including a description of the number and type of antennas it is designated to accommodate.
- (d) A binding, irrevocable letter of commitment by the applicant and the property owner to lease excess space on the tower or antenna to other potential users at prevailing market rates and conditions. the applicant's counsel shall simultaneously submit a separate opinion of counsel expressing such counsel's

opinion as to the enforceability of such binding, irrevocable letter of commitment by the Township under the laws of the State of New Jersey. The letter of commitment shall be recorded with the County Clerk prior to issuance of a building permit. The letter shall commit and be binding upon the tower or antenna owner and successors in interest.

- (e) Elevations of the proposed tower or antenna and equipment compound generally depicting all proposed antennas, platforms, finish materials, and all other accessory equipment.
- (f) A copy of the lease or deed for the property.
- (g) A plan which shall reference all existing wireless telecommunications facilities in the township, any such facilities in the adjoining municipalities which provide service to areas within Rockaway Township, and any changes proposed within the following twelve (12) month period, including plans for new locations and the discontinuance or relocation of existing facilities.
- (h) A three hundred sixty (360) degree drawn perspective or a photo simulation at four (4) locations (at ninety (90) degree increments) of the proposed tower or antenna drawn to an appropriate scale.
- (i) In implementing the National Environmental Policy Act (N-EPA), the Federal Communications to prepare “environmental assessments” for towers and antennas that are proposed to be located in certain environmentally sensitive areas, including: officially designated wildlife preserves or wilderness areas; one hundred (100) year floodplains; situations which may affect threatened or endangered species or critical habitats; or situations which may cause significant change in surface features, such as wetland fills, deforestation or water diversion. In addition, an environmental assessment must be prepared when sites listed or eligible for listing in the National Register of historic Places may be affected.
- (j) Upon an application being deemed complete pursuant to subsection 54-21.5, written notice shall be provided

by the applicant to the Township Council and to the Planning Board of any such application.

8. Design Standards.

- (a) A wireless telecommunications tower shall be designed and constructed to accommodate at least three (3) antenna arrays of separate telecommunication providers (the applicant's plus two (2) co-locators).
- (b) Signs shall not be permitted except for a sign displaying owner contact information, warnings, equipment information, and safety instructions. Such sign shall not exceed two (2) square feet in area. No commercial advertising shall be permitted on any wireless telecommunications facility.
- (c) No lighting is permitted except as follows:
 - (1) Wireless telecommunications equipment compounds enclosing electronic equipment may have security and safety lighting at the entrance, provided that the light is attached to the facility, is focused downward and is on timing devise and/or sensors so that the light is turned off when not needed for safety or security purposes; and
 - (2) No lighting, other than lighting required by the FCC, FAA or other government agency having jurisdiction thereover, is permitted on a wireless telecommunications tower.
- (d) Wireless telecommunications antennas and towers shall be properly maintained by the owner or lessee to assure their continued structural integrity. The owner of the tower or antenna shall also perform regular maintenance of the structure and of the site as to assure that it does not create a visual nuisance. An independent licensed professional engineer shall submit a written inspection report certifying to the maintenance and integrity of the structure to the Township Engineer, every two (2) years and/or following any tower medication or the addition of any antennas.

- (e) Wireless telecommunications towers shall be of a color appropriate to the tower's locational context and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
- (f) Wireless telecommunications facilities shall be surrounded by security features such as a fence. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access. Additional safety devices shall be permitted or required, as needed, and as approved by the approving authority.
- (g) Any proposed new telecommunications tower shall be a "monopole" unless the applicant can demonstrate that a different type structure is necessary for the co-location of additional antennas on the tower. Such structures shall employ camouflage technology.
- (h) No equipment shall be operated so as to produce noise in excess of the limits set by the local noise ordinance, except in emergency situations requiring the use of a backup generator.
- (i) Wireless telecommunications towers and antennas shall be constructed to the Electronic Industries Association/Telecommunications Industries Association (ELA/TIA) 222 revision F Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended.

9. Antenna Modifications.

- (a) Whenever antennas are modified or replaced, operators of wireless telecommunications facilities shall provide to Rockaway Township a report from a qualified expert certifying that a wireless telecommunications tower or building or other support structure as modified complies with the latest structural and wind loading requirements as set forth in the Building Officials and Code Administrators (BOCA) International Inc. Code and the EIA/TIA Standard referenced above. Such modifications shall be subject to site plan review and approval.

- (b) Operators of wireless telecommunications facilities shall notify Rockaway Township when the use of such antennas and/or ancillary equipment is discontinued. Facilities that are not in operational use for wireless telecommunications purposes for a period of six (6) months shall be removed by the operator at its cost. This removal shall occur within ninety (90) days of the end of such six (6) month period. Upon removal, the telecommunication facility site shall be cleared, restored, and re-vegetated to blend with the existing surrounding vegetation at the time of abandonment.

10. Co-Location and Shared Facilities and Sites.

- (a) FCC licensed wireless telecommunications providers are encouraged to construct and site their facilities with a view toward sharing facilities with other utilities, co-locating with other existing wireless facilities and accommodating the co-location of other future facilities where technically, practically, and economically feasible.

11. Application and Escrow Fee. Notwithstanding the provisions of subsection 54-15.1 and 54-15.2 of the Land Use and Development Ordinance of the Township of Rockaway, development application fees and escrows for wireless telecommunications installations shall be set as follows:

- (a) If no new free standing tower is proposed, an application fee of five thousand (\$5,000) dollars and an escrow fee of two thousand five hundred (\$2,500) dollars.
- (b) If a new free standing tower is proposed, an application fee of ten thousand (\$10,000) dollars and an escrow fee of five thousand (\$5,000) dollars.

- c. *Trailers, Trailer Camps and Trailer Courts.* No trailer camp or trailer court shall be permitted in any district other than those that exist at the time of adoption of this chapter. For the purposes of administering this section, a trailer shall be defined as a wheel-based non-motorized vehicle that is designed to be transported by a motorized vehicle and which may be used as a dwelling or for the transportation or storage of goods and materials. Where such uses are permitted, the following regulations shall apply:

1. No trailer shall be used as a business establishment.
 2. A trailer may be set up for occupancy or occupied as a place of residence in any district for a period not to exceed ninety (90) days, provided an occupancy permit has been obtained from the Construction Official, who is hereby authorized to issue such permits.
 3. An occupancy permit for a trailer shall not be renewable within the same calendar year in the same or any other location in the Township.
 4. Any violation of any provisions in this chapter or the provisions of any other ordinance shall void the permit and a trailer may be subject to immediate removal from the Township and such other action as the governing body may consider necessary.
 5. Nothing contained in this section shall be construed to prohibit a manufactured home to be used as a residence; provided, such manufactured home: a) is located on a separate lot, b) the home and the lot comply with all requirements of the district in which the lot is located, and c) further provided the manufactured home conforms to the Building Code of the Township.
- d. *Child Care Centers in Nonresidential Districts.* Child care centers for which, upon complete, a license is required from the Department of Human Services pursuant to P.L. 1983, c. 492, shall be a permitted use in all nonresidential districts. If a child care center is accessory to a permitted principal use, and provides care only for employees of the principal use on the property, then the floor area occupied in any building or structure as a child care center shall be excluded in calculating any parking requirement or density limitation otherwise applicable.
- e. *Minimum Floor Area for Dwelling Units.* In no case shall any dwelling unit contain less than two hundred (25) square feet of habitable floor area per person.
- (Ord. No. 95-24 § 54-107; Ord. No. 97-9 § 1; Ord. No. 00-19 §§ 1, 3; Ord.No. 12-17)

54-30.10 Environmental Protection.

All development within the Township shall be designed to mitigate any adverse impact due to environmental constraints. This shall be accomplished

by employing innovative design and construction of cluster development on lands having minimal environmental constraints. The development of lands having some environmental constraints per permitted as regulated herein; however, development of environmentally constrained land is not to be encouraged unless the development is necessary to a reasonable and logical development plan. No land or premises may be used and no building or structure may be erected, razed, moved, extended, enlarged, altered or used for any purpose unless and until all provisions of this section are complied with:

- a. *Flood Damage Prevention.* A flood damage prevention program has been adopted by the Township Council, as more fully set forth in Chapter XXII. The chapter established regulations that must be met for any property that falls within a flood boundary as set forth on the Flood Insurance Rate Map, Community Panel Numbers 340360-0001B through 0012B, prepared by the Federal Emergency Management Agency, dated September 18, 1986, and as may be amended. The uses permitted within any flood boundary shown on the map are those uses permitted and regulated for the district in which the area may be located, as such districts are set forth and delineated on the zoning map. No site plan application shall be submitted to the Planning Board and no construction permit shall be issued nor shall any storage of material or equipment or other use be permitted within any flood boundary, until all requirements of Chapter XXII of the Code, of the Township are complied with; provided, however, where the regulations of this chapter impose greater restrictions on the use of land than may be imposed by Chapter XXII of the Township Code, the regulations of this chapter shall prevail.
- b. *Potable Water Supply Protection.*
 1. Except as hereinafter provided in paragraph 4., no building or structure shall be erected in any district of the Township within fifteen hundred (1,500) feet of any public water supply source unless adequate environmental safeguards can be established and acceptable to the Township Health and Engineering Departments.
 2. No sanitary sewer, septic system or line carrying sanitary or industrial wastes located within one hundred (100) feet of any well, infiltrated gallery, spring, or similar source of ground water now or hereafter developed for public water supply, may be

installed in any district of the Township unless the same shall be of steel, reinforced concrete, cast iron, or other suitable materials, properly protected and of completely watertight construction and otherwise constructed in accordance with Rules and Regulations for the Preparation and Submission of Plans for public Water Supply Systems and Water Treatment Plants, now or hereafter issued by the State Department of Health.

3. No connections to a sanitary sewer system shall be permitted within fifty (50) feet of any well now or hereafter developed as a public water source.
4. *Public Water System* shall mean a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a “community water system” or a “noncommunity water system.”

- c. *Monitoring Wells.* Prior to the approval of any application for development or the issuance of any building permit or zoning permit for any industrial use within the Township or for any other nonresidential use that results in the potential discharge of any pollutant or contaminant on or into the ground within the Township, the applicant shall be required to install monitoring wells, their number, locations and depths to be first approved by the Township Engineer and Department of Community Services. Notwithstanding any provision of this section, the Planning Board may waive the requirement for the installation of monitoring wells or the alternate detection devices for those nonresidential uses which the Board finds, after public hearing and the submission of proper evidence, will not result in any potential ground water pollution. The owner or operator of the application for development shall implement a groundwater monitoring program capable of determining the

impact of the proposed use on the quality of ground water underlying the facility. The ground water monitoring program shall be carried out during the active life of the facility. The ground water monitoring system shall consist of:

1. Monitoring wells installed hydraulically up and down gradient (in the direction of increasing and decreasing static head) from the proposed structure or use. The wells shall be sufficient to yield ground water samples that are representative of ground water samples of ground water quality affected by the use on-site and lead to the detection of any pollutants or contaminants that migrate from the use on-site.
2. All monitoring wells shall be constructed in accordance with New Jersey Department of Environmental Protection specifications.
3. The applicant shall have all monitoring wells sampled and analyzed semi-annually by a State-certified testing laboratory with the results submitted to the Township Department of Community Services. If the results of the analysis indicates contaminants have entered the ground water at a level deemed unsafe by the State of New Jersey Department of Environmental Protection, then the owner or operator of the subject premises shall immediately take appropriate action to contain the source and remove the contamination pursuant to a plan approved by the Rockaway Township Department of Community Services and the New Jersey Department of Environmental Protection.

d. *Underground Mines.*

1. Every new development requiring subdivision or site plan approval located within five hundred (500) feet, measured horizontally, of a mine or mine feature as shown on the map entitled Iron Mine Locations, dated July 13, 1972, prepared by Arthur M. DeLuca Consulting Engineer and revised by Rockaway Township in March 2002 and the publication entitled "Abandoned Iron Mines of Jefferson & Rockaway Townships, Morris County, New Jersey" dated 1992, prepared by the State of New Jersey Department of labor Division of Workplace Standards Office of Safety

Compliance (both available for review in the Township Engineer's Office and hereinafter referred to as "Map and Publication") must conduct a preliminary investigation and assessment prepared by a qualified professional engineer licensed in the State of New Jersey hired at the sole cost and expense of the property owner or applicant. Prior to approval of the subdivision or site plan, said preliminary investigation and assessment shall be submitted for review by the Township Engineer for verification of the findings and determinations regarding whether remediation of the mine or mine feature is necessary. The Township Engineer shall make the final determination regarding whether remediation of a mine or mine feature is necessary. The Township Engineer may request the services of a mine expert in connection with the review of the preliminary investigation and assessment. Any costs associated with the mine expert shall be the sole responsibility of the applicant.

2. For construction or reconstruction of buildings and/or pools and construction of new decks that require building permits and are located within one hundred fifty (150) feet, measured horizontally, of a mine or mine feature as shown on the Map and Publication, the property owner or applicant must conduct a preliminary investigation and assessment prior to the issuance of a building permit as more particularly set forth in the above paragraph.
3. The following are exempt from the requirement of having to conduct a preliminary investigation and assessment prior to the issuance of a building permit regardless of the location of the property in relation to a mine or mine feature as shown on the Map and Publication:
 - (a) Interior construction or reconstruction, exclusive of any foundation work,
 - (b) Construction or reconstruction of roofing on any structure,
 - (c) Construction or reconstruction of siding on any structure,

- (d) Façade changes to any structure,
 - (e) Construction or reconstruction of retaining walls,
 - (f) Removal or installation of underground storage tanks,
 - (g) The reconstruction of a deck using the existing footings, if the existing footings comply with current UCC requirements, and
 - (h) Installation or replacement of a septic system or well.
4. Nothing contained herein is intended to subvert the authority of the State of New Jersey Department of labor Division of Workplace Standards Office of Safety Compliance.
- e. *Stormwater Management.* Any project not regulated under Chapter XXV, Stormwater Control, shall be so designed that the rate of run-off is no greater than before in its natural condition. All run-off calculations shall be based on one hundred (100)year, twenty-four (24) hour storms. All stormwater retention or detention systems will be approved by the Township Engineer.
 - f. *Soil Erosion and Sedimentation Control.* All developments in all districts shall protect streams, lakes and ponds from sedimentation damage, and shall prepare a soil erosion and sedimentation control plan in accordance with P.L. 1975, c.251. All major subdivisions and site developments shall submit a plan as part of the preliminary land development plan.
 - g. *On-site Septic Systems.* No site plan or subdivision relying on on-site septic systems will be approved by the Planning Board until adequacy of the systems has been reviewed and approved by the Township Department of Community Services.
 - h. *Conservation Areas.* Development within areas designated as “conservation” on the Township master Plan adopted by the Planning Board pursuant to N.J.S.A. 40:55D-28 is prohibited; provided however, access roads may traverse the

conservation area if necessary to provide proper access into the abutting developable lands and if approved by the Planning Board. Any lands designated as “conservation” may be counted as part of a tract acreage for the purpose of computing the maximum density permitted in the district in which it is located.

- i. *Vegetation.* The preservation of natural vegetation shall be preserved wherever practical. The regarding or stripping of vegetation on steep slopes shall comply with the following standards:
 1. On slopes less than ten (10%) percent, vegetation can be stripped from the site necessary to build all buildings and ancillary paved areas as well as that part of the site not to be improved but will be regarded as part of a site plan approved by the Planning Board.
 2. On slopes between ten(10%) percent and fifteen (15%) percent, vegetation shall not be stripped from more than forty (40%) percent of the slopes.
 3. On slopes between fifteen (15%) percent and twenty-five (25%) percent, vegetation shall not be stripped from more than thirty (30%) percent of the slopes.
 4. On slopes twenty-five (25%) percent or greater, vegetation shall not be stripped from more than fifteen (15%) percent of the slopes.
 5. Irrespective of the above regulations, an applicant may re-grade a steep sloped area, provided that in no event shall the applicant disturb or re-grade more than two hundred (200) square feet of tract to be developed.
- j. *Shoreline Development.* Lakes, ponds and water bodies larger than one (1) acre in size shall not be filled in or developed. No building shall be constructed within one hundred (100) feet of the shoreline of any such water body; provided that single-family detached dwellings in the R-13 district which existed prior to the date of the adoption of this chapter are permitted to construct an addition to the dwelling within one hundred (100) feet of the shoreline of any such water body, subject to the following requirements:

1. Any addition shall be set back from the shoreline of the water body a distance equal to or greater than the setback of the existing dwelling.
 2. Any addition shall comply with all other requirements of this chapter, including height, yard setbacks, building and improvement coverage, etc.
- k. *Stream Encroachment.* Development within one hundred (100) feet of the centerline of any stream or brook as set forth on the “Community Facilities Plan” of the Township Master Plan adopted by the Planning Board pursuant to N.J.S. 40:55D-28, or any stream or brook that has water in it all year, is prohibited.
1. *Wetlands.* The connection of any structure to the Rockaway Valley Regional Sewer Authority sewer system on lands classified as wetlands is prohibited unless a waiver is granted by the Authority. For the purpose of administering this provision, wetlands are delineated on a set of municipal tax maps available for inspection at the office of the Township Engineer. Any lands designated as wetlands may be counted as part of a tract acreage for the purpose of computing the maximum density permitted in the district in which it is located.
- m. *Seasonal High Water Table.* Development on lands with a seasonal high water table within zero (0) to one (1) foot of the surface during certain periods of the year shall be limited to structures without basements and then will only be permitted after the applicant submits engineering evidence to the Planning Board that the intended structure can be built so as not to be adversely impacted with ground water.
- n. *Reserved.*
- o. *Protection of Critical Features.* There are properties throughout the Township of Rockaway that exhibit various environmental characteristics that have the potential to severely impact the land, water quality, soil erosion, habitat, recharge areas and other features that affect the quality of life in the community, particularly when a multitude of such features are evident on a particular property. The following regulations are to apply in those instances where such conditions exist:

1. Critical Features. The following elements are identified as critical features for the purpose of imposing the accompanying regulations:
 - (a) Steep topography (defined as fifteen (15%) percent gradient or greater);
 - (b) Flood plains;
 - (c) Flood hazard areas;
 - (d) Wetlands;
 - (e) Wetland transition areas;
 - (f) Soils with severe limitations for development (as set forth in the Morris County Soils Survey Report);
 - (g) Category One (C-1) streams requiring a three hundred (300) foot buffer along such streams;
 - (h) Sites above a sole source aquifer;
 - (i) Sites that contain or are within two hundred (200) feet of public wells;
 - (j) Sites with rare or endangered species; and
 - (k) Sites within the Highlands Preservation Area as established by the Highlands Water Protection and Planning Act.

These features are identified as critical features since development of property with these features has the potential of having a severe impact upon the land, water quality, habitat, recharge and associated environmental features within the Township.

2. Reduction in Permitted Impervious Coverage.
 - (a) Where:
 - (1) A site contains a minimum of six of the Critical Features enumerated in subsection 54-30.10o,1); and

(2) Either

- [a] The site contains rare or endangered species; or the site is above a sole source aquifer; or the site contains or is within two hundred (200) feet of a public well; or the site contains Category One (C-1) streams requiring a three hundred (300) foot buffer along such streams; or
- [b] The critical features other than set forth in subsection 54-30.10o,2(a)(2)[a] above in the aggregate account for a minimum of fifty (50%) percent of the site area,

Then,

- (3) All requirements for impervious coverage shall be reduced to a maximum permitted twenty-five (25%) percent, provided that where the maximum permitted impervious coverage that is imposed prior to the imposition of this section is less than the twenty-five (25%) percent provided for herein, the lesser requirement shall be imposed.
- (b) If the maximum permitted impervious coverage for a site is reduced as set forth above, and if two (2) of the critical features which trigger said reduction are steep slopes of minimally twenty-five (25%) percent grade covering minimally fifty (50%) percent of the site, or wetlands and the associated wetland buffers encompassing minimally fifty (50%) percent of the site, or the required buffers associated with Category One streams encompassing fifty (50%) of the site, then the requirements for impervious coverage shall be further reduced to a maximum permitted fifteen (15%) percent, provided that where the maximum permitted impervious coverage that is imposed prior to the imposition of this section is less than the fifteen (15%)

percent provided for herein, the lesser requirement shall be imposed.

3. Additional Limitations on Development. Development of buildings and impervious surfaces on critical features shall be limited to the schedule of limitations set forth below:

Schedule of Building and Impervious Limitations:

- (a) As to Lakes and Ponds: 100 percent limitation
- (b) As to Wetlands: 100 percent limitation
- (c) As to Flood Plains: 100 percent limitation
- (d) As to Steep Slopes: (See current steep slope ordinance*)

*For regulations pertaining to steep slopes see subsection 54-30.10i.

- (e) As to Buffers to C-1 Streams: 100 percent limitation

4. Roads and driveways may be constructed across the features referenced in subsection 54-30.10o, 3(b) through (d) herein, provided no viable alternative exists and further provided that applicable local, County, State and Federal approvals are obtained.

5. Exceptions to the above noted environmental regulations are allowed for the following uses:

- (a) Existing unimproved or improved single-family residential lot of record.
- (b) Minor subdivisions that will not result in the creation of more than four new building lots.
- (c) Agricultural operations, as protected by the Right to Farm Act.
- (d) All changes in occupancy of commercial or industrial buildings for similar uses provided there is no expansion of building area or impervious area, or as otherwise regulated by

the Highlands Water Protection and Planning Act.

(Ord. No 95-24 § 54-108; Or. No. 05-10 § 7; Ord. No. 05-10A § 7; Ord. No. 05-11 § 2; Ord. No. 06-14 § 2; Ord. No. 07-17 § 1; Ord. #11-10)

54-30.11 Signs.

- a. *Required Permits and Approvals.* No sign shall be constructed, relocated or displayed unless a permit shall have first been obtained from the Construction Official, except that no permit is required for real estate signs, “for sale by owner” signs and political signs. No permanent freestanding sign and no illuminated sign shall be permitted until a site plan showing the location and size of the proposed sign is approved by the Planning Board, except that freestanding residential nameplates permitted in paragraph d. of this subsection are exempted from the requirement of site plan approval.

- b. *Measurement of Sign Area and Height:*
 - 1. The area of a sign shall be computed as the total square foot content of the background upon which the lettering, illustration or display is presented, excluding any base support or frame, unless the support or frame is an integral part of the sign. If there is no background, the sign area shall be the rectangle which is the product of the largest horizontal and vertical dimensions of the lettering, illustration or display. For signs with two (2) display faces, the maximum area requirement shall be permitted on each side.

 - 2. The height of a sign shall be computed as the distance from normal grade to the top of the highest point of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

- c. *Regulations Applicable in All Districts.*
 - 1. All applications seeking approval for signs shall submit at least the following information concerning the sign(s):
 - (a). Sign area, dimensions and height above ground;

 - (b). Dimensions of letters or other symbols in the sign:

- (c). A view of the front of the sign, and the rear in the case of two-sided signs if different from the front;
 - (d). A cross-section of the end-view of the sign;
 - (e). Description of sign materials, including type, color, texture, etc.;
 - (f). The method of sign illumination, (if any) including a detail showing the number, location, and wattage of bulbs or other light sources, reflectors and shields, type of light source, etc.;
 - (g). A detail showing the construction of the sign base, pole or other support; and
 - (h). Any landscaping which exists or is proposed in proximity to the sign.
2. No sign shall be placed as to interfere with or be mistaken for a traffic light or similar safety device. No sign shall be located so as to create a traffic safety problem or reduce visibility at intersections.
3. All illuminated signs must comply with the following regulations:
- (a). No sign shall be lighted by means of flashing or intermittent illumination.
 - (b). Illuminated signs may use internal light sources or external light fixtures.
 - (c). All lights used for the illumination of any sign shall be completely shielded from the view of vehicular traffic using the road(s) abutting the properties containing such signs, and shall be directed so as to prevent excessive glare, reflection or illumination on adjacent properties or streets.
 - (d). There shall be no illumination of any sign between the hours of 12:00 p.m. and 6:00 a.m. within two hundred (200) feet of existing residential properties.

- (e). No sign shall be illuminated from an internal light source unless it complies with the following requirements:
 - (1) All internally illuminated signs shall be designed to minimize glare.
 - (2) The light bulb or other light source shall not be visible from outside the sign. The light source shall be diffused to eliminate hot spots.
- 4. No sign as permitted shall extend or project above the highest elevation of the wall to which it is attached.
- 5. Freestanding signs necessary for directional or safety purposes on the property are permitted in addition to the other signs permitted in the respective districts, provided that site plan approval is obtained from the Planning Board, and further provided that all of the following requirements are complied with:

No sign other than entrance, exit, identification and conditions-of-use signs shall be maintained in any parking area. No such sign shall be larger than four (4) square feet in area.

- (a). The signs shall be limited to directional signs, with the content of the signs limited to the words “enter”, “exit” and the like. There shall be no company name, logo or use identification on directional signs.
- (b). The signs shall not exceed an area of two (2) square feet per sign, and shall not exceed a maximum dimension of two (2) linear feet. The signs shall also be limited to a maximum height of five (5) feet. Notwithstanding the above, standard highway signs such as “stop”, “yield”, “do not enter,” etc. shall be permitted to have the standardized dimensions and height as determined by the most recent edition of the Manual on Uniform Traffic Control Devices or as required otherwise by law.
- (c). The lighting of all the signs shall be approved by the Planning Board as part of site plan approval.

6. Temporary on-site signs used as an accessory to new construction or alteration on the premises, identifying the project and/or the contractor are permitted in all districts.
 - (a). Such signs shall only be erected after a building permit for the construction and sign has been issued.
 - (b). Temporary construction signs shall not be larger than thirty-two (32) square feet.
 - (c). Temporary construction signs shall not be closer than ten (10) feet to any property line.
 - (d). Such signs shall be removed prior to the issuance of a certificate of occupancy for the construction, or within seven (7) days of the completion of construction if not certificate of occupancy is required.
 - (e). Such signs shall be registered with the Construction Official, and he shall collect a monthly fee of fifteen (\$15.00) dollars for such signs.
7. Real estate signs are permitted in all districts, provided they comply with all of the following requirements:
 - (a). One (1) such sign per street frontage of a lot shall be permitted.
 - (b). Such signs shall not be illuminated.
 - (c). Such signs shall pertain only to the lease or sale of the lot upon which they are placed.
 - (d). Such signs shall not exceed three (3) square feet in area in residential districts, nor twelve (12) square feet in area in nonresidential districts.
 - (e). Such signs shall be removed within seven (7) days after the consummation of the lease or sale transaction.
8. Signs deemed necessary to be in the public welfare by the Township Council are permitted in all districts. Such signs shall not pertain to any company, individual or business establishment.

9. A sign for churches, advertising the name of the church on the premises, its pastor and its coming activities is permitted in all districts. In addition, a temporary non-illuminated church sign may be displayed not more than twice a year for the periods not to exceed thirty (30) days each, provided such temporary signs are registered with the Construction Official. Permanent and temporary church signs shall not exceed an area of twelve (12) square feet. Such signs shall be located in the rear half of the front yard or the rear half of the minimum required front yard setback, whichever results in a lesser setback.

10. Temporary signs advertising such events as fairs, bazaars, auctions and other special activities, excluding political signs shall be permitted in any district, subject to the following restrictions:
 - (a). Such signs shall not exceed thirty-two (32) square feet in area nor six (6) feet in height. Such signs shall have a minimum setback of one half (1/2) the front yard setback required in the district in which the property is located.
 - (b). No more than one (1) such sign shall be permitted on any lot.

11. Flags of the United States, the State of New Jersey, the County of Morris, the Township of Rockaway, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, shall be permitted in all districts, provided that the following requirements are met:
 - (a). No flagpole shall be constructed the top of which is more than forty (40) feet above the ground, or five (5) feet above the height of the existing principal building, whichever is less.
 - (b). If attached to a building, a flagpole shall not exceed fifteen (15) feet in length, and shall comply with the above height requirement.
 - (c). One (1) freestanding flagpole shall be permitted per lot.
 - (d). All freestanding flagpoles shall be located no closer to any property line than a distance equal to the height of

the flagpole. In addition to the above requirements, flagpoles in the front yard shall not be located closer to the street than the rear half of the required front yard setback.

- (e). All freestanding flagpoles, except in the case of one-family and two-family detached dwellings, shall require site plan approval.
12. Street address numbers are permitted on all principal buildings in all districts. Address numbers shall be permitted in addition to any other signs permitted for the use or in the district, provided that the total area of the address numbers for each building shall not exceed two (2) square feet for nonresidential uses, nor one (1) square foot for residential uses; otherwise the street address numbers shall be construed to be an advertising sign as regulated herein, and shall not be permitted as an additional sign.
13. All signs which are not specifically permitted herein are prohibited. In addition, the following signs are specifically prohibited:
- (a). Window signs, except where specifically permitted herein.
 - (b). Signs, including any sign attached to a tree, utility pole, light stanchion, fence or other structure not designed for support of the sign.
 - (c). Roof signs.
 - (d). Portable or movable signs.
 - (e). Signs painted or attached to any vehicle advertising a business and which are intended to be viewed while the vehicle is stationary.
 - (f). Signs with more than two (2) display faces.
 - (g). A double-faced sign having an included angle of over forty-five (45) degrees.
 - (h). All signs which move, rotate, or use flashing lights or utilize mechanically changing displays.

- (i). Pennants, streamers, banners and flags, except those flags permitted by Section 54-30.1c., 11.
14. Notwithstanding the provisions contained above in this subsection 54-30.11c, any nonprofit, not-for-profit or religious organization located within the Township may erect a temporary sign in the form of a banner relating to a certain occasion, event or activity. Said banner shall not exceed one hundred (100) square feet and may be displayed for more than one hundred twenty (120) days over a one (1) year period. Said banner must be placed on the organization's property or over a road, within the right-of-way. In the event said banner is to be hung over a road, within the right-of-way, the organization shall be required to first obtain written approval for the same from the entity jurisdiction over said road. The organization must then seek a permit from the Construction Official for the proposed sign in accordance with this subsection.
15. Temporary political signs, and signs not related to a political campaign but containing political expressions, shall be permitted in any district, subject to the following restrictions:
- (a). Such signs may be erected for a period not exceeding thirty (30) days.
 - (b). Any such sign shall be removed not more than fifteen (15) days after the date of the election to which such sign pertains.
 - (c). Such signs shall not exceed sixteen (16) square feet, the dimension shall not exceed four (4) feet on any side, and the top of the sign shall not exceed six (6) feet from ground level.
- d. *Signs in the R-20AC, R-5AC, R-88, R-20 and the R-13.* In addition to the signs permitted in all districts, the only sign permitted is one (1) residential nameplate sign not more than two (2) square feet in area.
- e. *Signs in the RMF-15, RMF-8 and RMF-5 Districts.* In the RMF-15, RMF-8 and RMF-5 districts, each multi-family development shall be entitled to one (1) freestanding sign at each vehicular entrance to the development, provided that such signs comply with the following requirements:

1. The area of each sign shall not exceed eight (8) square feet.
2. The height of each sign shall not exceed six (6) feet.
3. All such signs shall be set back at least ten (10) feet from any street right-of-way.
4. The sign shall be an identification sign only, limited to the name of the development or project on-site.
5. The design and location of all such signs shall be subject to the review and approval of the Planning Board.

f. *Signs in the B-1 and B-2 Districts.*

1. Except as specifically permitted in this chapter, no sign shall be permitted which is not accessory to the business conducted on the property.
2. The area of any single sign shall not exceed ten (10%) percent of the area of the exterior wall to which it is attached, or one (1) square foot for each linear foot of building frontage occupied by the tenant using the sign, whichever results in the smaller sign.
3. Except as provided otherwise below, only attached signs are permitted. The following regulations shall apply to attached signs:
 - (a) Attached signs shall be placed parallel to the face of the building, and shall not extend further than twelve (12) inches from the face of the building. Where a building has a permanent canopy or marquee constructed as an integral part of the building, an attached sign may be placed on the front of the marquee, provided that no part of the sign extends above or below the front edge of the canopy or marquee. The permitted area of canopy or marquee signs shall be the same as for other attached signs, and shall be computed using the area and/or length of the wall from which the canopy or marquee extends. No attached signs shall be placed above the ground floor on any building with more than one (1) story.

- (b) There shall not be more than one (1) attached sign for each separate tenant of the premises, unless specifically permitted otherwise in this section. Where a building is served with a rear entrance opening on a parking area as approved by the Planning Board, each tenant in the building is permitted a second sign facing the rear parking area. The second sign shall not have an area exceeding one third (1/3) the maximum area permitted for the first sign as regulated in paragraph f., 2 above.
 - (c) The total area for all attached signs on a single wall serving various tenants in the building shall not exceed ten (10%) percent of the ground floor area of the wall upon which the sign is attached, or one (1) square foot for each foot of the length of the wall on the ground floor, whichever is less.
 - (d) Only one (1) dimension of any attached sign may exceed two (2) feet.
 - (e) The length of any sign shall not exceed fifty (50%) percent of the length of the façade occupied by the tenant using the sign, up to a maximum sign length of twenty-five (25) feet.
4. In addition to the permitted attached signs, one (1) freestanding pylon sign is permitted in the B-2 district for a retail building or buildings on a lot with more than one (1) tenant and a floor area of at least twenty-five thousand (25,000) square feet. The following regulations shall apply to the pylon sign:
- (a) The pylon sign shall identify the shopping center only. Tenants within the building shall not attach their sign to any part of the permitted pylon sign.
 - (b) The height of the pylon sign shall not exceed twenty (20) feet, and no part of the sign illustration shall be less than ten (10) feet above the ground.
 - (c) No freestanding pylon sign shall be nearer than twenty-five (25) feet to any abutting street right-of-way or property line.

- (d) The area of the sign shall not exceed fifty (50) square feet.
5. Window signs shall be permitted, provided the following regulations are complied with:
- (a) The total area of all window signs shall not exceed twenty-five (25%) percent of the main front window area, or one (1) square foot for each linear foot of building frontage occupied by the tenant using the sign, whichever is less. For purposes of complying with this section, the maximum area permitted for window signs shall be calculated separately from the area for other permitted signs.
 - (b) Such signs shall be located only in the main front window.
 - (c) Such signs shall not be illuminated.
6. In the case of buildings used by or designed for multiple tenants, all signs shall express a single design theme, utilizing uniform size, color, materials, lighting and styles. In the case of existing buildings, new signs shall conform to the existing design theme, if a theme exists. In the case of existing building with more than one (1) design theme, new signs shall conform to the single design theme which is expressed by the greatest number of existing signs. In the case of existing buildings where no design theme is expressed by more than one (1) sign, new signs shall conform to the design theme expressed by any single existing sign. The above regulations shall not be construed to permit any sign which does not conform with all the requirements of this chapter.

g. *Signs in the R-B District.*

1. For buildings located within the R-B District, but not within the mall, attached signs, including window signs, are permitted as follows:

(a) The following regulations shall apply to attached signs:

- (1) The area of any single sign shall not exceed ten (10%) percent of the area of the exterior wall to which it is attached, or one (1)

square foot for each linear foot of building occupied by the tenant using the sign, whichever results in the smaller sign.

- (2) Attached signs shall be placed parallel to the face of the building, and shall not extend further than twelve (12) inches from the face of the building. Where a building or marquee constructed as an integral part of the building, an attached sign may be placed on the front of the marquee, provided that no part of the sign extends above or below the front edge of the canopy or marquee. The permitted area of canopy or marquee signs shall be the same as for other attached signs, and shall be computed using the area and/or length of the wall from which the canopy or marquee extends. No attached signs shall be placed above the ground floor on any building with more than one (1) story.
 - (3) There shall be no more than one (1) attached sign for each separate tenant of the premises, unless specifically permitted otherwise in this section. Where a building is served with a rear entrance opening on a parking area as approved by the Planning Board, each tenant in the building is permitted a second sign facing the rear parking area. The second sign shall not have an area exceeding one third (1/3) the maximum area permitted for the first sign as regulated in paragraph a., 1 above.
 - (4) The length of any sign shall not exceed fifty (50%) of the length of the façade occupied by the tenant using the sign, up to a maximum length of twenty-five (25) feet.
- (b) Window Signs shall be permitted, provided the following regulations are complied with:
- (1) The total area of all window signs shall not exceed twenty-five (25%) percent of the main front window area, or one (1) square foot for each linear foot of building frontage occupied by the tenant of the sign, whichever is less. For purposes of complying with this section, the maximum area permitted for window signs shall be calculated separately from other permitted signs.
 - (2) Such signs shall be located only in the main front windows.

(3) Internally illuminated signs shall be permitted provided such signs do not face towards Mount Hope Avenue, Mount Pleasant Avenue, or Route 80. Neon signs and flashing signs shall not be permitted.

2. For buildings located within the mall and having direct access to the parking area via a separate entrance:

- (a) Tenants having a total floor area of at least one hundred thousand (100,000) square feet may have one (1) attached sign for each exterior building elevation, but in no event shall have more than three (3) signs per building and one (1) sign per exterior building elevation. Such signs shall not have an area that exceeds ten (10%) percent of the each exterior building elevation to which it is attached, but may not exceed three hundred (300) square feet.
- (b) Tenants having a floor area of less than one hundred thousand (100,000) square feet may have one (1) attached sign for each exterior building elevation, but in no event shall have more than two (2) signs per building and one (1) sign per exterior building elevation. Such signs shall not have an area that exceeds two hundred and fifty (250) square feet, and may extend no more than seventy-five (75%) of the length of the tenant façade space to which it is attached.
- (c) Exterior building elevation shall be the total of all building walls for the tenant which are facing the same direction.

3. Signage shall not be permitted for those buildings within the mall which do not have direct customer access to the parking area via a separate

h. *Signs in the O-1, O-2, OB-RL, PED, I and M Districts.*

- 1. Except as specifically permitted in this chapter, no sign shall be permitted which is not accessory to the use conducted on the property.
- 2. One (1) freestanding sign identifying the principal operation on the lot and/or the individual tenants in the building is permitted, provided that no freestanding identification sign is

permitted unless the principal building(s) on the lot conform with the required minimum front yard setback for the district. If permitted, the freestanding sign shall conform with the following regulations:

- (a) The sign shall not have an area that exceeds fifty (50) square feet.
- (b) The sign shall not exceed a height of six (6) feet above the ground.
- (c) The sign shall be set back at least twenty (20) feet from any property line.

3. In addition to any freestanding sign that may be permitted, one (1) attached sign per tenant is permitted, which shall be subject to the following requirements:

- (a) Such signs must be attached parallel to the face of the building and shall not extend further than twelve (12) inches from the face of the building.
- (b) The area of each sign shall not exceed six (6) square feet.
- (c) Only one (1) dimension of any sign may exceed two (2) feet.

i. *Signs in the R-P and OR-3 Districts.*

- 1. Signs used for any single-family detached dwellings or two-family dwelling permitted in the R-P and OR-3 districts shall be permitted as regulated in paragraph d. above.
- 2. Signs used for any single-family attached dwelling or multi-family dwelling permitted in the OR-3 district shall be permitted as regulated in paragraph e. above.
- 3. Signs used for any retail sales or retail service establishment permitted in the OR-3 district shall be permitted as regulated in paragraph f. above.
- 4. Signs used for any office use permitted in the R-P or OR-3 districts shall be permitted as regulated in paragraph h. above.

(Ord. No. 95-24 § 54-109; Ord. No. 99-19 § 2; Ord. No. 09-5 § 1; Ord. No. 10-24 §§ 1, 2; Ord. No. 11-14 §§ 1, 2; Ord. No. O-15-16 12/8/15))

54-30.12 Off-Street Parking and Loading.

All off-street parking and loading areas constructed within the Township shall meet the following provisions:

a. *General.*

1. Except as permitted otherwise below for shared parking facilities, all off-street parking and loading facilities shall be located on the same lot with the building that such facilities serve.
2. Except as permitted otherwise below for shared parking facilities, no driveway shall be permitted to serve any use other than the permitted use on the lot upon which the driveway is located.
3. All parking areas and residential driveways shall be used only for parking of automobiles. No commercial repair work or sales of any kind shall be conducted in any parking area. Nothing herein contained shall be construed to permit any required parking area to be used for the commercial storage of new or used motor vehicles by a new or used car dealer or motor vehicle rental agency.
4. Loading areas may be used for additional parking; however, all parking requirements must be met outside the loading areas.
5. Areas provided for loading and unloading of delivery trucks and other vehicles, for solid waste collection and for other types of routine service shall be adequate in size and so arranged that they may be used without blocking roadways or access to parking areas.

b. *Parking for Single-Family Detached Dwellings and Two-Family Dwellings.*

1. Off-street parking for single-family detached and two-family residential uses is permitted in any front, side or rear yard, provided that no vehicle shall be parked in any front yard except in the driveway area leading from the street upon which the subject premises is located.

2. Driveway Width. Driveways for single-family detached dwellings and two-family dwellings shall have a minimum paved width of ten (10) feet, and shall not exceed a paved width of twenty-two (22) feet, except as needed to provide a turnaround area as required herein.
3. Driveway Slope. Driveways for single-family detached dwellings and two-family dwellings shall comply with the following slope regulations:
 - (a) No driveway shall be constructed in the R-20AC, R-5AC or R-88 district that exceeds a grade of ten (10%) percent.
 - (b) No driveway shall be constructed in the R-20 or R-13 districts that exceeds a grade of twelve and one-half (12.5%) percent.
 - (c) Notwithstanding the above requirements, all driveways for single-family detached dwellings and two-family dwellings shall not exceed a slope of five (5%) percent within twenty (20) feet of the street pavement, or within twenty (20) feet of any garage that may exist on the property.
 - (d) As of January 1, 2012, all new driveway construction shall ensure any water draining from the driveway is directed to the closest edge of pavement and not across a municipal road. (See subsection 16-3.3)
4. For any property which fronts upon a neighborhood through road, collector road or arterial road as designated in the Township Master Plan, residential driveways shall be designed so that all vehicles may turn around within the property and thus prevent the necessity of any vehicle backing into the street.
5. Within six (6) months of the issuance of the first certificate of occupancy, all parking areas and driveways for residential uses in residential districts shall be surfaced with bituminous concrete pavement and a three (3) inch granular sub-base and one and one-half (1.5) inch surface course mix number 5, or the equivalent as approved by the Township Engineer.

Residential driveways are required at a minimum to be paved, in accordance with the above standards, from the roadway to the right-of-way and then an additional fifty (50) feet back from the right-of-way.

Nothing herein changes the requirements of subsection 16-6.8, Removal of Sidewalks Prohibited, subsection 16-7.2, Driveway Apron Requirements and subsection 54-29.7, Driveway Aprons.

6. Required Parking Spaces. In the R-20AC, R-5AC, R-88, R-20 and R-13 residential districts, provision shall be made for at least three (3) off-street parking spaces for each dwelling unit.

c. *Parking for Other Uses.*

1. Number of Parking Spaces.

(a) Single-family attached dwelling units or multi-family dwelling units shall require the following number of off-street parking spaces:

(1) Every dwelling unit containing three (3) or more bedrooms shall require two and one-half (2.5) parking spaces per unit.

(2) Every dwelling unit containing two (2) bedrooms shall require two (2) parking spaces per unit.

(3) Every dwelling unit containing less than two (2) bedrooms shall require one and one-half (1.5) parking spaces per unit.

(4) Dwelling units specifically designed for and restricted to housing for the elderly shall require one and one-quarter (1.25) parking spaces per unit.

(b) All permitted uses in the R-P, B-1, B-2, O-1, O-2, OR-3, OB-RL, PED, I and M districts, and all nonresidential uses permitted in the residential districts shall require the following number of off-street parking spaces. The following parking standards shall apply for all uses, provided that paragraph c., 1, c. below shall be applicable for use in the R-b district:

- (c) In the R-b district, all uses shall require the following number of off-street parking spaces:
 - (1) One (1) parking space shall be required for each two hundred (200) square feet of gross floor area of all buildings exclusive of the mall building.
 - (2) The mall building shall require one (1) parking space for each two hundred fifty (250) square feet of gross floor area. To qualify as a mall building within the R-b district, there must be a minimum ground coverage of not less than four hundred thousand (400,000) square feet.
 - (3) Offices on other than the first floor in the mall building shall require one (1) parking space for every four hundred (400) square feet of gross floor area devoted to the office use.

2. Other Requirements. Parking areas for nonresidential uses shall be designed in conformance with the regulations of this chapter, including, but not necessarily limited to, the standards in Section 54-29.

- d. *Shared Parking.* The required parking provisions of this section may be met by participating in a joint parking program involving two (2) or more nonresidential uses; provided, however, that plans for such a joint program shall have been approved by the Planning Board, and provided further that the area for the parking facilities shall equal the collective parking area requirements of the participating properties to be served.
- e. *Off-Street Loading.* Any nonresidential use involving manufacturing, storage or warehousing, display of goods, retail or wholesale sales, or any other use similarly requiring the receipt or distribution of materials or merchandise, there shall be provided and maintained on the same premises with such use off-street loading space(s) as required below:
 - 1. Buildings with less than five thousand (5,000) square feet of gross floor area shall require at least one (1) loading space.
 - 2. Buildings with at least five thousand (5,000) square feet of gross floor area shall require one (1) additional loading space for each twenty thousand (20,000) square feet of gross floor

area, or fraction thereof, above the first five thousand (5,000) square feet of gross floor area.

f. *Exemptions; Reserve Parking Set Aside.*

1. If any applicant can clearly demonstrate to the Board that, because of the nature of his operation or use, the parking and loading requirements of this section are unnecessary or excessive, the Planning Board shall have the power to approve a site plan showing less paved parking area than is required by this section; provided, however, that a landscaped area of sufficient size to meet the deficiency shall be set aside and reserved for the purposes of meeting future off-street parking and loading requirements in the event that a change of use of the premises shall make such additional off-street parking or loading spaces necessary.
2. In order for the Planning Board or Board of Adjustment to grant a parking or loading pavement exemption as set forth in paragraph 1. above, the applicant shall present the following documentation:
 - (a) Traffic engineering studies of parking demand for the proposed land use;
 - (b) Experiences of similar land use activities in the immediate area or in similar suburban communities; and/or
 - (c) Information concerning the use characteristics of the proposed tenant, including hours of operation, numbers of employees and visitors, numbers and frequencies of deliveries and shipments, typed of vehicles involved in making deliveries and shipments, etc.
3. No certificate of occupancy shall be issued for a change of use on a property which has previously been exempted from providing all of the required parking or loading spaces, unless the board has reviewed and approved a site plan for the change of use, and has determined that sufficient parking and loading spaces exist to serve the proposed us.

g. Refer to subsection 54-29.15 for additional requirements.
(Ord. No. 95-24 § 54-110; Ord. No. 99-19 § 2; Ord. No. 05-2 § 1; Ord. No. 09-13 § 1; Ord. No. 11-18)

54-30.13 Cluster Development and Condominium Administration.

Where permitted by this chapter, cluster development shall be subject to the following requirements. The Board need not approve any subdivision employing cluster development if, in its sole discretion, it determines that cluster development would not be suitable for the orderly development of the area in which it is located, or would not conform to the general pattern of development for existing community facilities or school-park lands or to the general pattern of development for such facilities or school-park lands as shown on the Master Plan or Official Map of the Township. Cluster development is optional with the applicant and the following requirements apply only if such option is exercised and the plan approved by the Planning Board.

a. *Density.*

1. The maximum number of lots which may be permitted under the cluster development option for a subdivision shall be determined by the Board after reviewing a plan submitted by the applicant which shows a conceptual layout of the property as it could be developed as a conventional subdivision in conformance with all the regulations of this chapter.
2. The conceptual plan shall provide, at a minimum, all the information required by subsection 54-28.4, and shall also include road profiles, a wetlands delineation from a qualified professional, designed to meet the requirements of the Freshwater Wetlands Act, and a flood plain delineation pursuant to the most recent Federal Flood Insurance Rate Map.
3. The maximum number of lots which shall be permitted for a cluster development shall equal the number of lots on the conceptual plan for a conventional subdivision, as determined by the Board taking into account good planning, zoning, and engineering principles, and provided that the conventional subdivision layout conforms with the requirements of this chapter.

b. *Dedication or Reservation of Open Space.* Any subdivision that employs the concept of cluster development as heretofore regulated shall dedicate any open space land resulting from the development to the township or shall

include provision for an organization to own and maintain the open space for the benefit of owners or residents of the development. Any area to be dedicated to the Township for open space under the terms of this section shall be at a location and shape as approved by the Planning Board and Township Council.

- c. *Open Space Organizations.* The following requirements shall apply to any organization which is required to own and maintain open space resulting from a cluster development. In addition, any condominium development within the Township shall make provision for the establishment of an open space organization as regulated below:
1. No open space organization shall be dissolved and no such organization shall dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the Township.
 2. In the event that such organization shall fail to maintain the open space in reasonable order and condition, the Planning Board may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the open space in reasonable condition. the notice shall include a demand that such deficiencies of maintenance be cured within thirty (35) days, and shall state the date and place of a hearing, which hearing shall be held within fifteen (15) days of notice.
 3. At such hearing the Planning Board may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed sixty-five (65) days within which they shall be cured.
 4. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured with the thirty-five (35) days or any permitted extension thereof, the Township, in order to reserve the open space and maintain the same for a period of one (1) year may enter upon and maintain such land. The entry and maintenance shall not vest in the public

any rights to use open space except when the same is voluntarily dedicated to the public by the owners.

5. Before the expiration of the year, the Planning Board shall, upon its initiative or upon the request of the organization responsible for the maintenance of the open space, call a public hearing upon fifteen (15) days' written notice to such organization and to the owner of the development, which hearing is to be held by the Planning Board. At such hearing the organization and the owners of the development shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year.
6. If the Planning Board shall determine that such organization is ready and able to maintain the open space in a responsible condition, the township shall cease to maintain the open space at the end of the year.
7. If the Planning Board shall determine such organization is not ready and able to maintain the open space in a reasonable condition, the Township may, at its discretion, continue to maintain the open space during the next succeeding year, subject to a similar hearing and determination, in each year thereafter. The decision of the Planning Board in any such case shall constitute a final administrative decision subject to judicial review.
8. The cost of such maintenance by the Township shall be assessed pro rate against the properties within the development that have a right of enjoyment of the open space in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax on the properties and be added to and be a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

(Ord. NO. 95-24 § 54-111)

54-30.14 Low and Moderate Income Housing Requirements.

- a. For the purpose of administering this section, the following terms shall be defined:

Affordable shall mean the cost for which household at the ceiling income for each income group, for each household size, is not

required to pay more than twenty-five (25%) percent of its gross household income for the total of principle, interest, property taxes, insurance and homeowner's association assessments, calculated on the basis of a ten (10%) percent down payment, and realistically available mortgage interest rates. In the case of rental housing, such a household is not required to pay more than twenty-five (25%) percent of income for rent including utilities.

Low income household shall mean a household having a total gross household income of not more than fifty (50%) percent of the median household income of households of the same size using the median income data for household size prepared by the United States Department of Housing and Urban Development, (Newark SMSA) contained in HUD, Section 8, Rental Assistance Program Income by Family Size.

Moderate income household shall mean a household having a total gross household income between fifty (50%) percent and eighty (80%) percent of the median household income for households of the same size using the median income data for household size by the United States Department of Housing and Urban Development, (Newark SMSA) contained in HUD, Section 8, Rental Assistance Program Income by Family Size.

- b. At least ten (10%) percent of the total number of residential dwellings hereinafter constructed within each development in the OR-3 district shall be made affordable and sold or rented to low income persons, and ten(10%) percent shall be made affordable and sold or rented to moderate income persons. If any developer builds residential housing in any district at a gross density of greater than five (5) units per acre, at least ten percent (10%) of the total number of residential dwellings hereinafter constructed within each such development shall be made affordable and sold or rented to low income persons and ten (10%) percent shall be made affordable to moderate income persons. Notwithstanding the provisions of this section, the following sites shall be excluded from the requirements of this provision due either to preliminary approvals heretofore having been granted by the Township or activities between the Township and developer conducted in good faith that were not predicated upon the foregoing provisions:
1. Block 11004, Lot 1 (former Block 151, Lots 54 and 54A).
 2. Block 11004, Lot 2, part (former Block 151, Lots 52 and 53).
 3. Block 11116, Lot 39 (former Block 197U, Lot 11).

- c. At least twenty (20% percent of the low income units and twenty (20%) percent of the moderate income units shall be three (3) bedroom units and no more than fifty (50%) percent of the low income units and fifty (50%) percent of the moderate income units shall be one (1) bedroom or efficiency units.
- d. The developer shall agree not to impose any residency requirements upon prospective renters or purchasers of any low and moderate income units, except that the Township shall require the developer to offer units for rental or sale exclusively to residents of Rockaway Township for a period of not more than fifteen (15) days. The developer shall agree not to impose age requirements upon occupants of low and moderate income units, except that in units designated by the Planning Board, on an approved site plan as senior citizen units, which shall include a total of no more than one hundred fourteen (114) low income units and one hundred fourteen (114) moderate income units constructed under this chapter, the developer may be required to restrict sale or rental to eligible low and moderate income persons over the age of sixty-two (62).
- e. The developer shall formulate and implement a written affirmative marketing plan acceptable to the Planning Board with agreement of the Township Council. The affirmative marketing plan shall be realistically designed to inform all components of the population of the housing opportunities in the development, that they are welcome to seek to buy or rent such housing and that they have the opportunity to buy or rent such housing. It shall include advertising and other outreach activities realistically designed to reach all components of the lower income population in municipalities in the Mt. Laurel housing region of which the Township is a part.
- f. The developer shall submit a phasing schedule for the construction of low and moderate income units. The phasing schedule shall provide that the number of low income units constructed in each phase shall be approximately equal to the number of moderate income units constructed in that phase.
 - 1. The developer may construct the first twenty (20%) percent of the market rate units in the development before constructing any low or moderate income units.
 - 2. By the time forty (40%) percent of the market rate units have been constructed, at least twenty (20%) percent of the lower

income units must be constructed and sold or rented to lower income households. No certificates of occupancy may be issued for market rate units in excess of twenty (20%) percent of all market rate units in the development until such sales or rentals have taken place.

3. By the time sixty (60%) percent of the market rate units have been constructed, at least forty (40%) percent of the lower income units must be constructed and sold or rented to lower income households. No certificates of occupancy may be issued for market rate units in excess of forty (40%) percent of all market rate units in the development until such sales or rentals have taken place.
 4. By the time eight (80%) of the market rate units have been constructed, at least seventy (70%) percent of the lower income units must be constructed and sold or rented to lower income households. No certificates of occupancy shall be issued for market rate units in excess of sixty (60%) percent of all market rate units in the development until such sales or rentals have taken place.
 5. By the time one hundred (100%) percent of the market rate units have been constructed, one hundred (100%) percent of the lower income units must be constructed and sold or rented to lower income households. No certificates of occupancy shall be issued for market units in excess of eighty (80%) percent of all market rate units in the development until such sales or rentals have taken place.
- g. A developer shall submit a plan for resale or rental controls to ensure that the units remain affordable to low and moderate income households for at least thirty (30) years. The purchaser shall be entitled to sell the units for:
1. The original sales price, plus the original sales price multiplied by seventy-five (75%) percent of the percentage increase in the Consumer Price Index between the date of purchase and the date of resale; and
 2. Reimbursement and documented monetary outlays for reasonable improvements; and
 3. Any reasonable cost incurred in selling the unit.

- h. The low income unit upon resale may be sold only to low income persons, and the moderate income units may be sold to low or moderate income purchasers. If, however, no low income purchaser is found within sixty (60) days, the low income unit may be sold to a moderate income purchaser, or if no is available, to any interested purchaser. If no moderate income purchaser is found for a moderate income unit within sixty (60) days, the unit may be sold to any purchaser. Regardless of the income of the purchaser, the resales controls shall remain in effect for subsequent resales. The developer may create a nonprofit corporation, enter into an agreement with a nonprofit corporation or a governmental agency, or choose to administer to resale controls itself, but in no event may the resale controls be administered merely by a deed restriction.
- i. Where units are offered as rental units, they shall continue to be offered as rental units for fifteen (15) years. After fifteen (15) years, they may be sold at prices affordable to moderate income households, subject to such resale price controls as may be necessary to ensure that the units continue to be affordable to moderate income households for the remainder of the thirty (30) year period commencing from the date of initial rental.
- j. Upon the construction of one thousand one hundred thirty-five (1,135) units of affordable low and moderate income housing units pursuant to the conditions imposed by this chapter, including housing which meets the standards of Section 8 of the Community Development Act of 1974, as amended, or equivalent program, the Township will not require of any developer the further construction of the affordable low and moderate income household units.
- k. The Planning Board shall review the location and design of units in any proposal for development involving construction of affordable low and moderate income housing units and may, in its discretion, require the developer to alter its development proposal, if necessary, to ensure reasonable integration of low and moderate income housing units within the development.
- l. If any housing units in the proposed development are associated together through condominium ownership, cooperative ownership, membership in a homeowners or similar association, or other organization providing for common upkeep and maintenance of property, then the low and moderate income housing units provided for in this chapter and the owners of such units shall be an integral part of such common ownership regime and members

of such organization with the same rights and privileges accorded to other units and unit owners in the development.

- m. A developer in the district may request that the Planning Board and/or Township waive or modify cost-generating requirements in the zoning, subdivision or site plan regulations except for density limitations, waive or reduce fees, or grant tax abatement to the extent authorized by law, if the developer claims that such actions are necessary to provide the twenty (20%) percent low and moderate income housing units. A developer may choose one (1) of three (3) impartial housing experts from a list prepared by the Planning Board and have the expert make recommendations, at the expense of the developer, on the necessity for the proposed waivers, modifications or other actions. The expert shall also consider whether the requirement for which the waiver or modification is sought is a necessary minimum standard required for public health and safety. In the event that the expert determines that, even after full municipal cooperation, it is not economically feasible for the developer to provide the full amount of affordable low and moderate income units, the expert may recommend that the developer provided twelve (12%) percent moderate income and eight (8%) percent low income units. Such a modification in the low and moderate income obligations shall not be approved unless the expert determines that the Township has substantially complied with his recommendations for municipal actions to reduce costs. The Planning Board shall not be bound to accept or approve the recommendations of the expert, but may in its discretion reject any or all of such recommendations. In the event that the Planning Board declines to accept one (1) or more of the recommendations of the expert, it shall detail its reasons in writing.
- n. Notwithstanding any other provision of this chapter, any developer who submits a substantially complete application for development for any project in the OR-3 district as required in subsection 54-21.3, and shall diligently pursue the application, shall accrue a vested right to develop that property which is the subject of the application, pursuant to the development standards of the Rockaway Township Land Use Ordinance in effect at the time of the filing of the substantially complete application.
- o. The township shall, on an annual basis, furnish the plaintiffs and the Court with a statement describing what lower income housing development has occurred and the status of each site rezoned under this agreement.

(Ord. No. 95-24 § 54-112; Ord. No. 99-19 § 2)

54-30.15 Regulations Governing Conditional Uses.

Pursuant to P.L. 1975 Chapter 291, the Planning Board may grant approval of conditional uses as herein regulated. Subsection 54-30.10 applies as a conditional regulation for all conditional uses.

- a. *Public Garages and Gasoline Service Stations.* A public garage or gasoline service station shall be permitted only in the B-1 and B-2 districts and if the following requirements are complied with:
 1. A site plan shall be submitted and approved as required by this chapter and the plan shall show, in addition to all required information in Section 54-28, the street entrances and exits or driveways and the precise location of all tanks, pumps, lifts and other machinery and equipment appurtenant thereto as well as the location, nature of construction and present use of all buildings within three hundred (300) feet of the lot lines of the premises for which the application has been filed.
 2. No property line of the lot or parcel of land to be used as a public garage or gasoline service station shall be within three hundred (300) feet, measured in a straight line, from the nearest property line of any lot upon which is located any building used as a theater, auditorium or other place of public assembly capable of seating over one hundred (100) persons, or used as a church, hospital for humans, college, school, public library or institution for dependents or children, or any public playground or athletic field.
 3. No part of any public garage or gasoline service station, wherever located, shall be used for any other purposes.
 4. The minimum lot area of any lot upon which any public garage or gasoline service station is located shall be ten thousand square feet, and the minimum street frontage of the lot shall be one hundred (100) feet. If a public garage or gasoline service station is located on a corner lot, the minimum street frontage on each street shall be one hundred (100) feet.
 5. Entrance and exit driveways to and from any lot upon which is located a public garage or gasoline service station shall have an unrestricted width of not less than sixteen (16) feet nor more than thirty (30) feet, shall be located not nearer

than ten (10) feet from any lot line, and shall be so laid out as to avoid the necessity of any vehicle leaving the property by backing out across any public sidewalk, street, highway, right-of-way or portion thereof.

6. The area of all driveways and other areas over which motor vehicle are intended to be driven or parked on any lot upon which is located a public garage or gasoline service station shall be paved with a bituminous or concrete surface sufficient to meet the paving specifications applicable to nonresidential paved parking lots.
7. On any lot upon which a public garage or gasoline service station is located, all services or repairs to or for motor vehicles, other than such minor items as the changing and filling of tires or the sale of gasoline or oil, shall be conducted within the confines of a building capable of being wholly enclosed. Any vehicles stored outside overnight shall be so stored as to meet the outdoor storage provisions of subsection 54-30.8.
8. No part of any building used as a public garage or gasoline service station shall be closer than fifty (50) feet to a street right-of-way and no filling pump or other service appliance, whether for gasoline, oil or any other combustible liquid or material, shall be erected within ten (10) foot free area required hereunder shall be at all times kept free, open and unobstructed for the purposes of ready access by emergency fire and police vehicles.
9. At any public garage or gasoline service station, storage facilities for gasoline, oil or other flammable materials in bulk over seventy-five (75) gallons shall be located wholly underground and no nearer than thirty-five (35) feet from any lot line other than the street right-of-way line. No gasoline or oil pumps, oil or greasing mechanism or other service appliance installed for use at such premises shall be within ten (10) feet of any street right-of-way line and no gasoline pump shall be located or permitted within any enclosed or semi-enclosed building.
10. No permit for the alteration or expansion of any existing public garage or gasoline service station shall be issued except upon compliance by the applicant with all the provisions of this section.

b. *Houses of Worship.* Houses of worship shall be permitted as a conditional use in the R-40, R-20, R-13, R-5AC, R-88, O-1, O-2, O-3, OR-3, OB-RL, PED and I Zones.

1. The following area and bulk regulations govern houses of worship as a conditional use in the R-40, R-20 and R-13 Zones:

(a)	Minimum Lot Area (ac.)	2
(b)	Minimum Lot Width and Depth (ft.)	150
(c)	Minimum Building Setback, All Lot Lines (ft.)	50
(d)	Maximum Building Height (ft.)	35 (excluding steeple; max. one steeple capped at 50 ft.)
(e)	Maximum Building/ Impervious Coverage (%)	20/50
(f)	Minimum Buffer Width (ft.)	25 ft. to all lot lines
(g)	Minimum Parking	1 space/3 seats sanctuary or 1 space/60 inches of pew seating, or 1 space per 200 sq ft. of sanctuary floor area, whichever is greater; +1 space/200 sq. ft. for all other space except schools, where the requirement is 1 space/5 of pupil capacity

		in secondary schools and 1 space/10 of pupil capacity in elementary schools; +1 space/employee.
(h)	Parking Space Location	Prohibited in required front yard setback; permitted in side/rear yards, provided it is set back minimally 35 feet from side and rear yard lines.
(i)	Accessory Uses Permitted	Religious school, office, social hall, parking and loading.
(j)	Access	Minimum 1 entrance and 1 separate exit from a public road.
(k)	Parsonage or Manse	Zoning regulations for site's zoning for single-family dwelling, required on a separate conforming and subdivided lot.
(l)	Maximum Seat Capacity of Social Hall	20 percent of seating capacity of sanctuary.

2. The following area and bulk regulations govern houses of worship as a conditional use in the R-5 ac, R-88, O-1, O-2, O-3, OR-3, OB-RL, RED, and I Zones:

- | | | |
|-----|---|---|
| (a) | Minimum Lot Area (ac.) | 5 |
| (b) | Minimum Lot Width and Depth (ft.) | 300 |
| (c) | Minimum Building Setback, All Lot Lines (ft.) | 100 |
| (d) | Maximum Building Height (ft.) | 50 (excluding steeple; max. 2 steeples capped at 65 ft.) |
| (e) | Maximum Building/Impervious Coverage (%) | 15/40 |
| (f) | Minimum Buffer Width (ft.) | 35 ft. to all lot lines. |
| (g) | Minimum Parking | 1 space/3 seats sanctuary or 1 space/60 inches of pew seating, or 1 space per 200 sq ft. of sanctuary floor area, whichever is greater; +1 space/200 sq. ft. for all other space except schools, where the requirement is 1 space/5 of pupil capacity in secondary schools and 1 space/10 of pupil capacity in elementary schools; +1 space/employee. |

(h)	Parking Space Location	Prohibited in required front yard setback; permitted in side/rear yards, provided it is set back minimally 35 feet from side and rear yard lines.
(i)	Accessory Uses Permitted	Religious School, Office, Social Hall, Parking and Loading.
(j)	Access	Minimum of 1 separate entrance and 1 separate exit from a public road.
(k)	Parsonage or Manse	Parsonage or Manse shall be on a separate conforming and subdivided lot, per the R-88 zone standards.
(l)	Maximum Seat Capacity	20 percent of seating capacity of sanctuary.
(m)	Located on Major Arterial (per Township Master Plan)	Yes
(n)	Multiple Buildings Permitted	Yes

- c. *Public and Private Elementary and Secondary Schools.* Public and private elementary and secondary schools shall be permitted as a conditional use in the R-40, R-20, R-13, R-5 ac, R-88, O-1, O-2, O-3, OR-3, OB-RL, PED, and I Zones.

1. The following area and bulk regulations govern public and private elementary and secondary schools as a conditional use in the R-40, R-20, and R-13 Zones:

- | | | |
|-----|--|---|
| (a) | Minimum Lot Area (ac.) | 2 |
| (b) | Minimum Lot Width and Depth (ft.) | 150 |
| (c) | Minimum Building Setback All Lot Lines (ft.) | 50 |
| (d) | Maximum Building Height (stories/ft.) | 2/35 |
| (e) | Maximum Building Coverage (%) | 20 |
| (f) | Maximum Building Coverage (%) | 50 |
| (g) | Minimum Parking | 1 per 5 of pupil capacity in secondary schools, 1 per 10 of pupil capacity in elementary schools, + 1 per employee. |
| (h) | Parking Space Location | Prohibited in required front yard; permitted in side/rear yards, provided it is set back minimally 35 feet from side and rear yard lines. |
| (i) | Minimum Buffer (ft.) | 25 feet to all lot lines. |
| (j) | Accessory Uses Permitted | Garage for school buses; parking and |

loading.

- (k) Such school shall have as its prime purpose the general education of students in the arts and sciences and shall be licensed by the State Department of Education as required by law.

2. The following area and bulk regulations govern public and private elementary and secondary schools, as a conditional use in the R-5 ac, R-88, O-1, O-2, O-3, OR-3, OB-RL, PED, and I Zones.

- (a) Minimum Lot Area (ac.) 4
- (b) Minimum Lot Width and Depth (ft.) 200
- (c) Minimum Building Setback, All lot Lines (ft.) 100
- (d) Maximum Building Height (stories/ft.) 2/35
- (e) Maximum Building Coverage (%) 20
- (f) Maximum Impervious Coverage (%) 50
- (g) Minimum Parking 1 per 5 of pupil capacity in secondary schools, 1 per 10 of pupil capacity in elementary schools, + 1 per employee.
- (h) Parking Space Location Prohibited in required front yard; permitted in side/rear yards, provided it is set back minimally 50 feet from side

and rear yard lines.

- (i) Minimum Buffer (ft.) 50 ft. to all lot lines.
- (j) Accessory Uses Permitted Garage for school buses; parking and loading.
- (k) Such school shall have as its prime purpose the general education of students in the arts and sciences and shall be licensed by the State Department of Education as required by law.

d. *Municipal Buildings and Public Uses.* Municipal buildings and public uses shall be permitted as a conditional use in all zones.

1. The following area and bulk regulations govern municipal buildings and public uses:

- (a) Minimum Lot Area (sf.) 40,000
- (b) Minimum Lot Width and Depth (ft.) 150
- (c) Minimum Building Setback All Lot Lines (ft.) 35
- (d) Maximum Building Height (stories/ft.) 2/35
- (e) Maximum Building Coverage (%) 25
- (f) Maximum Impervious Coverage (%) 65
- (g) Minimum Parking 1/300 sf. for municipal buildings and library; 1/150 sf. for indoor recreation; 1/design capacity for each activity

for outdoor recreation.

- | | | |
|-----|-----------------------------|---|
| (h) | Parking Space Location | Prohibited in required front yard; permitted in side/rear yards, provided it is set back minimally 25 feet from side and rear yard lines. |
| (i) | Minimum Buffer (ft.) | 25 ft. to all lot lines. |
| (j) | Accessory Uses
Permitted | Ancillary activities associated w/ principal use. |

e. *Nursing Homes and Congregate Care Facilities.* Nursing homes and congregate care facilities are permitted as conditional uses in the R-88 and R-5AC Zones subject to the following:

1. No structure shall exceed thirty (35) feet in height.
2. No structure shall be permitted closer than one hundred (100) feet to any property line or street right-of-way line.
3. There shall be a minimum lot area of one hundred fifty thousand (150,000) square feet.
4. Off-street Parking. Off-street parking as required by this chapter shall be provided. Notwithstanding the provisions of this chapter, off-street parking is permitted in the front yard, provided no parking area may be within twenty-five (25) feet of any street right-of-way line.
5. A minimum setback of thirty-five (35) feet between buildings shall be required.
6. A maximum building coverage of twenty-five (25%) percent shall be permitted.

7. A maximum impervious coverage of sixty-five (65%) percent shall be permitted.
- f. *Transitional Uses.* Transitional uses on transitional lots are permitted only if the requirements of this subsection are complied with. Transitional lots shall be construed to be lots within any residential district which: a) have a side yard which immediately abuts any property in the B-1 or B-2 districts at the front street property line of the transitional lot, and b) are not separated from any lot or lots in the B-1 and B-2 districts by a public street or roadway.
1. Transitional lots may be used for those purposes and uses which are permitted within the district in which the transitional lots are located, and transitional lots may also be used for offices for accountants, architects, attorneys, chiropodists, chiropractors, dentists, optometrists, osteopaths, physicians and professional engineers, and for off-street parking facilities as an accessory use to a principal use not located on the premises, to meet the requirement of this chapter. Notwithstanding the above, the nonresidential uses permitted by this section shall not be permitted on a transitional lot in conjunction with or at the same times as a permitted residential use upon the same lot.
 2. The uses on transitional lots permitted above shall only be permitted on that portion of the transitional lot which is within one hundred (100) feet of the B-1 or B-2 district boundary line.
 3. Where a transitional lot is used for parking only, the parking area shall meet all requirements for a nonresidential parking lot as set forth by this chapter.
 4. Where a transitional lot is used as an office as permitted above, the following additional requirements and conditions shall be met:
 - (a) Off-street parking for the permitted use shall be provided as required by this chapter.
 - (b) The side yard on the residential district side of any transitional lot shall be not less than fifteen (15) feet in width.

- (c) The side yard on the business district side of any transitional lot shall be not less than twelve (12) feet in width.
- (d) Off-street parking shall be permitted in any side yard, provided that no parking area shall be closer than five (5) feet to the side or rear property line of the abutting residence district.
- (e) Any building on a transitional lot, whether a new structure or a converted existing structure, shall be residential in exterior appearance.
- (f) The front yard and rear yard requirements of the residence district in which the transitional lot is located shall be met.
- (g) The only signs permitted are a professional office sign affixed parallel to the building and not extending more than twelve (12) inches therefrom, setting forth the name of the occupant or occupants in the premises and the activities carried on therein, and which shall not exceed six (6) square feet in area.

g. *Home Occupations.* Home occupations are permitted in any residential district only if the following requirements are complied with:

1. A residence in any residential district may contain the office of a practitioner of certain professions or home occupations which shall include, but not be limited to, accountants, architects, craftsmen, engineers, lawyers, licensed beauticians, planners, sales agents and teachers.
2. No home occupation shall occupy an aggregate amount of floor space greater than three hundred (300) square feet.
3. The structure shall be remodeled in any way to create the impression of a business activity in a residential environment.
4. There shall be no visible exterior physical evidence of the use from the exterior of the residential building.
5. Each use shall be permitted to have a sign not to exceed four (4) square feet in area and limited to setting forth the name

of the occupant in the residence and the activities carried out therein. The sign shall be attached flat against the wall of the residence.

6. Retail sales of any products or materials shall be prohibited.
 7. No home occupation shall employ or utilize the services of any person not residing in the home.
- h. *Home Professional.* A residence shall be permitted to contain the offices of a practitioner licensed by the State of New Jersey for the practice of any medicine or medical specialty, only if the following requirements are complied with:
1. The practitioner shall be the owner of such residence.
 2. The practitioner shall reside therein.
 3. Such office shall be limited to either the first floor or basement of such residence and shall not occupy an aggregate amount of space in excess of twenty-five (25%) percent of the area of the first floor or basement where the office is located.
 4. A minimum of six (6) off-street parking spaces must be provided in the rear yard.
 5. No patient shall remain in the residence overnight.
- i. *Day Care Centers or Nurseries.* Day care centers or nurseries are permitted in all residential districts except the R-20AC, R-5AC, R-88, R-20 and R-13 only if the following standards are complied with:
1. Such uses shall be located on a minimum lot size of one (1) acre.
 2. All height and yard requirements shall be met for the district in which the use is located.
 3. Off-street parking shall be provided to meet the provisions of this chapter; provided, however, all parking shall be located only in the side and rear yards.
 4. Such uses are only permitted within existing residences. No new structure shall be constructed nor shall any existing

structure be remodeled for the uses to create the impression that the structure is used for anything other than a residence.

- j. *Outdoor Recreational Activities.* Recreational uses outside the confines of a building are permitted in the B-1 district only if the following requirements are complied with:
1. The following uses are permitted under the terms of this subsection:
 - (a) Tennis courts, shuffleboard courts, basketball courts, platform tennis courts, ball fields, swimming pools, ski slopes, handball courts, volleyball courts, badminton courts, miniature golf courses, slides, Frisbee, golf, boating, roller skating, children's play areas including equipment as swings, slides, teeter totters, jungle gyms and the like, and non-motorized bike tracks. An instructional camp limited to no more than one hundred (100) persons may be operated between the hours of 7:00 p.m. Sunday to 9:00 a.m. Saturday during the months of April through November. Any instructional camp limited to no more than one hundred (100) persons may be operated at any time during the months December through March.
 - (b) Recreation buildings customarily incident to a recreation complex such as lodge buildings, boat houses, pro shops, toilets, restaurants and cafeterias, recreation equipment buildings, administration buildings and a single-family caretaker's residence.
 - (c) A horse riding stable; provided the stable and horse trails are physically separated from all other recreation facilities on-site and all animals are kept within an enclosure not closer than three hundred (300) feet to any structure on adjoining property nor one hundred (100) feet to any property line; and provided the facility is designed and maintained to insure the health and well-being of the animals and minimize any negative impact to environmentally sensitive areas.
 - (d) Picnic activities; provided, however, a permit shall be required for any picnic activity where the anticipated crowd will exceed five (500) persons. Activities during the winter months (December through March) shall be

limited to two thousand five hundred (2,500) persons. Activities during the months other than the winter months (April through November) shall be limited to one thousand eight hundred (1,800) persons.

Application forms for the required permit shall be obtained from the Zoning Officer after a payment of a fee of fifteen (\$15.00) dollars at least seven (7) days prior to the date of the proposed activities. The application shall indicate the sponsoring organization of the picnic, those activities that will be used, the time (date and hours) contracted for, the anticipated number of persons who will participate, what provisions are being made for crowd and traffic control, sanitary facilities and whether a temporary liquor license will be applied for.

2. Specifically prohibited as a conditional use in this district are motels, hotels, snowmobiles, motor powered bike or car tracks or courses, skeet and target ranges or other similar noise generating activities or other activities which would have an adverse impact on environmentally sensitive areas or surrounding uses.
3. There shall be a minimum lot area of fifty (50) acres.
4. There shall be a minimum frontage of five hundred (500) feet on a public street.
5. No building or structure shall exceed a height of thirty-five (35) feet, except for ski lifts which may exceed this height.
6. All buildings, structures, outdoor game courts and recreation area activities shall be set back at least one hundred (100) feet from any public street or other property line; provided, however, if the property line abuts public lands in which development is prohibited the setback can be reduced to fifty (50) feet. Off-street parking areas are permitted within all setbacks other than the setback from any public street, where parking is prohibited; provided, that no parking area shall be closer than fifty (50) feet to any property line. All setbacks shall be screened as required by the Planning Board to adequately buffer any adjacent residential areas.
7. The total area of all impervious surfaces shall not exceed ten (10%) percent of the total tract area.

8. Off-street parking shall be provided pursuant to the parking schedule set forth herein.
 9. The use shall be conducted in such manner that there shall be no direct or sky-reflected glare exceeding three tenths (0.3) of a footcandle at the property line of the lot devoted to such use. The only lighting permitted to illuminate the area shall be of such a nature that the direct source of light is not visible from any street or abutting residential property.
 10. Any activities outside the confines of a building shall be limited to the following hours:
 - (a) Activities during the winter months (December through March): from 7:00 a.m. to 11:00 p.m.
 - (b) Activities during the months other than winter months (April through November), where there will be less than one hundred (100) people on the premises: from 7:00 a.m. to 11:00 p.m.
 - (c) Activities during the months other than winter months (April through November), where there will be at least one hundred (100) people on the premises: 9:30 a.m. to 6:00 p.m.
 11. There shall be no noisemaking devices such as phonographs, loudspeakers, amplifiers, radios, television sets or similar devices so situated as to be heard at the property line of the subject site.
 12. Such uses shall reflect good site plan design practices, shall be implemented in a manner designed to preserve environmentally sensitive areas, and to not adversely affect surrounding uses, and shall be developed on an integrated basis in accordance with a Planning Board approved site plan for both permanent as well as temporary facilities.
- k. *Community Shelters for More than Six (6) Victims of Domestic Violence.* Community shelters for more than six (6) victims of domestic violence as defined in this chapter shall be permitted in all residential districts only if the following requirements are complied with:

1. The minimum lot area shall be one (1) acre, and provisions for lot clustering shall not apply.
2. All yard, setback and height requirements for the district in which the use is located shall be complied with.
3. All principal and accessory structures shall be designed and constructed so as to be compatible with the appearance of a one-family residence.
4. The maximum building coverage shall be ten (10%) percent of the lot area. The maximum coverage of structures and impervious improvements shall be fifteen (15%) percent of the lot area.
5. No more than fifteen (15) persons, exclusive of the residential staff, shall be housed in a single community shelter for victims of domestic violence located in any residential district.
6. No property devoted to a community shelter for victims of domestic violence shall be located within one thousand five hundred (1,500) feet of another property devoted to such use.
7. A conditional use permit for a community shelter for victims of domestic violence shall not be issued if the total number of persons currently reside at such facilities within the Township exceeds, exclusive of resident staff, fifty (50) persons or one-half (0.5%) percent of the population of the Township, whichever is greater.

1. *Heliports/Helistops.* Within the districts established by this section or amendments thereto, there exist principal uses to which heliports/helistops constitute customary and incidental accessory uses. It is the intent of this section to delineate such districts in which heliports/helistops are permitted accessory uses and to establish that such uses are conditional uses subject to compliance with the requirements set forth herein. This section also sets forth procedures for obtaining the certificate of approval from the Township Council required for the licensing of such facilities pursuant to N.J.A.C. 16:54-1.4(a)5.

1. Districts. Restricted heliports/helistops shall be treated as conditional accessory uses in the OR-3, B-2, R-B, O-1, O-2, OB-RL, PED, I and M districts.

2. Conditional Uses. Restricted use heliports/helistops shall be permitted as a conditional accessory use, subject to the following:

(a) Siting distances.

- (1) The site location must be no less than five (5) nautical miles from any operational public airport facilitated to fuel, service, and maintain helicopters.
- (2) The site location must be not less than one (1) nautical mile from any school, place of worship, hospital, senior citizen complex or library.
- (3) The site location must be greater than one (1) nautical mile from any and all heliport/helistop sites.
- (4) Only one (1) site shall be permitted per lot.

(b) Area and bulk requirements.

- (1) Notwithstanding the minimum lot area requirement in any district, any tract upon which a heliport/helistop is proposed shall contain a minimum of twenty (20) acres, or such larger area required to comply with setback requirements.
- (2) Minimum setbacks on landing pads from all nonresidential property lines shall be five hundred (500) feet.
- (3) The heliport/helistop pad shall be at least three hundred fifty (350) feet from any building or permanent structures.
- (4) The minimum distance from the land pad to any residential district property line shall be one thousand (1,000) feet.
- (5) The heliport/helistop shall be located on the same lot as the principal use and the concrete

pad shall be at least one hundred (100) feet wide and one hundred (100) feet deep.

- (c) Any use of a heliport/helistop for purposes which are not incidental to the principal use on the lot is prohibited. Operation of a commercial helicopter facility is expressly prohibited.
- (d) All heliports/helistops shall be ground level sites. Roof-top sites are prohibited.
- (e) Fuel storage, fuel transfer, hangar, and repair facilities are prohibited. Adequate tie-down facilities shall be provided.
- (f) Helicopters shall not exceed a gross weight of three thousand five hundred (3,500) pounds and the landing pad shall be identified as to load bearing capacity.
- (g) Buffer materials exceeding the standing height of aircraft must be permanently erected to conceal aircraft from any adjoining roadways and residential areas.
- (h) Adequate safety and fire equipment, as determined by the appropriate Township agencies, shall be provided.
- (i) An attendance qualified in aircraft safety measures shall be present at each helicopter event. The site area shall be secured fifteen (15) minutes prior to the event and the attendance shall be present until after each site event.
- (j) A public means for communication shall be provided within one hundred fifty (150) feet of the site during periods when the attendance is present.
- (k) The heliport/helistop must comply with all State and Federal requirements, including, but not limited to, the following Federal Aviation Regulations (F.A.R.):
 - (1) F.A.R. Part 157 "Notice of Construction, Alteration, Activation and Deactivation of Airports:" published 01-75.

- (2) F.A.R. {art 77 “Objects Affecting Navigable Air Space” published 01-75.
 - (3) F.A.A. Advisory Circular Number 150/5020-2, dated 12-08-83 entitled “Noise Assessment guidelines for New Heliports.” Copies of all maps and sketches required by N.J.A.C. 16:54-1.1 et seq., certified by a New Jersey licensed engineer or surveyor, shall be supplied to the Planning Board.
- (l) Flight events shall be limited to a maximum of six (6) per day, and shall be restricted to Monday through Friday during daylight hours (defined as one (1) hour after sunrise until one (1) hour before sunset) and are expressly prohibited on Saturdays, Sundays and legal holidays.
 - (m) Landing and approach corridors shall not cross residentially zoned property and shall parallel the boundaries of such districts unless they are more than seven hundred fifty (750) feet therefrom, measured horizontally from the corridor center lines to the boundaries.
 - (n) An environmental impact statement shall be submitted for all sites located in an area designated as a wetlands area.
 - (o) Minimum clear zone. The area immediately surrounding the landing and takeoff site must be free of all moving or stationary vehicles which contain volatile fuels (gasoline or diesel) for a distance of not less than one hundred (100) feet from the pad center.
3. Certificate of Approval. Any person seeking to construct, demolish, modify or transfer a heliport/helistop facility shall, prior to applying to the State of New Jersey, apply to the Township of Rockaway for certificate of approval, utilizing forms provided for this purpose in the Office of the Township Clerk. The Township Council shall act upon such application after the following are received:
- (a) A report from the Township Planning Board indicating that the site meets the requirements for an accessory conditional use.

- (b) A report from the Township Fire Department indicating that adequate measures for fuel spillage and fire protection are available at the site.
 - (c) Copies of notices, sent certified mail, return receipt requested, to all property owners within two hundred (200) feet of the lot on which the facility is proposed.
 - (d) Certified copy of notice published at least once in the official newspaper of the Township not less than seven (7) days nor more than fourteen (14) days prior to the hearing, indicating the date, time, and purpose of the public hearing.
- 4. If the application is approved, the Township of Rockaway shall forward a certificate of compliance with local zoning requirements to the Division of Aeronautics.
- m. *Private Clubhouse Residential Development.* Private clubhouses in private residential developments are permitted as a conditional use, provided they meet the following conditions:
 - 1. Private clubhouses shall be permitted in private residential developments with common open space area which are subject to regulations by homeowners associations or similar corporations serving private residential developments.
 - 2. Private clubhouses shall be set back minimally one hundred (100) feet from all perimeter boundaries of the private residential development, and minimally one hundred fifty (150) feet from any building occupied for residential use.
 - 3. All buildings shall comply with the height limitations set forth herein for accessory structures.
- n. *Accessory Dwelling Unit.*
 - 1. Upon proper application and hearing as provided herein, one (1) accessory dwelling unit shall be permitted as a conditional use in any existing detached one-family dwelling in any residential district in the Township, provided that the Planning Board finds and determines that the following conditions have been met:

- (a) The dwelling for which a permit for an accessory dwelling is sought shall be situated on a lot having a minimum area equal to the minimum for the zone in which the site is situated. The bulk of that zone shall also be applicable.
- (b) The dwelling for which such permit is sought shall have been occupied as a detached one-family dwelling pursuant to an initial certificate of occupancy issued at least ten (10) years prior to the filing of an application for approval of an accessory dwelling unit.
- (c) Either the accessory dwelling unit or the primary dwelling unit shall constitute the domicile of the person or persons who own the lot on which the dwelling is situated.
- (d) At least one (1) of the persons occupying either the accessory dwelling unit or the primary dwelling shall qualify as an income-qualified lower income household, as provided for in the COAH regulations governing same.
- (e) The accessory unit shall be occupied as a residence by no more than three (3) persons.
- (f) The accessory dwelling shall be a minimum of four hundred (400) square feet in size, but in no event shall be greater than twenty-five(25%) percent of the total floor area of the building. It shall be required to have its own kitchen and bath facilities.
- (g) No changes shall be made to the exterior of the building which would detract from its external appearance as a detached single-family dwelling, except that a separate door to serve as an entrance and exit for such accessory dwelling may be installed, provided it does not abut the front yard of the lot.
- (h) In addition to the parking required for the primary residence, there shall be one (1) additional parking space provided on-site for the accessory dwelling unit.
- (i) An accessory dwelling unit may not be situated or contained within a cellar or garage.

(j) The sanitary disposal system for the dwelling, either existing or as may be modified to accommodate the accessory dwelling shall be inspected and approved by the Board of Health.

(k) The accessory unit shall comply with all other ordinances and regulations of the Township.

(1) The granting of such application for a conditional use shall not substantially impair the visual aspect of the immediate neighborhood of which the dwelling is a part, or the surrounding area.

2. Application Procedure.

(a) No building permit shall be issued for the creation of an accessory unit unless a conditional use approval therefor has been granted by the Planning Board.

(b) For a conditional use approval for an accessory unit the procedure shall be as follows:

(1) An application shall be submitted to the Land Use Administrator, in writing, in duplicate, on forms supplied by the Planning Board, furnishing pertinent data including the names and addresses of the owners and persons who intend to occupy the primary and accessory unit, and the block and lot number and street address of the site in question.

(2) The application shall be accompanied by fifteen (15) copies of a current survey of the property prepared by a licensed engineer or land surveyor depicting the boundaries of the lot and all existing structures and improvements on the property.

(3) The application shall be accompanied by fifteen (15) copies of a proposed floor plan drawn by a licensed architect or engineer depicting all proposed interior and exterior changes to the dwelling, including the relationship of the primary dwelling to the accessory unit, the location of any proposed exterior doors, and proposed additional parking spaces, and any

proposed modifications to the existing sanitary disposal system.

- (c) Upon filing of a complete application, the Planning Board shall conduct a hearing on the matter. Notice shall be given to all property owners within two hundred (200) feet of the site, as provided for in the Township Land Use Ordinance.
- (d) The Planning Board shall render its decision not later than ninety-five (95) days from the filing of a complete application.
- (e) Any such approval granted by the Planning Board shall expire unless the construction of the accessory dwelling shall have commenced within one (1) year of the date of approval; except that the running of the period of limitation herein shall be tolled from the date of filing an appeal from the Planning Board's decision to a court of competent jurisdiction until the termination of any matter of such appeal.

3. Miscellaneous Provisions.

- (a) Affidavit of Continued Compliance. ON or before the first of January next following the issuance of a certificate of occupancy for an accessory dwelling unit, and on or before each and every January 1 next ensuing, the owner of the dwelling for which such certificate of occupancy was granted shall file in the office of the Construction Code Official a sworn affidavit in the form prescribed by the Township Clerk, which shall state that there has been no change in the conditions upon which the approval was originally granted.
- (b) Any of the following shall constitute a violation of this section:
 - (1) Upon transfer of title by owner of a dwelling in which an accessory unit is located, the certificate of occupancy issued with respect to such accessory unit shall automatically expire upon the late of: (a) The one hundred eightieth (180th) day after the recordation of such transfer in the Office of the County Clerk, or (b) the

expiration of a written lease for such accessory unit, provided that in no event shall such continued use of the unit under a written lease extend beyond a period of one (1) year from the date of recordation of such transfer in the Office of the County Clerk, unless within such time period a new certificate of occupancy is issued in the name of the record owner.

- (2) Before any new certificate of occupancy may be issued, the Construction Official shall conduct a physical inspection of the dwelling, including the accessory unit, in order to determine that, other than with respect to the new ownership of the dwelling, there has been no change in the conditions upon which the original certificate of occupancy was granted.

(c) Death or Vacation of Lower Income Household.

- (1) Upon the death or permanent vacation of the lower income household of the unit for which approval hereunder was granted, the owner of such dwelling shall have a grace period within which the certificate of occupancy shall continue in full force and effect. Such grace period shall consist the longer of either: (1) one hundred eighty (180) days, or (2) the time remaining in the term of a written lease for the accessory unit, provided that in no event shall such continued use of the accessory unit under a written lease extend beyond a period of one (1) year from the date of the death of the lower income person, or the vacation of such person from the unit.
- (2) If, by the expiration of such period, no other income-qualified person shall have commenced occupancy of the unit, the certificate of occupancy for the accessory unit shall automatically be revoked.

- (d) Inspections. The Construction Code Official shall have the right to conduct inspections in order to determine compliance or continued compliance with the provisions of this paragraph.

n. *Reserved.*

(Ord. No. 95-24 § 54-113; Ord. No. 97-14 § 2; Ord. No. 98-1 § 2; Ord. No. 99-19 § 2; Ord. No. 05-10 §§ 3-5; Ord. No. 05-10A § 3-5; Ord. No. 06-16 §§ 1-3; Ord. No. 06-39 § 1)

54-30.16---54-30.18 Reserved.

54-30.19 R-20AC Single-Family Detached Residential District.

a. *Permitted Principal Uses.* The following principal uses are permitted in the R-20AC district:*

*See Land Use and Development Appendix A following this chapter.

1. Single-family detached residential use.
2. Plant material nurseries, parks, golf courses; provided that plant material nurseries shall not result in the emission of any fly ach, dust, fumes, vapors or gases which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.
3. Riding stables and boarding of horses, provided they comply to the following:
 - (a) There shall be a minimum lot area of twenty (20) acres.
 - (b) A minimum building setback of one hundred (100) feet shall be provided from all lot lines, and all buildings occupied either temporarily or permanently by horses shall be set back at least one hundred fifty (150) feet from property lines.
 - (c) A maximum permitted density of one (1) boarded horse on-site per fifteen thousand (15,000) square feet shall be permitted, provided the minimum twenty (20) acre standard is met. See subsection 54-30.18a for applicable standard for other cases.

b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the R-20AC district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or

structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.

- c. *Conditional Uses.* The conditional uses permitted in the R-20AC district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for the uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming.
- e. *Required Conditions.* The following requirements must be complied with in the R-20AC district:
 1. *Minimum Lot Area.* Each lot shall have a minimum area of twenty (20) acres.
 2. *Minimum Lot Width.* Each lot shall have a minimum lot width of four hundred (400) feet, measured at the required front yard setback line.
 3. *Average Lot Width.* Each lot shall have an average lot width of four hundred (400) feet, designed such that the minimum lot area of twenty (20) acres shall be provided within two thousand one hundred seventy-eight (2,178) feet of the front street right-of-way line.
 4. *Minimum Lot Frontage.* Each lot shall have a minimum frontage of three hundred (300) feet.
 5. *Minimum Front Yard.* There shall be a front yard of not less than one hundred (100) feet.
 6. *Minimum Side Yard.* There shall be two (2) side yards, and no side yard shall be less than one hundred (100) feet.
 7. *Minimum Rear Yard.* There shall be a rear yard of not less than one hundred (100) feet.
 8. *Maximum Building Height.* No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet in height, whichever is less.

9. Impervious Coverage. The total impervious coverage on any lot shall not exceed three (3%) percent of the total lot area.

(Ord. No. 95-24 § 54-114; Ord. No. 99-19 § 10; Ord. No. 07-19 § 2)

54-30.20 Reserved.

54—30.21 R-5AC Single-Family Detached Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the R-5AC district:*

*See land Use and Development Appendix A following this chapter.

1. Single-family detached residential use.
 2. Plant material nurseries, parks, golf courses; provided that plant material nurseries shall not result in the emission of any fly ash, dust, fumes, vapors or gases which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.
 3. Those activities and uses set forth in and in accordance with Section 54-31, Right to Farm, on properties of five (5) acres or more.
- b. *Accessory Uses.* Accessory uses and structures permitted in the R-5AC district are those uses and structures which are customarily incidental and subordinate to a principal permitted use. Horses, provided they are kept under sanitary conditions and provided that unattended horses are at all times kept within a fence which shall not be permitted closer than fifty (50) feet to a property line. No horse or pony may be kept on a lot less than forty-five thousand (45,000) square feet. A minimum sixty thousand (60,000) square foot area is required for two (2) horses, and a minimum eighty thousand (80,000) square foot area is required for three (3) horses. If more than three (3) horses or ponies are kept, an additional fifteen thousand (15,000) square feet per additional horse or pony shall be required.

In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.

- c. *Conditional Uses.* The conditional uses permitted in the R-5AC district are indicated in subsection 54-30.15; provided that such

uses shall comply with the conditions for the uses in subsection 54-30.15.

- d. *Prohibited Uses.* Any use other than those specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming.
- e. *Required Conditions.* The following requirements must be complied with in the R-5AC district:
 - 1. *Minimum Lot Area.* Every lot shall have a minimum area of five (5) acres.
 - 2. *Minimum Lot Width.* Each lot shall have a minimum lot width of three hundred (300) feet, measured at the required front yard setback line.
 - 3. *Average Lot Width.* Each lot shall have an average lot width of three hundred (300) feet, measured at the required front yard setback line.
 - 4. *Minimum Lot Frontage.* Each lot shall have a minimum frontage of two hundred (200) feet.
 - 5. *Minimum Front Yard.* There shall be a front yard of not less than sixty-five (65) feet.
 - 6. *Minimum Side Yard.* There shall be two (2) side yards, and no side yard shall be less than fifty (50) feet.
 - 7. *Minimum Rear yard.* There shall be a rear yard of not less than sixty-five (65) feet.
 - 8. *Maximum Building Height.* No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet, whichever is less.
 - 9. *Maximum Impervious Coverage.* The total impervious coverage on any lot shall not exceed eight (8%) percent of the total lot area.
 - 10. A pre-existing nonconforming lot of no more than two (2) acres shall be required to maintain minimum yard setbacks of twenty-five (25) feet.
- f. *Cluster Development.* The following regulations shall apply to cluster developments within the R-5AC district:

1. **Maximum Density.** The total number of dwelling units shall not exceed the number that would have otherwise resulted from a conventional subdivision as regulated by subsection 54-30.13.
2. **Minimum Open Space Ratio.** The subdivider shall either deed to the Township for open space or shall set aside within the subdivision open space at a ratio of not less than forty-three thousand seven hundred fifty (43,750) square feet for each lot in the subdivision.
3. **Minimum Lot Area of Public Open Space Lots.** No area to be dedicated to the Township for open space purposes shall be less than ten (10) acres unless the area is to be joined to an existing or proposed parcel of Township land, the aggregate size of which shall not be less than ten (10) acres, unless a smaller area is shown on the Master Plan or Official Map of the Township.
4. **Minimum Residential Lot Area.** Every lot shall have a minimum area of forty-three thousand seven hundred fifty (43,750) square feet.
5. **Minimum Lot Width.** Each lot shall have a minimum lot width of one hundred seventy-five (175) feet, measured at the required front yard setback line.
6. **Average Lot Width.** Each lot shall have an average lot width of one hundred seventy-five (175) feet, designed such that the minimum lot area of forty-three thousand seven hundred fifty (43,750) square feet shall be provided within two hundred fifty (250) feet of the front street right-of-way line.
7. **Minimum Lot Frontage.** Each lot shall have a minimum frontage of one hundred (100) feet.
8. **Minimum Front Yard.** There shall be a front yard of not less than fifty (50) feet.
9. **Minimum Side Yard.** There shall be two (2) side yards, and no side yard shall be less than twenty-five (25) feet.
10. **Minimum Rear Yard.** There shall be a rear yard of not less than fifty (50) feet.

11. **Maximum Building Height.** No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet in height, whichever is less.
12. **Maximum Impervious Coverage.** The total impervious coverage on any lot shall not exceed fifteen (15%) percent of the total lot area.

(Ord. No. 95-24 § 54-115; Ord. No. 99-19 § 10; Ord. No. 07-19 § 3)

54-30.22 R-88 Single-Family Detached Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the R-88 district*

*See Land Use and Development Appendix A following this chapter.

1. Single-family detached residential use.
 2. Plant Material Nurseries, Parks, Golf Courses, Plant material nurseries shall not result in the emission of any fly ash, dust, fumes, vapors or gases which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.
 3. Those activities and uses set forth in and in accordance with Section 54-31, Right to Farm, on properties of five (5) acres or more.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the R-88 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
 - c. *Conditional Uses.* The conditional uses permitted in the R-88 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
 - d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming.

- e. *Required Conditions.* The following requirements must be complied with in the R-88 district:
1. **Minimum Lot Area.** Every lot shall have a minimum area of eight-eight thousand (88,000) square feet.
 2. **Minimum Lot Width.** Each lot shall have a minimum lot width of two hundred and twenty (220) feet, measured at the required front yard setback line.
 3. **Average Lot Width.** Each lot shall have an average lot width of two hundred twenty (220) feet, designed such that the minimum lot area of eighty-eight thousand (88,000) square feet shall be provided within four hundred (400) feet of the front street right-of-way line.
 4. **Minimum Lot Frontage.** Each lot shall have a minimum frontage of one hundred (100) feet.
 5. **Minimum Front Yard.** There shall be a front yard of not less than sixty-five (65) feet.
 6. **Minimum Side Yard.** There shall be two (2) side yards, and no side yard shall be less than twenty-five (25) feet; provided that a minimum fifty (50) foot setback shall be required for any use enumerated in subsection 54-30.22a., 2 and for all permitted uses and structures in subsection 54-30.22a., 3 not regulated by the setback requirements of subsection 54-30.22a., 3(b).
 7. **Minimum Rear Yard.** There shall be a rear yard of not less than sixty-five (65) feet.
 8. **Maximum Building Height.** No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet in height, whichever is less.
 9. **Maximum Impervious Coverage.** The total impervious coverage on any lot shall not exceed ten (10%) percent of the total lot area.
- f. *Cluster Developments.* The following regulations shall apply to cluster developments within the R-88 district:
1. **Maximum Density.** The total number of dwelling units shall not exceed the number that would have otherwise resulted

from a conventional subdivision as shown on a concept plan prepared in accordance with subsection 54-30.13.

2. Minimum Open Space Ratio. The subdivider shall either deed to the Township for open space or he shall set aside within the subdivision open space at a ratio of not less than forty-four thousand (44,000) square feet for each lot in the subdivision.
3. Minimum Lot Area of Public Open Space Lots. No area to be deeded to the Township for open space purposes shall be less than ten (10) acres unless the area is to be joined to an existing or proposed parcel of Township land, the aggregate size of which shall not be less than ten (10) acres, unless a smaller area is shown on the Master Plan or Official Map of the Township.
4. Minimum Residential Lot Area. Every lot shall have a minimum area of forty-four thousand (44,000) square feet.
5. Minimum Lot Width. Each lot shall have a minimum lot width of one hundred and seventy-five (175) feet, measured at the required front yard setback.
6. Average Lot Width. Each lot shall have an average lot width of one hundred and seventy-six (176) feet, designed such that the minimum lot area of forty-four thousand (44,000) square feet shall be provided within two hundred fifty (250) feet of the front street right-of-way line.
7. Minimum Lot Frontage. Each lot shall have a minimum frontage of one hundred (100) feet.
8. Minimum Front Yard. There shall be a front yard of not less than fifty (50) feet.
9. Minimum Side Yard. There shall be two (2) side yards, and no side yard shall be less than twenty-five (25) feet.
10. Minimum Rear Yard. There shall be a rear yard of not less than fifty (50) feet.
11. Maximum Building Height. No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet in height, whichever is less.

12. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed fifty (15%) percent of the total lot area.

(Ord. No. 95-24 § 54-116; Ord. No. 99-19 § 10; Ord. No. 07-19 §4)

54-30.23 R-20 Single-Family Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the R-20 district.*
 - See land Use and Development Appendix A following this chapter.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the R-20 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional Uses permitted in the R-20 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming.
- e. *Required Conditions.*
 1. Minimum Lot Area. Every lot shall have a minimum area of twenty thousand (20,000) square feet.
 2. Minimum Lot Width. Each lot shall have a minimum lot width of one hundred (100) feet, measured at the required front yard setback line.
 3. Average Lot Width. Each lot shall have an average lot width of one hundred (100) feet, designed such that the minimum lot area of twenty thousand (20,000) square feet shall be provided within two hundred (200) feet of the front street right-of-way.

4. Minimum Lot Frontage. Each lot shall have a minimum frontage of one hundred (100) feet.
 5. Minimum Front Yard. There shall be a front yard of not less than fifty (50) feet.
 6. Minimum Side Yard. There shall be two (2) side yards, and no side yard shall be less than ten (10) feet.
 7. Minimum Rear Yard. There shall be a rear yard of not less than fifty (50) feet.
 8. Minimum Building Height. No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet, whichever is less.
 9. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed twenty (25%) percent of the total lot area.
- f. *Cluster Developments.* The following regulations shall apply to cluster developments within the R-20 district:
1. Maximum Density. The total number of dwelling units shall not exceed the number that would have otherwise resulted from a conventional subdivision as shown on a concept plan prepared in accordance with subsection 54-30.13.
 2. Minimum Open Space Ratio. The subdivider shall either deed to the Township for open space or he shall set aside within the subdivision open space at a ratio of not less than two thousand five hundred (2,500) square feet for each lot in the subdivision.
 3. Minimum Lot Area of Public Open Space Lots. No area to be deed to the Township for open space purposes shall be less than six (6) acres unless the area is to be joined to an existing or proposed parcel of Township land, the aggregate size of which shall not be less than six (6) acres, unless a smaller area is shown on the Master Plan or Official Map of the Township.
 4. Minimum Residential Lot Area. Every lot shall have a minimum are of seventeen thousand five hundred (17,500) square feet.

5. Average Lot Width. Each lot shall have an average lot width of one hundred (100) feet, designed such that the minimum lot area of seventeen thousand five hundred (17,500) square feet shall be provided within one hundred seventy-five (175) feet of the front street right-of-way line.
6. Minimum Lot Width. Each lot shall have a minimum lot width of one hundred (100) feet, measured at the required front yard setback line.
7. Minimum Lot Frontage. Each lot shall have a minimum frontage of one hundred (100) feet.
8. Minimum Front Yard. There shall be a front yard of not less than fifty (50) feet.
9. Minimum Side Yard. There shall be two (2) side yards, and no side yard shall be less than ten (10) feet.
10. Minimum Rear Yard. There shall be a rear yard of not less than fifty (50) feet.
11. Maximum Building Height. No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet in height, whichever is less.
12. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed twenty-five (25%) percent of the total lot area.

(Ord. No. 95-24 § 54-117; Ord. No. 99-19 § 10; Ord. No. 07-19 § 5).

54-30.24 Reserved.

(FORMER SUBSECTION 54-30.24, R-20M Residential District, previously codified herein and containing portions of Ordinance Nos. 95-24 and 97-14, was repealed in its entirety by Ordinance No. 99-19.

54-30-25---54-30.28 Reserved.

54-30.29 R-13 Single-Family Detached Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the R-13 district: (See Land Use and Development Appendix A following this Chapter.)
 1. Single-family detached residential use.

2. Plant Material Nurseries, Parks, Golf Courses. Plant material nurseries shall not result in the emission of any fly ash, dust, fumes, vapors or gases which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the R-13 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
 - c. *Conditional Uses.* The conditional uses permitted in the R-13 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
 - d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming.
 - e. *Required Conditions.*
 1. Minimum Lot Area. Every lot shall have a minimum area of thirty thousand one hundred twenty-five (13,125) square feet.
 2. Minimum Lot Width. Each lot shall have a minimum lot width of seventy-five (75) feet, measured at the required front yard setback line.
 3. Average Lot Width. Each lot shall have an average lot width of seventy-five (75) feet, designed such that the minimum lot area of thirteen thousand one hundred twenty-five (13,125) square feet shall be provided within one hundred seventy-five (175) feet of the front street right-of-way line.
 4. Minimum Lot Frontage. Each lot shall have a minimum frontage of forty (40) feet.
 5. Minimum Front Yard. There shall be a front yard of not less than forty (40) feet; provided, however, a building constructed on an existing platted lot in single ownership need not be set back an further than the average of the

existing setback on each of the abutting lots. In the event one (1) or both abutting lots are vacant, then for the purpose of administering this provision, the lots shall be construed as having an existing setback of forty (40) feet.

6. **Minimum Side Yard.** There shall be two (2) side yards, and no side yard shall be less than ten (10) feet; provided, however, on existing platted substandard lots, the total width of the two (2) side yards shall not be less than fifteen (15) feet, and no side yard shall be less than five (5) feet. Notwithstanding the above, no building shall be permitted to be erected on a substandard lot if such building would be closer than fifteen (15) feet to an existing building on an abutting lot.
 7. **Minimum Rear Yard.** There shall be a rear yard of not less than thirty-five (35) feet; however, a building constructed on an existing substandard platted lot with an area of 6,500 square feet or less need not be setback any further than twenty (20%) percent of the lot depth, provided that no rear yard setback shall be less than twenty-five (25) feet and need not be greater than thirty-five (35) feet.
 8. **Maximum Building Height.** No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet in height, whichever is less.
 9. **Maximum Impervious Coverage.** The total impervious coverage on any lot shall not exceed twenty-five (25%) percent of the total lot area.
- f. *Cluster Developments.* The following regulations shall apply to cluster developments within the R-13 district:
1. **Maximum Density.** The total number of dwelling units shall not exceed the number that would have otherwise resulted from a conventional subdivision as shown on a concept plan prepared in accordance with subsection 54-30.13.
 2. **Minimum Open Space Ration.** The subdivider shall either deed to the Township for open space or he shall set aside within the subdivision open space at a ratio of not less than two thousand six hundred twenty-five (2,625) square feet for each lot in the subdivision.

3. Minimum Lot Area of Public Open Space Lots. No area to be deeded to the Township for open space purposes shall be less than five (5) acres unless the area is to be joined to an existing or proposed parcel of Township land, the aggregate size of which shall not be less than five (5) acres, unless a smaller area is shown on the Master Plan or Official Map of the Township.
4. Minimum residential Lot Area. Every lot shall have a minimum area of ten thousand five hundred seventy-five (10,575) square feet.
5. Average Lot Width. Each lot shall have an average lot width of sixty (60) feet, designed such that the minimum lot area of ten thousand five hundred seventy-five (10,575) square feet shall be provided within one hundred seventy-five (175) feet of the front street right-of-way line.
6. Minimum Lot Width. Each lot shall have a minimum lot width of sixty (60) feet, measured at the required front yard setback line.
7. Minimum Lot Frontage. Each lot shall have a minimum frontage of forty (40) feet.
8. Minimum Front Yard. There shall be a front yard of not less than forty (40) feet.
9. Minimum Side Yard. There shall be two (2) side yards, and no side yard shall be less than ten (10) feet.
10. Minimum Rear Yard. There shall be a rear yard of not less than thirty-five (35) feet.
11. Maximum Building Height. No building shall exceed two and one-half (2 ½) stores, or thirty (30) feet in height, whichever is less.
12. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed twenty-five (25%) percent of the total lot area.

(Ord. No. 95-24 § 54-119; Ord. No. 99-19 § 10, Ord. No. 07-19 § 6; Ord. No. 13-23)

54-30.30 RMF-5 Multi-Family Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the RMF-5 district: (See Land Use and Development Appendix A following this chapter.)
1. Multi-family residential use.
 2. Single-family attached residential use.
 3. Single-family detached residential use.
 4. Plant Material Nurseries, Parks Golf Courses. Plant material nurseries shall not result in the emission of any fly ash, dust, fumes, vapors or gases which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the RMF-5 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination hereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the RMF-5 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming. Multi-family dwellings or single-family attached dwellings shall not be used for any home business or professional use.
- e. *Required Conditions.* The following requirements shall be complied with for all multi-family and/or single-family attached residential dwelling unit projects:
1. Minimum Tract Size. There shall be a minimum tract size of five (5) acres.
 2. Maximum Gross Density. The maximum gross density shall be five (5) dwelling units per acre; provided, however, a density bonus shall be permitted, as herein regulated, which

is related to a reduction in energy consumption or demand. The reduction shall be based on comparison of the proposed development over the minimum requirements of the F.H.A. energy standards. The relationship of energy conservation to permitted density is as follows:

- (a) Gross density with less than ten (10%) percent energy savings: five (5) dwelling units per acre.
- (b) Gross density with at least ten (10% percent but less than twenty (20%) percent energy savings: five point five (5.5) dwelling units per acre.
- (c) Gross density with at least twenty (20%) percent but less than thirty (30%) percent energy savings: six (6) dwelling units per acre.
- (d) Gross density with at least thirty (30%) percent energy savings: six point five (6.5) dwelling units per acre.

- 3. Maximum Gross Density for Senior Citizen Dwelling Units. Notwithstanding the provisions of this section, the maximum gross density for any project shall be six (6) dwelling units per acre if the project is restricted to senior citizen dwelling units. For the purpose of administering this provision a senior citizen dwelling unit shall be defined as: a dwelling unit restricted by deed or other instrument to occupancy by single individuals sixty-two (62) years of age or older; married couples, at least one (1) of whom is sixty-two (62) years of age or older; two (2) closely related persons when both persons are sixty-two (62) years of age or older. One (1) person under age sixty (62) but over age eighteen (18) may reside in a dwelling unit with a senior citizen or citizens as permitted above, if the presence of the person is essential for the physical care or economic support of the senior citizen or citizens. Sons and/or daughters may reside with a parent or parents as permitted above.
- 4. Set Aside for Affordable Housing. If any developer builds residential units in the RMF-5 district at a gross density of greater than five (5) units per acre, at least ten (10%) percent of the total number of dwelling units hereinafter constructed within each such development shall be made affordable and sold or rented to low income persons and ten (10%) percent shall be made affordable and sold or rented to moderate income persons.

5. **Maximum Units Per Structure.** No multi-family structure shall contain more than twelve (12) dwelling units and no single-family attached structure shall contain more than eight (8) dwelling units.
6. **Minimum Setbacks.** No building shall be closer than forty (40) feet to any street right-of-way line or other property line, nor closer than twenty (20) feet from the curb line or edge of pavement of any internal private road.
7. **Minimum Distance Between Buildings.** No building shall be located closer to another building than a distance that is at least the height of the higher building.
8. **Maximum Height.** No building containing apartment units shall exceed two (2) stories; provided, however, that in no event shall any structure exceed thirty-five (35) feet in height.
9. **Utilities.** Every garden apartment development must be connected to the public sanitary sewer and water systems, as approved by the Township Engineer. Fire hydrants shall be installed by the developer in adequate numbers and at locations recommended by the Township Engineer. All utilities such as electricity, telephone and the like shall be installed underground. A master television structure shall be provided for each apartment structure and individual television antennas are prohibited.

(Ord. No. 95-24 § 54-120; Ord. No. 07-19 § 7)

54-30.31 RMF-8 Multi-Family Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the RMF-8 district. (See Land Use and Development Appendix A following this chapter.)
 1. Multi-family residential use.
 2. Single-family attached residential use.
 3. Single-family detached residential use.
 4. Plant Material Nurseries, Parks, Golf Courses. Plant material nurseries shall not result in the emission of any fly ash, dust, fumes, vapors or gases which can cause damage

to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.

- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the RMF-8 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the RMF-8 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming. Multi-family dwellings or single-family attached dwellings shall not be used for any home business or professional use.
- e. *Required Conditions.* The following requirements shall be complied with for all multi-family and/or single-family attached residential dwelling unit projects:
 - 1. *Minimum Tract Size.* There shall be a minimum tract size of five (5) acres.
 - 2. *Maximum Gross Density.* The maximum gross density shall be eight and five-tenths (8.5) dwelling units per acre.
 - 3. *Maximum Units Per Structure.* No multi-family structure shall contain more than twelve (12) dwelling units and no single-family attached structure shall contain more than eight (8) dwelling units.
 - 4. *Minimum Setbacks.* No building shall be closer than forty (40) feet to any street right-of-way line or other property line, nor closer than twenty (20) feet from the curb line or edge of pavement of any internal private road.
 - 5. *Minimum Distance Between Buildings.* No building shall be located closer to another building than a distance that is at least the height of the higher building.

6. **Maximum Height.** No building containing apartment units shall exceed two (2) stories; provided, however, that in no event shall any structure exceed thirty-five (35) feet in height.
7. **Utilities.** Every multi-family residential development must be connected to the public sanitary sewer and water systems, as approved by the Township Engineer. Fire hydrants shall be installed by the developer in adequate numbers and at locations recommended by the Township Engineer. All utilities such as electricity, telephone and the like shall be installed underground. A master television antenna shall be provided for each apartment structure and individual television antennas are prohibited.

(Ord. No. 95-24 § 54-121; Ord. No. 01-24 § 2; Ord. No. 07-19 § 8)

54-30.32 RMF-15 Multi-Family Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the RMF-15 district. (See Land Use and Development Appendix A following this chapter.)
 1. Multi-family residential use.
 2. Single-family attached residential use.
 3. Single-family detached residential use.
 4. **Plant Material Nurseries, Parks, Golf Courses.** Plant material nurseries shall not result in the emission of any fly ash, dust, fumes, vapors or gases which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the RMF-15 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the RMF-15 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.

- d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming. Multi-family dwellings or single-family attached dwellings shall not be used for any home business or professional use.
- e. *Required Conditions.* The following requirements shall be complied with for all multi-family and/or single-family attached residential dwelling unit projects:
1. **Minimum Tract Size:** There shall be a minimum tract size of five (5) acres.
 2. **Maximum Gross Density.** The maximum gross density shall be fifteen (15) dwelling units per acre.
 3. **Maximum Gross Density for Senior Citizen Dwelling Units.** Notwithstanding the provisions of this section, the maximum gross density for any project shall be eighteen (18) dwelling units per acre if the project is restricted to senior citizen dwelling units. For the purpose of administering this provision a senior citizen dwelling unit shall be defined as: a dwelling unit restricted by deed or other instrument to occupancy by single individuals sixty-two (62) years of age or older; married couples, at least one (1) of whom is sixty-two (62) years of age or older; two (2) closely related persons when both persons are sixty-two (62) years of age or older. One (1) person under age sixty-two but over age eighteen (18) may resident in a dwelling unit with a senior citizen or citizens as permitted above, if the presence of the person is essential for the physical care or economic support of the senior citizen or citizens. Sons and/or daughters may reside with a parent or parents as permitted above.
 4. **Set Aside for Affordable Housing.** If any developer builds residential units in the RMF-15 district at a gross density of greater than five (5) units per acre, at least ten percent (10%) of the total number of dwelling units hereinafter constructed within each such development shall be made affordable and sold or rented to low income persons and ten (10%) percent shall be made affordable and sold or rented to moderate income persons.
 5. **Maximum Units Per Structure.** No multi-family structure shall contain more than twelve (12) dwelling units and no

single-family attached structure shall contain more than eight (8) dwelling units.

6. Minimum Setbacks. No building shall be closer than forty (40) feet to any street right-of-way line or other property line, nor closer than twenty (20) feet from the curb line or edge of pavement of any internal private road.
7. Minimum Distance Between Buildings. No building shall be located closer to another building than a distance that is at least the height of the higher building.
8. Maximum Height. No building containing apartment units shall exceed two (2) stories; provided, however, that in no event shall any structure exceed thirty-five (35) feet in height.
9. Utilities. Every garden apartment development must be connected to the public sanitary sewer and water systems, as approved by the Township Engineer. Fire hydrants shall be installed by the developer in adequate numbers and at locations recommended by the Township Engineer. All utilities such as electricity, telephone and the like shall be installed underground. A master television antenna shall be provided for each apartment structure and individual television antennas are prohibited.

(Ord. No. 95-24 § 54-122; Ord. No. 07-19 § 9)

54-30.33---54-30.36 Reserved.

54-30.37---54-30.38 Reserved.

Former subsections 54-30.37, PRD-1 Planned Residential Development District and 54-30.38, PRD-2 Planned Residential Development District, previously codified herein and containing portions of Ordinance No. 95-24 were repealed in their entirety by Ordinance No. 99-19.

54-30.39 R-P Residential-Professional District.

- a. *Permitted Principal Uses* (See Land Use and Development Appendix A following this chapter.
 1. Single-family detached residential use; and
 2. Professional offices.

- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the R-P district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the R-P district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted in paragraphs a., b. and c. above is prohibited. Nothing contained herein shall be construed to permit a professional office as a principal use on the same lot as a dwelling.
- e. *Required Conditions:*
 - 1. *Minimum Lot Area.* Every lot shall have a minimum area of twenty thousand (20,000) square feet.
 - 2. *Minimum Lot Width.* Each lot shall have a minimum lot width of one hundred (100) feet, measured at the required front yard setback line.
 - 3. *Average Lot Width.* Each lot shall have an average lot width of one hundred (100) feet, designed such that the minimum lot area of twenty thousand (20,000) square feet shall be provided within two hundred (200) feet of the front street right-of-way line.
 - 4. *Minimum Lot Frontage.* Each lot shall have a minimum frontage of one hundred (100) feet provided that where there is a corner lot, the lot frontage on one street may be reduced by a maximum of ten (10) feet from the minimum requirements of one hundred (100) feet.
 - 5. *Minimum Front Yard.* There shall be a front yard of not less than fifty (50) feet.
 - 6. *Minimum Side Yard.* There shall be two (2) side yards, and no side yard shall be less than ten (10) feet.

7. Minimum Rear Yard. There shall be a rear yard of not less than fifty (50) feet.
8. Maximum Building Height. No building shall exceed two and one-half (2.5) stories, or thirty-five (35) feet, whichever is less.
9. Maximum Impervious Coverage. The total impervious coverage on any lot containing a dwelling as a principal use shall not exceed twenty-five (25%) percent of the total lot area. The total impervious coverage on any lot containing a professional office as a principal use shall not exceed fifty (50%) percent of the total lot area, unless the lot is also within the CWR district, in which case the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.
10. Minimum Buffer Area. Any lot containing a professional office as a principal use shall be required to provide a landscaped buffer area along any lot line that abuts a property used for a residence. The buffer area shall be at least ten (10) feet in depth, measured perpendicular to the lot line. No building, parking area or other paved area shall be permitted to encroach into the required buffer area. The developer shall provide landscaping, fencing or walls in the buffer area sufficient to screen the lot containing the professional office from the view of the lot containing the residence.

(Ord. No. 95-24 § 54-125; Ord. No. 96-18 § 1; Ord. No. 99-19 § 10)

54-30.40 R-40 Single-Family Detached Residential District.

- a. *Permitted Principal Uses.* The following principal uses are permitted in the R-40 district:
 1. Single-family detached residential use.
 2. Plant Material Nurseries, Parks, Golf Courses. Plant material nurseries shall not result in the emission of any fly ash, dust, fumes, vapors or gases which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any soiling at any point.
 3. Those activities and uses set forth in and in accordance with Section 54-31, Right to Farm, on properties of five (5) acres or more.

- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the R-40 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Use.* The conditional uses permitted in the R-40 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted above are prohibited. Nothing contained herein shall be construed to permit timbering, lumbering or tree farming.
- e. *Required Conditions.* The following requirements must be complied within the R-40 district:
 - 1. *Minimum Lot Area.* Every lot shall have a minimum area of forth thousand (40,000) square feet.
 - 2. *Minimum Lot Width.* Each lot shall have a minimum lot width of one hundred fifty (150) square feet, measured at the required front yard setback line.
 - 3. *Minimum Lot Frontage.* Each lot shall have a minimum frontage of one hundred (100) feet.
 - 4. *Minimum Front Yard.* There shall be a front yard of not less than fifty (50) feet.
 - 5. *Minimum Side Yard.* There shall be two (2) side yards, and no side yard shall be less than twenty-five (25) feet.
 - 6. *Minimum Rear Yard.* There shall be a rear yard of not less than fifty (50) feet.
 - 7. *Maximum Building Height.* No building shall exceed two and one-half (2 ½) stories, or thirty (30) feet in height, whichever is less.

8. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed twenty (20%) percent of the total lot area.

(Ord. No. 99-19 § 8; Ord. No. 07—19 § 10)

54-30.41-----54-30.42 Reserved.

54-30.43 OR1-EH Office/Residential/Elder Housing and Care Multi-use District.

- a. *Primary Intended Use.* This zone is designed to provide for business, professional and administrative office use, higher density residential development in relatively close proximity to the R-B zone which will contribute to the creation of a town center and permit uses that are compatible and complementary to the R-B zone. Those uses permitted in the OR1-EH zone are office buildings, banks, restaurants and conference centers/hotels containing at least one hundred fifty (15) hotel rooms. Single-family attached dwelling units are permitted for conventional housing as a conditional use subject to the provisions of subsection 54-30.31e. being complied with. Continuing care retirement communities, independent living facilities, assisted living facilities, nursing home facilities, adult day care facilities, outpatient rehabilitation facilities and senior housing (including adult retirement communities) are also allowed, as regulated herein. Also permitted in this zone are accessory uses customarily incidental to a principal permitted use; signs as regulated in subsection 54-30.11 of this section and other conditional uses as regulated in subsection 54-30.15 of this section.
- b. *Prohibited Uses.* Any use other than those listed in paragraph a. above is prohibited. Nothing contained therein shall be construed to permit retail or wholesale stores, or industrial operations.
- c. *Required Conditions for Nonresidential Development.*
 1. Height. No nonresidential building shall exceed a maximum height of fifty (50) feet; provided, however, accessory roof structures with a maximum height of seventeen (17) feet can be placed on the roof if the accessory structure does not exceed five (5%) percent of the total roof area.
 2. Front Yard. There shall be a front yard setback of one hundred (100) feet for all nonresidential structures.

3. Side yards. No side yard shall be less than one hundred (100) feet for all nonresidential structures.
 4. Rear Yard. There shall be a rear yard of at least one hundred (100) feet for all nonresidential structures.
 5. Minimum Distance Between Buildings. There shall be a minimum distance between buildings that is equal to the sum of the heights of the two (2) buildings.
 6. Minimum Lot Area. There shall be a minimum lot area of five (5) acres for nonresidential development.
- d. *Required Conditions for Conventional Residential Development.*
1. Single-family attached residential units are permitted as a conditional use and shall meet the bulk requirements as set forth in subsection 54-30.31e.
- e. *Concept Master Plan.*
1. Before any land can be subdivided, or before a site plan can be approved for any development in the OR1-EH zone, a comprehensive conceptual development plan for the entire tract may be submitted to and reviewed by, the Planning Board to see how the proposed use will fit into the ultimate development pattern.
- f. *Required Conditions for Continuing Care Retirement Communities, Independent Living Facilities, Assisted Living Facilities, Nursing Home Facilities, Adult Day Care Facilities, Outpatient Rehabilitation Facilities and Senior Housing (Including Adult Retirement Communities).*
1. Continuing care retirement communities (CCRC), independent living facilities, assisted living facilities, nursing home facilities, adult day care facilities, outpatient rehabilitation facilities, senior housing and adult retirement communities may incorporate a broad range of architectural building types, consisting of multiple attached residential structures. Adult retirement communities may also include detached dwellings. This provision is designed to afford the greatest flexibility in design to enable the site designer to be responsive to the zone's particular environmental features and the needs of the elderly.

2. A CCRC shall include at least two (2) of the following: independent living facility, assisted living facility and nursing home, provided that where a CCRC is proposed for contiguous parcels one (1) parcel may contain one (1) of the two (2) aforementioned components and the contiguous parcel may contain the second required component; and further provided that in the event the application is for contiguous parcels, simultaneous applications for the two (2) contiguous parcels shall be required. Additionally, a CCRC shall include at least some level of each of the following: health care facilities and services; facilities and services for providing meals for residents; physical therapy facilities and services; meeting rooms; and recreation facilities. A CCRC may include houses of worship and religious facilities, facilities to sell or provide personal services to residents, including small gifts or necessities shops provided they are for the sole use of the residents, and other ancillary services customarily accessory to a CCRC.

As an alternative to the above, senior housing for residents who are fifty-two (52) years of age and older shall be permitted to be developed without the provision of the forms of continuing care as provided above for continuing care retirement communities. Such development may include at least some level of each of the following: Health care facilities and services, facilities and services for providing meals for residents, physical therapy facilities and services, meeting rooms, and recreation facilities. Such development may further include houses of worship and religious facilities, facilities to sell or provide small gift or necessities shops provided they are for the sole use of the residents, and other ancillary services customarily accessory to an age-restricted development.

As an alternative to the above, independent living facilities, assisted living facilities, nursing homes, adult day care facilities and outpatient rehabilitation facilities used exclusively for each such use, or any combination thereof, shall be permitted in the OR1-EH zone and may include health care facilities and services, facilities and services for providing meals for residents, and physical therapy facilities and services, meeting rooms, recreation facilities and other ancillary services and facilities customarily accessory to an elderly residency.

3. Occupancy in senior housing and adult retirement communities shall be limited to persons fifty-two (52) years and older having no resident child less than nineteen (19) years of age.

4. Parking Requirements. Sufficient off-street parking shall be required to meet the needs of the occupants, residents, employees and guests of the uses as permitted in this subsection in accordance with the following minimum requirements:
 - (a) Independent living units: 1.00 space per dwelling unit.
 - (b) Assisted living units: .55 spaces per bed.
 - (c) Adult day care units: 1 parking space per employee at maximum shift plus 1 parking space for every 5 adults for which the facility is designed.
 - (d) Outpatient rehabilitation units: 1 parking space per employee at maximum shift plus 1 parking space for every 5 patients for which the facility is designed.
 - (e) Nursing beds: .55 spaces per bed.
 - (f) Senior Housing: 1.00 space per dwelling unit.
 - (g) Adult Retirement Community: 1.25 spaces per dwelling unit.
 - (h) Parking Offset to External Street: 50 feet
 - (g) Parking Offset to Internal Street: 30 feet.

5. A senior housing development (and adult retirement community) shall include, in addition to dwellings, provisions for active and passive recreation and a clubhouse for the sole use of residents and their guests.

6. The following regulatory controls are applicable:

(a) Minimum Lot area (acres)	5
(b) Minimum Front Yard (feet)	100
(c) Minimum Side Yards (feet)	100
(d) Minimum Rear Yard (feet)	100
(e) Maximum Building Coverage (%)	10

- (f) Maximum Impervious Coverage (%) 50
- (g) Maximum Building Height (feet) 50
- (h) Maximum Density (du/ac) 12

(Note: Density for continuing care facilities, retirement communities and any other residential-type adult housing/care uses permitted in this subsection shall be calculated at 1.0 du for each independent living unit, 0.5 du for each assisted-living unit bed and .25 du per nursing home bed. In no event shall the total number of CCRC beds exceed thirty (30) beds/acre.)

- (i) Minimum Distance between Buildings (feet) 30
- (j) Minimum Buffer Along North Line (Feet) 75
- (k) Minimum Buffer to Existing Single-Family Residential Dwelling (feet) 150
- (l) Required Vehicular Access From County ROW
- (m) Minimum Buffer to Lots Fronting on Hillside Road, Pond Road, Mount Hope Road and Sunrise Road and to these streets' rights-of-way 200 feet, provided that any proposed rights-of-way, driveways, and/or vehicular circulation aisles shall be permitted within such buffer area.

7. Detached single-family residences designed as part of an adult retirement community shall meet the minimum cluster bulk provisions of the R-13 zone.

8. Critical Area Requirements. Critical areas are sensitive environmental features where because of soil characteristics, wetlands, and vegetated slopes, certain encroachments will occur in order to develop inherently beneficial retirement/assisted living use/nursing home/adult day care/outpatient rehabilitation uses. Wetland impacts will be subject to N.J.A.C. 7:7A et seq. Freshwater Wetland Regulations.
- g. All applicable provisions of the following subsections of this section shall be complied with, except as otherwise provided for in this subsection.
1. Subsection 54-30.3, Construction and Zoning Permits and Certificates of Occupancy.
 2. Subsection 54-30.4, Nonconforming Uses and Structures.
 3. Subsection 54-30.6, General Provisions.
 4. Subsection 54-30.10, Environmental Protection.
 5. Subsection 54-30.11, Signs.
 6. Subsection 54-30.12, Off-Street Parking and Loading Provisions.
 7. Subsection 54-30.15, Conditional Uses.
- (Ord. No. 95-20 § 2; Ord. No. 97-14 § 5; Ord. No. 99-19 §§4, 5; Ord. No. 12-16 § 5)

54-30.44 OR-3 Office-Residential District.

- a. *Permitted Principal Uses.* The OR-3 district is designed to accommodate and permit office building development and/or retail sales and service development and/or those types of residential development permitted in the PRD-1 district. No office building, retail sales or service use shall be permitted unless it is part of a development which complies with the requirements for the construction of low and moderate income housing as set forth below. (See Land Use and Development Appendix A following this chapter.)
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the OR-3 district are those uses and structures which are customarily incidental and subordinate to a permitted

principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.

- c. *Conditional Uses.* The conditional uses permitted in the OR-3 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted in paragraphs a., b. and c. above is prohibited.
- e. *Required Conditions.*
 - 1. Office development shall meet all requirements of the O-1 district.
 - 2. Retail sales and service development or a mix of retail sales and service and office development in the same building shall meet the front, side and rear yard setback requirements of the B-2 district as well as the following requirements:
 - (a) Maximum floor area. There shall be a maximum floor area of ninety-five thousand (95,000) square feet.
 - (b) Maximum site area. The total site area, or part thereof, devoted to retail sales and service or a mixed retail sales and service with office space contained therein shall be limited to fifteen (15) acres.
 - (c) Orientation. The placement of any building or group of buildings containing retail sales and service or a mixed retail sales and service with office space contained therein, shall be oriented toward the residential complex it is designed to serve and not the transient traffic on the abutting State highway. This shall not be construed to prohibit direct access from any State highway.
 - 3. All residential development shall meet the requirements of the PRD-1 district as set forth in subsections 54-30.37e, 1, 2, 3, 4, 7, 8, 9, 10, 11, and 12 as well as:

- (a) Minimum lot area for individual lots. Every individual lot developed with a single-family detached dwelling shall have a minimum lot size of five thousand (5,000) square feet. Every individual lot developed with a two-family dwelling shall have a minimum lot area of six thousand (6,000) square feet.
- (b) Minimum lot width for individual lots. Every individual lot developed with a single-family detached dwelling shall have a minimum lot width of fifty (50) feet. Every individual lot developed with a two-family dwelling shall have a minimum lot width of sixty (60) feet. Every individual lot developed with a single-family attached dwelling shall have a minimum lot width of sixteen (16) feet.
- (c) Maximum gross density. The maximum gross density for residential development shall be eight (8) dwelling units per acre; provided, however, a density bonus shall be permitted, as herein regulated, which is related to a reduction in energy consumption or demand. The reduction shall be based on comparison of the proposed development over the minimum requirements of the F.H.A. energy standards. The relationship of energy conservation to permitted density is as follows:
 - (1) Gross density with less than ten (10%) percent energy savings: eight (8) dwelling units per acre.
 - (2) Gross density with at least ten (10%) percent but less than twenty (20%) percent energy savings: eight point eight (8.8) dwelling units per acre.
 - (3) Gross density with at least twenty (20%) percent but less than thirty (30%) percent energy savings: nine point six (9.6) dwelling units per acre.
 - (4) Gross density with at least thirty (30%) percent energy savings: ten point four (10.4) dwelling units per acre.

- 4. Any nonresidential use permitted in the OR-3 district, such as office buildings and/or retail sales and service establishments as above regulated, shall only be permitted if

the developer constructs one (1) housing unit of low and moderate income housing for every two thousand (2,000) square feet of the office building and/or retail sales and service floor area constructed by the developer. The affordable housing units shall be constructed at a ratio of fifty (50%) percent low income housing units and fifty (50%) percent moderate income housing units.

5. **Maximum Impervious Coverage.** The total amount of impervious coverage for any development shall not exceed seventy-five (75%) percent of the lot area; provided that if the lot is also located in the CWR district, the total amount of impervious coverage shall not exceed forty-five (45%) percent of the lot area.

(Ord. No. 95-24 § 54-126; Ord. No. 07-19 § 11)

54-30.45---54-30.48 Reserved.

54-30.49 B-1 Neighborhood Business District.

- a. *Permitted Principal Uses.* (See Land Use and Development Appendix A following this chapter.) The B-1 district is intended to accommodate retail establishments of a neighborhood service character such as small personal or general service establishments, or small firms, branches or individuals providing business or professional services. Principal uses permitted include, but are not limited to the following:

1. Retail stores, such as delicatessens, dry cleaners and laundries, food stores, general stores, hardware stores, newsstands and package liquor stores;
2. Banks, including banks with drive-in facilities;
3. Business and professional offices or agencies, such as accountants, architects, dentists, engineers, medical doctors and realtors;
4. Eating and drinking establishments;
5. General service establishments such as appliance repair, carpentry, electrical and plumbing services, upholstery and furniture repair;
6. Personal service establishments, such as barber shops and beauty parlors;

7. Private schools and studios for dancing and music instruction;
 8. One (1) apartment in a building otherwise used for business; and
 9. One (1) single-family detached dwelling on a lot; provided the dwelling complies with all required conditions of the R-13 district.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the B-1 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the B-1 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.*
1. Any business conducted outside the confines of a building, with the exception of those listed in paragraphs (a) through (d) below. Drive through service restaurants shall be considered a business conducted outside the confines of a building for purposes of this section.

Exceptions:

- (a) Plant material nurseries;
- (b) Gasoline service stations as a conditional use;
- (c) Drive-in banks; and
- (d) Used car sales as an accessory use to a franchised new car dealership within the confines of a building; provided the area devoted to the sale of used cars is no larger than the floor area of the building in which the principal use of the premises is conducted, and further provided that the area to be devoted to such accessory

use is surfaced with an approved pavement which shall be properly graded and legibly marked as approved by the Planning Board.

2. Industrial uses involving any process of manufacture, fabrication, assembly and disassembly other than repair;
3. Storage buildings and yards, fuel distributing plants, lumberyards, or warehouses unless an accessory use;
4. Auction establishments;
5. Outdoor amusements;
6. Junkyards, secondhand materials yard or the dismantling of automobiles;
7. Any noise making devices such as phonographs, loudspeakers, amplifiers, radios, television sets or similar devices so situated as to be heard outside any building. No smoke, fumes, or objectionable odors shall be emitted from any building. The display of merchandise placed on the exterior premises of any building is prohibited; and
8. Nightclubs with live entertainment, cabarets, discos, bowling alleys, health spas, racquetball clubs, amusement centers (penny arcades), flea markets, massage parlors, pool rooms.

e. *Required Conditions:*

1. Minimum Lot Area. Each lot shall have a minimum lot area of seventeen thousand five hundred (17,500) square feet.
2. Minimum Lot Width. Each lot shall have a minimum lot width of one hundred (100) feet, measured at the required front yard setback line.
3. Average Lot Width. Each lot shall have an average lot width of one hundred (100) feet, designed such that the minimum lot area of seventeen thousand five hundred (17,500) square feet shall be provided within one hundred seventy-five (175) feet of the front street right-of-way line.
4. Minimum Front Yard. There shall be a front yard of not less than thirty-five (35) feet. Corner lots shall have a setback of twenty-five (25) feet on the side street.

5. Minimum Side yards. No side yard shall be less than twelve (12) feet.
6. Minimum Rear yard. There shall be a rear yard of at least thirty-five (35) feet.
7. Maximum Height. No building shall exceed a maximum of thirty-five (35) feet in height.
8. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed sixty (60%) percent of the total lot area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.

(Ord. No. 95-24 § 54-127)

54-30.50 B-2 Highway business District.

- a. *Permitted Principal Uses.* See Land Use and Development Appendix A following this chapter.) The B-2 district is intended to accommodate the same types of retail business and professional establishments as are permitted in the B-1 district, though on a larger scale, as well as uses appropriate to a highway location. Integrated developments of personal service establishments of office enclosed in one (1) building and utilizing common facilities, such as parking and access services are to be encouraged. Also permitted in this district are:
 1. Storage buildings and yards, fuel distributing plants, lumberyards, warehouses, and wholesale distributing buildings;
 2. Hotels, motels and nursing homes; and
 3. Any other use permitted and regulated in the B-1 district.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the B-2 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.

- c. *Conditional Uses.* The conditional uses permitted in the B-2 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
- d. *Prohibited Uses.* Those uses prohibited in the B-1 district are prohibited in the B-2 district.
- e. *Required Conditions.*
 - 1. *Minimum Lot Area.* Each lot shall have a minimum lot area of forty thousand (40,000) square feet.
 - 2. *Minimum Front yard.* There shall be a front yard of not less than fifty (50) feet.
 - 3. *Minimum Side Yards.* No side yard shall be less than twenty (20) feet.
 - 4. *Minimum Rear Yard.* There shall be a rear yard of at least fifty (50) feet.
 - 5. *Maximum Height.* No building shall exceed a maximum of thirty-five (35) feet in height.
 - 6. *Maximum Impervious Coverage.* The total impervious coverage on any lot shall not exceed sixty (60%) percent of the total lot area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.

(Ord. No. 95-24 § 54-128)

54-30.51 R-B Regional Business District.

- a. *Permitted Principal Uses.* (See Land Use and Development Appendix A following this chapter.) The R-B district is intended to permit a building or group of buildings, whether owned by one (1) or more parties, developed as an integral mall entity and located within the ring road, or one (1) or more buildings located between the ring road and a public thoroughfare. No building shall be erected, enlarged altered, arranged or designed to be used, in whole or in part, except for one (1) or more of the following uses:
 - 1. Retail sales and service businesses and operations;

2. Public repair garages, where such garages are an integral part of a tire, battery and automobile accessory sales establishment operated by and in conjunction with a department store located inside the ring road, which department store has a total floor area of not less than one hundred thousand (100,000) square feet. Each such tire, battery and automobile accessory sales establishment shall be limited to one (1) vehicular entrance and exit doorway for each ten (1) automobile service bays within the building;
 3. Business and professional offices, banks, savings and loan, small loan and other financial institutions and operations;
 4. Hotels and motels as hereinafter defined and regulated, including accessory uses incidental to their operation, such as convention facilities, restaurants, kitchens, cafeterias, bars, nightclubs, gift shops, newspaper stands, cigar stores, barber shops, beauty parlors, swimming pools, sauna baths, gymnasiums and health clubs. Hotels and motels are herein regulated will be permitted only between the ring road and a public thoroughfare;
 5. Food and beverage operations, including cocktail lounges, cafeterias and restaurants, as well as accessory outdoor dining areas as regulated at Section 54-30.51.e.16; and
 6. Theaters and bowling alleys subject to the limitations set forth in paragraph e., below.
- b. Permitted Accessory Uses. Accessory uses and structures permitted in the R-B district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment. Valet parking shall be considered as a permitted accessory use in the R-B district, subject to the attainment of a Zoning Permit.
- c. *Conditional Uses.* The conditional uses permitted in the R-B district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for the uses in subsection 54-30.15.

- d. *Prohibited Uses.* Any use other than those uses specifically permitted in paragraphs a., b. and c. above is prohibited. In addition, the following uses are specifically prohibited:
1. Any type of residential construction or use;
 2. Any type of industrial operation or use such as manufacturing, fabrication, assembly, disassembly, extraction or alterations of materials;
 3. Any amusement park or amusement center such as penny arcades or rides or games conducted outdoors or electromechanical or video game centers;
 4. Hospitals and mental, penal or correctional institutions;
5. Any business operation or storage or display of merchandise conducted outside the confines of a building, except as follows:
- (a) For outdoor dining as regulated at Section 54-30.51.e.16
 - (b) If the primary use of the tenancy of the building is for the sale of garden supplies or nursery stock, in which case any storage or display as heretofore permitted shall be screened by a wall made of the same building material as the building containing the primary use. The wall shall be not less than seven (7) feet high and all merchandise stored or displayed shall not project higher than the required screening wall;
 - (c) For operations accessory to the principal use and limited to ten (10%) percent of the floor area of the primary use of the tenancy of the building.
6. Establishments commonly called and known as snack bars, dairy bars or fast service food establishments and similar businesses engaged in the sale of food, soft drinks, ice cream and other similar goods or confections which are so prepared and served as to be intended for immediate consumption, and including those which provide direct sales through a window to patrons seated or standing outside the confines of the building in which the business is conducted. This shall not be construed to prohibit the fast-service food establishments within a mall building or outdoor dining areas as regulated at Section 54-30.51.e.16.

7. Self-service or commercial laundries which conduct cleaning or laundering on the premises;
 8. Massage parlors or stores with individual movie viewing facilities; and
 9. Used car lots.
- e. *Required Conditions:*
1. Lot Area. The mall entity located inside the ring road shall have at least fifty (50) contiguous acres.
 2. Minimum Floor Area. The gross floor area of all buildings within the mall entity inside the ring road shall be at least five hundred thousand (500,000) square feet.
 3. Building Setbacks. No part of any building or structure shall be closer than the following dimensional requirements:
 - (a) One hundred (100) feet from any district boundary line;
 - (b) One hundred (100) feet from any public thoroughfare;
 - (c) Twice the height of the subject building from any ring road or throat road;
 - (d) Ten (10) feet from any other access road.
 4. Distance Between Buildings. No part of any building within the R-B zone shall be erected closer to any other building situated on the same lot than a distance that equals the sum of the heights of the two (2) buildings. Notwithstanding the above, separate buildings may be constructed without meeting this setback provision if the buildings are an integral part of the mall building.
 5. Building Coverage. The total of the areas of vertical projections (to the ground) of the roofs of all buildings on a lot shall be limited to thirty (30%) percent of the lot or portion thereof subdivided or leased.
 6. Impervious Coverage. The total impervious coverage on any lot within the mall entity shall not be more than eight (80%) percent of the total lot area. The total impervious coverage of

any lot in the R-B Zone exclusive of the mall entity shall not be more than sixty-five (65%) percent of the total lot area. Notwithstanding the above, if any lot in the R-B district is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.

7. Height. No structure shall have a height exceeding fifty (50) feet, except that mall buildings shall have a maximum height limitation of sixty-five (65) feet. Roof structures, such as elevator shafts, air conditioning apparatus, water storage tanks and related equipment shall be permitted above the height limitations, provided that such structures do not exceed fifteen (15%) percent of the total roof area and do not exceed the height limitations by more than ten (10) feet.
8. Parking Setbacks. No part of any one-site parking area shall be closer than the following dimensional requirements:
 - (a) Fifty (50) feet from any district boundary line;
 - (b) Fifty (50) feet from any public thoroughfare;
 - (c) Ten (10) feet from the ring road or any throat road.
9. Street Improvements and Traffic Circulation.
 - (a) It shall be the developer's responsibility to improve along the entire frontage any thoroughfare on which the mall property has frontage. All such thoroughfares shall have a right-of-way of sixty-six (66) feet and pavement width between curbs of not less than forty-six (46) feet. All improvements shall be constructed in accordance with the standards specified in this chapter. This shall not be construed to prohibit the construction of all or parts of any required improvements with any municipal, County, State or Federal funds the developer is successful in obtaining.
 - (b) All entrances and exits to the site shall be at locations approved by the Planning Board to ensure maximum vehicular and pedestrian safety.
 - (c) Direct ingress to or egress from the site shall be prohibited within two hundred (200) feet of any existing street intersection. Ingress to or egress from

any lot between the ring road and any public thoroughfare shall be prohibited from any public thoroughfare.

- (d) Marginal roads or access lanes shall be provided to serve the required parking areas approved by the Planning Board. Such roads or lanes shall be curbed and shall have a width between curbs of not less than forty-six (46) feet. One-way roads or lands properly designated as such may have a width of not less than twenty-four (24) feet. No direct access to any off-street parking space or stall shall be permitted from roads or lanes. In addition, service drives at least thirty (30) feet in width shall be provided to every building on the site and shall be subject to approved by the Planning Board.
- (e) An adequate pedestrian circulation system of walkways shall be established separate from roads and parking lots. Ample signs and painted lines on pavement will be utilized as needed to insure safe crossing of roadways or aisles.

10. Landscaping.

- (a) Those portions of the entire site that are not used for roads or lanes, off-street parking and buildings, or pedestrian walkways, shall be attractively planted and maintained with trees, shrubs, lawns, ground covers and flowers as approved by the Planning Board. Notwithstanding the above, existing topography and natural features such as wooded areas, ponds, and lakes shall be preserved in their natural features such as wooded areas, ponds and lakes shall be preserved in their natural state insofar as is practical. Every parking lot shall provide within the lot landscaped areas at a ratio of one (1) square foot of landscaped area for every fourteen (14) square feet of blacktop parking area. For the purpose of administering this provision, marginal roads and service roads, fire lanes and ring roads will not be counted as parking area. Grade transitions and any other unpaved areas inside the area bounded by the ring road that are landscaped and not paved may be counted as landscaped areas.

- (b) A planting plan shall be prepared by a certified landscape architect upon which will be shown the following data: number of plants, scientific name, common name, size of plant, root condition, spacing, and mulch material.
 - (c) Installation details shall be provided for trees, shrubs, shrub beds, and any unique equipment or materials (e.g., fountains or pools).
 - (d) Installation notes will be provided as needed to adequately clarify the design construction methods.
 - (e) The soil erosion and control plan as required by State and County agencies (a separate plan) shall be in agreement with the landscape plan.
11. Utilities. The site shall be provided with adequate utilities, including water and sewerage facilities, as well as on-site storm drainage facilities, drainage basins and structures to properly dispose of all surface water. All utilities, including power and telephone lines, shall be installed underground.
12. Trash and Recyclable Materials. Every building within the R-B zone shall be serviced with an area for recyclable materials as set forth in Chapter XIX, Solid Waste Management. All recycling areas shall be in a location on the site as approved by the Planning Board and shall be adequately screened so that no recycled material is visible from the lot line containing the area.
13. Nuisance and Fire Safety Review. No operation within any structure shall generate any air or ground transmitted vibration, glare, noise or odor discernible beyond the limits of the site, nor create dangerous radioactivity, fire or explosion hazard or water or air pollution in violation of any applicable Township, State or Federal laws or regulations. In addition to the above, all performance standards of the I district shall be complied with. The site plan and structures shall incorporate the fire safety recommendations of the Municipal Fire Marshal as hereinafter required.
14. Hotels and Motels. Hotels and motels shall be subject to the following regulations:

- (a) Definitions. For the purpose of administering this subsection, a “hotel” shall be defined as a building containing more than fifty (50) individual lodging accommodation units, all operated as a single business, with each unit consisting of a bedroom, bathroom and closet space and each having access to a common entrance. The units, with the exception of those occupied by the caretaker or manager, are designed and used exclusively to accommodate transient guests and have not individual cooking facilities. Accessory uses incidental to the operation shall also be included in the definition of “hotel”. A “motel” shall be defined as a building or a group of attached or semidetached structures consisting of more than fifty (50) individual lodging accommodation units, all operated as a single business, with each unit consisting of a bedroom, bathroom and closet space and each having separate access to a parking space intended for the use of the occupants of the unit. The units, with the exception of the apartment of the manager or caretaker, are designed and used exclusively to accommodate automobile transients and have no individual cooking facilities. “Motel” shall include auto court, motor lodge and motor court hotel. Accessory uses incidental to the operation shall also be included in the definition of “motel”.
 - (b) Occupancy. No hotel or motel or any rental space therein, other than permanent concessionaires within a hotel or motel, shall be occupied by the same guest or guests for a consecutive period exceeding thirty (30) days. It is intended that all guest occupancy shall be transient in nature.
 - (c) Facilities. Each hotel or motel unit shall consist of at least one (1) bedroom, bathroom and closet area. Cooking facilities within the separate rental units are specifically prohibited.
15. Uses Operating After Normal Shopping Hours. Any use that remains open in the mall after normal shopping hours such as restaurants, theaters and the like shall be so located that direct access to the parking area is available from the uses and the balance of the mall can be secured.

16. Outdoor Dining. Outdoor dining shall be subject to the following regulations:

- i. No outdoor dining area for any interior restaurant shall extend along the façade of an adjacent tenant space;
- ii. No outdoor dining area shall provide less than five (5) feet of clear, unobstructed passageway between outdoor dining areas and any curblines, street trees, bicycle racks, signposts, or other fixture or obstruction;
- iii. The outdoor dining area shall be separated from pedestrian passageways by a barrier which shall not exceed four (4) feet in height, unless otherwise stated. Barriers may consist of the following:
 - 1) Sectional fencing or railings, which shall consist of rigid fence or railing segments that may be placed together temporarily or permanently to create a unified fencing or railing appearance. Sectional fencing or railings may be made of metal (aluminum, steel, iron, or similar), or of wood construction;
 - 2) Planters may be used in conjunction with any sectional fencing or railings;
 - 3) The following fencing should be prohibited as barriers: fabric inserts, board-on-board fencing, chain link fencing, cyclone fencing, chicken wire, or similar appurtenances;
- iv. No outdoor dining area shall impede upon current exit access and/or means of egress for the main entrances to the Mall property, the pathways for establishments and separate entrances, or for areas designed by the Township Fire Official as necessary for public safety;
- v. Tents and similar appurtenances shall not be permitted in outdoor dining areas;

- vi. Outdoor dining areas shall be limited to not more than twenty (20%) percent of the total maximum permitted seating for the interior of the establishment;
- vii. The highest standards of cleanliness of the outdoor dining areas shall be maintained at all times including frequent litter removal, within and around the outdoor dining area;
- viii. Outdoor trash receptacles shall be required for all outdoor dining areas where there will be no table service;
- ix. No tables, chairs, benches, or other equipment used shall be attached, chained or in any manner affixed to any tree, post, sign, curb and sidewalk;
- x. No food or drinks served or consumed at locations permitted for outdoor dining shall be prepared or stored other than in the interior of the eating establishment;
- xi. Due to its seasonal nature, outdoor dining areas shall not require any parking spaces in excess of the minimum parking requirements for the principal eating establishment;
- xii. Exterior live music, outdoor loudspeakers, public address systems, radios, live music, or any type of exterior sound system shall not be permitted after 11:00 pm. Noise shall be kept at such levels as to comply with all provisions of the Township ordinances, including the Noise Ordinance as established in Section 28-12 of the Township's Revised General Ordinance;
- xiii. Outdoor dining areas must close no later than 11:30 pm;
- xiv. Lighting servicing the outdoor dining area shall be kept at the minimum necessary to ensure the safety of the public and patrons and servers of the establishment. All lighting shall be directed towards the principal restaurant and shall comply with the lighting regulations set forth in Section 54-29.10 of the Township's Land Use and Development Regulations, except that the maximum lighting fixture and mounting height shall be twelve (12) feet.

Lighting for outdoor dining areas shall be restricted to its hours of operation;

- xv. There shall be no additional signage on the premises or on the furnishings and equipment utilized as part of the outdoor dining operation beyond that permitted for the establishment itself, provided that signs may be permitted on the valance of umbrellas. One (1) temporary unilluminated sign not exceeding six (6) square feet in area shall be permitted. Wording shall be limited to the name of the eating establishment and may state the item of food offer for sale;
- xvi. The outdoor dining operation shall be operated and maintained by the same person or entity that operates and maintains the related restaurant establishment of which the outdoor dining is a part and extension thereof;
- xvii. All establishments holding a valid liquor license must comply with all statutory provisions and regulations of the Alcoholic Beverage Control Commission and obtain any and all necessary licenses and/or permits pursuant thereto in order to serve alcohol in conjunction with an outdoor dining permit;
- q) Indemnification. The applicant shall agree to defend (including providing the costs of a defense, which includes but is not limited to payment of attorneys' fees and professional fees), indemnify, and save harmless the Township, its officers, agents, servants, employees and board members for any and all claims made by any person or entity for personal injury or bodily injury of any nature or for property damage which injury or damage is alleged to have occurred out of the applicant's outdoor occupation and operation whether or not such claims may be derived directly out of such occupation or operation or if such claims are in any way connected to such occupation and/or operation and whether or not such claims are made as the result of the alleged intentional, grossly negligent or negligent acts of a representative, employee, agent, customer or invitee of the applicant. This duty to indemnify and defend shall extend to all activities which are undertaken in the context of said occupation and operation or which are in any way connected to same.

Applicant's responsibilities to indemnify and defend includes but is not limited to activities related to inspection, maintenance, use or operation, etc. of the premises, its systems, furnishings, machinery, equipment, implements, or appliances, etc. which may be used or in the possession of the applicant. In addition, such duty to indemnify and defend extends to claims of the failure of the Township to properly direct or instruct the applicant by way of ordinance, resolution or otherwise with respect to the applicants outdoor occupation and/or operation and against claims or allegations of the Township's failure to supply additional security or other safety measures in connection with applicant's outdoor occupation or operation.

r) Insurance Requirements

- 1) The applicant shall procure, at its own expense, insurance as follows:
 - a) General liability insurance shall be provided with limits of not less than \$2,000,000.00 any one person and \$2,000,000.00 any one accident for bodily injury and \$2,000,000.00 aggregate for property damage. The insurance policy shall be provided by insurance companies authorized to do business in the State of New Jersey.
- 2) A Certificate or Certificates of Insurance in compliance with these requirements and a certified copy of the policy shall be supplied to the Township, including the provisions establishing premiums.
- 3) The insurance policy required hereunder shall include an endorsement naming the Township and its officers, agents, engineer, attorney, employees, board members and servants as additional insured's, which insurance shall provide primary and non-contributory insurance coverage to the Township, its agents, etc. The additional insurance shall include but not be limited to coverage for the additional insured for bodily or personal injury, property damage or

other loss for all circumstances in which the named insured is covered including but not limited to circumstances in which the vendor's insurance policy provides coverage for the vendor's work (policy language – "your work") and for coverage which is included in the vendor's "products-completed operations hazard" coverage.

- 4) The insurance policy shall contain an endorsement stating that the policy shall not be changed or canceled prior to thirty (30) days after written notice of a scheduled cancellation, termination, or expiration has been provided by the insurance carrier directly to the Township.
- 5) Insurance coverage having policy limits in the amounts required by the Township shall not be construed to relieve the Applicant from liability in excess of such coverage, nor shall it preclude the Township from taking such other actions as are available to it under the provisions hereof or otherwise in the law.
- 6) During applicant's outdoor occupation or operation the applicant shall be obligated to renew the insurance policy in advance of the time in which it is scheduled to expire. In cases where the required insurance policy is cancelled or terminated during its term, the Applicant shall immediately procure insurance to replace such policy, and shall immediately provide all insurance information required by the Township as proof that the cancelled or terminated policy has been restored or replaced.

In the event the Applicant refuses or otherwise fails to renew its insurance policy, or the coverage is canceled, terminated, or modified so that the insurance does not meet the requirements of the Township's approval, such failure shall constitute default by the applicant and, upon written Notice of default from the Township Clerk and/or Business Administrator, shall suspend the Applicant's approval to conduct outdoor occupation and operation and shall require the applicant to cease outdoor operation until authorized, in

writing, by the Township Clerk and/or Business Administrator to resume such occupation and operation.

Failure of an Applicant in default with Notice to immediately comply with the Direction of the Township to cease outdoor occupation and operation and/or Applicant's failure to affirmatively contact the Township Clerk or Business Administrator to immediately report the expiration, cancellation, or termination of the insurance policy shall constitute a violation(s) of the provisions of the Township Zoning Ordinance, thereby subjecting the applicant to any and all fines and penalties provided for thereby.

Application. Persons or entities seeking approval for outdoor dining areas shall file a minor site plan, to be reviewed by the appropriate Board, which may refer the application to one (1) or more of the following Township employees or their approved alternatives: Zoning Officer; Construction Code Official; Traffic Safety Officer; Township Engineer; Water and Sewer Department; Health Officer; and/or Township Planner. The Township Fire Official shall also review each minor site plan application for outdoor dining areas in order to ensure that public safety is maintained.

(Ord. No. 95-24 § 54-129; Ord. No O-15-16 12/8/15)

54-30.52---54-30.55 Reserved.

54-30.56 O-1 Office District.

a. *Permitted Principal Uses.* (See land Use and Development Appendix A following this chapter.) The O-1 district is designed to permit business offices, professional offices and administrative offices in relatively close proximity to the R-B district, which will contribute to the creation of a town center, and also to permit uses that are compatible and complementary to the R-B district. Those principal uses permitted in the O-1 district are:

1. Business offices, administrative offices and professional offices;
2. Banks;
3. Restaurants; and

4. Conference centers/hotels containing at least one hundred fifty (150) hotel rooms.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the O-1 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
 - c. *Conditional Uses.* The conditional uses permitted in the O-1 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.
 - d. *Prohibited Uses.* Any use other than those uses specifically permitted in paragraphs a., b. and c. above is prohibited. In addition, the following uses are specifically prohibited:
 1. Retail or wholesale stores;
 2. Industrial operations; and
 3. Multi-family dwelling units.
 - e. *Required Conditions.*
 1. **Minimum Lot Area.** There shall be a minimum lot area of five (5) acres.
 2. **Minimum Front Yard.** There shall be a front yard setback of at least one hundred (100) feet.
 3. **Minimum Side Yards.** No side yard shall be less than one hundred (100) feet.
 4. **Minimum Rear Yard.** There shall be a rear yard of at least one hundred (100) feet.
 5. **Minimum Distance Between Buildings.** There shall be a minimum distance between buildings that is equal to the sum of the heights of the two (2) buildings.
 6. **Maximum Height.** No building shall exceed a maximum height of fifty (50) feet; provided, however, accessory roof

structures with a maximum height of seventeen (17) feet can be placed on the roof if the accessory structures do not exceed five (5%) percent of the total roof area.

7. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed sixty (60%) percent of the total lot area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.
8. Concept Plan. Before any land can be subdivided, or before a site plan can be approved for any development in the O-1 district, a comprehensive development plan for the entire tract must be submitted to and reviewed by the Planning Board to see how the proposed use fits into the ultimate development pattern.

(Ord. No. 95-24 § 54-130)

54-30.56.1 O-3 Office District.

- a. *Permitted Principal Uses.* The O-3 district is designed to permit business offices, professional offices and administrative offices and also to permit uses that are compatible and complementary to the R-B district. Principal uses permitted in the O-3 district are:
 1. Business offices, administrative offices and professional offices;
 2. Banks; and
 3. Restaurants.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the O-3 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the O-3 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for said uses in subsection 54-30.15.

- d. *Prohibited Uses.* Any use other than those uses specifically permitted in paragraphs a., b. and c. above is prohibited. In addition the following uses are specifically prohibited:
1. Retail or wholesale stores;
 2. Industrial operations; and
 3. Multi-family dwelling units.
- e. *Required Conditions.*
1. **Minimum Lot Area.** There shall be a minimum lot area of five (5) acres.
 2. **Minimum Front Yard.** There shall be a front yard setback of at least one hundred (100) feet.
 3. **Minimum Side Yard.** No side yard shall be less than one hundred (100) feet.
 4. **Minimum Rear Yard.** There shall be a rear yard of at least one hundred (100) feet.
 5. **Minimum Distance Between Buildings.** There shall be a minimum distance between buildings that is equal to the sum of the heights of the two (2) buildings.
 6. **Maximum Height.** No building shall exceed a maximum height of twenty-five (25) feet; provided, however, accessory roof structures with a maximum height of twelve (12) feet can be placed on the roof if the accessory structures do not exceed five (5%) percent of the total roof area.
 7. **Maximum Impervious Coverage.** The total impervious coverage on any lot shall not exceed sixty (60%) percent of the total area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.
 8. **Concept Plan.** Before any land can be subdivided, or before a site plan can be approved for any development on the O-3 district, a comprehensive development plan for the entire tract must be submitted to and reviewed by the Planning Board to see how the proposed use fits into the ultimate pattern.

9. Ingress/Egress. No direct ingress or egress to and from any property located within the O-3 zone shall be upon Fleetwood Road.

(Ord. No. 99-19 § 7)

54-30.57 O-2 Office District.

- a. *Permitted Principal Uses.* The O-2 district is designed to permit business offices, professional offices, administrative offices and retail shopping centers in relatively close proximity to the R-B district, which will contribute to the creation of a town center, and also to permit uses that are compatible and complementary to the R-B district. Those principal uses permitted in the O-2 district are: (See Land Use and Development Appendix A following this chapter.)
 1. Business offices, administrative offices and professional offices;
 2. Banks;
 3. Restaurants;
 4. Conference centers/hotels containing at least one hundred fifty (150) hotel rooms; and
 5. Retail shopping centers.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the O-2 district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the O-2 district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for the uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted in paragraphs a., b. and c. above is prohibited. In addition, the following uses are specifically prohibited:

1. Wholesale stores;
2. Industrial operations;
3. Multi-family dwelling units;
4. Any type of residential construction or use;
5. Any amusement park or amusement center such as penny arcades or rides or games conducted outdoors, or electromechanical or video game centers;
6. Hospitals and mental, penal or correctional institutions;
7. Any business operation or storage or display of merchandise conducted outside the confines of a building, except if the primary use of the tenancy of the building is for the sale of garden supplies or nursery stock or for operations accessory to the primary use and limited to ten (10%) percent of the floor area of the primary use of the tenancy of the building. Any storage or display as heretofore permitted shall be screened by a wall made of the same building material as the building containing the primary use. The wall shall not be less than seven (7) feet high and all merchandise stored or displayed shall not project higher than the screening wall;
8. Establishments commonly called and known as snack bars, dairy bars, or fast service food establishments and similar businesses engaged in the sale of food, soft drinks ice cream, and other similar goods or confections which are so prepared and served as to be intended for immediate consumption, and in or from which customers are served while seated or standing outside the confines of the building in which the business is conducted. This shall not be construed to prohibit the fast service food establishments within a mall building;
9. Self-service and commercial laundries which conduct cleaning or laundering on the premises;
10. Massage parlors or stores with individual movie viewing facilities; and
11. Used car lots.

e. *Required Conditions for Permitted Uses Other Than Retail Use.*

1. Minimum Lot Area. There shall be a minimum lot area of five (5) acres.
 2. Minimum Front Yard. There shall be a front yard setback equal to or greater than two (2) feet for every one (1) foot of building height.
 3. Minimum Side and Rear Yards. No side or rear yard shall be less than one (1) foot for every foot of building height.
 4. Minimum Distance Between Buildings. There shall be a minimum distance between buildings that is equal to the sum of the heights of the two (2) buildings.
 5. Maximum Height. No building shall exceed a maximum height of one hundred (100) feet; provided, however, accessory roof structures with a maximum height of seventeen (17) feet can be placed on the roof if the accessory structures do not exceed five (5%) percent of the total roof area.
 6. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed sixty (60%) percent of the total lot area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.
 7. Concept Plan. Before any land can be subdivided, or before a site plan can be approved for any development in the O-2 district, a comprehensive development plan for the entire tract must be submitted to and reviewed by the Planning Board to see how the proposed use fits into the ultimate development pattern.
- f. *Required Conditions for Retail Use.* The following requirements shall apply to any retail use in the O-2 zoning district:

Minimum Lot Area	50 acres
Minimum Building Setback	50 feet from property lines 150 feet from off-site buildings
Minimum Distance Between Buildings	Sum of building heights

Maximum Building Height	50 feet
Maximum Building Coverage	30 feet
Maximum Impervious Coverage	60 percent

Parking Setbacks:

From distance boundary	15 feet
From public thoroughfare	30 feet
From internal road	10 feet

Minimum Parking Lot Landscaping Every parking lot shall provide within the lot landscaped areas at a ratio of one (1) square foot of landscaped area for every fourteen (14) square feet of blacktop parking area. For the purpose of administering this provision, internal circulation roads, on the periphery of parking lots, will not be counted as parking area.

(Ord. No 95-24 § 54-131; Ord. No. 00-20 §§ 1-4)

54-30.58 OB-RL Office Building – Research Laboratory District.

a. *Permitted Principal Uses.* (See Land Use and Development Appendix A following this chapter. The OB-RL district is designed to permit professional, executive or administrative offices, and laboratories devoted exclusively to research design and experimentation. Any use permitted by this section shall meet all of the following regulations:

1. Pilot plants for the testing of manufacturing, processing or fabrication methods, or for the testing of products or materials, shall be permitted only as an accessory use to a research laboratory. No materials or finished products shall be manufactured, processed or fabricated on the premises for sale, except such as are incidental to the laboratory research, design or experimental work.
2. No manufactured or commercial explosives shall be kept, maintained or stored on the premises, except in small

quantities for laboratory research, design or experimental use and then only in compliance with all applicable Federal, State and local safety statutes.

3. No animal shall be kept or maintained for laboratory research, design, or experimental work unless a written permit is first obtained from the Board of Health.
4. No use permitted shall be of such nature as to endanger neighboring properties, nor shall any such use be so conducted as to be noxious or offensive by reason of odor, dust, smoke, gas, vibration or noise.

b. *Permitted Accessory Uses.* Accessory uses are permitted if customarily incidental and subordinate to permitted business and professional offices and research laboratories, and provided that such uses are planned as an integral part of an office building complex. Permitted accessory uses shall include:

1. Garages for storage and maintenance of company employee and visitor motor vehicles and storage of gasoline and lubricating oils therefor;
2. Parking facilities;
3. Maintenance and utility shops for the upkeep and repair of buildings and structures and service;
4. Central heating and power plants for furnishing heat and electrical energy to structures on the site only;
5. Training schools for employees;
6. Buildings for the storage of documents, records and personal property;
7. Communication facilities and clinics;
8. Dining and recreational facilities;
9. Banks, post offices, company stores and guest lodges to be used only by company employees and by visitors to the building or buildings; and
10. Other accessory uses customarily incidental and subordinate to the permitted principal use.

- c. *Conditional Uses.* The conditional uses permitted in the OB-RL district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for the uses in subsection 54-30.15.

- d. *Prohibited Uses.* Any use other than those uses specifically permitted in paragraphs a., b. and c. above is prohibited. In addition, the following uses are specifically prohibited:
 - 1. Retail sales, unless the use conforms to the above use requirements;
 - 2. Residential construction or use;
 - 3. Public or commercial incineration or sanitary landfills;
 - 4. Junkyards;
 - 5. Dumps, lagoons or pits for the disposal or storage of garbage, trash or any other liquid or solid waste materials;
 - 6. Sandy, clay or gravel pits;
 - 7. Trucking terminals or trucking transfer stations; and
 - 8. The storage and repair of heavy construction equipment either within or outside the confines of a building such as but not necessarily limited to dump trucks, backhoes, bulldozers, road graders, cranes, front end loaders, flat bed trailers, portable or stationary cement mixers, compactors, rollers or black top paving machines.

- e. *Required Conditions.*
 - 1. **Minimum Lot Area.** There shall be a minimum lot area of two (2) acres.
 - 2. **Minimum Setbacks.** No building shall be closer to any property line than two (2) feet for every foot of building height of the building; provided, however, no building shall be closer to any property line than sixty (60) feet.
 - 3. **Minimum Distance Between Buildings.** There shall be a minimum distance between buildings a distance that is not less than the sum of the heights of the two (2) building.

4. **Maximum Height.** No building shall exceed a maximum of fifty (50) feet in height, exclusive of roof tanks and supports, chimneys or head houses or similar enclosures for elevators or air-conditioning machinery or other apparatus. The foregoing roof structures shall not exceed seventeen (17) feet in height nor shall their total area exceed five (5%) percent of the roof area to which they are attached.
 5. **Maximum Impervious Coverage.** the total impervious coverage on any lot shall not exceed sixty (60%) percent of the total lot area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.
- f. *Performance Standards.* Before the issuance of any building or occupancy permit for any use in the Office Building and Research Laboratory District, all of the following regulations must be complied with:
1. All activities shall be carried on only in structures which conform to the standards of the National Board of Fire Underwriters or Township Building Code or Fire Ordinance, whichever is more restrictive. All operation shall be carried on and combustible raw materials, fuels, liquids, and finished products shall be stored in accordance with the standards of said Board of Fire Underwriters. The storage of crude oil or any other volatile or inflammable liquid in above-ground tanks with individual capacity greater than five hundred (500) gallons is prohibited.
 2. **Radioactivity.** Any activity which emits radioactivity ionizing or specific non-ionizing uses such as microwaves at any appoint outside the confines of a building or structure is prohibited as well as any industrial operation engaging in irradiation processing.
 3. There shall be no dissemination of smoke, fumes, gas, dust, odor or any other atmospheric pollutant beyond the boundary of the lot occupied by such use.
 4. No use shall be permitted to discharge any waste of any kind on the site or into any stream or water body.
 5. **Vibration.** No operation shall cause either air-induced vibration or ground transmitted vibration which is

discernible to the human sense at any point beyond the immediate site on which such use is conducted.

6. There shall be no noise, other than traffic noise, detectable at any point along any property line.

(Ord. No. 95-24 § 54-132)

54-30.59---54-30.61 Reserved.

54-30.62 PED Planned Economic Development.

- a. *Permitted Principal Uses.* (See Land Use and Development Appendix A following this chapter.) The PED district is designed for restricted manufacturing and industrial operations as well as warehousing, wholesale distribution centers and office buildings. Commercial Planned Village Center shall also be a permitted principal use, subject to the regulatory controls set forth in subsection 54-30.62g below.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the PED district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. IN case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the PED district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for the uses in subsection 54-30.15.
- d. *Prohibited Uses.* No land or building shall be used or occupied for a use which will in any manner create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazardous condition, or radiation producing materials, noise or vibration, smoke, dust, odor or other form of air pollution, heat, cold, dampness, movement of air, electrical or other disturbances, glare, liquid or solid wastes in a manner or amount not conforming to the performance standards of this section. In addition, the following uses are specifically prohibited:
 1. Residential construction or conversion.
 2. Business construction or conversion.

3. Public or commercial incineration or sanitary landfills.
4. Junkyards.
5. Dumps, lagoons or pits for the disposal or storage of garbage, trash, or any other liquid or solid waste material except by the municipality.
6. The dumping of any by-product or waste either liquid or solid of any industrial operation on site.
7. Mining, quarrying, sand, clay or gravel pits.
8. Tar plants.
9. Motor freight terminals, motor and truck transfer stations, motor and truck depots, motor and truck storage sites, truck stops, and truck repair facilities. "Motor freight terminal" is defined as a structure serving as a point or junction of a motor freight transportation line which may or may not include servicing facilities; a "motor and truck transfer station" is a structure serving as a point or junction of a transportation line; a "motor and truck storage site" is a structure or location for the storage of trucks or parts thereof, or truck cargoes; and a "truck stop" is a facility selling gasoline or diesel fuel, and further providing a restaurant or overnight accommodations. This prohibition is not intended to exclude warehousing and manufacturing uses to which trucking is ancillary.
10. The storage on site of any hazardous materials as referenced on the current Federal or State list of hazardous materials.
11. Residential, hotel, manufacturing, industrial, warehousing, auto repair, auto sales, service station, nursery, greenhouse and lumberyard uses shall be prohibited within the Commercial Planned Village Center.

e. *Required Conditions.*

1. **Minimum Lot Area.** There shall be a minimum lot area of two (2) acres.
2. **Minimum Lot Frontage.** Each lot shall have a minimum lot frontage of one hundred fifty (150) feet, measured along the front street right-of-way line.

3. Minimum Front Yard. No building shall be closer to the front street right-of-way line than one hundred (100) feet.
 4. Minimum Side and Rear Yards. No building shall be closer to a side or rear property line than one and one-half (1.5) times the height of the building; provided no such setback shall be less than fifty (50) feet, and further provided, no building shall be closer than one hundred (100) feet from a residential zone district boundary line.
 5. Minimum Distance Between Buildings. The minimum distance between buildings shall be a distance that is equal to the sum of the heights of the two (2) buildings.
 6. Maximum Height. No building shall exceed a height of fifty (50) feet.
 7. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed sixty (60%) percent of the total lot area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.
 8. Master Plan. Before any land, new building or existing building is used or occupied in the PED district, a master plan must be submitted to the Planning Board for review and approval. This master plan shall show the ultimate development of the premises, the development schedule and all on-site, on-tract and off-tract improvements, including but not limited to roads, utilities, buffers, landscaping and lighting as deemed necessary by the Planning Board.
- f. *Performance Standards.* Prior to the issuance of any building or occupancy permit for any use in the PED district, the applicant shall submit sufficient evidence to the Planning Board showing compliance with the applicable approval procedures of all authorized governmental agencies and with all the following regulations:
1. Fire and Explosion Hazards. All activities shall be carried on only in structures which conform to the standards of the American Insurance Association or the Township Building Code or Fire Ordinance, whichever is more restrictive. All operations shall be carried on, and all combustible raw materials, fuels, liquids, and finished products shall be

stored, in accordance with the standards of said regulations. Nothing contained herein shall be construed to permit the detonation of any explosive device on any premises as part of an industrial operation.

2. Radioactivity. Any activity which emits radioactivity ionizing or specific non-ionizing uses such as microwaves at any point outside the confines of a building or structure is prohibited as well as any industrial operation engaging in irradiation processing.
3. Smoke. There shall be no emission at any point, from any chimney or otherwise, of visible smoke.
4. Atmospheric Pollutants. There shall be no emission from any building or from any site, fly ash, dust, fumes, vapors or gases.
5. Liquid or Solid Wastes. No use permitted in this district shall discharge untreated or treated industrial wastes of any kind into any reservoir, pond, lake, stream or on or in the ground. All methods of sewage and industrial waste treatment and disposal shall be approved by the Township Health Department and the New Jersey Department of Environmental Protection.
6. Vibration. No operation shall cause either air-induced vibration or ground transmitted vibration which is discernible to the human sense at any point beyond the immediate site on which such use is conducted.
7. Noise. There shall be no operational noise which is discernible to the human sense at any point beyond the immediate site on which such use is conducted.
8. Odors. There shall be no emission of odorous gases or other odorous matter discernible to the human sense at any point beyond the immediate site on which such use is conducted.
9. Glare. There shall be no direct or sky-reflected glare exceeding five-tenths (0.5) of a footcandle measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrance or exits of service drives.

10. Traffic. There shall be no ingress or egress to any industrial operation as permitted and regulated by this section from any minor street or neighborhood through road as set forth on the Township Master Plan.

g. *Supplemental Regulations Governing Commercial Planned Village Center.* The purpose of the Commercial Planned Village Center is to enhance the quality of life within the community and emphasize a local community sense of place. This is achieved through an appropriate mixture of neighborhood retail and service commercial users; the use of design elements that promote pedestrian circulation; the provision of common areas that function as gathering places; and the incorporation of physical and visual linkages that integrate the multiple elements of the development. The Commercial Planned Village Center shall be developed in accordance with the following standards:

1. A Commercial Planned Village Center is a neighborhood commercial facility to be planned, developed, operated and maintained as a single entity and shall contain multiple structures to accommodate neighborhood retail and service commercial uses. Permitted uses include but are not limited to:
 - (a) Supermarkets.
 - (b) Restaurants, including outdoor seating.
 - (c) General and professional offices.
 - (d) Community retail including clothing stores, florists, drugstores, movie rental stores, hardware stores and liquor stores.
 - (e) Financial institutions including banks with drive-through facilities.
 - (f) Personal service including barber shops, beauty salons, travel agencies and dance studios.
 - (g) Post offices.
 - (h) Movie theaters and active recreation facilities.
 - (i) Outdoor craft activities.

- 2. Supermarket and retail activity shall account for at least sixty (60%) percent of the total floor area of the Commercial Planned Village Center.

- 3. Area, yard, height and density regulations:
 - (a) Minimum Lot Area 50 acres
 - (b) Minimum Street Frontage 200 feet
 - (c) Minimum Lot Width 500 feet*
 - (d) Minimum Front Yard 250 feet
 - (e) Minimum Side Yards:
 - (1) Abutting Residential Zone 150 feet
 - (2) Abutting Other Zone 30 feet
 - (f) Minimum Rear Yards 150 feet
 - (g) Minimum Distance Between Buildings 20 feet
 - (h) Maximum Building Height 35 feet**
 - (i) Maximum Building Coverage 15%
 - (j) Maximum Impervious Coverage 35%
 - (k) Maximum Floor Area Ratio (FAR) 0.12
 - (1) Minimum Buffer Areas***
 - (1) Abutting residential zone 35 feet
 - (2) Abutting non-residential zone 10 feet

* Lot width measures at the front building line.

** No structure shall exceed the maximum building height except for roof structures including: mansards; parapets; elevator shafts; clock towers, spires

and decorative towers; air conditioning equipment; mechanicals; antennas and satellite dishes located in a complementary decorative architectural element (but no freestanding antennas or dishes shall be permitted); provided that any such roof structure shall not exceed an additional fifteen (15) feet in height and further provided that no more than ten (10%) percent of roof area is encompassed by such features and appurtenances. All air conditioning equipment and other mechanicals on roofs shall be screened from view through the use of fences, walls and other enclosures as may be permitted by the appropriate Board.

*** Buffer areas shall be required where any proposed Commercial Planned Village Center abuts a residential zone or use or a commercial zone or use. Transition buffers shall provide maximum screening to adjacent properties through the use of plantings, berms, fences or a combination thereof. Plantings shall include deciduous trees, evergreens and shrubs arranged in staggered rows, clusters or a curvilinear pattern to present a natural appearance. Plant materials shall be sufficiently large to create a screen at least six (6) feet in height within three (3) growing seasons. Plantings or screening may also be waived by the Board where existing vegetation, natural features or topography provide sufficient screening.

4. Design Standards:

(a) Parking:

- (1) Parking areas accessory to the Commercial Planned Village Center may be located in any yard, provided that no parking area shall be located closer than thirty (30) feet from any residential zone or use and ten (10) feet from any non-residential zone or use.
- (2) Parking areas shall be screened from the view of adjacent residential districts and/or existing residential uses on public roads by landscaping, fencing or a combination thereof to create a buffer at least four (4) feet in height. Landscaping shall contain a mix of deciduous trees, evergreens and shrubs adequate to screen the parking area(s) during all seasons. Fencing shall be constructed of a board-on-board wood or attractive masonry.
- (3) Parking spaces shall be designed to provide a rectangular area with the following minimum dimensions, which shall exclude any roadway,

driveway or access isle adjacent to the parking space: A minimum nine foot by twenty foot (9' x 20') parking stall shall be required (except in cases where a two [2] foot overhang is available in which case a nine foot by eighteen foot [9' x 18'] parking stall shall be required), provided that any parking spaces serving a supermarket shall be required to be ten foot by twenty foot (10' x 20').

(b) Design Requirements:

- (1) Buildings shall be located adjacent to, and oriented towards, required common space to produce a development that is integrated, pedestrian-oriented and visually attractive. Buildings shall be visually and physically connected by sidewalks, landscaping and streetscape elements whenever possible.
- (2) Large horizontal buildings shall be designed with vertical-oriented segments. The use of design techniques and architectural treatments such as articulation of the façade, visually interesting fenestration, varied roof lines and canopies/awnings is encouraged.
- (3) Roof forms such as eaves, gables, cornices and mansards are required. Clock towers, spires and decorative towers are encouraged.
- (4) Roof top mechanical equipment shall be screened from public view by architecturally compatible materials. Ground level mechanical equipment shall be screened from public view by landscaping, walls, and/or fencing.
- (5) The visual character of buildings shall encourage pedestrian circulation. Particular attention shall be given to facades, windows and doors.
- (6) Fire escapes are prohibited on the principal façade of a building.

(7) Street furniture, including benches, planters and trash receptacles shall be provided in a design that is consistent with the architecture of the building.

(8) There shall be two (2) means of ingress and egress to/from the Commercial Planned Village Center property.

(Ord. No. 95-24 § 54-133; Ord. No. 99-19 § 6; Ord. No. 07-19 § 12)

54-30.63 I Industrial District.

- a. *Permitted Principal Uses.* (See Land Use and Development Appendix A following this chapter.) The I district is designed for limited manufacturing and industrial operations, office buildings, restaurants and banks.
- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the I district are those uses and structures which are customarily incidental and subordinate to a permitted principal use. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the I district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for the uses in subsection 54-30.15.
- d. *Prohibited Uses.* No land or building shall be used or occupied for a use which will in any manner create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazardous condition, or radiation producing materials, noise, or vibration, smoke, dust, odor or other form of air pollution, heat, cold, dampness, movement of air, electrical or other disturbances, glare, liquid or solid wastes in a manner or amount not conforming to the performance standards of this section. In addition, the following uses are specifically prohibited:
 - 1. Residential construction or conversion;
 - 2. Business construction or conversion, unless specifically permitted in the above use regulations;
 - 3. Public or commercial incineration or sanitary landfills;

4. Junkyards;
5. Dumps, lagoons or pits for the disposal or storage of garbage, trash, or any other liquid or solid waste materials except by the municipality;
6. Mining, quarrying, sand clay or gravel pits;
7. Tar plants;
8. Motor freight terminals, motor and truck transfer stations, motor and truck depots, motor and truck storage sites, truck stops, and truck repair facilities. "Motor freight terminal" is defined as a structure serving as a point or junction of a motor freight transportation line which may or may not include servicing facilities; a "motor and truck transfer station" is a structure serving as appoint or junction of a transportation line; a "motor and truck storage site" is a structure or location for the storage of trucks or parts thereof, or truck cargoes; and a "truck stop" is a facility selling gasoline or diesel fuel, and further providing a restaurant or overnight accommodations. This prohibition is not intended to exclude warehousing and manufacturing uses to which trucking is ancillary;
9. Current Federal or State lists of hazardous materials;
10. Hazardous materials or conditions as described in the following performance standards; and
11. Public garages and gas stations.

e. *Required Conditions.*

1. **Minimum Lot Area.** There shall be a minimum lot area of sixty thousand (60,000) square feet.
2. **Minimum Front Yard.** No building shall be closer to any public road right-of-way than one hundred (100) feet.
3. **Minimum Side and Rear Yards.** No building shall be closer to a side or rear property line than one and one-half (1.5) times the height of the building; provided, no such setback shall be less than fifty (50) feet, and further provided, no building shall be closer than one hundred (100) feet from a residential district boundary line.

4. Minimum Distance Between Buildings. There shall be a minimum distance between buildings a distance that is not less than the sum of the heights of the two (2) buildings.
 5. Maximum Height. No building shall exceed a height of fifty (50) feet.
 6. Maximum Impervious Coverage. The total impervious coverage on any lot shall not exceed sixty (60%) percent of the total lot area; provided that if the lot is also located within the CWR district, the total impervious coverage shall not exceed forty-five (45%) percent of the total lot area.
- f. *Performance Standards.* Prior to the issuance of any building or occupancy permit for any use in the I district, the applicant shall submit sufficient evidence to the Planning Board showing compliance with the applicable approval procedures of all authorized governmental agencies and with the following regulations:
1. Fire and Explosion Hazards. All activities shall be carried on only in structures which conform to the standards of the American Insurance Association or the Township Building Code or Fire Ordinance, whichever is more restrictive. All operations shall be carried on, and all combustible raw materials, fuels, liquids, and finished products shall be stored, in accordance with the standards of the regulations. Nothing contained herein shall be construed to permit the detonation of any explosive device on any premises as part of the industrial operation.
 2. Radioactivity. Any activity which emits radioactivity ionizing or specific non-ionizing uses such as microwaves at any point outside the confines of a building or structure is prohibited as well as any industrial operation engaging in irradiation processing.
 3. Smoke. There shall be no emission at any point, from any chimney or otherwise, of visible smoke.
 4. Fly Ash, Dust, Fumes, Vapors, Gases. There shall be no emission which can cause damage to health, to animals or vegetation or other forms of property, or which can cause any excessive soiling at any point. Emission of any solid or liquid particles in concentrations exceeding .367 milligrams

per cubic meter of the conveying gas or air at any point is prohibited. For measurement of the amount of particles in gases resulting from combustion, correction shall be applied to a standard stack temperature of five hundred (500 ° F) degrees Fahrenheit and fifty (50%) percent excess air.

5. No use permitted in this zone shall discharge untreated industrial wastes of any kind into any reservoir, pond, lake or stream or on or in the ground. All methods of sewage and industrial waste treatment and disposal shall be approved by the Township Health Department and the New Jersey State Department of Environmental Protection.
6. The discharge and disposal of solid and liquid wastes into an underground drainage field shall be in accordance with plans and specifications as approved by the Township Engineer, the Township Health Office and the New Jersey Department of Environmental Protection.
7. Vibration. No operation shall cause either air-induced vibration or ground transmitted vibration which is discernible to the human sense at any point beyond the immediate site on which such use is conducted.
8. Noise. Noise regulation shall comply with all provisions of New Jersey Chapter 29 (N.J.S. 13:1G1 et seq.) provided, however, no person shall cause, suffer, allow or permit sound from any industrial or commercial operation which when measured at any residential property line is in excess of any of the following:

a. During the hours from 7:00 a.m. to 7:00 p.m.:

OCTAVE BAND CENTER FREQUENCY (H3)	OCTAVE BAND SOUND PRESSURE LEVEL (dB)
20-75	75
75-150	60
150-300	54
300-600	48
600-1,200	45
1,200- 2,400	42
2,400-4,800	39
Above 4,800	36

b. During hours from 7:00 p.m. to 7:00 a.m.:

OCTAVE BAND CENTER FREQUENCY (H3)	OCTAVE BAND SOUND PRESSURE LEVEL (dB)
20-75	65
75-150	50
150-300	44
300-600	38
600-1,200	35
1,200- 2,400	32
2,400-4,800	29
Above 4,800	26

9. Odors. There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive and create a nuisance as determined by the Township Department of Health at the property line of the lot occupied by such use.
10. Glare. There shall be no direct or sky-reflected glare exceeding five-tenths (0.5) of a footcandle measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrance or exits of service drives.
11. Traffic. There shall be no ingress or egress to any industrial operation as permitted and regulated by this section from any minor street or neighborhood through road as set forth on the Township Master Plan.

(Ord. No. 95-24 § 54-134; Ord. No. 96-8 § 1; Ord. No. 99-1 § 1; Ord. No. 06-16 § 4)

54-30.64 M Mining District.

- a. *Permitted Principal Uses.* (See Land Use and Development Appendix A following this chapter.) The M district is designed to permit the proper and continued use of natural resources in the Township which, under proper limitations, will be in harmony with the character of existing and prospective development. Specifically permitted are the following uses:
 1. The extraction of rock, stone, gravel and ore; provided, however, open pit quarrying or mining shall only be permitted as hereafter regulated;

2. Processing and utilization of materials extracted from the site; provided such operations are limited to the uses listed below, and provided that rock crushing or heavy impact operations are prohibited within one thousand five hundred (1,500) feet of any residential district.
 - (a) Storage;
 - (b) Grinding;
 - (c) Pulverizing;
 - (d) Crushing;
 - (e) Smelting;
 - (f) Pelletizing;
 - (g) Manufacturing of concrete products such as cinder blocks, precast or pre-stressed concrete construction elements;
 - (h) Manufacturing of bituminous concrete; and
 - (i) Manufacturing of cement.

3. Single-family residential use as permitted and regulated in the R-88 district.

- b. *Permitted Accessory Uses.* Accessory uses and structures permitted in the M district are those uses and structures which are customarily incidental and subordinate to a permitted principal use, such as offices and shipping facilities. In case of a question concerning whether a use or structure is accessory to a permitted principal use, the determination thereof shall lie with the Zoning Board of Adjustment.
- c. *Conditional Uses.* The conditional uses permitted in the M district are indicated in subsection 54-30.15; provided that such uses shall comply with the conditions for the uses in subsection 54-30.15.
- d. *Prohibited Uses.* Any use other than those uses specifically permitted in subsections a., b. and c. above is prohibited. In addition, the following uses are specifically prohibited:

1. Business and commercial activities, except as accessory to a permitted principal use;
 2. Fabrication, manufacture and industrial operations, except as permitted in the I district;
 3. Junkyards;
 4. Dumps, lagoons or pits for the disposal of garbage, trash or any other liquid or solid waste material with the exception of rock and ore in fine-settling ponds which are accessory to a permitted operation. The Township of Rockaway is exempt from the above prohibited use; and
 5. Any use that fails to comply with the performance standards of this section.
- e. *Required Conditions.* The regulations set forth in this section are designed to encourage the development of an economically sound and stable mining industry and development of natural resources to meet economic needs in a manner compatible with sound environmental management practices.
1. **Conditions for Residential Use.** Residential uses are permitted if they comply with all provisions regulating the R-88 district.
 2. **Minimum Lot Area.** There shall be a minimum lot area of fifteen (15) acres.
 3. **Minimum Setbacks.** All buildings and structures shall maintain the following setbacks:
 - (a) The distance between any building or structure and the nearest residential district boundary line or residential structure shall not be less than five hundred (500) feet or a distance that equals or exceeds two (2) times the height of the building or structures, whichever results in a greater setback.
 - (b) No building or structure shall be erected or placed within seventy-five (75) feet of any property line, or a distance that equals or exceeds two (2) times the height of the building or structure, whichever results in a greater setback.

- (c) No building shall be erected closer to another nonresidential or structure than a distance that equals or exceeds the sum of the heights of the two (2) buildings or structures.
- 4. **Maximum Height.** No building height shall exceed one hundred (100) feet. The height of objects other than buildings shall not exceed three hundred (300) feet and the objects must comply with any applicable Federal and State regulations. Notwithstanding any other provisions of this chapter, for the purpose of administering the height and setback requirements of this section only, the term “building” shall only include objects erected, placed or razed on, below or above the ground primarily designed to house and enclose persons to perform in connection with commercial or manufacturing operations.
- 5. **Maximum Impervious Coverage.** The total impervious coverage on any lot shall not exceed fifteen (15%) percent of the total lot area.
- 6. **Application Report.** Prior to any mining operation, a completed application for a mining operation use permit shall be submitted to the Administrative Officer. This application shall be deemed complete when it contains the following elements:
 - (a) An application form properly completed;
 - (b) An application report which shall contain the following:
 - (1) Identification of the location of the surface mine, the ownership of surface rights and mineral rights, the holder of the permit and the person responsible for the reclamation performance guaranty;
 - (2) A copy of a portion of the U.S.G.S. topographic map outlining the contiguous property holdings of the applicant that will be surface mined;
 - (3) Notice of approval from the Morris County Soil Conservation District of the soil erosion and sediment control plan. This plan shall be

prepared in conformance with “Standards for Soil Erosion and Sediment Control in New Jersey”;

- (4) Description of the environmental setting of the surface mine including adjacent land use, topography, drainage, geology and existing site conditions;
- (5) Description of the proposed mining methods, including the method of mining and nature of processing;
- (6) Description of the measures to be taken to remain in compliance with noise and vibration standards of the New Jersey Department of Labor and Industry;
- (7) Copies of water discharge (NJPDES) permits, if any are required, and copies of air quality permits, if any are required. In the case of new operations, preliminary permits, subject to final approval following initiation of operations, shall be acceptable.
- (8) Operator of any mine or quarry shall submit a rehabilitation plan of the property to be so used. the plan shall show how the property in question can physically conform to the proposed use of the property as set forth in the Township Master Plan. Prior to the Construction Official or Zoning Officer issuing a certificate of occupancy or zoning permit for any use in the M district, the Planning Board must first approve the site operation and rehabilitation plan as above required;
- (9) Description of the proposed final reclaimed land use. It is recognized that mining is a long-term transitional land use and that any reclamation plan must be conceptual, subject to change based on future surface mine configurations and future land use requirements. However, the proposed reclamation plan shall be compatible with current land use conditions and proposed

reclamation activities shall be compatible with the proposed final land use;

- (10) Description of the proposed reclamation activities, including final disposition of waste materials, drainage conditions, final grading, application of soil cover and seeding for those areas to be re-vegetated and final treatment of access roads or haulage ways in the permit area;
- (11) Description of final slope treatments shall be indicated. All final slopes shall comply with the following standards:
 - (i) Rock faces shall be no steeper than ninety (90°) degrees and shall be free of loose rock and rubble, in general compliance with Mine Safety and Health Administration requirements.
 - (ii) Unconsolidated material slopes shall not exceed the natural angle of repose.
 - (iii) Coarse sand, gravel or rubble slopes shall not exceed a ratio one (1) foot vertical to one and one-half (1.5) foot horizontal (66.7%).
 - (iv) Fine sand, silt and clay shall not exceed a ratio of one (1) foot vertical to two (2) foot horizontal (50%).
- (c) An application map which shall be prepared by a licensed professional engineer of the State of New Jersey or a qualified professional geologist certified by the American Institute of Professional Geologists. The application map shall be updated prior to each renewal for a surface mining permit in a manner consistent with the final requirements and shall indicate:
 - (1) Elevation contours with an interval of five (5) feet based on aerial photography or a survey with a one hundred (100) foot grid;

- (2) Location and elevation of all major structures, streams, bodies of water, access roads and surface mining faces;
 - (3) Area to be affected by surface mining that will be subject to permit and bonding based on the area that will be surface mined during the permit period;
 - (4) Final grade profiles which shall consist of at least two (2) intersecting sections through the permit area showing existing topography, proposed final elevations, and the position and slopes of the proposed final face.
- (d) A traffic plan which describes, in narrative form, the probable routes to be taken by traffic generated by operation of the surface mine. The traffic plan shall contain a description of the efforts that will be made by the permittee to reduce spillage from traffic leaving the surface mine.
- f. *Performance Standards.* Prior to the issuance of any building or occupancy permit for any use in the M district, the applicant shall submit sufficient evidence to the Zoning Officer showing compliance with the applicable approval procedures of all authorized governmental agencies and with all of the following regulations:
- 1. Fire and Explosion Hazards. The provisions of subsection 54-30.63f,1 shall be met.
 - 2. Radioactivity. The provisions of subsection 54-30.63f,2 shall be met.
 - 3. Smoke. the provision of subsection 54-30.63f,3 shall be met.
 - 4. Fly Ash, Dust, Fumes, Vapors, Gases. The provisions of subsection 54-30.63f,4 shall be met.
 - 5. Liquid and solid wastes. The provisions of subsection 54-30.63f,5 shall be met.
 - 6. Vibration. Air-induced vibration shall be limited to the sound-pressure levels permitted under subsection 54-

30.63f,6. No ground-transmitted vibration shall be generated by anything other than blasting which is discernible to the human sense at any point within a residential district.

7. Noise. No operation noise emitted by a source other than blasting within the M district shall be measured at any point within any residential district which exceeds the values given in subsection 54-30.63f,7.
8. Blasting. The storage, transportation and use of explosives shall be within the limitations and in conformance with the standards and regulations of the New Jersey Department of Labor and Industry, Bureau of Engineering and Safety. The Township Zoning Officer shall be notified at least twenty-four (24) hours prior to any blasting being done on the premises.
9. Odors. There shall be no emission in the M district of odorous gases or other odorous matter in such quantities as to be offensive and create a nuisance as determined by the Township Department of Health at any point within any adjacent district.
10. Glare. There shall be no direct or reflected glare exceeding one (1) footcandle measured at any adjacent district boundary line.
11. Traffic. There shall be no ingress and egress to any industrial operation as permitted and regulated by this section from any minor street or neighborhood through road as set forth on the Township Master Plan.
12. Buffers. There shall be established along the line of any lot that is contiguous to any residential district a belt of native vegetation, landscaping, fence or wall as the Planning Board may require, which will be adequate to screen the operation of such lot in the M district from the abutting residential district.
13. Movement of Soil. The movement to or from the site in question of any soil, other than that which is specifically permitted in a surface mining operation, shall be regulated by the Township Soil Removal Ordinance.
14. Air samples shall be submitted to the Rockaway Township Health Department for their review and examination on an

annual basis unless otherwise required by the Health Department.

- g. *Fee.* Any operation of a surface mine shall pay to the Township a fee of five thousand (\$5,000) dollars, which shall cover a twelve (12) month period. Thereafter the fee shall be paid annually for the duration of the mining operation.
- h. *Performance Guarantee.* Prior to approval of any surface mining operation, the applicant shall furnish a performance guarantee in the amount of one thousand (\$1,000.00) dollars per acre of land covered by the use permit. The Township of Rockaway shall be named as beneficiary of the guarantee. At the request of the surface mining operation, the Township may release the performance guarantee, or part thereof, after the Township Engineer submits a favorable report indicating those areas that have been reclaimed in conformance with the reclamation provisions of the conditional use permit.

(Ord. No. 95-24 § 54-135)

54-30.65 CWR Critical Water Resources District (See subsection 54-30.2 for the intended use of this District.)

54-31 RIGHT TO FARM.

54-31.1 Definitions.

Acceptable agricultural management practices shall mean the agricultural management practices recommended or endorsed by the State Agriculture Development Committee.

Agricultural activities shall mean the production principally for the sale to others of plants, animals or their products, including, but not limited to, forage and sod crops, grain and feed crops, dairy animals and dairy products, livestock and pastoral farm animals and fowl including dairy and beef cattle, oxen, poultry, sheep, horses, ponies, mules and goats; including grapes, nuts and berries, vegetables, nursery, floral, ornamental and greenhouse products, horse boarding and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping. Agriculture shall not include, among other things, intensive poultry or swine production or extensive animal feedlot operations.

Commercial farm shall be defined as provided in the Right to Farm Act, N.J.S.A. 4:1C-3.

Farm shall mean an area of land made up of single or multiple parcels which are organized as a management unit actively devoted to agricultural or horticultural use, including, but not limited to, cropland, pasture, idle or fallow land, woodland, wetlands, farm ponds, farm roads and other farm buildings and other enclosures related to agricultural pursuits, which occupies a minimum of five (5) acres, exclusive of the land upon which the farmhouse is located and such additional land as may actually be used in connection with the farmhouse as provided in the Farmland Assessment Act of 1965.

Farm animals shall mean livestock and pastoral farm animals and fowl including dairy and beef cattle, oxen, poultry, sheep, horses, ponies, mules and goats.

Farm market shall mean a facility used for the wholesale or retail marketing of the agricultural output of a farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least fifty-one (51%) percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the farm, or at least fifty-one (51%) percent of the sales area shall be devoted to the sale of the agricultural output of the farm.

Nuisance shall mean any private action which unreasonably interferes with the comfortable enjoyment of another's property, which may be enjoined or abated and for which the injured or affected property owner may recover damages.

(Ord. No. 07-19 § 1)

54-31.2 Farms and Commercial Farms as Permitted Uses.

- a. Farms and commercial farms are hereby declared a permitted use in the following districts of this Township on properties containing a minimum of five (5) acres:

R-5AC Single-Family Detached Residential District

R-88 Single-Family Detached Residential District

R-40 Single-Family Detached Residential

- b. Permitted activities associated with farms and commercial farms include the following:

- 1. Agricultural activities as defined above;

2. The grazing of animals and use of range for fowl;
 3. Housing and employment of necessary farm laborers; and
 4. The raising and keeping of farm animals.
- (Ord. NO. 07-19 § 1)

54-31.4 Right to Farm.

- a. In accordance with the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., the right to farm is hereby recognized to exist on commercial farms in this Township. Nothing contained within this section shall be construed to affect the Farmland Assessment Act or the obligation of a farmer to obtain Township of Rockaway approvals, permits and certificates in connection with all agricultural uses, soil disturbances and construction. The right to farm includes, but not by way of limitation:
 1. All permitted activities and accessory activities for farm and commercial farm uses;
 2. Control of pests, including but not limited to insects and weds, predators and diseases of plants and animals;
 3. Conduction of agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm and permission of the farm owner and lessee is obtained;
 4. On-site disposal of organic agricultural wastes;
 5. Installation of wells, ponds and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation, subject to review and approval by the Township Board of Health.
- b. Commercial farm operators may engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Commercial farm operators must adhere to acceptable agricultural management practices that have been:
 1. Promulgated as rules by the State Agriculture Development Committee;

2. Recommended as site-specific agricultural management practices by the Morris County Agriculture Development Board (:MCADB”);
 3. Approved by the local soil conservation district in the form of a farm conservation plan that is prepared in conformance with the United States Department of Agriculture, Natural Resources Conservation Service Field Office Technical Guide, as amended and supplemented; or
 4. Recommended by the New Jersey Agricultural Experiment Station at Rutgers University.
- c. The foregoing agricultural activities must be in conformance with applicable Federal, State and local law.
 - d. In accordance with the Right to Farm Act, N.J.S.A. 4:1C-1, it is hereby determined that whatever nuisance may be caused to others by these forgoing uses and activities is more than offset by the benefits of farming to the neighborhood community and society in general. Where the right to engage in agricultural activities, as defined herein, is a permitted use in a zone, it shall presumed that such uses, activities and structures in connection therewith shall not constitute a public or private nuisance, provided that such agricultural uses are conducted in conformance with the acceptable agricultural management practices as defined herein.
 - e. Any person aggrieved by the operation of a commercial farm shall file a complaint with the MCADB prior to filing an action in court.
- (Ord. No. 07-19 § 1)

54-32---54-35 RESERVED.

54-36 OFFICIAL MAP.

54-36.1 Establishment.

Pursuant to Chapter 291 of the Laws of New Jersey, 1975, there is hereby established an Official Map for the Township which is titled “Official Map, Township of Rockaway, New Jersey” and dated November, 1995.
(Ord. No. 95-24 § 54-136)

54-36.2 Effect of Adoption.

The Official Map shall be deemed conclusive with respect to the location and width of streets and public drainageways and the location and extent of flood control basins and public areas, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence. Upon receiving an application for development, the Township may reserve for future public use the aforesaid streets, ways, basins and areas shown on the plat or site plan for a period of one (1) year after the approval of the final plat or site plan or within such further time as may be agreed to by the developer. Unless during such period or extension the Township shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this section shall not apply to streets and roads, flood control basins or public drainageways necessitated by the subdivision or land development and required for final approval.

(Ord. No. 95-24 § 54-137)

54-36.3 Issuance of Permits for Buildings or Structures. For the purpose of preserving the integrity of the Official Map of the Township, no permit shall be issued for any building or structure in the bed of any street or public drainageway, flood control basin or public area as shown on the Official Map or shown on a plat filed pursuant to this chapter before adoption of the Official Map, except as herein provided.

(Ord. No. 95-24 § 54-138)

54-36.4 Building Lot to Abut Street. No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. Such street shall have been duly placed on the Official Map or shall be an existing State, County or Township street or highway; a street shown upon a plat approved by the Planning Board; or a street or a plat duly filed in the office of the County Recording Officer prior to the passage of this chapter or any prior law which required prior approval of plats by the governing body or other authorized body. Before any such permit shall be issued, such street shall have been certified to be suitably improved, such street shall have been certified to be suitably improved to the satisfaction of the Township Council or such suitable improvement shall have been assured by means of a performance guarantee, in accordance with standards and specifications for road improvements approved by the Township Council, as adequate in respect to the public health, safety and general welfare of the special circumstances of the particular street.

(Ord. No. 95-24 § 54-139)

54-37 ENFORCEMENT; VIOLATIONS AND PENALTIES.

54-37.1 Enforcement.

- a. The Township of Rockaway shall enforce this chapter and may require directly or delegate the authority to require the issuance of specific permits, certificates or authorizations as a prerequisite to:
 1. The erection, construction, alteration, repair, remodeling, conversion, removal or destruction of any building or structure.
 2. The use or occupancy of any building, structure or land.
 3. The subdivision or re-subdivision of any land.
- b. *Duties of Zoning Officer.*
 1. It shall be the duty of the Zoning Officer to enforce Section 54-30 and pursuant to that duty to investigate any violation or alleged violation of this article coming to his attention, whether by complaint of third persons or from his own personal knowledge or observation. When any building or structure is erected, constructed, altered, repaired, converted or maintained or any building structure or land is used in violation of any provision of Section 54-30, it shall be the duty of the Zoning Officer to proceed with the enforcement of this section and the penalties provided for hereunder. He may also pursue such other statutory method or methods, heretofore or hereafter provided, as may be open to him.
 2. In the enforcement of Section 54-30, the Zoning Officer may apply to the Judge of the Municipal Court for a warrant to search and inspect the properties and premises upon which he has reason to believe any violation of this section has taken or is taking place, and upon probable cause shown, the Judge of the Municipal Court may issue such a warrant and the information obtained pursuant thereto shall be admissible as evidence in any court of competent jurisdiction for the purpose of proving any case brought for violation of this chapter.
- c. *Fines Over One Thousand Two Hundred Fifty (\$1,250.00) Dollars.* Pursuant to N.J.S.A. 40:49-5, in those cases where the Township imposes a fine in an amount greater than one thousand two hundred fifty (\$1,250.00) dollars upon an owner for violations of housing or zoning codes, the Township shall provide a 30-day

period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than one thousand two hundred fifty (\$1,250.00) dollars may be imposed if a court has not determined otherwise, or upon re-inspection of the property, it is determined that the abatement has not been substantially completed.

(Ord. No. 95-24 § 54-140; Ord. No. 07-28 § 1)

54-37.2 Violations and Penalties.

a. Violations and Penalties.

1. No building or structure shall be erected, constructed, altered, repaired, converted, maintained or used in violation of this Chapter. In addition to their right to institute an action seeking the imposition of the penalties set forth in subsection “b” hereof, the local authorities of the Township of Rockaway or any interested party, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Each and every day such violation continues after the expiration of an abatement notice or after initial construction, as the case may be, shall be deemed a separate and distinct violation.
2. Every owner or user of real property, which is developed, constructed, altered, repaired, converted, maintained or used pursuant to an approval of the Planning Board or Zoning Board of Adjustment or pursuant to a permit or permits issued under the authority of the Township Engineer, Construction Code Official, Construction Sub-code Official(s) or Zoning Officer, is required to develop, construct, alter, repair, convert, maintain or use such real property in strict compliance with all conditions of such approvals or permits including but not limited to strict compliance with all site plans, plot plans, blue prints, architectural drawings, schematics, renderings,

surveys, and the like which such owner, user, or other person acting under the authority of an owner or user submitted to the Township as part of an application for Board Approval and/or for the issuance of a permit and upon which the Township's issuance of such approvals and/or permits were predicated. Failure to comply with the provisions hereof shall constitute a violation of this Chapter. In addition to their right to institute an action seeking the imposition of the penalties set forth in subsection "b" hereof, the local authorities of the Township of Rockaway or any interested party may institute any appropriate action or proceedings to prevent any development, construction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Each and every day such violation continues after the expiration of an abatement notice or after initial construction, as the case may be, shall be deemed a separate and distinct violation.

b. Penalties. Any person who is found to be in violation of this Chapter, and any person who in any way or in any capacity assists in the commission of such violation shall be subject to a fine of not more than two thousand (\$2,000.00) dollars or to imprisonment for not more than ninety (90) days, or to both such fine and imprisonment for each violation. (Ord. No. O-13-96)

54-38---54-43 RESERVED.

54-44 SEVERABILITY; REPEALER; WHEN EFFECTIVE.

54-44.1 Severability.

In case any article, section or provisions of this chapter shall be held invalid in any court, the same shall not affect any other article, section or provision of this chapter, except so far as the article, section or portion so declared invalid shall not be severable from the remainder or any portion thereof.
(Ord. No. 95-24 § 54-142)

54-44.2 Pending Applications.

All applications for site plan or subdivision approval filed prior to the effective date of this chapter may be continued without the need for refiling.

However, all such pending application for minor subdivision approval and for site plan and major subdivision approval shall be granted preliminary or final approval, as the case may be, only if the requirements of this chapter are met, except for payment of fees, exclusive on inspection fees, required to be paid at the time of filing of any such application and except to the extent prohibited by law with respect to applications for final major subdivision approval of major subdivisions granted preliminary approval prior to the effective date of this chapter. The subdivision, zoning and related land use regulations of the Township in effect immediately prior to the effective of this chapter shall govern all such applications not controlled by the requirements of this chapter. (Ord. No. 95-24 § 54-144)

54-44.3 When Effective; Filing.

This chapter shall take effect in the manner provided by law. In accordance with the requirements of N.J.S. 40:55D-16, immediately upon final adoption of this chapter, the Township Clerk shall file a copy of this chapter with the County Planning Board. (Ord. No. 95-24 § 54-145)

54-45 FAIR SHARE HOUSING REQUIREMENTS.

54-45.1 Purpose.

This section sets forth regulations regarding low and moderate income housing units that are consistent with the provisions of N.J.A.C. 5:93 et seq. as effective on June 6, 1994. These rules are pursuant to the Fair Housing Act of 1985 and Rockaway's constitutional obligation to provide for its fair share of low and moderate income housing. (Ord. No. 97-14 § 1)

54-45.2 Low and Moderate Income Units.

Rockaway's new construction or inclusionary component will be divided equally between low and moderate income households as per N.J.A.C. 5:93-2.20. (Ord. No. 97-14 § 1)

54-45.3 Affordability Distribution.

Except for inclusionary developments constructed pursuant to low income tax credit regulations:

a. At least half (1/2) of all units within inclusionary development will be affordable to low income households; and

b. At least half (1/2) of all rental units will be affordable to low income households; and

c. At least one-third (1/3) of all units in each bedroom distribution pursuant to N.J.A.C. 5:93-7.3 will be affordable to low income households.

(Ord. No. 97-14 § 1)

54-45.4 Bedroom Split.

Inclusionary developments that are not restricted to senior citizens will be structured in conjunction with realistic market demands so that:

a. The combination of efficiency and one (1) bedroom units is at least ten (10%) percent and no greater than twenty (20%) percent of the total low and moderate income units; and

b. At least thirty (30%) percent of all low and moderate income units are two (2) bedroom units; and

c. At least twenty (20%) percent of all low and moderate income units are three (3) bedroom units; and

d. Low and moderate income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of senior citizen low and moderate income units within the inclusionary development.

(Ord. No 97-14 § 1)

54-45.5 Maximum Rents and Sales Prices. In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:

a. Efficiency units will be affordable to one (1) person households; and

b. One-half (1/2) of all one (1) bedroom units will be affordable to one (1) person households and one-half (1/2) of all one (1) bedroom units will be affordable to two (2) person households; and

c. One-half (1/2) of all two (2) bedroom units will be affordable to two (2) person households and one-half (1/2) of all two (2) bedroom units will be affordable to three (3) person households; and

d. One-half (1/2) of all three (3) bedroom units will be affordable to four (4) person households and one-half (1/2) of all three (3) bedroom units will be affordable to five (5) person households; and

e. Median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD as per N.J.A.C. 5:93-7.4(b); and

f. The maximum average rent and price of low and moderate income units within each inclusionary development will be affordable to households earning fifty-seven and one-half (57.5%) percent of median income; and

g. Moderate income sales units will be available for at least three (3) different prices and low income units will be available for at least two (2) different prices; and

h. For both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an inclusionary development; and

i. Low income units will be reserved for households with a gross household income less than or equal to fifty (50%) percent of the median income approved by COAH; moderate income units will be reserved for households with a gross household income less than eighty (80%) percent of the median income approved by COAH as per N.J.A.C. 5:93-9.16; and

j. The regulations outlined in N.J.A.C. 5:93-9.15 and 9.16 will be applicable for purchased and rental units.
(Ord. No. 97-14 § 1)

54-45.6 Rental Units. For rental units, developers and/or municipal sponsors may:

a. Establish one (1) rent for a low income unit and one (1) for a moderate income unit for each bedroom distribution; and

b. Gross rents, including an allowance for utilities, will be established so as not to exceed thirty (30%) percent of the gross monthly income of the appropriate household size as per N.J.A.C. 5:93-7.4(a). The utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey.
(Ord. No. 97-14 § 1)

54-45.7 Sales Units. For sale units:

a. The initial of a low and moderate income owner-occupied single family housing unit will be established so that after a down payment of five (5%) percent, the monthly principal, interest, homeowner's insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee do not exceed twenty-eight (28%) percent of the eligible gross monthly income; and

b. Master deeds of inclusionary developments will regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers at one-third (1/3) of that paid by market purchasers. This one-third (1/3) of percentage is consistent with the requirement of N.J.A.C. 5:93-7.4(e). Once established within the master deed, the percentage will not be amended without prior approval from COAH; and

c. The Township of Rockaway will follow the general provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or reoccupancy on sale units as per N.J.A.C. 5:93-9.3; and

d. Rockaway will require a certificate of reoccupancy for any occupancy of a low or moderate income sales unit resulting from a resale as per N.J.A.C. 5:93-0.3(c); and

e. Municipal, State, nonprofit and seller options regarding sale units will be consistent with N.J.A.C. 5:93-9.5-9.8. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:93-9.9; and

f. The continue application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:93-9.10; and

g. Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11; and

h. The regulations detailed in N.J.A.C. 5:93-9.12-9.14 will be applicable to low and moderate income units that are for sale units. (Ord. No. 97-14 § 1)

54-45.8 Phasing. In zoning for inclusionary developments the following is required:

a. Low/moderate income units will be built in accordance with N.J.A.C. 5:93-5.6(d):

Minimum % of Low/Moderate	% of Market Housing Units
---------------------------	---------------------------

<i>Income Units Completed</i>	<i>Completed</i>
0	25
10	25 + 1 unit
50	50
75	75
90	100

b. A design of inclusionary developments that integrates low and moderate income units with market units is encouraged as per N.J.A.C. 5:93-5.6(e).
(Ord. No. 97-14 § 1)

54-45.9 Affordability Controls-Newly Constructed Units.

To provide assurances that low and moderate income units are created with controls on affordability over time and that low and moderate income households occupy these units, Rockaway will designate an administrative agency or municipal authority with the responsibility of ensuring that affordability of sales and rental units over time. The administrative agency or municipal authority will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

a. In addition, the administrative or municipal authority will be responsible for utilizing the verification and certification procedures outlined in N.J. A. C. 5:93-9.1(b) in placing households in low and moderate income units; and

b. Newly constructed low and moderate income sales units will remain affordable to low and moderate income households for at least thirty (30) years. The administrative or municipal authority will require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred to as Appendix E as found in N.J.A.C. 5:93; and

c. Housing units created through the conversion of a nonresidential structure will be considered a new housing unit and will be subject to thirty (30) year controls on affordability. The administrative agency or municipal authority will require an appropriate deed restriction and mortgage lien subject to COAH’s approval.

d. Costs and expenses arising out of the implementation of activities provided under this chapter and N.J.A.C. 5:93-9 whether performed by the municipality or an administrative agency shall be the sole responsibility of the individual developer(s) constructing units governed by this chapter.
(Ord. No. 97-14 § 1; Ord. No. 00-25 § 1)

54-45.10 Affordability Controls-Rehabilitated Units. Regarding rehabilitated units:

a. Rehabilitated owner-occupied single family housing units that are improved to code standard will be subject to affordability controls for at least six (6) years; and

b. Rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least ten (10) years.
(Ord. No. 97-14 § 1)

54-45.11 Affordability Controls-Newly Constructed Rental Units. Regarding rental units:

a. Newly constructed low and moderate income rental units will remain affordable to low and moderate income households for at least thirty (30) years. The administrative agency or municipal authority will require an appropriate deed restriction and mortgage lien subject to COAH's approval;

b. Affordability controls in accessory apartments will be for a period of at least ten(10) years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for thirty (30) years; and

c. Alternative living arrangements will be controlled in a manner suitable to COAH, that provides assurance that such a facility will house low and moderate income households for at least ten (10) years except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for thirty (30) years.
(Ord. No. 97-14 § 1)

54-45.12 Cost Generative Standards. Section 14(b) of the Fair Housing Act N.J.S.A. 52:27D-301 et seq. incorporates the need to eliminate unnecessary cost generating features from Rockaway's land use ordinances. Accordingly, Rockaway will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/denials on inclusionary development applications. The Township will adhere to the components of N.J.A.C. 5:93-10.1-10.3.
(Ord. No. 97-14 § 1)

54-56 AFFIRMATIVE MARKETING OF AFFORDABLE HOUSING UNITS.

The Township of Rockaway has a fair share obligation of four hundred twelve (412) units of which two hundred ten (210) is new construction. This section will apply to all developments that contain proposed low and moderate income units that are listed herein and any future developments that may occur including Highlands at Morris, all inclusionary sites and accessory apartments. (Ord. No. 97-14 § 3)

54-46.1 Affirmative Marketing Plan.

The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by a developer/sponsor, municipality and/or designated administrative agency of affordable housing. The Plan will address the requirements of N.J.A.C. 5:93-11. In addition, the Plan prohibits discrimination in the sale, rental, financing, or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. The Township of Rockaway is in the housing region consisting of Morris, Warren, Essex and Unit Counties. The Affirmative Marketing Program is a continuing program and will meet the following requirements.

54-46.2 Newspapers.

a. All newspaper articles, announcement and requests for application for low and moderate income units will appear in the following regional newspapers/publications: Star Ledger and Daily Record.

b. The primary marketing will take the form of at least one (1) press release sent to the above publications and a paid display advertisement to each of the above newspapers. Additional advertising and publicity will be on an "as needed" basis.

c. The advertisement will include a description of the street address of the units, direction to the units, number of bedrooms/unit, range of prices/rents, size of units, income information, and location of applications including business hours and where/how applications may be obtained.

d. All newspaper articles, announcement and requests for applications for low and moderate income housing will appear in neighborhood oriented papers (ex. Citizen of Morris County, Neighbor News), religious publications and organizational newsletters within the region. (Ord. No. 97-14 § 3)

54-56.3 Brochures and Posters. The following is the location of brochures, signs and/or posters used as part of the Affirmative Marketing Program including specific employment centers within the region: Rockaway

Township Administrative Building, Rockaway Township Library, developer's sales office, major employers in region.
(Ord. NO. 97-13 § 3)

54-46.4 Community Contacts and Organizations. The following is a listing of community contact persons and/or organizations in Rockaway Township and Morris County that will aid in the Affirmative Marketing Program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: Land Use Administrator, County Housing Office, and houses of worship.
(Ord. No. 97-14 § 3)

54-46.5 Agencies. Quarterly fliers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Morris, Warren, Essex and Union Counties; welfare or social service board, rental assistance office, office on aging, and housing agency or authority in each of the counties within Rockaway's housing region.
(Ord. No. 97-14 § 3)

54-46.6 Applications. Applications will be mailed to prospective applicants upon request.
(Ord. No. 97-14 § 3)

54-46.7 Random Selection Method. A random selection method will be used to select occupants of low and moderate income housing.
(Ord. No. 97-14 § 3)

54-46.8 Administration. The administration of the Affirmative Marketing Program shall be done by the municipality and/or the designated administrative agency of affordable housing. The administration hereunder shall address the requirements of N.J.A.C. 5:93-11. Costs and expenses arising out of the implementation of activities provided under this section and N.J.A.C. 5:93-11 whether performed by the municipality or an administrative agency shall be the sole responsibility of the individual developer(s) constructing units governed by this section. The municipality and/or the designated administrative agency has the responsibility to income qualify lower income households, to place income eligible households in lower income units upon initial occupancy, to provide for the initial occupancy of lower income units with income qualified households, to continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls, to assist with the advertising and outreach to lower income households, to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:93-9.1.
(Ord. No. 97-14 § 3; Ord. No. 00-25 § 2)

54-46.9 Regional Preference. Households who live or work in the COAH-established housing region may be given preference for sales and rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced. The township intends to comply with N.J.A.C. 5:93-11.7.
(Ord. No. 97-14 § 3)

54-46.10 Developer Assistance. All developers of lower income housing will be required to assist in the marketing of the affordable units in their respective developments.
(Ord. No. 97-14 § 3)

54-46.11 Commencement of Affirmative Marketing Program. The marketing program will commence at least one hundred twenty (120) days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all lower income units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units to be necessary.
(Ord. No. 97-14 § 3)

54-46.12 Monitoring. The Township will comply with monitoring and reporting requirements as per N.J.A.C. 5:93-11.6 and 12.1. The Township, in its discretion, shall delegate the monitoring and reporting tasks set forth hereunder to a person or persons and/or department of its choice. Length of service hereunder shall be at the discretion of the Township Council.
(Ord. No. 97-14 § 3; Ord. No. 00-25 § 3)

54-47 MUNICIPAL HOUSING LIAISON.

54-47.1 Purpose.

The purpose of this section is to create the administrative mechanisms needed for the execution of the Township of Rockaway's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.
(Ord. No. 06-33 § 1)

54-47.2 Definitions.

As used in this section, the following terms shall have the meanings indicated:

Administrative Agent shall mean the entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Township of Rockaway to ensure that the restricted units under

administration are affirmatively marketed and sold or rented, as applicable, only to low and moderate income households.

Municipal Housing Liaison shall mean the employee charged by the Governing Body with the responsibility for oversight and administration of the affordable housing program for the Township of Rockaway.
(Ord. No. 06-33 § 1)

54-47.3 Establishment of Municipal Housing Liaison Position and Compensation; Powers and Duties.

a. *Establishment of Position of Municipal Housing Liaison.* There is hereby established the position of Municipal Housing Liaison for the Township of Rockaway.

b. Subject to the approval of COAH, the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part-time municipal employee.

c. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Rockaway, including the following responsibilities which may not be contracted out:

1. Serving as the Township of Rockaway's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interest households.

2. Monitoring the status of all restricted units in the Township of Rockaway's Fair Share Plan.

3. Compiling, verifying, and submitting annual reports as required by COAH;

4. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;

5. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;

6. If applicable, serving as the Administrative Agent for some or all of the restricted units in the Township of Rockaway as described in paragraph f. below.

d. Subject to approval by COAH, the Township of Rockaway may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, to assume the responsibility of administering the affordable housing program of the Township of Rockaway. If the Township of Rockaway contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.

e. Compensation for the position of Municipal Housing Liaison shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison or in the salary ordinance of the Township of Rockaway.

f. The following administrative powers and duties are hereby assigned to the Municipal Housing Liaison unless directed to others by the Township Administrator or unless a contract with others has been executed by the Township of Rockaway to perform such service.

1. Affirmative Marketing.

(a) Conducting an outreach process to ensure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Rockaway and the provisions of N.J.A.C. 5:80-26.15; and

(b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, a rental lease requirements, and landlord/tenant law.

2. Household Certification.

(a) Soliciting, scheduling, conducting and following up on interviews with interested households;

(b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low or moderate income unit;

(c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

(d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of

either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq., as may be amended and supplemented;

(e) Employing the random selection process as provided in the Affirmative Marketing Plan of the Township of Rockaway when referring households for certification to affordable units.

3. Affordability Controls.

(a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

(b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

(c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate County's Register of Deeds or County Clerk's Office after the termination of the affordability controls for each restricted unit;

(d) Communicating with lenders regarding foreclosures; and

(e) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resale and Rental.

(a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and

(b) Instituting and maintain an effective means of communicating information to low and moderate income households regarding the availability of restricted units for resale or re-rental.

5. Processing Request from Unit Owners.

(a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;

(b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital

improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air-conditioning systems; and

(c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement.

(a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;

(b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

(c) Posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;

(d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(D)4;

(e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;

(f) Establishing a rent-to-equity program;

(g) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and

(h) Providing annual reports to COAH as required.

7. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

(Ord. No. 06-33 § 1)

