



CLARK CODE

<p>§ 195-48.</p>	<p><b>Protests against proposed amendment.</b></p>	<p>ARTICLE XI <b>Major Subdivisions</b></p>
	<p>ARTICLE VI <b>Miscellaneous Provisions</b></p>	<p>§ 195-63. <b>Preliminary approval.</b> § 195-64. <b>Final approval.</b></p>
<p>§ 195-49. § 195-50.</p>	<p><b>Public records.</b> <b>Construal of zoning provisions.</b></p>	<p>ARTICLE XIA <b>Minor Site Plans</b></p>
	<p>ARTICLE VII <b>Development Fees</b></p>	<p>§ 195-64.1. <b>Purpose.</b> § 195-64.2. <b>Definitions.</b> § 195-64.3. <b>Waiver of formal notice and public hearing requirements.</b></p>
<p>§ 195-51.</p>	<p><b>Fees established.</b></p>	<p>§ 195-64.4. <b>Application.</b> § 195-64.5. <b>Review of application.</b> § 195-64.6. <b>Additional requirements.</b> § 195-64.7. <b>Decision by Board.</b> § 195-64.8. <b>Final approval.</b></p>
	<p><b>Part 2</b> <b>Subdivision and Site Plan Review</b></p>	
	<p>ARTICLE VIII <b>General Provisions</b></p>	
<p>§ 195-52. § 195-53. § 195-54.</p>	<p><b>Short title.</b> <b>Purpose.</b> <b>Definitions.</b></p>	<p>ARTICLE XII <b>Performance Guarantees</b></p>
	<p>ARTICLE IX <b>Administrative Procedures</b></p>	<p>§ 195-65. <b>Guarantees required.</b> § 195-66. <b>Partial release.</b> § 195-67. <b>(Reserved)</b></p>
<p>§ 195-55. § 195-56.</p>	<p><b>Zoning permits.</b> <b>Development Review Committee.</b></p>	<p>ARTICLE XIII <b>Subdivision Plat Details</b></p>
<p>§ 195-57. § 195-58.</p>	<p><b>Administration.</b> <b>Transfer of land prior to final approval.</b></p>	<p>§ 195-68. <b>Minor subdivisions.</b> § 195-69. <b>Preliminary plat for major subdivisions.</b> § 195-70. <b>Final plat for major subdivisions.</b></p>
	<p>ARTICLE X <b>Minor Subdivisions</b></p>	
<p>§ 195-59. § 195-60. § 195-61.</p>	<p><b>Application; fee.</b> <b>Classification; approval.</b> <b>Filing of plat; expiration of approval.</b></p>	<p>ARTICLE XIV <b>Site Plans</b></p>
<p>§ 195-62.</p>	<p><b>Change of conditions of approval.</b></p>	<p>§ 195-71. <b>Applicability.</b> § 195-72. <b>Administration.</b> § 195-73. <b>Submission of preliminary site plan.</b> § 195-74. <b>Approval of preliminary site plan.</b> § 195-75. <b>Approval by county.</b></p>

LAND USE AND DEVELOPMENT

§ 195-76.	Changes to preliminary site plan; duration of approval; extensions.	§ 195-96.	Site plan violations.
§ 195-77.	Submission of final site plan.	§ 195-97.	Other violations; violations and penalties.
§ 195-78.	Changes to final site plan; duration of approval; extensions.	ARTICLE XIX Affordable Housing Development Fees	
§ 195-79.	Plan details.	§ 195-98.	Purpose.
§ 195-80.	Review criteria.	§ 195-99.	Basic requirements.
§ 195-81.	Inspection and completion of improvements.	§ 195-100.	Definitions.
	ARTICLE XV Improvements	§ 195-101.	Residential development fees.
§ 195-82.	Improvement standards.	§ 195-102.	Nonresidential development fees.
§ 195-83.	Inspections; costs.	§ 195-103.	Collection procedures.
§ 195-84.	Completion of required improvements; performance guarantee; maintenance bond.	§ 195-104.	Appeal of development fees.
§ 195-85.	Off-tract improvements.	§ 195-105.	Affordable Housing Trust Fund.
	ARTICLE XVI Design Standards	§ 195-106.	Use of funds.
§ 195-86.	General standards.	§ 195-107.	Monitoring.
§ 195-87.	Streets.	§ 195-107.1.	Ongoing collection of fees.
§ 195-88.	Blocks.	Part 3 Zoning	
§ 195-89.	Lots.	ARTICLE XX General Provisions	
§ 195-90.	Public use and service areas.	§ 195-108.	Short title.
§ 195-91.	Buildings.	§ 195-109.	Purpose.
	ARTICLE XVII Recycling Areas in Multifamily Housing Developments	§ 195-110.	Conformance to regulations required.
§ 195-92.	Definitions.	§ 195-111.	Definitions.
§ 195-93.	Recycling area required; dimensional standards.	ARTICLE XXI Establishment of Districts	
§ 195-94.	Location; lighting; signs; landscaping and fencing.	§ 195-112.	Designation of zoning districts.
	ARTICLE XVIII Violations and Penalties	§ 195-113.	Zoning Map.
§ 195-95.	Subdivision violations.	§ 195-114.	District boundaries.
		ARTICLE XXII General Regulations, Exceptions and Modifications	
		§ 195-115.	Compliance required.

## CLARK CODE

§ 195-116.	Use regulations; prohibited uses.	§ 195-135.	CG General Commercial District.
§ 195-116.1.	Cannabis establishments, cultivators, manufacturers, wholesalers, retailers, distributors, and delivery services prohibited.	§ 195-136.	(Reserved)
§ 195-117.	Height regulations.	§ 195-136.1.	CI Commercial Industrial District.
§ 195-118.	Area and yard provisions.	§ 195-136.2.	LCI Limited Commercial Industrial District.
§ 195-119.	Vision clearance at intersections.	§ 195-137.	(Reserved)
§ 195-120.	Fences and walls.	§ 195-137.1.	COR Corporate Office Research Overlay District.
§ 195-121.	Essential services exemption.	§ 195-138.	P Public District.
§ 195-122.	Performance standards.	§ 195-139.	O Conservation District.
§ 195-123.	Aboveground outside storage tanks.	§ 195-140.	GC Golf Course District.
§ 195-123.1.	Front yard setback for flagpoles.	§ 195-140.1.	R-TH Residential Townhouse District.
§ 195-123.2.	Requirements for residential accessory uses and structures.	§ 195-140.2.	R-B-16 Multiple-Family Residential District.
		§ 195-140.3.	R-B-20 Multiple-Family Residential District.

ARTICLE XXIII  
District Regulations

§ 195-124.	R-150 One-Family Detached Residential District.
§ 195-125.	R-100 One-Family Detached Residential District.
§ 195-126.	R-75 One-Family Detached Residential District.
§ 195-127.	R-60 One-Family Detached Residential District.
§ 195-128.	R-A Multiple-Family Apartment Residential District.
§ 195-129.	R-B Multiple-Family Residential District.
§ 195-130.	R-SH Age-Restricted/Senior Housing Overlay District.
§ 195-131.	DTV Downtown Village District.
§ 195-132.	CO Commercial Office District.
§ 195-133.	CN Neighborhood Service Commercial District.
§ 195-134.	COH Commercial Office, Multistory District.

ARTICLE XXIV  
Off-Street Parking and Loading

§ 195-141.	General provisions.
§ 195-142.	Off-street parking schedule.
§ 195-143.	Electric vehicle supply/service equipment.
§ 195-144.	Off-street loading.
§ 195-145.	Screening requirements.
§ 195-146.	Street access regulations.
§ 195-147.	Waiver or modification of requirements.
§ 195-148.	Site plan review by Planning Board.

ARTICLE XXV  
Signs

§ 195-149.	Purpose; intent; compliance required.
§ 195-150.	Permit requirements.
§ 195-151.	Unsafe signs.
§ 195-152.	Existing signs.
§ 195-153.	Illumination of signs.
§ 195-154.	Temporary signs.

LAND USE AND DEVELOPMENT

§ 195-155.	Determination of sign area.		ARTICLE XXVIII
§ 195-156.	Setback and height requirements.		Conditional Uses
§ 195-157.	Exempted signs.	§ 195-176.	Authority.
§ 195-158.	Obstruction prohibited.	§ 195-177.	Criteria for approval.
§ 195-159.	Number of signs permitted.	§ 195-178.	Conditions of approval.
§ 195-160.	Permitted signs.	§ 195-179.	Conditional uses.
§ 195-160.1.	Banners.		
§ 195-160.2.	Prohibited signs.		
§ 195-161.	Fees.		

**Part 4  
Design Standards and Improvement  
Specifications**

ARTICLE XXVI  
**Wireless Telecommunications Facilities**

§ 195-162.	Purpose, goals and general conditions.
§ 195-162.1.	Definitions.
§ 195-163.	Applicability.
§ 195-164.	General guidelines and requirements.
§ 195-165.	Approval process.
§ 195-166.	Relief from requirements of Zoning Ordinance (variance).
§ 195-167.	Removal of abandoned antennas and towers.
§ 195-168.	(Reserved)
§ 195-168.1.	Co-location onto existing towers and base stations.

ARTICLE XXVII  
**Nonconforming Uses**

§ 195-169.	Continuance.
§ 195-170.	Extension or enlargement.
§ 195-171.	Alteration.
§ 195-172.	Abandonment.
§ 195-173.	Exceptions.
§ 195-174.	Effect of amendments; certificate of nonconformity.
§ 195-175.	Variances exceeding maximum impervious cover.

ARTICLE XXIX  
**Standards and Specifications**

§ 195-180.	General improvement standards.
§ 195-181.	General design standards.
§ 195-182.	Building site design standards.
§ 195-183.	Blocks.
§ 195-184.	Bulk storage.
§ 195-185.	Clearing and grading.
§ 195-186.	Concrete requirements.
§ 195-187.	Curbs and gutters.
§ 195-188.	Easements.
§ 195-189.	Fire hydrants.
§ 195-190.	Garages.
§ 195-191.	Guardrails.
§ 195-192.	Lighting.
§ 195-193.	Lots.
§ 195-194.	Monuments and iron stakes.
§ 195-195.	Public open space and common open space.
§ 195-196.	Recreation areas.
§ 195-197.	Residential units.
§ 195-198.	Roadway construction.
§ 195-199.	Sewage disposal.
§ 195-200.	Sidewalks and aprons.
§ 195-201.	Soil erosion and sediment control.
§ 195-202.	Solid waste storage.
§ 195-203.	Storm drainage facilities.
§ 195-204.	Storm drainage calculation criteria.

CLARK CODE

§ 195-205.	Street design and construction.	§ 195-209.	Street trees.
§ 195-206.	Subdivisions abutting public rights-of-way.	§ 195-210.	Swimming pools.
§ 195-207.	Streetlighting.	§ 195-211.	Traffic control devices.
§ 195-208.	Street signs.	§ 195-212.	Utilities.
		§ 195-213.	Water supply.

**[HISTORY: Derived from Chapters XXX, XXXI, XXXII, XXXIII and XXXIV of the 2002 Revised General Ordinances, adopted by the Township Council of the Township of Clark 12-16-2002 by Ord. No. 02-27; amended in its entirety \_\_\_\_\_. Subsequent amendments noted where applicable.]**

**Part 1**  
**Administrative Procedures**

**ARTICLE I**  
**Planning Board**

**§ 195-1. Establishment; members.**

There is hereby established in the Township, pursuant to N.J.S.A. 40:55D-1 et seq., a Planning Board of nine members and four alternate members, consisting of the following classes:

**A. Regular members.**

- (1) Class I: the Mayor of the Township or the Mayor's designee in the absence of the Mayor.
- (2) Class II: one of the officials of the Township, other than a member of the Township Council, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.
- (3) Class III: a member of the Township Council, to be appointed by it.
- (4) Class IV: six other citizens of the Township to be appointed by the Mayor. The members of Class IV shall hold no other Township office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be a Class IV Planning Board member unless there be among the Class IV members of the Planning Board a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be a Class II member of the Planning Board.

**B. Alternate members,**

- (1) Four alternate members shall be appointed to the Planning Board by the Township Council. They shall meet all qualifications of Class IV members. At the time of their appointment, they shall be designated as "Alternate No. 1," "Alternate No. 2," "Alternate 3" and "Alternate 4."
- (2) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote, followed by Alternate 2, then Alternate 3 and Alternate 4.

**§ 195-2. Terms.**

**A. Regular members,**

- (1) The term of the Class I member shall correspond with his/her official tenure, or if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the Class II and Class III members

shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member, who shall also be a member of the Environmental Commission. The term of a Class II or Class IV member who shall also be a member of the Environmental Commission shall be for three years or terminate at the completion of his/her term of office as a member of the Environmental Commission, whichever occurs first.

- (2) The term of a Class IV member who shall also be a member of the Zoning Board of Adjustment or the Board of Education shall terminate whenever he/she is no longer a member of such other body or at the completion of his/her Class IV term, whichever occurs first.
- (3) The terms of all Class IV members shall be for four years, except as otherwise hereinabove provided.
- (4) All terms shall run from January 1 of the year in which the appointment is made. Any member other than a Class I member, after a public hearing if he/she requests one, may be removed by the Township Council for cause.

B. Alternate members. The terms of the alternate members shall be for two years, except that the terms of the alternate members shall expire in alternate years.

### **§ 195-3. Vacancies.**

If a vacancy in any class occurs other than by expiration of term, it shall be filled by appointment, as above provided, for the unexpired term.

### **§ 195-4. Organization.**

The Planning Board shall select a Chairperson and a Vice Chairperson from the members of Class IV and shall also select a Secretary and an Assistant Secretary, who may be either a member of the Planning Board or a Township employee.

### **§ 195-5. Attorney.**

The Planning Board may annually appoint and, subject to the appropriation of funds, fix the compensation or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Township Attorney.

### **§ 195-6. Experts and staff.**

The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board, however, shall not exceed, exclusive of gifts or grants, the amount appropriated by the Township Council for its use.

### **§ 195-7. Powers and duties.**

The Planning Board is authorized to adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of Chapter 195, Land Use and Development. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq., shall apply. The Planning Board shall also have the following powers and duties:

A. To make and adopt, and from time to time amend, a Master Plan for the physical development of the



Township, including a specific policy statement with respect to its relationship to any areas outside its boundaries which, in the Board's judgment, bear essentially upon the planning of the Township, reworded to provide for a policy statement rather than regulation, in accordance with the provisions of N.J.S.A. 40:55D-28.

- B. To administer the provisions of the Land Use and Development Ordinance of the Township in accordance with the provisions of such ordinances and the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1 et seq.
- C. To approve conditional use applications in accordance with the provisions of Part 3, Zoning, pursuant to N.J.S.A. 40:55D-67.
- D. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- E. To assemble data on a continuing basis as part of a continuous planning process.
- F. To annually prepare a program of Township capital improvement projects projected over a term of six years, and amendments thereto, and to recommend same to the Township Council. The operating departments of the Township and the respective Boards of Education are to be requested by letter to indicate their requirements.
- G. To establish the Official Map, pursuant to an ordinance of the Township Council, and recommend amendments to the same, pursuant to N.J.S.A. 40:55D-32 and 40:55D-33.
- H. To consider and report to the Township Council within 35 days of referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26.a, and also pass upon other matters specifically referred to the Planning Board by the Township Council, pursuant to the provisions of N.J.S.A. 40:55D-26.b.
- I. Applicability to Planning Board or Zoning Board of Adjustment. All references hereinafter to the Planning Board with regard to subdivision or site plan review shall apply to the Zoning Board of Adjustment when jurisdiction of the development plan review rests with the Zoning Board of Adjustment.
- J. When reviewing applications for approval of a subdivision, site plan or conditional use, to grant to the same extent and subject to the same restrictions as the Board of Adjustment:
  - (1) Variances, pursuant to N.J.S.A. 40:55D-70c, from lot area, lot dimensional setback, and yard requirements, provided that such relief from lot area requirements shall not be granted for more than one lot.
  - (2) Direction, pursuant to N.J.S.A. 40:55D-34, for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood-control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
  - (3) Direction, pursuant to N.J.S.A. 40:55D-36, for issuance of a permit for a building or structure not relating to a street.
  - (4) Whenever relief is requested, pursuant to the provisions of this subsection, notice of a hearing on the application for development shall include reference to the request for variance or direction for issuance of a permit, as the case may be.
- K. To perform other advisory duties as may be assigned to it by ordinance or resolution of the Township

Council for the aid and assistance of the Council or other agencies or officers.

- L. To report on amendments to Part 3, Zoning, pursuant to N.J.S.A. 40:55D-64.
- M. To hear, recommend and report to the Township Council any request for rezoning as described in § 195-45, Procedural requirements.

**§ 195-8. Time provisions.**

- A. Minor subdivision. Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Planning Board, or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire 190 days from the date of Planning Board approval unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law, N.J.S.A. 46:26B-1 et seq., 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 shall be signed by the Chairperson and Secretary of the Planning Board before it is accepted for filing by the County Recording Officer.
- B. Preliminary approval, major subdivisions. Upon submission of a complete application for a subdivision of 10 or fewer lots, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission, or within such further time as may be consented to by the developer. Upon submission of a complete application for a subdivision of more than 10 lots, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission, or within such further time as may be consented to by the developer.
- C. Ancillary powers. Whenever the Planning Board is called upon to exercise its ancillary powers before the granting of a variance, as set forth in § 195-7J, the Planning Board shall grant or deny approval of the application within 95 days after submission by a developer of a complete application to the administrative officer, or within such further time as may be consented to by the applicant.
- D. Final approval, major subdivisions. Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application, or within such further time as may be consented to by the applicant. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat, unless within such period the plat has been duly filed by the developer with the County Recording Officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days.
- E. Site plan approval.
  - (1) Minor site plan approval shall be granted or denied within 45 days of the date of the submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Minor site plan approval shall be deemed to be final approval of the site plan by the Planning Board, subject to any conditions that the Board may impose.
  - (2) Upon submission of a complete application for preliminary approval for a major site plan for 10 acres or less, and 10 dwelling units or less, the Planning Board shall grant or deny preliminary approval within 45 days of the date of submission, or within such further time as may be consented to by the applicant. Upon submission of a complete application for preliminary approval for a major site plan for more than 10 acres, or more than 10 dwelling units, the Planning Board shall grant or deny preliminary approval within 95 days of submission, or within such further time as may be consented to by the applicant. Following preliminary approval, final

approval of a major site plan shall be granted or denied within 45 days of submission of a complete application for final approval.

- F. Failure of Planning Board to act. Failure of the Planning Board to act within the period set forth in Subsections A through E above, whichever is appropriate, shall constitute the approval applied for, and a certificate by the administrative officer as to the failure of the Planning Board to act shall be issued upon request of the applicant. Such certificate shall be sufficient evidence of approval in lieu of written endorsement or other evidence of approval.
- G. Completeness of application.
- (1) An application for development shall be complete for purposes of commencing the applicable time period for action by the Planning Board when so certified by the Planning Board or its authorized designee. In the event that the Planning Board or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five-day period for purposes of commencing the applicable time period, unless:
    - (a) The application lacks information required by the specific land development regulations for the particular type of application, which list of requirements shall be provided to the applicant; and
    - (b) The Planning Board or its designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.
  - (2) The applicant may request that one or more of the submission requirements be waived, in which event the Planning Board shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he/she is entitled to approval of the application. The Planning Board may subsequently require correction of any information found to be in error and submission of additional information not specified in this Part 1 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 for development 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 Planning Board.

#### **§ 195-9. Development Review Committee.**

A Development Review Committee (see § 195-56) has been established to review all applications, except for one- and two-family homes, for development or requests for review presented to the Planning Board or the Zoning Board of Adjustment to assist both Boards and the citizens of the Township by facilitating the approval process and increasing efficiencies. Minor site plan and subdivision applications may be excluded at the discretion of administrative officer.

#### **§ 195-10. Applications; procedure for filing; rezoning.**

- A. Applications for development within the jurisdiction of the Planning Board shall be filed with the Secretary of the Planning Board. At the time of filing the application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provisions of this Part 1 or any rule of the Planning Board. The applicant shall obtain the Township of Clark Land Development Application from the Secretary of the Planning Board or download the document from the Township website at [www.ourclark.com](http://www.ourclark.com). The Secretary

of the Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

B. Applications for rezoning.

- (1) Application authorized. The owner of any real property in the Township of Clark may submit an application to the Planning Board of the Township of Clark for the rezoning of its real property. A "developer," as that term is used in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., may submit an application for rezoning, provided that such application is submitted with the written consent of the owner of the affected property.
- (2) Required submissions. Each application for rezoning shall include all required fees and escrows and 24 copies of the following:
  - (a) A fully completed application for rezoning.
  - (b) A map of the entire tract depicting, at minimum, all of the information required by § 195-79, Plan details.
  - (c) A concept plan, depicting the nature, features and proposed use of the property as rezoned.
  - (d) A specific proposal for rezoning, which may be either that the tract in question be rezoned to a specific existing zoning district or that a new zoning district be created. If a new zoning district is to be created, applicant shall submit a specific, detailed proposal for said zoning district which shall include permitted uses, conditional uses, if any, and all required bulk conditions, including lot size and area, setbacks, height requirements, open space requirements, building coverage requirements, parking requirements and the like.
- (3) Certification of complete application. The procedure set forth in § 195-36, Completeness of application; checklist, with respect to an application for development shall be utilized for the purpose of certifying an application to be complete.
- (4) Distribution. When an application shall be deemed complete, the Zoning Officer shall distribute 14 of the 24 copies of the application to the Board and appropriate professionals, and the remaining 10 copies shall be distributed to the Planning Board Secretary.
- (5) Hearing procedure. The Planning Board shall hold a hearing on each application for rezoning which complies with the procedures set forth in § 195-29, Public hearings. The hearing shall be held within 90 days of the certification of a complete application.
- (6) Proofs, findings and report. After hearing the application, the Planning Board shall determine whether any action other than rezoning will properly protect the interest of the community of the municipality. The Planning Board shall review the application in light of the existing Master Plan, the conditions existing within the community and the expertise of the Planning Board in matters of land development to determine whether the applicant's proposal should be favorably recommended to the Township Council. The Planning Board shall make specific detailed findings of fact and conclusions of law concerning the applicant's proposal as it relates to the review standards set forth below. It shall be the applicant's burden of proof to present sufficient credible evidence to the Planning Board for the Board to make appropriate findings, conclusions and recommendations.
- (7) Decision. The Planning Board shall conclude its review and make its recommendation within 120 days of the certification of a complete application. Unless the applicant shall consent in

writing to an extension of the time for decision, if the Planning Board shall not act favorably on such application within said 120-day period, the applicant's request that the Planning Board recommend rezoning to the Township Council shall be deemed denied.

- (8) Report to governing body. Subsequent to action by the Planning Board, the Board shall cause its written findings and conclusions to be forwarded to the Township Clerk for action by the Township Council. The Planning Board Secretary shall also forward the 10 remaining copies of applicant's application. The report to the Township Council shall also include a brief statement as to whether or not the Planning Board recommends that the Township Council adopt an ordinance rezoning the subject property.
- (9) Review standards. Each application for rezoning shall comply with and address the following standards:
  - (a) Necessity. No application for rezoning shall be granted if the relief sought could be granted through an application for development other than one pursuant to N.J.S.A. 40:55D-70d.
  - (b) Master Plan. In submitting its recommendations, the Planning Board shall submit a report in accordance with N.J.S.A. 40:55D-26. The governing body shall comply with such section in acting on the application. If the proposed rezoning is inconsistent with the Master Plan, the Planning Board shall include in its recommendation whether it is in the best interest of the municipality to amend the Master Plan in accordance with the Municipal Land Use Law.
  - (c) Modification. In making its recommendations, the Planning Board may recommend that the application for rezoning be granted, in whole or in part, or be modified. If the Planning Board recommends the granting of the application with modifications or conditions, the Planning Board shall set out such modifications or conditions in detail, including findings, conclusions and recommendations.
  - (d) Effect of current zoning. The applicant shall demonstrate by proper proof that, absent rezoning, there is a substantial likelihood that the zoning regulations currently in existence will zone the property into inutility or that the rezoning shall substantially and meaningfully benefit the municipality and further the purposes of the Municipal Land Use Law, including purposes set forth in N.J.S.A. 40:55D-2.
  - (e) Municipal services. In demonstrating that the proposed rezoning will substantially benefit the municipality and will advance the purposes of the Municipal Land Use Law, the applicant shall demonstrate that the proposed rezoning will not unduly burden the planned and orderly development of the municipality or place an undue burden upon community services and facilities. Where deemed appropriate by the Planning Board, the Board may require traffic studies, fiscal impact studies or such other information as it requires to be produced either by the applicant or for the Board at the applicant's expense.
- (10) Action by Township Council. After receipt of the report and recommendations of the Planning Board, the Township Council shall consider the application. The decision of the Township Council to act or not to act on any application shall be deemed a legislative act in the sole discretion of the Township Council. The Township Council may determine, in its sole discretion, whether or not to act on any application and whether or not to grant, deny or modify any application. If the Township Council shall act on any proposed amendment to this chapter, it shall do so in compliance with N.J.S.A. 40:55D-62 et seq.

ARTICLE II  
**Zoning Board of Adjustment**

**§ 195-11. Establishment; members.**

- A. A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69, which shall consist of seven regular members and four alternate members. All members shall be residents of the Township and shall be appointed by the Township Council. No member of the Zoning Board of Adjustment may hold any elective office or position in the Township government.
- B. Alternate members shall be designated at the time of appointment by the Council as "Alternate No. 1," "Alternate No. 2," "Alternate 3" and "Alternate 4."
- C. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

**§ 195-12. Terms.**

- A. Regular members. The term of each regular member shall be four years. The terms of the members first appointed under this Part 1 shall be so determined that, to the greatest extent practicable, the expiration of such terms shall be distributed evenly over the first four years after their appointment, provided that the initial term shall not exceed four years.
- B. Alternate members. The term of each alternate member shall be two years, except that the terms of the alternate members shall expire in alternate years.

**§ 195-13. Vacancies.**

If a vacancy occurs other than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

**§ 195-14. Organization.**

The Zoning Board of Adjustment shall elect a Chairperson and Vice Chairperson from among its members and shall also select a Secretary and an Assistant Secretary, who may be a Board member or a Township employee.

**§ 195-15. Attorney.**

The Zoning Board of Adjustment may annually appoint and, subject to the appropriation of funds, fix the compensation of or agree upon the rate of compensation of the Zoning Board of Adjustment Attorney, who shall be an attorney other than the Township Attorney.

**§ 195-16. Experts and staff.**

The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary.

**§ 195-17. Expenditures.**

The Zoning Board of Adjustment shall not authorize expenditures which exceed, exclusive of gifts and grants, the amount appropriated by the Township Council for its use.

**§ 195-18. Powers.**

The Zoning Board of Adjustment shall have the following powers:

- A. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of Part 3, Zoning.
- B. To hear and decide requests for interpretation of the Zoning Map or Part 3, Zoning, or for decisions upon special questions upon which such Board is authorized by Part 3, Zoning, to pass.
- C. To hear and decide requests for a certificate of nonconformity.
- D. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to Part 3, Zoning, would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use, and further provided that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board shall review a request for a variance pursuant to N.J.S.A. 40:55D-60.a.
- E. Variances.
  - (1) In particular cases and for special reasons, to grant a variance to allow departure from regulations, pursuant to Part 3, Zoning, 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 pursuant to N.J.S.A. 40:55D-67, pertaining solely to a conditional use.
    - (d) An increase in the permitted floor area ratio, as defined in N.J.S.A. 40:55D-4.
    - (e) An increase in the permitted density, as defined in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling-unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.
    - (f) A height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.
  - (2) A variance under this Subsection E shall be granted only by affirmative vote of at least five

members.

- F. To direct issuance of a permit, pursuant to N.J.S.A. 40:55D-34, for a building or structure in the bed of a mapped street or public drainageway, flood-control basin or public area reserved on the Official Map.
- G. To direct issuance of a permit, pursuant to N.J.S.A. 40:55D-35, for a building or structure not related to a street.
- H. Subdivision and site plan approval.
  - (1) To grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval, pursuant to N.J.S.A. 40:55D-37 through 40:55D-59, or conditional use approval, pursuant to N.J.S.A. 40:55D-67, whenever the Board is reviewing an application for approval of a use variance, pursuant to Subsection E of this section.
  - (2) No variance or other relief may be granted under the provisions of Subsections A through D of this section unless such variance or other relief can be granted without substantial detriment to the public good and shall not substantially impair the intent and purpose of the Zone Plan and Part 3, Zoning.
  - (3) 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 Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zone Plan and Part 3, Zoning. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., for the approval in question, and the special vote, pursuant to Subsection E, shall not be required. Any application under any provision of this section may be referred to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.
- I. To adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this article and Part 3, Zoning.
- J. It is further the intent of this Part 1 to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board.

#### **§ 195-19. Appeals and applications.**

- A. Appeals to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the Township based on or made in the enforcement of Part 3, Zoning, or the Official Map. Each appeal shall be taken within the 20 days prescribed by N.J.S.A. 40:55D-72.a by filing a notice of appeal with the officer from whom the appeal was taken, together with three copies of such notice with the Secretary of the Zoning Board of Adjustment. Such notice of appeal shall specify the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Applications addressed to the original jurisdiction of the Zoning Board of Adjustment, without prior



application to an administrative officer, shall be filed with the Secretary of the Zoning Board of Adjustment. Three copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this Part 1 or any rule of the Zoning Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.

- C. An appeal to the Board shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Zoning Board of Adjustment after the notice of appeal shall have been filed with him/her that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Adjustment or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and for good cause shown.
- D. An appeal or application to the Zoning Board of Adjustment 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 designee. In the event that the Board or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon expiration of the forty-five-day period for purposes of commencing the applicable time period, unless:
- (1) The application lacks information in the form and substance required by the checklist for the particular type of application, which list of requirements and forms shall be provided to the applicant; and
  - (2) The Zoning Board of Adjustment, or its designee, has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the Zoning Board of Adjustment shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he/she is entitled to approval of the application. The Zoning Board of Adjustment may subsequently require correction of any information found to be in error and submission of additional information not specified in this Part 1 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 for development 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 Zoning Board of Adjustment.

#### **§ 195-20. Reversal or modification on appeal.**

The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and make such other requirement, decision or determination as ought to be made and, to that end, have all the powers of the officer from whom the appeal was taken.

#### **§ 195-21. Time for decision.**

The Zoning Board of Adjustment shall render its decision no later than 120 days after the date an appeal is taken from the decision of an administrative official or the submission of a complete application

for development to the Board, pursuant to the provisions of N.J.S.A. 40:55D-70.b. In the event that the developer elects to submit separate consecutive applications in accordance with the provisions of § 195-18H, the aforesaid provisions shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this Part 1. Failure of the Zoning Board of Adjustment to act within the period prescribed shall constitute approval of the application.

**§ 195-22. Appeal to Township Council.**

- A. Any interested party may appeal to the Township Council any final decision of a Board of Adjustment approving an application for development pursuant to N.J.S.A. 40:55D-70.d. Such appeal shall be made within 10 days of the date of publication of such final decision, pursuant to § 195-32D. 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 and the name and address of the appellant and name and address of his/her attorney, if represented. Such appeal shall be decided by the Township Council only upon the record established before the Board of Adjustment.
- B. Notice of the meeting to review the record below shall be given by the Township Council, by personal service or certified mail, to the appellant, to those entitled to notice of a decision pursuant to § 195-30 and to the Board from which the appeal was taken at least 10 days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the Township Council shall provide for verbatim recording and transcripts of such meeting pursuant to § 195-29E.
- C. Review of record.
- (1) The Township Council shall conclude a review of the record below not later than 95 days from the date of publication of the notice of decision below, pursuant to § 195-32D, unless the applicant consents, in writing, to an extension of such period. The appellant shall:
- (a) Within five days of service of the notice of appeal, pursuant to Subsection A hereof, arrange for a transcript, pursuant to N.J.S.A. 40:55D-10, for use by the Township Council and pay a deposit of \$50 or the estimated cost of such transcription, whichever is less; or
- (b) Within 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.
- (2) Failure of the Township Council to hold a hearing and conclude a review of the record below and to render a decision within such specified period, without such written consent of the applicant, shall constitute a decision affirming the action of the Board.
- D. The Township Council may reverse, remand or affirm, wholly or in part, or may modify the final decision of the Board of Adjustment, as the case may be.
- E. The affirmative vote of a majority of the full authorized membership of the Township Council shall be necessary to reverse, remand or modify any final action of the Board.
- F. An appeal to the Township Council shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the Board of Adjustment certifies to the Township Council, after the notice of appeal shall have been filed with such Board, that, by reason of facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the Board of Adjustment and on good cause shown.
- G. The Township Council shall mail a copy of the decision to the appellant or, if represented, then to

his/her attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than 10 days after the date the decision shall be published in the official newspaper of the Township. Such publication shall be arranged by the Township Clerk, provided that nothing contained herein shall be construed as preventing the applicant from arranging such publication of if he/she so desires. The Township Council may make a reasonable charge for such publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication, whether arranged by the Township or the applicant.

## ARTICLE III

**Provisions Applicable to Planning Board and Zoning Board of Adjustment****§ 195-23. Advisory members.**

- A. The Fire Chief and the Police Chief of the Township shall be ex officio advisory members of the Planning Board and Zoning Board of Adjustment for the purposes of advising the Boards on any application that may come before them on the impact the granting of such applications may have upon the furnishing of police or fire-protection services, or any requirements that may be advisable in that regard.
- B. Neither the Fire Chief nor the Police Chief shall vote on any matter coming before such Board, nor shall they be considered "regular" members of such Board as that term is used in the appropriate New Jersey statutes.
- C. Both the Fire Chief and the Police Chief may appoint a member of their respective departments to attend any Board meeting in their place.

**§ 195-24. Conflicts of interest.**

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he/ she has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself/herself from acting on a particular matter, he/she shall not continue to sit with the Board on the hearing of such matter, nor participate in any discussion or decision relating thereto.

**§ 195-25. Meetings.**

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled, unless canceled for lack of applications for development to review.
- B. Special meetings may be provided for at the call of the Chairperson or at the request of any two Board members. Such meetings shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
  - (1) If the Planning Board lacks a quorum because any of its regular or alternate members are prohibited by N.J.S.A. 40:55D-23 or 40:55D-23.1 from acting on a matter due to the member's personal or financial interests therein, regular members of the Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Planning Board in order of seniority of continuous service to the Board of Adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between regular members of equal seniority, the Chair of the Board of Adjustment shall make the choice.
  - (2) If the Board of Adjustment lacks a quorum because any of its regular or alternate members are prohibited by N.J.S.A. 40:55D-69 from acting on a matter due to the member's personal or financial interest therein, Class IV members of the Planning Board shall be called upon to serve, for that matter only, as temporary members of the Board of Adjustment. The Class IV members of the Planning Board shall be called upon to serve in order of seniority of continuous service

to the Planning Board until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IV members of equal seniority, the Chair of the Planning Board shall make the choice.

- D. All actions shall be taken by majority vote of the members present, except as otherwise required by any provision of N.J.S.A. 40:55D-1 et seq.
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq. To the extent permitted by the Open Public Meetings Law, and in accordance with the provisions of N.J.S.A. 40:55D-9, an executive session for the purpose of discussing and studying any matters to come before either Board shall not be deemed a regular or special meeting, and no actions requiring a vote shall be taken.

#### **§ 195-26. 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 made available for public inspection during normal business hours at the office of the Township Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his/her use, as provided for in the rules of the Board.

#### **§ 195-27. Fees and escrows.**

- A. Determination of fees. Fees for applications or for the rendering of any service by the Planning Board or Zoning Board of Adjustment, or any member of their administrative staffs, which are not otherwise provided by ordinance may be provided for and adopted as part of the rules of the Board, and copies of such rules or of the separate fee schedule shall be available to the public. Fees shall be as set forth in § 195-51.
- B. Application charges and escrow deposits. Every application for development shall be accompanied by two separate checks payable to the Township of Clark, one for the application charge and the other for the escrow account, in accordance with the schedule set forth in § 195-51.
- C. Multiple applications. In the case of applications involving more than one category of application for development, such as an application for site plan or subdivision approval coupled with a variance, the application charge shall be the highest of the applicable charges, plus 50% of all other applicable charges.
- D. Nonrefundability. The application charge is a nonrefundable flat fee to cover administrative expenses.
- E. Determination of site plan charges. On applications for site plan approval, the applicant shall submit a statement in support of the calculation of the application charge, which statement shall be subject to review by the Board.
- F. Special meetings. Whenever an applicant to the Planning Board or the Zoning Board of Adjustment shall request the conduct of a special meeting by the Board in order to expedite review of its application, the applicant shall be required to post, in addition to those fees and escrows provided elsewhere, a sum to be determined by the Secretary of the appropriate Board, sufficient in amount so

as to defray the cost of such a special meeting, which sum shall include, but not be limited to, anticipated attorneys' fees; secretarial fees; administrative fees, to be charged by the Township for providing facilities and security; and such other fees which shall be deemed necessary, reasonable and appropriate. The sum shall be posted by the applicant with the Secretary of the appropriate Board, simultaneous with the request for the special meeting, and shall be held in an escrow account in the office of the Township Treasurer until all charges in connection with the special meeting have been paid in full, with any balances remaining to be remitted to the applicant. Fees shall be as set forth in § 195-51.

**§ 195-28. Professional review fees and escrows.**

- A. Reimbursement of Township expenses. In addition to the fees set forth in this Part 1 and § 195-51, Development fees, an applicant shall be responsible for reimbursing the Township for all necessary expenses of professional personnel incurred and paid by the Township to process an application for development before the approving Board, including, without limitation:
- (1) Charges for reviews by professional personnel of applications and accompanying documents.
  - (2) Issuance of reports by professional personnel to the approving Board setting forth recommendations resulting from the review of any documents submitted by the applicant.
  - (3) Charges for any telephone or electronic conference or meeting requested or initiated by the applicant, his/her attorney or any of his/her experts.
  - (4) Review of documents and any supporting materials submitted by the applicant not required by ordinance and issuance of reports relating thereto.
  - (5) Review or preparation of easements, developer's agreements, deeds or the like.
  - (6) Preparation for and attendance at special meetings.
    - (a) A "special meeting" shall be defined as any meeting held at the request of the applicant or the approving authority which is not held during a regularly scheduled approving authority session.
    - (b) All meetings, whether regular or special, shall be in compliance with the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq.
  - (7) The preparation of extraordinary or specialized resolutions of memorialization, including, without limitation, resolutions pertaining to an application for general development plan approval and an application concerning which the resolution must contain a summary of more than two experts testifying on behalf of the applicant in order for the resolution to contain adequate findings of fact and conclusions based thereon pursuant to N.J.S.A. 40:55D-10.c.
  - (8) Costs for all hearing transcripts.
- B. Notice to applicant of intent to obtain additional expert advice. The approving Board shall give prior notice to the applicant of its intention to obtain additional expert advice or testimony and afford the applicant an opportunity to be heard as to the necessity for such additional advice or testimony and the definition of the limitations on the nature and extent thereto.
- C. Exceptions. No applicant shall be responsible to reimburse the Township for any of the following:
- (1) The cost of attendance, advice and/or testimony of any expert testifying at a regularly scheduled

meeting of the approving Board in his/her capacity as a full-time Township employee; provided, however, that the Township shall be entitled to be reimbursed for attendance of its professional personnel at special meetings of the approving Board which are called at the applicant's request. Nothing contained herein shall be construed as requiring the approving Board to grant an applicant's request to hold a special meeting.

- (2) Except as otherwise set forth in Subsection A(7) above, the preparation of a resolution or memorializing resolution setting forth the findings of fact and conclusions of the approving Board with respect to an application.
- D. "Professional" defined. The term "professional personnel" or "professional services," as used herein, shall include the services of a duly licensed engineer, surveyor, planner, attorney, realtor, appraiser, certified shorthand reporter or other experts required by the approving Board who would provide professional services to ensure an application complies with the standards set forth in these regulations and other experts whose testimony is in an area testified to by any of the applicant's experts.
- E. Escrow accounts.
- (1) Each applicant, prior to the application being ruled complete pursuant to the provisions of the Municipal Land Use Act, shall submit the sum(s) as set forth in § 195-51B to be held in escrow in accordance with the provisions hereof.
  - (2) The sums hereinabove set forth are estimates and, during its review of an application for development, the approving Board may determine that such sums are sufficient, excessive or insufficient, based upon the following criteria:
    - (a) The presence or absence of public water and/or sewer servicing the site.
    - (b) Environmental considerations, including, without limitation, geological, hydrological and ecological factors.
    - (c) Traffic impact of the proposed development.
    - (d) Impact of the proposed development on existing aquifer and/or water quality.
    - (e) Impact on improvements which might require off-tract or off-site contributions.
  - (3) Time of submission; amount.
    - (a) All applicants shall be required to submit escrow deposits with their application. At the time of filing his/her application for development, the applicant shall execute an escrow agreement containing the terms set forth herein.
    - (b) In the event that the approving Board shall determine such amount is excessive, upon the prior written request of the applicant and by resolution, it shall specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted, and the excess of the escrowed amount over the amount so determined shall be refunded to the applicant, together with such interest as allowed by Subsection F(2) below. In the event the approving Board shall determine the amount specified above is insufficient, or in the event the escrow has been depleted, it shall, by resolution, so specify and shall further set forth the additional amount required to be posted in light of the criteria specified herein. Such additional amount shall be paid by the applicant prior to advancing

to the next step in the approval procedure.

- (4) The administrative officer shall determine the status of all escrow accounts. Where additional funds are required, it shall be the obligation of the administrative officer to notify the applicant of the amounts needed.

F. Refund of escrow; interest.

- (1) If the amount of the deposit exceeds the actual cost as approved for payment by the Township Council, the applicant shall be entitled to a return of the excess deposit, together with such interest as allowed by Subsection F(2) herein.
- (2) Deposits received from an applicant pursuant to this section shall be deposited in a banking institution or savings-and-loan association in this state insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the state, in an interest-bearing account at no less than the minimum rate currently paid by the institution on deposits 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 deposits are made and the amount of the deposits. The Township shall not be required to refund any amount of interest paid on a deposit which does not exceed \$100 for the year. If the amount of interest exceeds \$100, that entire amount shall belong to the applicant and shall be refunded to him/her 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 33 1/3% of the accrued interest on the escrow amount, which shall be for custodial administrative expenses.

G. Payment of all reimbursable costs prior to final approval or issuance of any permit or certificate. No subdivision plat or deed or site plan shall be signed, nor shall any zoning permits, building permits, certificates of occupancy or any other types of permits be issued with respect to any approved application for development, until:

- (1) All bills for reimbursable services have been received by the Township from professional personnel rendering services in connection with such application.
- (2) Payment of such bills has been approved by the Township Council.
- (3) The applicant has reimbursed the Township the excess of such bills over the escrow amount otherwise herein provided for.

**§ 195-29. Public hearings.**

- A. Rules. The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this Part 1.
- B. Oaths. The officer presiding at the hearing, or such person as he/she may designate, shall have power to administer the oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq., shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented,



subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each Board shall provide for the verbatim recording of the proceedings by either a stenographer or by mechanical or electronic means. The Board shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party, at his/her expense.
- F. Absences; eligibility to vote. When any hearing shall carry over to a subsequent meeting, a member of the Board who was absent for one or more of the meetings shall be eligible to vote on the matter, provided that the member has available to him/her a transcript or recording of the meeting or meetings from which he/she was absent and certifies in writing to the Board that he/she has read the transcript or listened to the recording.

### **§ 195-30. Notice requirements for hearings.**

Whenever a hearing shall be required on an application for development, pursuant to N.J.S.A. 40:55D-1 et seq., the applicant shall give notice thereof as follows:

- A. By publication in the official newspaper of the Township at least 10 days prior to the date of hearing.
- B. Notice shall be given to the owners of all real property, as shown on the current tax duplicate, located within 200 feet in all directions of the property which is the subject of such hearing and whether located within or without the Township.
  - (1) Notice shall be given by:
    - (a) Serving a copy thereof on the owner of the real property, as shown on the current tax duplicate, or his/her agent in charge of the real property; or
    - (b) Mailing a copy thereof by certified mail to the real property owner at his/her address, as shown on the current tax duplicate. A return receipt shall not be required. Notice shall be deemed complete upon mailing.
  - (2) Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the 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.
- C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given to the Clerk of the municipality, which notice shall be in addition to the notice required to be given, pursuant to Subsection B of this section, to the owners of real property in such adjoining municipalities which are located within 200 feet of the property which is the subject of the hearing.
- D. Notice shall be given to the County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road, as shown on the Official County

Map or on the County Master Plan, adjoining other county land or situated within 200 feet of a municipal boundary.

- E. Notice shall be given to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Clerk pursuant to N.J.S.A. 40:55D-10.
- G. All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing on the application for development.
- H. All notices required to be given, pursuant to the terms in this section, shall state the date, time and place of the hearing, the nature of the matters to be considered and 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 the location and times at which any maps and documents for which approval is sought are available, as required by law.

#### **§ 195-31. List of property owners.**

Pursuant to the provisions of N.J.S.A. 40:55D-12.c, the administrative officer shall, within seven days of receipt of a request therefor and upon receipt of payment of a fee as specified in § 195-51, Development fees, provide a list certified by the Tax Assessor from the current tax duplicate of names and addresses of owners in the Township to whom the applicant is required to give notice, pursuant to § 195-30B.

#### **§ 195-32. Decisions.**

- A. Findings of fact and conclusions. The Board shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. Failure of a motion to receive the number of votes required to approve an application for development pursuant to the exceptional vote requirements of N.J.S.A. 40:55D-34 or § 195-18D shall be deemed an action denying the application. The Board shall provide the findings and conclusions through:
  - (1) A resolution adopted at a meeting held within the time period provided in N.J.S.A. 40:55D for action by the Board on the application for development; or
  - (2) A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board 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. An action pursuant to N.J.S.A. 40:55D-9, 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. The vote on any such resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board. However, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publication required by N.J.S.A. 40:55D-10.h and 40:55D-10.i.
- B. Conditional decisions; County Planning Board approval. Where required by law, N.J.S.A. 40:27-6.6,

the application shall be submitted to the County Planning Board for review or approval, and, in such cases, the Township Planning Board and Zoning Board of Adjustment shall condition any approval that each grants upon timely receipt of a favorable report from the County Planning Board or upon the County Planning Board's failure to report within the required time period. Decisions may also be conditioned on approval by other governmental agencies.

- C. Mailing. A copy of the decision shall be delivered by the Board via ordinary mail or electronic delivery, as selected by the recipient, within 10 days of the date of decision to the applicant or, if represented, then to his/her attorney, without separate charge. A copy of the decision shall also be mailed to all persons who request it and who have paid the prescribed fee or via electronic delivery, as selected by the recipient. A copy of the decision shall also be filed in the office of the administrative officer, who shall make a copy of such filed decision available for public inspection during his/her office hours and a copy available to any interested party upon payment of a fee, calculated in the same manner as those established for copies of the other public documents in the Township.
- D. Publication. A brief notice of every final decision on an application for a variance or development shall be published in the official newspaper of the Township. Such publication shall be arranged by and be the responsibility of the applicant. Notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision. The applicant shall file an affidavit of publication with the Board making the decision on the application for development.
- E. Time for appeal. The period of time in which an appeal of the decision may be made shall run from the date of publication of the decision.

#### **§ 195-33. Payment of taxes.**

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application, or, if it is shown that taxes or assessments are delinquent on the property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the Township shall be adequately protected.

#### **§ 195-34. Copy to be filed with County Planning Board.**

Immediately upon adoption of this Part 1, the Township Clerk shall file a copy with the County Planning Board, as required by law. The Clerk shall also file with the County Planning Board copies of all other Township land use ordinances.

#### **§ 195-35. Expiration of variance.**

Any variance hereafter granted by the Zoning Board of Adjustment or the Planning Board, permitting the erection or alteration of any structure or structures or permitting a specified use of any property, shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by the variance, or unless such permitted use has actually been commenced, within one year from the date of entry of the approval of the variance, except that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Zoning Board of Adjustment to the Township Council, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

**§ 195-36. Completeness of application; checklist.**

## A. Completeness.

- (1) N.J.S.A. 40:55D-10.3 requires that any application for development needs to be adjudged to be complete for purpose of having all the required information necessary to review the application on the merits of what is being presented. Submitting a complete application also commences the advancement of the clock that monitors the applicable time period for action by the Board that is reviewing the application. When the administrative officer has determined that the application is complete, the application will be certified as such and the review period will begin. In the event that no action occurs within 45 days of the date of its submission, the application shall be deemed to be complete upon the expiration of the forty-five-day period for purposes of commencing the applicable time period, unless: [1] the application lacks information indicated on a checklist adopted by ordinance and provided to the applicant; and [2] the administrative authority has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. The applicant may request that one or more of the submission requirements be waived, in which case the reviewing board shall grant or deny the request within 45 days. 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 reviewing board may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development 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 reviewing board.
- (2) A determination of completeness, as required herein, is in no way to be interpreted or understood as an evaluation of the adequacy or acceptability of the information submitted and should not be construed as diminishing the applicant's obligation to prove in the application process that application is entitled to an approval.

B. Application. An application packet can be provided to an applicant by the Secretary of the appropriate Board or it can be downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Township of Clark Land Development Application," contains the necessary instructions, forms and related documents that need to be provided. The Planning Board and Zoning Board of Adjustment will require full and complete responses and answers to all requirements and questions contained thereon.

## C. Checklist.

- (1) For the purposes of determining that an application for any development within the Township is complete, N.J.S.A. 40:55D-10.3 requires that an applicant shall be provided a checklist that sets forth the requirements to meet the "complete application" threshold. The Township of Clark Land Development Application includes checklists for the various types of applications that may be reviewed by the Planning Board or the Zoning Board of Adjustment.
- (2) For most applications involving variances, subdivisions or site plans, illustrative and technical documentation will be required; an appropriate sketch plat, subdivision map or site plan, prepared in accordance with the terms and conditions of the appropriate Township ordinances may be required:
  - (a) Subdivisions, minor and major; preliminary and final. Any application for a minor

subdivision or a major subdivision, either preliminary or final, presented to either the Zoning Board of Adjustment or the Planning Board shall comply with all of the terms and conditions of Part 2, Subdivision and Site Plan Review, and, if applicable, all of the terms and conditions of Chapter 310, Streets, Sidewalks and All Improvements Related Thereto, and all of the terms and conditions of any other applicable ordinance of the Township.

- (b) Site plans, preliminary and final. Any application for a preliminary or final site plan, presented to either the Zoning Board of Adjustment or the Planning Board, shall comply with all of the terms and conditions of Part 2, Subdivision and Site Plan Review, Article XIV, Site Plans, beginning with § 195-71, Applicability, and all of the terms and conditions of any other applicable ordinance of the Township.
- (c) Variances; use variances; conditional uses. All applications for variances, use variances and/or conditional uses shall comply with the various and miscellaneous sections of Part 3, Zoning, as may be required, depending upon the nature of the variance, use variance or conditional use requested, and all of the terms and conditions of any other applicable ordinance of the Township.

**§ 195-37. Copies of applications to Environmental Commission.**

Whenever the Environmental Commission has prepared and submitted to the Planning Board and the Zoning Board of Adjustment an index of the natural resources of the Township, the Planning Board and the Zoning Board of Adjustment shall make available to the Environmental Commission an informational copy of every application for development submitted to either. Failure of the Planning Board or the Zoning Board of Adjustment to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

ARTICLE IV  
**Administration and Enforcement**

**§ 195-38. Interpretation of zoning provisions; administrative officer.**

In interpreting and applying the requirements contained in this Land Use and Development Ordinance, the requirements contained herein are declared to be the minimum requirements for the protection of the health, safety and general welfare of the public and for the preservation and improvement of the value and aesthetics of the land. The administration and enforcement of these provisions lie with the administrative officer, who shall be appointed by the Township Council.

- A. The administrative officer is hereby given the duty, power and authority to enforce the provisions of this chapter. He/she shall be responsible for the examination of all applications for permits and the issuance of zoning permits for the commencement of a use, and the construction, reconstruction, alteration, conversion, installation of or addition to any structure or building, including accessory structures, pillars, gates and signs, which are in accordance with the requirements of this chapter and all nonconforming uses existing at the time of passage of this chapter.
- B. The administrative officer shall be responsible for recording and filing all applications for permits with accompanying plans and documents, and the administrative officer shall make such reports to the Board of Adjustment, the Planning Board, and the governing body as may be required.

**§ 195-39. Enforcement.**

- A. Grant of authority, responsibility. The administrative officer (N.J.S.A. 40:55D-18) is hereby authorized to and shall administer and enforce the provisions of this Land Use and Development Ordinance.
- B. Issuance of permits and certificates. In no case shall a zoning permit or certificate be issued by the Construction Code Official for any construction, erection, alteration or use of any building, other structure, lot or area of land that would be in violation of any provision of this Land Use and Development Ordinance.
- C. Inspection of premises. The administrative officer or his/her duly authorized agent(s), and, in the case of excavations for or demolition of commercial properties, the Health Officer, shall have the right to enter and inspect any building, other structure, lot or area of land at all reasonable times, whether already constructed, erected, altered or put into use, or during the course of construction, erection, alteration, excavation, demolition or putting into use, for the purpose of determining whether or not the provisions of Part 3, Zoning, are being complied with.
- D. Records and reports. The administrative officer shall keep a record of all applications for zoning permits and certificates and a record of all permits issued, together with all notations of all special conditions involved. The administrative officer shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his/her office and shall be available for the use of the Township Council, the Zoning Board of Adjustment, the Planning Board and other officials of the Township. The administrative officer shall prepare a monthly report for the Township Council summarizing for the period since his/her last previous report all permits issued and all complaints of violations and the action taken by him/her consequent thereon. A copy of each such report shall be filed with the Township Tax Assessor at the same time it is filed with the Township Council.
- E. Cases of doubt. Should the administrative officer be in doubt as to the meaning or intent of any provision of the Land Use and Development Ordinance, as to the location of a district boundary line

on the Zoning Map or as to the propriety of issuing any permit in a particular case, he/she shall appeal the matter to the Zoning Board of Adjustment for interpretation and decision. Any proposed use which is not clearly identified in the Land Use and Development Ordinance as being a permitted use in a district shall be prohibited, and no permit shall be issued by the administrative officer authorizing the proposed use.

**§ 195-40. Building permits.**

- A. No building, other structure, lot or area of land shall be hereafter used, nor shall any building or other structure be hereafter constructed, erected, or altered, and no excavation for any building or other structure shall be hereafter begun without the issuance of a building permit by the Construction Code Official indicating that such construction, erection, alteration or use of such building, other structure, lot or area of land conforms in every respect to the provisions of Part 3, Zoning.
- B. All applications for a building permit shall be made by the owner or authorized agent on forms provided by the Construction Code Official in the required number of copies. Each such application shall be supplemented with a plot plan prepared in triplicate and drawn to such scale as the Construction Code Official may require, showing the exact dimensions and locations of all buildings, other structures, yards, lot lines, off-street parking facilities and such other appropriate details and information as may be necessary to provide for the enforcement of Part 3, Zoning. All dimensions shown on these plans, relating to the location and size of the lot or area of land to be used or built upon, shall be based upon actual survey or deed description or on an officially recorded subdivision plat.
- C. No application for a building permit shall be accepted by the Construction Code Official unless all of the information required has been furnished by the applicant.
- D. The construction, erection or alteration of any building or other structure for which a building permit was issued must begin within six months after the date of issuance of such permit, and such construction, erection or alteration of any building or other structure or use of a lot or area of land must be completed or fully effected within two years after the date of issuance of such permit, after which time such permit becomes void. The Construction Code Official, at his/her discretion, may issue a new permit granting a continuation of time where unavoidable conditions prevented the effectuation or completion of all construction, erection, alteration or use within the time periods hereinabove prescribed.
- E. The lot or area of land and the location of all buildings or other structures to be constructed, erected, altered or used thereon shall be staked out on the ground, and an inspection thereof shall be made by the Construction Code Official before work is started.
- F. A building permit issued in accordance with the Building Code of the Township and satisfying the provisions thereof shall further satisfy the additional regulations, conditions and requirements of Part 3, Zoning.
- G. The Construction Code Official, at his/her discretion, may require an engineering review for any building permit.

**§ 195-41. Certificates of occupancy.**

- A. Required.
  - (1) No building or other structure hereafter constructed, erected or altered and no lot or area of land

hereafter put into use shall be occupied or used, in whole or in part, for any use whatsoever, no change of use of any building or other structure, lot or area of land, or part thereof, and no sale, transfer or conveyance of any building or other structure, irrespective of the purpose for which such building or other structure may be used, shall hereafter be made until a certificate of occupancy shall have been issued by the Construction Code Official certifying that such building, other structure, lot or area of land, or part thereof, complies with all applicable provisions of this Part 1, Part 3, Zoning, and all federal, state and local building, fire, electrical, plumbing and health codes.

- (2) A code violation shall be deemed to have occurred in the event that the inspection by the Construction Code Official reveals that the structure, building or dwelling is improperly or illegally connected to the existing sanitary sewer system. No certificate of occupancy shall be issued until such violation shall have been remedied.
  - (3) Change of use does not include a change from one conforming use to another unless there is a change in the parking requirements or in other features relating to the site plan.
- B. Time for issuance. Certificates of occupancy shall be granted or denied by the Construction Code Official within 10 days from the date of application therefor by the owner of the property for which use or occupancy or change in use is sought, or his/her authorized agent. In the event that the Construction Code Official shall decline to issue a certificate of occupancy, his/her reasons for doing so shall be stated in detail on at least one filed copy of the application, and that copy returned to the applicant.
- C. Preexisting uses. Upon written application by the owner or authorized agent, the Construction Code Official shall, after inspection, issue a certificate of occupancy for any building, other structure, lot or area of land existing and in use at the effective date of Part 3, Zoning, provided that the Construction Code Official shall find that such building, other structure, lot or area of land is in conformity with the applicable provisions of Part 3, Zoning.
- D. Traffic signs; regulations.
- (1) Prior to the issuance of a final certificate of occupancy for any development which is presented to the Zoning Board of Adjustment or the Planning Board for commercial property, of whatever nature, and which provides for private entrance to and exit from such property, and where such ingress and egress shall have been determined by the Planning Board or Zoning Board of Adjustment to be one-way only, appropriate directional signs shall have been erected.
  - (2) The owners of such property shall, as a condition of issuance of a certificate of occupancy and of final approval by the Board, be required to grant to the Township the authority to enforce all motor vehicle laws and regulations on such property.
  - (3) All signs and traffic control devices required hereunder shall be in accordance with and shall be of a design and construction as provided for in the Manual on Uniform Traffic Control Devices, 2009 Edition, or other regulations of the New Jersey Department of Transportation, as same shall be amended from time to time.
- E. Fee. A filing fee, as set forth in Chapter 122, Uniform Construction Codes, shall accompany each application for a certificate of occupancy.



**§ 195-42. Building permits issued prior to adoption of zoning provisions.**

Nothing in Part 3, Zoning, shall require any change in or otherwise interfere with any construction, erection, alteration or use of any building, other structure, lot or area of land for which a building permit has been issued authorizing such construction, erection, alteration or use not more than one year prior to the effective date of enactment of Part 3, Zoning.

**§ 195-43. Violations and penalties.**

- A. Any owner or agent and any person or corporation who violates any of the provisions of this Part 1 or Part 3, Zoning, or fails to comply therewith or with any of the requirements thereof, or who shall erect, structurally alter, enlarge, rebuild or move any building or buildings or any other structure, or who shall put into use any lot or land in violation of any detailed statement or plan submitted hereunder, or who shall refuse reasonable opportunity to inspect any property shall, upon conviction thereof, be liable to the penalty stated in Chapter 1, Article III, General Penalty. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B. The owner of any building or other structure, lot or area of land, or part thereof, where anything in violation of this Part 1 or Part 3, Zoning, shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of such violation, shall each be guilty of a separate violation and, upon conviction thereof, shall each be liable to the fine or imprisonment, or both, specified in Chapter 1, Article III, General Penalty.
- C. In case any building, other structure, lot or area of land, or part thereof, is or is proposed to be constructed, erected, altered, or used in violation of this Part 1, the Township Council, the Construction Code Official or any other agency or official, or any owner of or any person having an interest in adjacent property who would be specifically damaged by such violation, may institute an action for injunctive relief or abatement, or any other appropriate action or proceeding, to prevent, restrain, correct or abate such unlawful construction, erection, alteration, continuation or use; to prevent the occupancy of such building, other structure, lot or area of land, or part thereof; or to prevent any illegal act, conduct, business or use in or about such building, other structure, lot or area of land or part thereof.
- D. All permits and certificates issued under Part 3, Zoning, shall be revocable, subject to continued compliance with all requirements and conditions.

**§ 195-44. Conflicting provisions.**

Neither this Part 1 nor Part 3, Zoning, shall be deemed to interfere with, abrogate or annul, or otherwise affect in any manner whatsoever any ordinances, rules, regulations, easements, covenants or other agreements between parties; provided, however, that where Part 3, Zoning, imposes greater restrictions upon the construction, erection, alteration or use of structures or the use of land than are imposed or required by other ordinances, rules, regulations, easements, covenants or agreements, the provisions of Part 3, Zoning, shall prevail.

ARTICLE V  
**Amendments**

**§ 195-45. Procedural requirements.**

- A. Who may make proposals. Proposals for amendments of the text of Part 3, Zoning, or the Zoning Map may be made by the Township Council on its own motion and resolution, the Planning Board by resolution submitted to the Township Council. Any person or property owner with a financial, contractual or proprietary interest in the property to be affected by any proposed amendment to the Zoning Map or by any interested person in the case of any amendment to the text of Part 3, Zoning, may submit a proposal to the Township Council.
- B. Information to be contained in proposal or application. In all cases where an amendment to the Zoning Map is proposed or applied for by any agency, official or person, the following information is required for the official record of all such amendments:
- (1) A full description of the property sought for the Zoning Map amendment, including bearings and distances, lot, block and subdivision designation, present and proposed uses of the property, existing districts in the immediate vicinity of the property and the proposed new districts and the name and address of the owner of the property.
  - (2) A plot plan, prepared in triplicate, showing dimensions and locations of all existing and proposed buildings, yards and other open spaces, buildings on adjoining lots or properties, lot lines or street lines, points of access to the property, off-street parking provisions, street, railroad, drainage or utility rights-of-way within or adjoining the property and in the immediate vicinity and all other information as may be required by the Planning Board or the Township Council. Such plot plan shall be prepared and certified by a licensed civil engineer or land surveyor and shall be drawn at such scale as may be required and necessary for clarity and proper enforcement of the provisions of this article.
- C. Text changes noted. In the case where an amendment to the text of Part 3, Zoning, is proposed or applied for, such proposal or application shall set forth the new text to be added or existing text to be deleted.

**§ 195-46. Planning Board review and recommendation.**

- A. Any proposed amendment originating with or received by the Township Council shall first be referred to the Planning Board for review, investigation and recommendation. The Planning Board shall cause such investigation to be made as it deems necessary and, for this purpose, may require the submission of all pertinent data and information by any person concerned.
- B. The Planning Board shall be given not less than 30 days nor more than 60 days, unless an extension of time is granted, for due consideration of the proposed amendment, after which time the Planning Board shall submit its recommendation to the Township Council.

**§ 195-47. Action by Township Council.**

After receiving the recommendation of the Planning Board on any proposed amendment, and before taking any action thereon, the Township Council shall hold a public hearing on such proposed amendment, at which all parties in interest and citizens shall be given the opportunity to be heard. Any action taken by the Township Council shall be in accordance with the applicable state statutes.

**§ 195-48. Protests against proposed amendment.**

In the case of a petition protesting against any proposed amendment to the Zoning Map that would change the district designation of a lot or area of land, signed by the owners of 20% or more of the area of properties included within such area designated for district change, or of the lots or areas of lands to the rear and sides thereof and opposite thereto and extending 100 feet therefrom, exclusive of street space, such amendment shall not become effective except by the favorable vote of 2/3 of the Township Council.

ARTICLE VI  
**Miscellaneous Provisions**

**§ 195-49. Public records.**

Duly certified copies of the Land Use and Development Ordinance and of the Zoning Map, together with copies of all amendments thereto, shall be filed in the office of the Township Clerk and in the office of the Construction Code Official and shall be open to public inspection.

**§ 195-50. Construal of zoning provisions.**

The provisions of Part 3, Zoning, including, without limitation, the provisions thereof relating to nonconforming uses and nonconforming structures, shall be construed as a continuation of the substantive provisions of the Zoning Ordinance of the Township adopted on June 19, 1972, and the amendments and supplements thereto in effect on August 1, 1990, rather than as new enactments.

ARTICLE VII  
**Development Fees**

**§ 195-51. Fees established.**

A. The cost of the Development Review Committee (DRC) has been accounted for in all proposed escrows. Fees for applications or for the rendering of any service by the Boards or any member of their administrative staffs shall be as follows:

(1) Major subdivision:

(a) Application fee for residential and nonresidential applications:

- [1] Preliminary: \$800 + \$100/lot if over three lots.
- [2] Final without "C" variance(s): \$800 + \$100/lot if over three lots.
- [3] Final with "C" variance(s): \$1,300 + \$100/lot if over three lots.

(b) Minimum escrow for residential and nonresidential applications:

- [1] Preliminary: \$4,000 + \$1,000/lot if over three lots.
- [2] Final without "C" variance(s): \$4,000.
- [3] Final with "C" variance(s): \$8,000.

(2) Minor subdivision:

(a) Application fee:

- [1] \$500 for residential and nonresidential applications without "C" variance(s).
- [2] \$1,000 for residential and nonresidential applications with "C" variance(s).

(b) Minimum escrow for residential applications:

- [1] Without "C" variance(s): \$1,000/lot.
- [2] With "C" variance(s): \$3,000/lot.

(c) Minimum escrow for nonresidential applications:

- [1] Without "C" variance(s): \$2,000/lot.
- [2] With "C" variance(s): \$4,000/lot.

(3) Major site plan/conditional use:

(a) Application fee:

- [1] Preliminary for residential and nonresidential applications without "C" variance(s):
  - [a] \$600 if under 0.25 acres or under 5,000 gross square feet of building.
  - [b] \$1,200 if over 0.25 acres or over 5,000 gross square feet of building.

- [2] Preliminary for residential and nonresidential applications with "C" variance(s):
    - [a] \$1,000 if under 0.25 acres or under 5,000 gross square feet of building.
    - [b] \$1,700 if over 0.25 acres or over 5,000 gross square feet of building.
  - [3] Final for residential and nonresidential applications without "C" variance(s):
    - [a] \$600 if under 0.25 acres or under 5,000 gross square feet of building.
    - [b] \$1,200 if over 0.25 acres or over 5,000 gross square feet of building.
  - [4] Final for residential and nonresidential applications with "C" variance(s):
    - [a] \$1,000 if under 0.25 acres or under 5,000 gross square feet of building.
    - [b] \$1,700 if over 0.25 acres or over 5,000 gross square feet of building.
- (b) Minimum escrow:
- [1] Preliminary for residential and nonresidential applications without "C" variance(s):
    - [a] \$3,000 if under 0.25 acres or under 5,000 gross square feet of building.
    - [b] \$7,000 if over 0.25 acres or over 5,000 gross square feet of building.
  - [2] Preliminary for residential and nonresidential applications with "C" variance(s):
    - [a] \$6,000 if under 0.25 acres or under 5,000 gross square feet of building.
    - [b] \$10,000 if over 0.25 acres or over 5,000 gross square feet of building.
  - [3] Final for residential and nonresidential applications without "C" variance(s):
    - [a] \$3,000 if under 0.25 acres or under 5,000 gross square feet of building.
    - [b] \$7,000 if over 0.25 acres or over 5,000 gross square feet of building.
  - [4] Final for residential and nonresidential applications with "C" variance(s):
    - [a] \$6,000 if under 0.25 acres or under 5,000 gross square feet of building.
    - [b] \$7,000 if over 0.25 acres or over 5,000 gross square feet of building.
- (4) Minor site plan:
- (a) Application fee:
    - [1] \$500 for residential and nonresidential applications without "C" variance(s).
    - [2] \$1,000 for residential and nonresidential applications with "C" variance(s).
  - (b) Minimum escrow:
    - [1] Residential and nonresidential applications without "C" variance(s):
      - [a] \$4,000 if under 0.25 acres or under 5,000 gross square feet of building.

- [b] \$7,000 if over 0.25 acres or over 5,000 gross square feet of building.
- [2] Residential and nonresidential applications with "C" variance(s):
  - [a] \$6,000 if under 0.25 acres or under 5,000 gross square feet of building.
  - [b] \$10,000 if over 0.25 acres or over 5,000 gross square feet of building.
- (5) Site plan exempt (one- and two-family) with "C" variance(s):
  - (a) Application fee: \$500 for all applications.
  - (b) Minimum escrow: \$2,500 for all applications.
- (6) "D" variance:
  - (a) Application fee:
    - [1] One- and two-family applications: \$500 per "D" variance.
    - [2] All other applications: \$1,000 per "D" variance.
  - (b) Minimum escrow:
    - [1] One- and two-family applications: \$2,500.
    - [2] All other applications: \$4,000.
- (7) Preapplication sketch plan review:
  - (a) Single- and two-family residential and minor subdivision: \$500.
  - (b) Mixed use or nonresidential on less than either 0.25 acres or 5,000 gross square footage: \$1,000.
  - (c) Mixed use or nonresidential on less than either 0.25 acres or 15,000 gross square footage: \$1,750.
  - (d) All other: \$3,500.
- (8) Zoning permit fees:
  - (a) Residential applications: \$75.
  - (b) Commercial applications: \$200.
  - (c) Certificate of compliance: \$100.
  - (d) Sheds up to 200 square feet: \$75.
- (9) Waiver:
  - (a) Floodplain one- and two-family residential: \$350.
  - (b) Floodplain multifamily and nonresidential: \$700.
  - (c) Fence residential: \$250.

- (d) Fence nonresidential \$500.
  - (e) Sign residential: \$250.
  - (f) Sign nonresidential: \$500.
  - (g) Parking one- and two-family residential: \$250.
  - (h) Parking other residential: \$400.
  - (i) Parking nonresidential: \$750.
- (10) Categories of fees.
- (a) Meetings: \$1,500.
  - (b) Additional fees.
    - [1] Attorneys' fees (per hour): \$175.
    - [2] Secretarial fees (per hour): \$35.
  - (c) Administrative fees (per meeting): \$30.
  - (d) Copy of Master Plan: actual cost or OPRA fees, whichever is greater.
  - (e) Certified list of property owners within 200 feet: \$0.25 per name or \$10, whichever is greater.
  - (f) Copy of Land Use Ordinances: actual cost or OPRA fees, whichever is greater.
  - (g) Zoning Maps: actual cost or OPRA fees, whichever is greater.
  - (h) Tax Map, per sheet: actual cost or OPRA fees, whichever is greater.
  - (i) Copy of Ordinance Book: actual cost or OPRA fees, whichever is greater.
  - (j) (Reserved)
  - (k) Zoning permit exemption: \$400.
  - (l) Application package:
    - [1] In person hard copy: \$25.
    - [2] On-line: \$0.
  - (m) Land development application — floodplain review fee.
    - [1] Residential: \$250.
    - [2] Nonresidential: \$500.
  - (n) Certificate of nonconformity, appeal or interpretation: \$300.
  - (o) Floodplain development permit: \$100.
- (11) Banners. Application for a banner: \$100 (see § 195-160.1).



(12) Temporary trailers. The permit fee for the temporary use of a trailer during a period of reconstruction:

(a) Residential: \$100.

(b) Nonresidential: \$250.

B. Rate of professional charges.

(1) Limit on charges; payment.

(a) No professional personnel submitting charges to the Township for any of the services referred to in § 195-28 shall charge for any services at a higher rate or in a different manner than would normally be charged the Township for similar work, as determined by the professional personnel's contract of employment with the Township or by provisions of the Township's Salary Ordinance.

(b) Payment of any bill rendered by professional personnel to the Township in respect to any service for which the Township is entitled to reimbursement under § 195-28 shall in no way be contingent upon receipt of reimbursement to an applicant, nor shall any payment to professional personnel be delayed pending reimbursement from an applicant.

(2) The Township may charge for the services of any Township employee rendering expert advice when the employee is required to attend special meetings, as defined herein, during nonbusiness hours, as well as services rendered beyond the scope of the employee's regularly defined duties.

**Part 2**  
**Subdivision And Site Plan Review**

**ARTICLE VIII**  
**General Provisions**

**§ 195-52. Short title.**

This Part 2 shall be known and may be cited as the "Land Use Ordinance of the Township of Clark."

**§ 195-53. Purpose.**

- A. The purpose of this Part 2 shall be to provide rules, regulations and standards to guide land subdivision and site plan review in the Township in order to promote the public health, safety, convenience and general welfare of the Township.
- B. This Part 2 adopts all of the applicable mandatory provisions of the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1 et seq.
- C. This Part 2 shall be administered to ensure the orderly growth and development of the community, with emphasis on the protection and proper use of land, and to provide adequate provisions for circulation, utilities and services. The conservation of land through the preservation of trees, natural vegetative areas and appropriate landscaping will enhance soil stability and will improve water quality.

**§ 195-54. Definitions.**

As used in this Land Use and Development Ordinance, the following terms shall have the meanings indicated:

**ADMINISTRATIVE OFFICER** — The Township Business Administrator of the municipality, unless a different municipal official or officials are designated by ordinance or statute.

**APPLICANT** — The developer or landowner submitting an application for development.

**APPLICATION FOR DEVELOPMENT** — The application form and all accompanying documents required by this Code for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or for the issuance of a permit for the development of all construction on property located in the Township. For Planning Board and Zoning Board of Adjustment applications, an application packet entitled "Township of Clark Land Development Application" can be obtained from the applicable Board secretary or can be downloaded from the Township website at [www.ourclark.com](http://www.ourclark.com).

**BOARD** — The Planning Board of the Township, or the Zoning Board of Adjustment, where applicable.

**CERTIFICATE OF OCCUPANCY** — A certificate issued by the Construction Code Official upon the completion of the construction, erection, or alteration of a building upon its use or occupancy, or upon any change in the use or occupancy of a building or other structure or lot or area of land, or part thereof, certifying that all applicable requirements have been complied with.

**COMPLETE APPLICATION** — An application for development completed as specified by ordinance and the rules and regulations of the approving authority and the provisions of all required documents. See § 195-36, Completeness of application; checklist.

**CONDITIONAL USE** — 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 Part 3, Zoning, Article XXVIII, Conditional Uses, and upon the issuance of an authorization therefor by the Planning Board.

**CONSTRUCTION CODE OFFICIAL** — The official who administers the construction codes adopted pursuant to the New Jersey Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq.

**DEVELOPER** — 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** — The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or any mining, excavation or landfill; and any use or change in the use of any building or other structure or land or extension of use of land for which permission may be required.

**DEVELOPMENT REVIEW COMMITTEE (DRC)** — See § 195-56, Development Review Committee.

**DRAINAGE** — The removal of surface water or groundwater from land by drains, grading or other means necessary for water supply preservation or prevention or alleviation of flooding, including the control of runoff to minimize erosion and sedimentation during and after construction or development.

**DRAINAGE RIGHT-OF-WAY** — 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 a flow of water therein to safeguard the public against flood damage.

**FINAL APPROVAL** — The official action of the Board taken on a preliminary approved major subdivision or site plan, or part thereof, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

**FINAL PLAT** — The final map of all or a portion of the subdivision which is presented to the Township Planning Board for final approval in accordance with regulations established by this Part 2 and which, if approved, shall be filed with the proper County Recording Officer.

**HOSPITAL** — A state regulated institution providing primary health services and medical or surgical care to persons suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including inpatient and outpatient services institution-related facilities, such as diagnostic and treatment facilities, laboratories, training facilities, medical offices and staff residences.

**LOT** — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law, to be used, developed or built upon as a unit. The term "lot of record" shall apply to an individual area of land legally existing, as shown by the latest official records or as shown by the latest approved subdivision plat filed among the land records of Union County. Adjoining parcels in common ownership which do not meet the dimensional and area requirements for building lots as set forth herein shall be considered as a single lot for the purposes of this Land Development Ordinance.

**MAINTENANCE GUARANTEE** — Any security that may be required and accepted by the Township Council to ensure that necessary improvements will function as required for a period not to exceed two years from the date of final acceptance of the improvement. The maintenance guarantee takes effect upon the Township Council's acceptance of the completed improvements and the release of the performance guarantee. (See § 195-65, Guarantees required.)

**MAJOR SUBDIVISION** — All subdivisions not classified as minor subdivisions.

**MASTER PLAN** — A composite of the mapped and written proposals recommending the physical

development of the Township, which has been duly adopted by the Planning Board in accordance with N.J.S.A. 40:55D-28.

**MEDICAL CLINIC** — An establishment where ambulatory patients are examined and treated by licensed medical personnel, psychologists, or social workers on an outpatient basis and where such treatment requires a stay of less than 24 hours.

**MEDICAL OFFICE** — The office of medical practitioners, including but not limited to medical doctors, dentists, veterinarians, chiropractors, podiatrists, psychologists and licensed therapists.

**MINOR SITE PLAN** — See § 195-64.2, Definitions.

**MINOR SUBDIVISION** — Any subdivision:

- A. Resulting in not more than three lots fronting on an existing street.
- B. Not involving any new streets or roads or the extension of Township facilities.
- C. Not adversely affecting the remainder of the parcel or other property.
- D. Not adversely affecting the development or probable development of the remainder of the parcel.
- E. Not creating or contributing to drainage problems or engineering problems.
- F. Not creating any access problems.
- G. Not in conflict with any provision or portion of the Master Plan; Official Map; Part 3, Zoning; health codes; or of this Part 2.

**NONCONFORMING LOT** — A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

**NONCONFORMING STRUCTURE** — A structure the size, dimension or location of 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.

**NONCONFORMING USE** — 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.

**OFF-SITE** — Located outside the lot lines of the lot in question, but within the property of which the lot is a part, which is the subject of the development application, or within a contiguous portion of a street or right-of-way.

**OFF-TRACT** — Not located on the property which is the subject of a development application, nor on a contiguous portion of a street or right-of-way.

**ON-SITE** — Located on the lot in question.

**ON-TRACT** — Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

**OWNER** — Any person, individual, firm, association, legal entity, syndicate, copartnership or corporation having sufficient proprietary interest in the land sought to be subdivided or developed to commence and maintain proceedings to subdivide or develop such property under this Part 2.

**PERFORMANCE GUARANTEE** — Any security which may be accepted in lieu of a requirement that certain improvements be made before the Board approves a final plat or site plan, including performance bonds, escrow agreements and other similar collateral or surety agreements. The guarantee shall be approved by the Township Engineer as to the amount and the Township Attorney as to the form. The guarantee can be provided in the form of a bond, a bank letter of credit, or cash. In each case, a minimum cash deposit of 10% shall be required.

**PLANNING BOARD** — The Planning Board of the Township.

**PLAT** — The map or maps of a subdivision.

**PRELIMINARY PLAT** — A map indicating the proposed layout of the subdivision which is submitted for tentative approval and meeting the requirements of Article XIII, Subdivision Plat Details.

**PROFESSIONAL OFFICE** — The office of a recognized professional, including but not limited to an accountant, attorney at law, architect, engineer, teacher and realtor. For the purposes of this definition, "teacher" shall be restricted to a person giving individual instruction in a musical instrument, in voice or art, in dancing or in academic or scientific subjects to a single pupil at a time. When conducted in a home in a residential district, a professional office shall be accessory to the principal use, shall be conducted by a member of the family residing on the premises, shall employ or engage not more than one person who is not a member of such resident family, and shall not occupy more than the equivalent of 40% of the ground or first-floor area of the principal building.

**SAFETY AND STABILIZATION GUARANTEE** — A form of performance guarantee in favor of the Township which may be furnished either as a separate guarantee or as a line item of the developer's performance guarantee. This guarantee shall be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition. (See § 195-65, Guarantees required.)

**SEWERAGE AUTHORITY** — The Township of Clark or the Rahway Valley Sewerage Authority.

**SITE PLAN** — A development plan of one or more lots on which is shown:

- A. The existing and proposed conditions of the lot, including, but not necessarily limited to, topography, vegetation, drainage, floodplains, marshes and waterways.
- B. The locations of all existing and proposed buildings, means of ingress and egress, drives, parking spaces, walkways, landscaping, signs, lighting and screening devices and drainage facilities and utilities.
- C. Any other information that may be reasonably required in order to make an informed determination pursuant to the provisions of this Part 2 requiring review and approval of site plans.

**STREET** — Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or Township roadway, or a street or way shown upon a plat heretofore approved pursuant to law or approved by official action, or a street or way on a map or plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board, and the grant to such Board of the power to review plats. "Street" also includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines. For the purpose of this Part 2, the Planning Board, with the advice of the Township Engineer, shall classify the streets as follows:

- A. **ALLEYS** — Minor ways which are used primarily for vehicular service access to the back or

the side of properties otherwise abutting on a street.

- B. **ARTERIAL STREETS** — Those which are used primarily for fast or heavy traffic of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.
- C. **COLLECTOR STREETS** — Those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
- D. **DEAD-END STREETS** — Those used primarily for access to abutting properties, having a length not to exceed 1,000 feet, with only one outlet and a turnaround at the closed end.
- E. **MINOR STREETS** — Those streets which are used primarily for access to the abutting properties.
- F. **MARGINAL ACCESS STREETS** — Those streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

**SUBDIVIDER** — Any person commencing proceedings under this Part 2 to effect a subdivision of land hereunder for himself/herself or for another.

**SUBDIVISION** —

- A. The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development, except that the following divisions shall not be considered subdivisions, provided that no new streets or roads are involved:
  - (1) Divisions of land for agricultural purposes where the resulting parcels are five acres or larger in size.
  - (2) Division of property by testamentary or intestate provisions.
  - (3) Divisions of property upon court order.
- B. "Subdivision" also includes resubdivision and, where appropriate to the context, relates to the process of subdividing or to the lands or territory divided.

**TEMPORARY CERTIFICATE OF OCCUPANCY (TCO)** — A document issued by the Construction Official or other duly authorized representative of the Township, allowing the occupancy or use of a building or site, and certifying that the structure, facility or use will be constructed and will be used in compliance with all the applicable Township approvals, codes, ordinances, and agreements. It is a form of permit with specific conditions, with limits imposed, backed by a required guarantee (See "temporary certificate of occupancy guarantee") and a specific time duration to be established by the Construction Official or other duly authorized representative. Since the purpose of the certificate of occupancy is to ensure that construction has been performed in complete conformance with the Uniform Construction Code and site plan or subdivision approval requirements, a temporary certificate of occupancy (TCO) may be issued if the parts of the building or site to be covered by the certificate may be occupied without endangering the health and safety of the occupants or users, in the sole opinion of the Construction Official or other duly authorized representative. As adopted herein, this requirement is interpreted to mean that utilities, including, but not limited to, water, sewer, gas, and electric, must be installed and in service. Temporary certificates of occupancy shall be issued for time periods not to exceed six months in duration.

Temporary certificates of occupancy may be extended only after documenting a diligent pursuit of the completion of the remaining work, in the sole opinion of the Construction Official or other duly authorized representative. In no case shall a temporary certificate of occupancy exceed one year. Should a TCO be in place for one year, the Township reserves the right to utilize any guarantees to complete the work as may be required.

**TEMPORARY CERTIFICATE OF OCCUPANCY GUARANTEE** — A form of performance guarantee in favor of the Township posted in cash, good funds or pursuant to a performance bond issued by an insurance company, approved by the Township and authorized to conduct business within the State of New Jersey, which may be furnished to secure the completion of improvements that are required by a site plan or subdivision approval, a developer's agreement, an ordinance, or a regulation requiring dedication to a public entity, and that have not yet been installed. The amount of the guarantee shall be determined by the Township Engineer. The posting of this guarantee is necessary for the Construction Code Official to issue a temporary permit to authorize a land use activity with conditions and for a limited period of time. (See § 195-65, Guarantees required.)

**VARIANCE** — Permission to depart from the literal requirements of Part 3, Zoning.

**ZONING OFFICER** — The Zoning Officer is the administrative official designated to administer and enforce the Zoning Ordinance and, in the process of issuing building permits, the Zoning Officer must issue a zoning permit as a prerequisite to a building permit being issued.

ARTICLE IX  
**Administrative Procedures**

**§ 195-55. Zoning permits.**

- A. Applicability. A zoning permit shall be required to be approved by the Zoning Officer prior to the commencement of any of the following:
- (1) The use or additional use or expansion of use of any land, structure or building, whether improved or unimproved, for any purpose.
  - (2) The erection, construction, reconstruction, alteration, conversion or installation of any structure or building, including signs and fences.
  - (3) The occupancy or use or the change of occupancy or use of any land, structure or building.
- B. Denial. If a zoning permit is denied by the Zoning Officer, an applicant may do one of the following:
- (1) Modify the proposed use or development so that it complies with all applicable provisions of this Part 2, if possible, and reapply for zoning permit approval.
  - (2) File the appropriate application for development, pursuant to Subsection D.
  - (3) Take no action towards the commencement of the proposed use or development.
- C. Exemptions.
- (1) All applications which involve a change of tenancy, but not a change of use, as herein defined, and/or minor alterations to the site or to one or more of the building elevations shall not be required to obtain site plan approval. The Zoning Officer shall issue a zoning permit after the application has been reviewed to verify and confirm that no variances are required and that the signage, site improvements and/or facade changes conform to applicable Township standards.
  - (2) An applicant may request an exemption upon application for a zoning permit by submitting a statement setting forth reasons for the exemption and providing sufficient plan information for the Zoning Officer to verify that the exemptions can be granted.
  - (3) The applicant shall pay a fee for the exemption review in an amount established by ordinance from time to time.<sup>1</sup>
- D. Application filing procedure. An application packet can be provided to an applicant by the Building Department, or it can be downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Zoning Permit Application," contains the necessary instructions, forms and related documents that need to be provided. The Township will require full and complete responses and answers to all requirements and questions contained thereon.
- E. An applicant may appeal a decision of the Zoning Officer to the Zoning Board of Adjustment by submitting the Township of Clark Land Development Application with supporting materials and applicable fees as detailed elsewhere herein.

**§ 195-56. Development Review Committee.**

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1. Editor's Note: The zoning permit exemption fee is in § 195-51, Fees established.



- A. A Development Review Committee is hereby established to review all applications for development or requests for review presented to the Planning Board or the Board of Adjustment. The Development Review Committee will be chaired by the administrative officer and shall include the Township Engineer, Construction Code Official, Shade Tree Commissioner, Zoning Officer and, in addition, such other municipal, county, or state professional or official as may be determined to be necessary and appropriate by the administrative officer where particular expertise may be required on a specific application. The Development Review Committee shall have the following responsibilities:
- (1) To recommend whether the application is to be considered by the appropriate Board as a minor or major development application.
  - (2) To determine compliance with the technical standards set forth in Chapter 166, Floodplain Management Regulations; Chapter 298, Soil Moving; Chapter 195, Part 4, Design Standards and Improvement Specifications, and other provisions of this Part 2, Subdivision and Site Plan Review.
  - (3) To make recommendations on the design and the technical elements of any application.
  - (4) To make nonbinding recommendations to the Board of Adjustment and/or the Planning Board respecting the matters consigned to its review.
- B. The Development Review Committee shall make known its findings and recommendation prior to the time when the application is to be considered by the approving authority.

#### **§ 195-57. Administration.**

- A. Authority of Boards. The provisions of this Part 2 shall be administered by the Township Planning Board and Zoning Board of Adjustment in accordance with N.J.S.A. 40:55D-1 et seq.
- B. Scope of regulations. These rules, regulations and standards established by this Part 2 shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Township.
- C. Matters to be considered by Boards. Any action taken by the Boards under the terms of this Part 2 shall give primary consideration to the matters mentioned above and to the welfare of the entire community.
- D. Exceptions. If the subdivider can clearly demonstrate that, because of peculiar conditions pertaining to his/her land, the literal enforcement of one or more of these regulations is impracticable or will exact undue hardship, the Board may permit such exception as may be reasonable and within the general purpose and intent of the rules, regulations and standards established by this Part 2 and N.J.S.A. 40:55D-51.
- E. In addition to other requirements in this chapter to submit Mylars for filing, all final approved plans for minor subdivisions, major subdivisions, minor site plans and major site plans shall be provided electronically to the Township Engineer.

#### **§ 195-58. Transfer of land prior to final approval.**

Pursuant to N.J.S.A. 40:55D-55, no person, as owner or agent, shall transfer, sell or agree to sell, except pursuant to an agreement expressly conditioned upon final subdivision approval, any land which forms a part of a subdivision on which the Planning Board or Zoning Board of Adjustment is required to act before final approval has been obtained or, in the case of a minor subdivision, classification established

and applicable deeds and/or maps are filed with the appropriate entity of the County of Union.

ARTICLE X  
**Minor Subdivisions**

**§ 195-59. Application; fee.**

- A. Before any minor subdivision of land takes place, an application shall be submitted and approved. The application shall be submitted to the Secretary of the Board in the appropriate form provided by the Board. The number and type of copies of the application form and maps shall be as specified in the application form, as prepared, approved and from time to time revised by the Planning Board. An application packet can be provided to an applicant by the Secretary of the Planning Board or it can be downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Township of Clark Land Development Application," contains the necessary instructions, forms and related documents that need to be provided. The applicant shall simultaneously apply to the County Planning Board for a review under the land development standards of the county.
- B. An application fee, as set forth in § 195-51, Development fees, shall be submitted at the time application is made.

**§ 195-60. Classification; approval.**

If the subdivision is classified as a minor subdivision and no cause is found for review by the entire Board or for unfavorable action upon the subdivision, the administrative officer shall report such finding to the Board. In such event, the Board is hereby empowered, as provided for in N.J.S.A. 40:55D-47, to waive the requirements for full notice and hearing, and thereupon, such finding shall be deemed to be a favorable approval by the Board; no further approval shall be required, and the plat shall be signed by the Chairperson of the Board and the Board Secretary and returned to the subdivider within 45 days of the date of submission of a completed application.

**§ 195-61. Filing of plat; expiration of approval.**

- A. Approval of a minor subdivision shall expire 190 days from the date of Township approval unless, within such period, a plat in conformity with such approval and the provisions of the Map Filing Law, N.J.S.A. 46:26B-1 et seq., or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the Municipal Engineer, the Township Tax Assessor and the Secretary of the Planning Board. Any such plat or deed accepted for such filing shall have been signed by the Chairperson and Secretary of the Planning Board.
- B. The developer shall furnish the Township Engineering Department four copies of a Mylar or other medium as permitted by law of the filed map, showing the date of filing and the county filing information. Final approved plans shall also be provided electronically to the Township Engineer.

**§ 195-62. Change of conditions of approval.**

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval is granted shall not be changed for a period of two years after the date of minor subdivision approval, provided that the approved minor subdivision shall have been duly recorded as provided in this Part 2.

ARTICLE XI  
**Major Subdivisions**

**§ 195-63. Preliminary approval.**

A. Application; fee.

- (1) Before any major subdivision of land takes place, an application shall be submitted and approved. The application shall be submitted to the Secretary of the Board, on the appropriate form provided by the Board, with the appropriate copies of a preliminary plat of the proposed subdivision. An application packet can be provided to an applicant by the Secretary of the Board or it can be downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Township of Clark Land Development Application," contains the necessary instructions, forms and related documents that need to be provided for this application. The Planning Board will require full and complete responses and answers to all requirements and questions contained thereon.
- (2) An application fee as set forth in § 195-51, Development fees, shall be submitted with the application.

B. Revision; amendment.

- (1) Following the public hearing and prior to adoption of a resolution of approval or disapproval of a subdivision application, the subdivider may request and the Board may grant permission to revise the preliminary plat.
- (2) The Board shall also have the discretion to permit the applicant to submit an amendment application in appropriate instances.

C. Action by Township Engineer. Prior to consideration of the preliminary plat by the Board, the Township Engineer shall examine the preliminary plat for conformance with the engineering requirements of the Township. The Township Engineer shall submit his/her comments to the Board prior to the date set for consideration of the preliminary plat by the Board.

D. Approval.

- (1) Notation. Where the Board acts favorably on a preliminary plat, the Chairperson and the Secretary of the Board shall affix their signatures to the plat, with a notation that it has now received approval, and it shall be returned to the subdivider for compliance with final approval requirements.
- (2) Effect. Approval of the preliminary plat shall constitute approval of the subdivision as to form only; that is, as to the arrangement and approximate dimensions of streets, lots and other planned features.
- (3) Rights of applicant. Preliminary approval shall confer upon the applicant the following rights for a three-year period from the date of approval:
  - (a) That the general terms and conditions under which the approval was granted will not be changed.
  - (b) That the applicant may submit, on or before the expiration date, the whole or part of the plat for final approval.

**§ 195-64. Final approval.****A. Application; informal meeting; fee.**

- (1) An applicant for the subdivision of land shall submit to the Secretary of the Board an application, on the appropriate form provided by the Board, and appropriate copies of a final plat of the proposed subdivision. An application packet can be provided to an applicant by the Secretary of the Board or it can be downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Township of Clark Land Development Application," contains the necessary instructions, forms and related documents that need to be provided for this application. The Planning Board will require full and complete responses and answers to all requirements and questions contained thereon.
- (2) An application fee as set forth in § 195-51, Development fees, shall be submitted at the time of application. In accordance with § 195-51, Fees established.

**B. Requirements. In accordance with § 195-65, Guarantees required. Before submission of the final subdivision plat, the following required, dedicated improvements must be installed, or bonded to the Township, in accordance with the requirements of the Planning Board, Division of Engineering, ordinances of the Township and conditions of preliminary subdivision approval applicable thereto:**

- (1) Streets.
- (2) Road subbase and road base, all required pavement courses.
- (3) Gutters.
- (4) Curbs.
- (5) Sidewalks.
- (6) Streetlighting.
- (7) Street trees.
- (8) Surveyor's monuments as shown on a final map and as required by the Map Filing Law.<sup>2</sup>
- (9) Water mains.
- (10) Sanitary sewers.
- (11) Drainage structure.
- (12) Public improvements of open space.
- (13) Any grading necessitated by the preceding improvements.

**C. Board action.**

- (1) The Board shall act to approve or disapprove the plat submitted for final approval with revisions, if any, within 45 days after it is submitted. The action of the County Planning Board, if any, shall be noted on the plat, and, if disapproved, a copy of the plat and the reasons for disapproval shall be returned to the applicant/subdivider.

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2. Editor's Note: See N.J.S.A. 46:26B-1 et seq.

- (2) If the Board approves the final plat, a notation to that effect shall be made on each plat and shall be signed by the Chairperson of the Board and the Board Secretary.
- D. Filing; expiration of approval. Upon final approval, copies of the final plat, signed by the Chairperson and the Secretary of the Board, shall be filed by the applicant with the County Recording Officer and the County Planning Board. If the plat has not been filed with the County Recording Officer within 95 days from the date of signing, the approval shall expire. The Board, for good cause shown, may extend this period to no more than 190 days from the date of the signing of the plat.

ARTICLE XIA  
**Minor Site Plans**

**§ 195-64.1. Purpose.**

The purpose of this article is to supplement the site plan review process by the addition of a category referred to as a "minor site plan." Minor site plans accommodate inconsequential changes to an existing site, which may be permitted without a full site plan review in order to facilitate development within the Township.

**§ 195-64.2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**MINOR SITE PLAN** — A development plan of one or more lots which proposes the expansion of an existing facility within the scope of development specifically permitted as a minor site plan, does not involve planned development of any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42, and contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met. The portion of a site proposed for development as a minor site plan shall be limited to a change not exceeding 10% of the overall site area, or 2,500 square feet, whichever is less, of the lots and blocks being developed.

**§ 195-64.3. Waiver of formal notice and public hearing requirements.**

The reviewing Board shall waive formal notice and public hearing requirements for development if the reviewing Board or the Development Review Committee finds that the application for development conforms to the definition of a "minor site plan" as set forth herein.

**§ 195-64.4. Application.**

An complete application for approval of a minor site plan is required. An application packet can be provided to an applicant by the Secretary of the Board or it can be downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Township of Clark Land Development Application," contains the necessary instructions, forms and related documents that need to be provided.

**§ 195-64.5. Review of application.**

Upon receipt of the requested escrow fees, the minor site plan application shall be reviewed and commented on by one or more of the following Township officials: administrative officer, Construction Official, Zoning Officer, Township Planner, Township Engineer, Fire Chief, Police Chief, and/or Health Officer. Should the applicant be aggrieved by any comments/conditions made by any Township official, then, within 10 days, upon receipt of such comments/conditions, the applicant may request, in writing, a hearing detailing the issues to be considered before the reviewing Board, which shall be scheduled within 45 days after the request.

**§ 195-64.6. Additional requirements.**

Minor site plan applications shall be approved and permits issued subject to receipt of applicable outside agency approvals and/or permits and the establishment of applicable performance guarantees and payment of inspection fees.

**§ 195-64.7. Decision by Board.**

Minor site plan applications shall be granted or denied within 45 days of the date of submission of a complete application to the Secretary of the reviewing Board or within such further time as may be consented to by the applicant. Failure of the reviewing Board to act within the prescribed time period shall constitute minor site plan approval.

**§ 195-64.8. Final approval.**

Minor site plan approval shall be deemed to be final approval of the site plan application by the reviewing Board, provided that the Board or said subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to N.J.S.A. 40:55D-38, N.J.S.A. 40:55D-39, N.J.S.A. 40:55D-41 and N.J.S.A. 40:55D-53.



ARTICLE XII  
**Performance Guarantees**

**§ 195-65. Guarantees required.**

Before the filing of final subdivision plats or the recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of certain zoning permits and temporary land use permits, the Township may require, for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of performance guarantees and the provision for maintenance guarantees in accordance with standards contained herein.

A. Performance guarantees.

- (1) The developer shall furnish a performance guarantee in favor of the Township of Clark in an amount not to exceed 120% of the cost of the installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation which are proposed to be dedicated to the Township, and that have not yet been installed, which cost shall be determined by the Township Engineer. In accordance with § 195-64B, guarantees are required for the streets, pavements, gutters, curbs, sidewalks, streetlighting, street trees, surveyor's monuments, water mains, sanitary sewers, drainage structures, public improvements of open space, and any grading necessitated by the improvements.
- (2) The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the developer.

B. Temporary certificate of occupancy guarantee. In the event that the developer shall seek a temporary certificate of occupancy (TCO) for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the Township of Clark in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a temporary certificate of occupancy guarantee, all sums remaining under an underlying performance guarantee, required for final approval, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. The scope and amount of the temporary certificate of occupancy guarantee shall be determined by the Zoning Officer, Township Engineer, or Construction Code Official. The temporary certificate of occupancy guarantee shall be released by the Zoning Officer, Township Engineer, or Construction Code Official upon the issuance of a permanent certificate of occupancy with regard to the particular development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

C. Safety and stabilization guarantee. A developer shall furnish to the Township a safety and stabilization guarantee, in favor of the Township of Clark. At the developer's option, a safety and stabilization guarantee may be furnished either as a separate guarantee or as a line item of the performance guarantee. A safety and stabilization guarantee shall be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

- (1) Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure; and
  - (2) Work has not recommenced within 30 days following a written notice from the Township to the developer of the Township's intent to claim payment under the guarantee. The Township shall not provide notice of its intent to claim payment under a safety and stabilization guarantee until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.
  - (3) The amount of a safety and stabilization guarantee for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000. The amount of a safety and stabilization guarantee, for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus 2 1/2% of the bonded improvement costs in excess of \$100,000, up to \$1,000,000 plus 1% of the bonded improvement costs in excess of \$1,000,000.
  - (4) The Township shall release a separate safety and stabilization guarantee to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this subsection.
  - (5) The Township shall release a safety and stabilization guarantee upon the Township Engineer's determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.
- D. Maintenance guarantee. At the completion of certain required improvements and prior to the release of any performance guarantees required pursuant to this subsection, the developer shall post with the Township a maintenance guarantee in an amount not to exceed 10% of the cost of the installation of the improvements which are being released.
- (1) In addition to certain required on-tract improvements, the developer shall also post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Township Engineer, a maintenance guarantee in an amount not to exceed 10% of the cost of the installation of the following private site improvements: stormwater management basins, inflow and water quality structures within the basins, and the outflow pipes and structures of the stormwater management system, if any, which cost shall be determined by the Township Engineer.
  - (2) The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.
  - (3) In the event that other governmental agencies or public utilities 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 shall be required by the Township for such utilities or improvements.
  - (4) The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be adjusted to an amount not to exceed 120% of the cost of the installation, which cost shall be

determined by the Township Engineer as of the time of the passage of the resolution.

- (5) If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the developer and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected and the Township may complete such improvements.

#### **§ 195-66. Partial release.**

- A. Upon substantial completion, as determined by the Township Engineer, of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the developer may request, in writing, by certified mail addressed in care of the Township Clerk, that the Township Engineer prepare, in accordance with the itemized cost estimate prepared by the Township Engineer, a list of all uncompleted or unsatisfactory completed bonded improvements. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the developer. Thereupon the Township Engineer shall inspect all bonded improvements covered by the developer's request and shall file a detailed list and report, in writing, with the Township Council not later than 45 days after receipt of the developer's request.
- B. The list prepared by the Township Engineer shall state, in detail, with respect to each bonded 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 bonded improvement determined to be unsatisfactory. The report prepared by the Township Engineer shall identify each bonded 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 bonded improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee as required.
- C. The Township Council, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Township Engineer, or reject any or all of these bonded improvements and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Township Engineer. Upon adoption of the resolution by the governing body, the developer shall be released from all liability pursuant to its performance guarantee with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved, provided that of the amount of the total performance guarantee and safety and stabilization guarantee posted may be retained to ensure completion and acceptability of all improvements. The safety and stabilization guarantee shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction.
- D. For the purpose of releasing the developer from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70% of the total amount of the performance guarantee, then the Township may retain 30% of the amount of the total performance guarantee and safety and

stabilization guarantee to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a temporary certificate of occupancy guarantee has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the Township below 30%.

- E. In the event that the developer has made a cash deposit with the Township as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee, the Township may retain cash equal to the amount of the remaining safety and stabilization guarantee.
- F. If any portion of the required bonded improvements is rejected, the approving authority may require the developer to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section, shall be followed.
- G. In the event that final approval is by phases, stages or sections of development as permitted by law, the provisions of this section shall be applied for each phase, stage or section.
- H. To the extent that any of the improvements have been dedicated to the Township on the subdivision plat or site plan, the Township Council shall be deemed, upon the release of any performance guarantee required herein, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the Township Council, provided that such improvements have been inspected and have received final approval by the Township Engineer.

**§ 195-67. (Reserved)**

ARTICLE XIII  
**Subdivision Plat Details**

**§ 195-68. Minor subdivisions.**

- A. The plat shall be designed and drawn by a licensed New Jersey land surveyor and shall be based on a certified survey map. If the subdivision is to be perfected by a filed map, the plat shall comply with N.J.S.A. 46:26B-1 et seq.
- B. An application packet can be provided to the applicant by the Secretary of the Board or it can be downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Township of Clark Land Development Application," contains the necessary instructions, forms and related documents that need to be provided for this application. The Planning Board will require full and complete responses and answers to all requirements and questions contained thereon.

**§ 195-69. Preliminary plat for major subdivisions.**

The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not more than 40 feet to the inch, subject to the Township Engineer's recommendation. The preliminary plat shall be designed and drawn by a licensed New Jersey professional land surveyor. Contour maps and preliminary construction plans, including road profiles and utility plans, shall be submitted as part of the preliminary plat. Separate maps may be required by the Board for topography, utilities and road details. A soil erosion and sedimentation control plan and a grading plan of at least 40 feet to the inch shall be included. The grading plan shall show the existing, as well as the proposed, contours. The plat shall be designed in compliance with the standards contained herein and shall be in full compliance with the checklist requirements outlined in the Township of Clark Land Development Application.

**§ 195-70. Final plat for major subdivisions.**

The final plat shall be drawn at a scale of not more than one inch equals 40 feet and in compliance with the New Jersey Map Filing Law, N.J.S.A. 46:26B-1 et seq., and in accordance with the terms of this Part 2. An electronic version shall also be filed with the Township Engineer. The final plat shall be prepared in accordance with the checklist requirements in the application package and shall be accompanied by all required documentation.

ARTICLE XIV  
**Site Plans**

**§ 195-71. Applicability.**

For the purposes of this Part 2, "site development" shall consist of the construction or reconstruction of any building, other than a detached one-family dwelling or a detached two-family dwelling, if such is permitted by a zoning variance, involving a floor area of over 100 square feet or under 100 square feet in the case of commercial or industrial buildings. "Site development" shall also include the construction or reconstruction of parking areas and driveways for more than two vehicles, except in connection with a detached one- or two-family dwelling, and the regrading, removal of vegetation or displacement of soil in an area of over 5,000 feet.

**§ 195-72. Administration.**

The provisions of this Part 2 shall be administered by the Planning Board in accordance with N.J.S.A. 40:55D-37, except that the Zoning Board of Adjustment shall substitute for the Planning Board whenever the Zoning Board of Adjustment has jurisdiction over a site plan under the provisions of § 195-18.

**§ 195-73. Submission of preliminary site plan.**

- A. Application. Any owner of land within the Township, prior to developing a site, shall submit to the administrative officer such number of copies, as specified in the Planning Board's application form, of a preliminary site plan and such other information as is required in § 195-80 below in tentative form for preliminary approval. The applicant may, however, submit such site plan and accompanying information in final form and may request final approval concurrently with preliminary approval, which request may be granted by the Board if the data required for final approval under § 195-80 hereunder is found to be complete and satisfactory.
- B. Determination of completeness. The administrative officer shall immediately notify the Secretary of the Planning Board, and a copy shall be transmitted to the Township Engineer. If the application for development is found to be incomplete by the Township Engineer, the developer shall be notified thereof within 45 days of the submission of such application, or it shall be deemed to be properly submitted.
- C. Amendments. If the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development.

**§ 195-74. Approval of preliminary site plan.**

The Planning Board shall, if the proposed development complies with this Part 2 and N.J.S.A. 40:55D-1 et seq., grant preliminary site plan approval. A public hearing is not required, except for variances and conditional uses and as otherwise required by N.J.S.A. 40:55D-1 et seq. If the application for development is under the jurisdiction of the Zoning Board of Adjustment, the hearing, review and approval procedures shall be included with and subject to the same requirements as for a zoning variance.

**§ 195-75. Approval by county.**

Whenever review or approval of the application by the County Planning Board is required by N.J.S.A.

40:27-6.6, the Township Planning 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 Planning Board by its failure to report thereon within the required time period.

**§ 195-76. Changes to preliminary site plan; duration of approval; extensions.**

- A. Change of requirements. Preliminary approval of a site plan shall protect the applicant, for a three-year period from the date of the preliminary approval, from changes in the general terms and conditions on which preliminary approval was granted, including, but not limited to, use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions; off-tract improvements; and any requirements peculiar to such preliminary site plan approval. However, 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.
- B. Extensions of approval period; conditions. The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year, but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

**§ 195-77. Submission of final site plan.**

- A. Approval by whole or by section. 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 site plan.
- B. Submission to administrative officer and Board. The final site plan shall be submitted to the administrative officer, in the number of copies requested by the Planning Board's application form, for forwarding to the Planning Board for final approval. The administrative officer shall immediately notify the Secretary of the Planning Board upon receipt of the final site plan.
- C. Public hearing. A public hearing shall not be required, except that if any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing is made or is required, the site plan shall again go through the procedure required for preliminary site plans.

**§ 195-78. Changes to final site plan; duration of approval; extensions.**

- A. Changes from approved plan. The site plan, as approved by the Planning Board, shall be binding upon the applicant. Any changes from the approved site plan shall require resubmission and reapproval by the Planning Board, with appropriate fees.
- B. Expiration of approval. The approved site plan shall remain effective for a period of two years from the date of approval, and all improvements shall be installed within that time period.

**§ 195-79. Plan details.**

- A. The major site plan shall be prepared by a New Jersey licensed professional engineer, land surveyor, architect or professional planner at an appropriate scale. The major site plan shall be based on the latest Tax Map information and a current survey prepared by a professional land surveyor and shall be 24 inches by 36 inches in size. The major site plan shall be drawn on a map or maps to a scale not smaller than one inch equals 40 feet and not larger than one inch equals 10 feet and shall include and show the information required in accordance with the application instructions.
- B. An application packet can be provided to the applicant by the Secretary of the Board or it can be

downloaded from the Township's website at [www.ourclark.com](http://www.ourclark.com). The document, entitled "Township of Clark Land Development Application," contains the necessary instructions, forms and related documents that need to be provided for this application. The Planning Board will require full and complete responses and answers to all requirements and questions contained thereon.

**§ 195-80. Review criteria.**

In the course of its review, the Board may consider the following:

- A. The layout of the site with respect to the arrangement and widths of driveways on the site and giving access thereto.
- B. The amount of space required for automobile parking and for the loading and unloading of goods and materials; the location of such space and access thereto.
- C. The improvement of roadways and automobile parking areas by grading, surfacing and the installation of stormwater management facilities.
- D. Lighting.
- E. The installation of waterlines and facilities for sanitary sewerage.
- F. The display of signs.
- G. The appropriateness of the site plan and of the design of the buildings in relation to the physical characteristics of the site, the character of the neighborhood and the most beneficial prospective use of land in the neighborhood.
- H. Conformance with the objectives of the Comprehensive Master Plan; Part 3, Zoning; and this Part 2.
- I. The location, design and adequacy of screening and landscaping.

**§ 195-81. Inspection and completion of improvements.**

The installation of improvements as approved in the final site plan, other than buildings, shall be subject to inspection by the Township Engineer. Approval shall be revoked if there is a significant deviation from the site plan as approved. Performance and maintenance bonds, as specified in § 195-65, Guarantees required, may be required and shall be released subject to approval by the Township Engineer and the Township Council. All improvements shall be completed in a timely manner so as not to leave the site in an unfinished or unsightly condition, as determined by the Township Engineer. (See § 195-65C, Safety and stabilization guarantee).



ARTICLE XV  
**Improvements**

**§ 195-82. Improvement standards.**

Prior to the granting of final approval of subdivisions, the developer shall have installed all improvements specified in § 195-64 or shall have furnished performance guarantees as specified in § 195-65 for the ultimate installation of those improvements. Improvements for residential uses shall conform to the Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21-1.1 et seq. These standards shall be considered the minimum for all nonresidential uses, with modifications or additions as required by the Township Engineer and Board having jurisdiction over the applications or as modified elsewhere in this Part 2.

- A. Streets. All streets shall be paved from curblineline to curblineline.
- B. Street signs. Appropriate street signs shall be installed at all street intersections and shall be of a type specified by the Division of Engineering. Street signs shall be installed prior to the issuance of certificates of occupancy, and the cost of signs and installation of same shall be borne by the subdivider.
- C. Clear view at intersections.
  - (1) No fence, structure, planting or shrubbery over 30 inches in height above the level of the pavement at the center of the street, opposite the point in question, shall be erected, planted or maintained on any corner lot, in any zone, within 25 feet of the intersection formed by the projection of the two street sidelines at the corner.
  - (2) No fence, structure, planting or shrubbery shall be permitted within three feet of any street sideline, on any lot, in any zone. The branches of all trees and shrubs projecting beyond such street sideline must be trimmed at all times in order to insure unobstructed vision and clearance eight feet above the ground or sidewalk level.
- D. Topsoil protection. No topsoil shall be removed from the site or used as spoil unless permission is first obtained from the Township Engineer and the Planning Board. Topsoil moved during the course of construction shall be redistributed so as to provide at least four inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.
- E. Monuments. Monuments shall be of the size and shape required by N.J.S.A. 46:26B-3 and shall be placed in accordance with such statute.
- F. Catch basins. Catch basins shall be constructed as directed and located by the Township Engineer.
- G. Soil or earth moving. No change shall be made in the elevation or contour of any lot or site, except as approved by the Township Engineer and the Planning Board. All changes in elevation and contours approved by the Township Engineer and the Planning Board shall be shown on the preliminary and final plat and profiles.
- H. Fire hydrants. Fire hydrants shall be installed in locations approved by the Fire Department.
- I. Construction stakes and grades. All construction stakes and grades thereon shall be set by a licensed professional engineer or land surveyor in the employ of the subdivider, or his/her contractor, and a duplicate copy of the notes made therefrom shall be filed with the Township Engineer.

- J. Commencement of construction work. No construction work shall commence without the Township Engineer being properly notified. Such notice shall be given at least one week before the commencement of work.
- K. Debris. All stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris shall be removed from the site to the satisfaction of the Township Engineer. None of the above shall be buried or covered.
- L. Construction standards and specifications. The construction standards and specifications of the Township, as now or hereafter adopted, shall govern the construction and installation of all of the above improvements. Failure of the subdivider or his/her contractor or agent to conform to such specifications shall be just cause for the suspension of the work being performed and all permits being revoked, and no person shall have the right to demand or claim damages from the Township, its officers, agents or servants by reason of such suspension or revocation.
- M. Inspection. No underground installation shall be covered until inspection has been made and is approved by the Division of Engineering.
- N. As-built improvement plans. The subdivider shall provide and file with the Township Engineer one complete set of as-built improvement plans and profiles showing actual construction as approved prior to the release of the performance guarantees.

**§ 195-83. Inspections; costs.**

- A. All improvements, except electric, gas and waterlines, shall be installed under the supervision and inspection of the Division of Engineering. The inspection costs are to be borne by the developer, and the developer shall reimburse the Township for reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements, which fees shall not exceed the sum of the amounts set forth in Subsection A(1) and (2) of this section. The Township may require the developer to post the inspection fees in escrow in an amount:
  - (1) Not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of bonded improvements of only those improvements required by an approval or a developer's agreement, an ordinance, or a regulation for improvements to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Township Engineer; and
  - (2) Not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee for required dedicated improvements, which cost shall be determined by the Township Engineer pursuant to Section 15 of P.L. 1991, c. 256 (N.J.S.A. 40:55D-53.4).
- B. Fees paid in installments.
  - (1) For those developments for which the inspection fees total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.
  - (2) For those developments for which the inspection fees total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by

a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.

- C. If the Township determines that the amount in escrow for the payment of inspection fees, as calculated herein, is insufficient to cover the cost of additional required inspections, the Township may require the developer to deposit additional funds in escrow, provided that the Township delivers to the developer a written inspection escrow deposit request, signed by the Township Engineer, which informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections. (See §§ 195-27 and 195-28).

**§ 195-84. Completion of required improvements; performance guarantee; maintenance bond.**

- A. No final plat shall be approved by the Planning Board for filing until the completion of all required improvements specified in § 195-64B have been certified to the Planning Board by the Township Engineer. In addition, no final plat shall be approved by the Planning Board unless the subdivider or owner shall have filed with the Township Clerk a performance guarantee sufficient in amount to cover the cost of all required improvements or uncompleted portions thereof, specified in § 195-65 as estimated by the Township Engineer, and assuring the installation of such uncompleted improvements on or before an agreed date, not to exceed three years from the date of execution of the performance guarantees. Such performance guarantee may be in the form of an irrevocable performance bond, which shall be issued by a bonding or surety company and approved by the Township Council and by the Township Attorney as to form, sufficiency and execution; or a certified check in the sum specified by the Township Engineer, which check shall be deposited to the trust account for the Township or a bank account with the bank book in Township custody. Such money or other surety shall be returned to the depositor after full compliance. The Township may require up to 10% of the performance guarantee to be deposited in cash.
- B. The performance guarantee shall run for a period to be fixed by the Planning Board, but in no case for a term of more than three years. However, with the consent of the developer and the surety, if there is one, the Township Council, by resolution, may extend the term of such performance guarantee for an additional period, not to exceed three years. The amount of a performance guarantee may be reduced by the Council by resolution when portions of the required improvements have been installed, accepted and secured by a maintenance guarantee.
- C. If the required improvements have not been installed in accordance with the performance guarantee, the developer and surety shall be liable thereon to the Township for the reasonable cost of the improvements not installed or improperly installed and the expenses involved thereto. Upon receipt of the proceeds of the bond or guarantee, the Township shall install such improvements or shall correct any such defective installations. The Township may use such portions of the performance guarantees as have been deposited in cash with the Township Clerk in accordance with the terms of this Part 2 and any applicable agreement to assure the completion or correction of such improvements. (See § 195-65A.)
- D. Upon completion and approval of a portion or section, the developer shall be required to file a maintenance bond as specified in § 195-65D sufficient in amount to guarantee that the completed section will be maintained by the developer until completion of improvements in the remaining portions or sections of the subdivision and for a stated period of time thereafter, not to exceed three years from date of completion of all improvements.

- E. The Township Engineer shall determine the amount of the maintenance bond, and it shall be approved by the Township Attorney as to form, sufficiency and execution and approved by the Township Council.

**§ 195-85. Off-tract improvements.**

Pursuant to the provisions of N.J.S.A. 40:55D-39 and 40:55D-42, construction of, or contributions for, off-tract water, sewer, drainage and street improvements may be required in accordance with the following criteria:

- A. Improvements at sole expense of applicant. In cases where reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application, and where no other property owners receive a special benefit thereby, the Board may require the applicant, as a condition of subdivision or site plan approval, at the applicant's sole expense, to provide for and construct such improvements as if such were on-tract improvements, in the manner provided hereafter and as otherwise provided by law.
- B. Contributions by developer.
- (1) In cases where the need for any off-tract improvement is necessitated by the proposed development application, and where the Board determines, in writing, that properties outside the development will also be benefited by the improvements, the Board shall require such contribution from the developer towards the cost of such improvement or improvements as the Board determines is fair and equitable, considering the benefit to the development and the creation in acceleration of the need by the development. The resolution or determination of the Board shall specify the off-tract improvements which are necessary and the terms and conditions which shall be imposed upon the applicant to insure the successful and reasonable implementation of same. In its deliberation as to whether off-tract improvements are required, the Board shall be guided by the rules and regulations specified in Part 3, Zoning, this Part 2 and the Township Master Plan. The Board may also be guided by counsel from the Board Attorney, Engineer and other qualified experts and Township officials.
  - (2) In the event that the Board determines that one or more improvements constitute an off-tract improvement, the Board shall notify the Township Council of same, specifying the Board's recommendation relative to the estimated cost, the applicant's prorated share of the cost and possible methods or means to implement same, including, but not limited to, performance and maintenance guarantees, cash contributions, development agreements and other forms of surety.
  - (3) The Board shall not grant final approval of the subdivision until all aspects of such conditions have been mutually agreed to by both the applicant and the Township Council, and a written resolution to that effect by the Council has been transmitted to the Board.
- C. Methods of implementation.
- (1) Performance and maintenance guarantees. Where a performance or maintenance guarantee or other surety is required in connection with an off-tract improvement, the applicant shall be required to follow the same procedures and requirements as specified in this Part 2 for other improvements.
  - (2) Development agreement. A development agreement governing off-tract improvements or other conditions as may be required by this Part 2 or by the Board shall be approved as to form, sufficiency and execution by the Board Attorney and Township Attorney. Such agreement shall

specify the amount of cash contributions, if any, the method of payment of same, the relative timing of such payment and the obligation or obligations to be undertaken by the Township.

- (3) Cash contributions; exceptions. Cash contributions for off-tract improvements shall not be required under the following conditions:
    - (a) Where another county or state agency has jurisdiction over the subject improvement and requires a cash contribution, guarantee or other surety of the applicant in lieu of such conditions imposed by the Township;
    - (b) Where a benefit assessment or other similar tax levy is imposed upon the applicant for the off-site improvement provided; or
    - (c) Where the applicant, where legally permissible, can undertake the improvements in lieu of the Township, subject to standards and other conditions as may be imposed by the Township.
  - (4) Cash contributions; payment. Where a cash contribution is required by this Part 2, such contribution shall be deposited with the Treasurer of the Township, with a copy of the applicant's transmittal letter forwarded to the Township Council, the Township Engineer and the Board. Any and all monies received by the Treasurer shall be deposited in an escrow account for the purpose of undertaking the improvements specified. Where such improvements are not undertaken or initiated for a period of 10 years, the funds may be retained by the Township and may be used for general Township purposes, but in such event, neither the applicant nor any of his/her heirs, successors, executors, administrators or grantees shall be liable to the Township for any assessment for the purpose of installing any of the improvements for which such cash contribution was made.
- D. Formula for determining applicant's share of off-tract improvements. Where an off-tract improvement is required, the following criteria shall be utilized in determining the proportionate share of such improvement to the applicant:
- (1) Streets and accessories: street widening, alignment, corrections, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere and the construction of new streets and other similar street or traffic improvements. The applicant's proportionate share shall be calculated by the Township Engineer in accordance with N.J.S.A. 40:55D-42.
  - (2) Water facilities: any Township expense for water distribution facilities, including the installation of new water mains, the relocation of such facilities and the installation of other appurtenances associated therewith. The applicant's proportionate cost shall be in the ratio of the estimated daily use of water from the property or properties in gallons to the sum of the deficiency in gallons per day for the existing system or subsystem and the estimated daily use of water for the proposed development. The ratio thus calculated shall be increased by 10% for contingencies.
  - (3) Sewers: sanitary sewage distribution facilities, including the installation, relocation or replacement of collector and interceptor sewers and the installation, relocation or replacement of other appurtenances associated therewith. The applicant's proportionate cost shall be in the ratio of the estimated daily flow in gallons to the sum of the present deficient capacity for the existing system or subsystem and the estimated daily flow from the proposed project or development. In the case where the peak flow for the proposed development may occur during

the peak-flow period for the existing system, the ratio shall be the estimated peak-flow rate from the proposed development in gallons per minute to the sum of the present peak-flow deficiency in the existing system or subsystem and the estimated peak-flow rate from the proposed development. The greater of the two ratios thus calculated shall be increased by 10% for contingencies and shall be the ratio used to determine the cost to the applicant.

- (4) Drainage facilities: stormwater and drainage improvements, including installation, relocation or replacement of transmission lines, culverts, catch basins and the installation, relocation or replacement of other appurtenances associated therewith. The applicant's proportionate cost shall be in the ratio of the estimated peak surface runoff as proposed to be delivered into the existing system measured in cubic feet per second to the sum of the existing peak flow in cubic feet per second deficient for the existing system and the estimated peak flow as proposed to be delivered. The ratio thus calculated shall be increased by 10% for contingencies. The applicant's engineer shall compute the drainage basin area, the area of the development and the percent of the total drainage basin area occupied by the development. Where no drainage system exists which will receive the flow of surface water from the applicant's development, the applicant shall furnish all drainage rights-of-way deemed to be necessary by the Board.
- (5) General considerations. In calculating the proportionate or pro rata amount of the cost of any required off-tract facilities which shall be borne by the applicant, the Board shall also determine the pro rata amount of cost to be borne by other owners of lands which will be benefited by the proposed improvements.

ARTICLE XVI  
**Design Standards**

**§ 195-86. General standards.**

- A. Subdivision plans, site plans and plot plans shall conform to design standards that will encourage good development patterns within the Township. Where an Official Map or Master Plan, or both, has or have been adopted, the subdivision shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, public parks, playgrounds and other areas shown on an officially adopted Master Plan or Official Map shall be considered in approval of subdivision plats. Where no Master Plan or Official Map exists, streets and drainage rights-of-way shall be shown on the final plat and shall be such as to lend themselves to the harmonious development of the Township and enhance the public welfare in accordance with the design standards set forth in this Part 2.
- B. Residential design standards are set forth in the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21-1.1 et seq. All other nonresidential development shall conform with the following requirements.

**§ 195-87. Streets.**

- A. Layout. The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets and, where necessary in order to promote orderly flow of traffic, safety and welfare of the public, shall be such as to provide for appropriate extension to adjoining properties for future streets.
- B. Minor streets. Minor streets shall be so designed as to discourage through traffic.
- C. Arterial streets; service roads; buffers. Subdivisions abutting arterial streets shall provide a marginal service road or reserve frontage with a buffer strip for planting, or some other means of separation of through and local traffic as the Planning Board may determine appropriate.
- D. Width. The right-of-way width shall be measured from lot line to lot line and shall not be less than the following:
  - (1) Arterial streets: 80 feet.
  - (2) Collector streets: 60 feet.
  - (3) Minor streets: 50 feet.
  - (4) The right-of-way width for internal roads and alleys in multifamily, commercial and industrial developments shall be determined on an individual basis, and in all cases shall be of sufficient width and design to safely accommodate the maximum traffic, parking and loading needs and maximum access for fire-fighting equipment.
- E. Reserve strips. No subdivision showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed in the Township Council under conditions recommended by the Planning Board.
- F. Street grades. Grades of arterial and collector streets shall not exceed 4% unless, because of local conditions, the Township Engineer may approve another percentage. Grades on other streets shall not exceed 10%. No street shall have a minimum grade of less than 0.5%.

- G. Intersections. Street intersections shall be as nearly at right angles as is possible. In no case shall they be less than 60°, nor more than 120°. The block corners at intersections shall be rounded at the curbline with a curve having a radius of not less than 20 feet.
- H. Street jogs. Street jogs with center-line offsets of less than 125 feet shall be prohibited.
- I. Reverse curves. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
- J. Connecting curves. When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a radius of 300 feet.
- K. Vertical curves. All changes in grades in excess of 1 1/2% shall be connected by vertical curves of sufficient length to provide a smooth transition and proper sight distance.
- L. Dead-end streets. Dead-end streets and culs-de-sac shall not be longer than 1,000 feet from the nearest intersection and shall provide a turnaround at the end with a radius of not less than 50 feet to the base of the curb and tangent, whenever possible, to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties. Wherever a temporary or permanent turnaround is proposed on any street, the front yard setback line shall be measured from the turnaround.
- M. Street names. All new streets to be established in the Township shall be named by the Special Street Naming Committee, established by appointment from the office of Mayor. The Special Street Naming Committee shall consist of five members. The Mayor shall appoint one member from the administration, one member from the Clark Historical Society, one member from the Township Council and two members from the Clark Central Veterans Committee, each for a three-year term. The Special Street Naming Committee shall select proper street names as set forth below:
- (1) All new streets to be established in the Township shall be named after a Township resident who died in combat in the service of the United States until such names shall have been exhausted, unless the Special Street Naming Committee believes the street shall be named in accordance with Subsection M(2) below. A list of such residents shall be prepared and updated by the Clark Central Veterans Committee and placed on file with the Township Clerk.
  - (2) All new streets shall be named after a historical figure or family of the Township when the proposed new street is to be constructed upon their property, which had been owned by such historical figure or family.
  - (3) Any new street not falling into either category shall be named in the discretion of the Special Street Naming Committee.
  - (4) All street names selected by the Special Street Naming Committee must then be approved by the Township Council and submitted to the Planning Board for final approval in accordance with the terms of this Subsection M.
- N. Off-street parking. Off-street parking shall be required. Parking layouts shall be subject to the approval of the Planning Board and shall normally include turnarounds. Residential lots shall be so arranged that there is no backing out into the street.
- O. Street construction permit. Before any street dedicated to public use in an existing subdivision may be constructed or reconstructed hereafter, the owners of abutting properties, the subdivider or other



parties in interest shall make application, in writing, for a permit to the Township Council and Planning Board, specifying the nature and location of the improvement to be made, and shall furnish the Township Council a certificate from the Planning Board showing that the proposed street construction or reconstruction conforms to the provisions of this Part 2. The Division of Engineering shall inspect the proposed improvement and report to the Township Council before the issuance of the permit.

- P. Vacation of streets. Vacation ordinances shall be referred to the Planning Board for recommendation prior to final approval by the Township Council.

**§ 195-88. Blocks.**

- A. Size. Block length and width, or acreage within bounding roads, shall be such as to accommodate the size of lot required in the area by Part 3, Zoning, and to provide adequately for sewage disposal, convenient access, circulation control and safety of street traffic.
- B. Minimum length and width. Blocks shall not be more than 600 feet in length, nor a lesser number of feet in width than is necessary to comply with the Township zoning requirements, except where the Planning Board may deem that existing or future conditions warrant a variation from such requirements.
- C. Commercial block size. For business, commercial or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.
- D. Internal roads. Alleys or road easements within blocks in commercial, business or industrial areas may provide for access from at least two streets and shall have a suitable width as determined by the Planning Board.

**§ 195-89. Lots.**

- A. Lot dimensions, front, side and rear yards, and total area shall not be less than the requirements of Part 3, Zoning.
- B. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- C. Each lot must front upon an approved street at least 50 feet in width at the street line, except lots fronting on streets described in § 195-87D(4).
- D. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width lines, and all setbacks shall be measured from such lines.
- E. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, sewage disposal or similar circumstances, the Planning Board may, after adequate investigation, with professional assistance, if deemed necessary, withhold approval of such lots.

**§ 195-90. Public use and service areas.**

- A. Utility easement. In large-scale developments, easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least 20 feet wide and located in consultation with the companies or Township departments concerned.

- B. Drainage easement. Where a property is traversed by a watercourse, drainageway channel or stream, there shall be provided a stormwater easement or drainage right-of-way at least 15 feet wide, conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose of disposing of stormwater and for flood control. The applicant shall deed areas deemed necessary for flood control by the Planning Board to the Township.
- C. Preservation of natural features. Natural features such as trees, brooks, hilltops and views shall be preserved in designing any plan containing such features, except that dead, dying and diseased trees shall be removed.

### § 195-91. Buildings.

The following standards are applicable to all nonresidential development applications:

- A. Building design. The objectives of the building design standards are to provide overall high-quality building with special emphasis on methods that reduce the visual impact of large buildings. The exterior appearances of buildings shall complement the character of existing development in the surrounding area.
- B. Specific design features that reduce the visual impact of large buildings shall be used. These include but are not limited to:
  - (1) Elements that draw focus, introduce scale and provide three-dimensional effects.
  - (2) Variations and articulation to overall building facades by changing the facade plane.
  - (3) Use of subdued wall coloration, patterning, texture and reveals.
  - (4) Extensive use of landscaping to shield and break up building planes.
- C. Building mass. Solid and unarticulated buildings are not permitted. The mass, scale and visual impact of buildings shall be reduced by staggered building walls. The staggered building walls shall incorporate a setback or bump-out of at least four feet and be a minimum of 50 feet in length at least every 150 feet to 180 feet, depending on bay width, or such other architectural treatment that, in the opinion of the Board, provides an equivalent reduction in the mass, scale and visual impact of the buildings.
- D. Architectural interest. To provide architectural interest, create a three-dimensional effect and further reduce the visual scale and impact of a building, the following techniques shall also be used:
  - (1) Variations in building treatment shall be liberally used and shall include painted panels, awnings or canopies, wall openings, wall texture changes, changes in building height and variations in rooflines.
  - (2) Building entries and building corners shall be readily identifiable through the use of canopies, marquees, architectural treatment and the use of different materials, such as glass.
  - (3) Extensive use of small-scale elements, such as planter walls and hedges, shall be provided particularly around building entrances.
  - (4) Landscaping shall be employed to further reduce the visual impact of building mass.
- E. Materials.

- (1) The front and two side elevations of all buildings and structures shall be constructed of brick, architectural block, architectural precast concrete or tilt-up construction using similar materials of equally high quality and aesthetics. Utility standard concrete panels or masonry units may be used on rear elevations and/or loading dock areas if the rear elevations and loading docks are not visible from any public right-of-way after berming, fencing or landscaping treatment.
- (2) Rooflines and parapets shall be designed to minimize the visual impact of rooftop-mounted equipment, such as vents and stacks, from public rights-of-way.

F. Pedestrian circulation.

- (1) On-site concrete or brick sidewalks, or such other material acceptable to the Board, shall be provided to create a continuous pedestrian network and to connect with existing sidewalks and neighborhoods.
- (2) Vehicular and pedestrian circulation patterns shall be separated. A landscaped buffer shall provide a separation between pedestrian and vehicular ways.
- (3) Pedestrian crossings shall be indicated by such techniques as changed pavement materials or texture, signals, signage, or painted stripes, as determined by the Board.
- (4) Secure and convenient pedestrian walkway access shall be provided between parking lots, sidewalks and primary entrances to buildings. Sidewalks shall be barrier-free, a minimum of five feet in width and shall be set back a minimum of five feet from all buildings.

## ARTICLE XVII

**Recycling Areas in Multifamily Housing Developments****§ 195-92. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**MULTIFAMILY HOUSING DEVELOPMENT** — A building containing three or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings.

**RECYCLING AREA** — Space allocated for collection and storage of source-separated recyclable materials.

**§ 195-93. Recycling area required; dimensional standards.**

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

**§ 195-94. Location; lighting; signs; landscaping and fencing.**

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

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3. Editor's Note: See N.J.S.A. 40:55D-28.

ARTICLE XVIII  
**Violations and Penalties**

**§ 195-95. Subdivision violations.**

- A. Penalties. If, before favorable referral and final subdivision approval has been obtained, any person transfers or sells or agrees to sell, as owner or agent, except pursuant to an agreement expressly conditioned on final subdivision approval, any land which forms part of a subdivision on which, by ordinance, the Planning Board is required to act, such person shall be subject to a fine not to exceed \$1,000, and each parcel, plot or lot so disposed of shall be deemed a separate violation in accordance with the provisions of N.J.S.A. 40:55D-55.
- B. Civil remedies. In addition to the foregoing, the Township may institute and maintain a civil action:
- (1) For injunctive relief.
  - (2) To set aside and invalidate any conveyance made pursuant to such contract of sale, if a certificate of compliance has not been issued in accordance with the provisions of N.J.S.A. 40:55D-56.
- C. Lien. In any such action, the transferee, purchasers 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 subdivider or his/her assigns or successors to secure the return of any deposit 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 years after the date of the recording of the instrument of transfer, sale or conveyance of such land, or within six years if unrecorded.

**§ 195-96. Site plan violations.**

Failure to comply with any of the conditions of site plan approval subsequent to the receipt of a building permit or certificate of occupancy, as the case may be, shall be construed to be a violation of this Part 2 and shall be grounds for the revocation of any building permit or certificate of occupancy, as the case may be. Written notice of revocation, sent by certified mail by the Construction Code Official, requiring compliance with the conditions of site plan approval within a period of time of not less than five days shall effectively revoke any building permit or certificate of occupancy, as the case may be, if compliance shall not be made within the time limit set.

**§ 195-97. Other violations; violations and penalties.**

- A. In addition to the penalties set forth above, and for any other violation of the provisions of this Part 2, the provisions of Chapter 1, Article III, General Penalty, shall apply.
- B. All actions to enforce any lien set forth in this article or to revoke any permit shall follow the procedures set forth in this Code.

ARTICLE XIX  
**Affordable Housing Development Fees**

**§ 195-98. Purpose.**

- A. In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the adoption of rules by the Council on Affordable Housing (COAH).
- B. Pursuant to P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a court-approved spending plan may retain fees collected from nonresidential development.
- C. This article establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing in accordance with a court-approved spending plan.

**§ 195-99. Basic requirements.**

- A. This article shall not be effective until approved by the Court.
- B. The Township of Clark shall not spend development fees until the Court has approved a plan for spending such fees (spending plan).

**§ 195-100. Definitions.**

The following terms, as used in this article, shall have the following meanings:

**AFFORDABLE HOUSING DEVELOPMENT** — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

**COAH or THE COUNCIL** — The New Jersey Council on Affordable Housing established under the Fair Housing Act.

**DEVELOPER** — 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 FEE** — Money paid by a developer for the improvement of property as authorized by *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and regulated by applicable COAH rules.

**EQUALIZED ASSESSED VALUE** — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

**GREEN BUILDING STRATEGIES** — Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

**§ 195-101. Residential development fees.**

A. Imposition of fees.

- (1) Within the Township of Clark, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of 1.5% of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- (2) When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70D(5), developers shall be required to pay a bonus development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential developments.

- (1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the Township of Clark, shall be exempt from the payment of development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of this article shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a zoning permit and/or construction permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
- (3) Improvements or additions to existing one- and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.
- (4) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

**§ 195-102. Nonresidential development fees.**

A. Imposition of fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (2) Within all zoning districts, nonresidential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvements and the equalized assessed value of the newly improved structure, i.e., land and improvements, and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to a development fee of 2.5%, unless otherwise exempted below.
- (2) The development fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to the Statewide Nonresidential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy for the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of Clark as a lien against the real property of the owner.

**§ 195-103. Collection procedures.**

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a construction permit.



- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption," to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a construction permit shall notify the Township Tax Assessor of the issuance of the first construction permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction Official responsible for the issuance of a final certificate of occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Township of Clark fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (N.J.S.A. 40:55D-8.6).
- H. Except as provided in § 195-102A(3) hereinabove, 50% of the initially calculated development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of the certificate of occupancy.

#### **§ 195-104. Appeal of development fees.**

- A. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township of Clark. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- B. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township of Clark. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**§ 195-105. Affordable Housing Trust Fund.**

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Clark for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
- (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by ordinance or by agreement with the Township of Clark;
  - (2) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recapture funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with Clark's affordable housing program.
- C. In the event of a failure by the Township of Clark to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Clark, or, if not practicable, then within the county or the housing region.
- (1) Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
- D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

**§ 195-106. Use of funds.**

- A. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Clark's fair share obligation and may be set up as a grant or revolving loan program.

Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; Regional Housing Partnership programs; conversion of existing nonresidential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved spending plan.

- B. Funds shall not be expended to reimburse the Township of Clark for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region 3, in which Clark is located.
  - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the spending plan.
  - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low-income affordability assistance shall be identified and described within the spending plan.
  - (3) Payments in lieu of constructing affordable housing units on site, if permitted by ordinance or by agreement with the Township of Clark, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Township of Clark may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
  - (1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
  - (2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

**§ 195-107. Monitoring.**

The Township of Clark shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and nonresidential developers, payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the Township), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from Township-owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Clark's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the spending plan approved by the Court.

**§ 195-107.1. Ongoing collection of fees.**

- A. The ability for the Township of Clark to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its judgment of compliance unless the Township of Clark has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a judgment of compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- B. If the Township of Clark fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320).
- C. The Township of Clark shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance, nor shall the Township of Clark retroactively impose a development fee on such a development. The Township of Clark also shall not expend any of its collected development fees after the expiration of its judgment of compliance.

**Part 3**  
**Zoning**

ARTICLE XX  
**General Provisions**

**§ 195-108. Short title.**

This Part 3 shall be known and may be cited as the "Zoning Regulations of the Township of Clark."

**§ 195-109. Purpose.**

This Part 3 is enacted in accordance with the Master Plan of the Township of Clark, as amended, and is enacted for the following purposes:

- A. To guide the appropriate use and development of land in a manner which will promote the public health, safety, morals and general welfare.
- B. To secure safety from fire, flood, panic and other natural and man-made disasters.
- C. To provide adequate light, air and open space.
- D. To ensure that land development does not conflict with the development and general welfare of neighboring municipalities, the county and the state as a whole.
- E. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons and neighborhoods and preservation of the environment.
- F. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies.
- G. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environment requirements.
- H. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight.
- I. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- J. To protect and preserve the unique character, identity and historic heritage of historical districts and historical sites. To promote the conservation of open space, energy resources and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land.
- K. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.
- L. To establish building lines and the location of buildings designed for residential, commercial, industrial, office or other uses within such lines and to fix reasonable standards to which buildings or structures shall conform.

- M. To prohibit uses, buildings or structures which are incompatible and to encourage development which incorporates the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site.
- N. To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.
- O. To prevent additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.
- P. To protect against hazards and to provide protection against fire, explosions, noxious fumes and other hazards in the interest of the public health, safety, comfort and the general welfare.
- Q. To conserve the taxable value of land and buildings throughout the Township.
- R. To meet the housing needs of the future citizens of the Township of Clark and the region and to assure a full range of housing types to meet all income levels.
- S. To comport with such other purposes as set forth in N.J.S.A. 40:55D-2.

**§ 195-110. Conformance to regulations required.**

- A. No land or premises shall be used and no building or structure shall be erected, raised, moved, extended, enlarged, altered or used for any purpose other than a purpose permitted herein for the zone district in which it is located, and all construction shall be in conformity with the regulations provided for the zone in which such building or premises is located.
- B. No more than one permitted use per lot is allowed unless otherwise allowed in this chapter.

**§ 195-111. Definitions.**

- A. Unless the context otherwise indicates, the following definitions shall be used in the interpretation and construction of the chapter:
  - (1) Words used in the present tense include the future.
  - (2) The singular number shall include the plural, and the plural the singular.
  - (3) The word "person" includes the corporation as well as an individual.
  - (4) The word "occupied" includes the words "designed or intended to be occupied."
  - (5) The word "used" shall include the words "arranged, designed, constructed, altered, converted, rented, leased or intended to be used."
  - (6) The word "abut" shall include the words "directly across from," "adjacent" and "next to."
  - (7) The word "shall" is mandatory and not optional, and the word "may" indicates a permissive action.
- B. As used in this Part 3, the following terms shall have the meanings indicated:
  - ACCESSORY BUILDINGS — See "building, accessory."
  - ACCESSORY STRUCTURE — See "structure, accessory."

**ACCESSORY USE** — See "use, accessory."

**ADMINISTRATIVE OFFICER** — The Township Business Administrator of the municipality, unless a different municipal official or officials are designated by ordinance or statute.

**AGE-RESTRICTED MULTIFAMILY RESIDENTIAL DEVELOPMENT** — A residential development containing age-restricted dwellings and providing facilities and services specifically designed to meet the needs of older persons, consistent with the guidelines and requirements of the United States Department of Housing and Urban Development (HUD). Affordable housing units in age-restricted multifamily residential developments meet all necessary standards and requirements for low- and moderate-income housing units in accordance with the rules and regulations of the New Jersey Council on Affordable Housing (COAH).

**AGE-RESTRICTED UNIT** — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the head of the household is a minimum age of either 62 years, or 55 years and meets the provisions of the 42 U.S.C. § 3601 et seq., except that due to death, a remaining spouse of less than 55 years of age shall be permitted to continue to reside.

**ALTERATION** — Any change, addition, or modification in construction or location of a structure or any change in the use of land.

**AMEND or AMENDMENT** — Any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal or abolition of any map, part thereof or addition thereto.

**APARTMENT** — A dwelling unit occupying a portion of a structure and consisting of a room or a suite of rooms affording private cooking and bathroom facilities. See also "dwelling unit."

**APARTMENT HOUSE** — See "dwelling, multifamily."

**APARTMENT, GARDEN PROJECT** — A grouping or complex of buildings containing individual apartment units and characterized by their low-height and low-density design wherein a large proportion of the total project land area remains free of structures and pavement for recreational and aesthetic purposes. See also "dwelling, multiple-group."

**AUTOMOBILE WRECKING** — See "junkyard."

**BASEMENT** — That portion of a building below the first-floor joists, at least 1/2 of whose clear ceiling height is above the average finished grade at the foundation. When finished for use for dwelling or business purposes, such space shall be deemed a story in applying the height regulations of this Part 3.

**BIG-BOX RETAIL STORE** — A retail use that stocks an inventory of goods in large quantities for the purpose of selling retail from a building in which the goods are held and which utilizes warehouse stack storage technique on the sales floor area.

**BILLBOARD** — See "sign, outdoor advertising."

**BOARDINGHOUSE or ROOMING HOUSE** — A dwelling which, for compensation, lodging or meals, or both, is furnished to two or more, but not exceeding six, guests. Additionally, foster children placed in a lawful foster family home, a nursing home, or an assisted living residential care facility shall not be considered a boardinghouse.

**BUILDING** — A structure having a roof supported by columns or walls, used for the shelter or enclosure of persons, animals or property.

**BUILDING LINE** — The line beyond which the foundation wall and/or any enclosed or covered porch, vestibule, or other enclosed or covered portion of a building, including attached private garages, shall not project, except as hereinafter provided.

**BUILDING PERMIT** — A permit issued by the Construction Code Official prior to the start of construction, erection or alteration of any building or other structure, or part thereof, and prior to the putting into use of any lot or area of land, or part thereof, for any purpose, certifying that such building or other structure, or part thereof, or such use of any lot or area of land, or part thereof, is in accordance with all applicable requirements of the New Jersey Uniform Construction Code and/or this Part 3 and any amendments thereof.

**BUILDING, ACCESSORY** — A building subordinate to, and located on the same lot with, a principal building, the use of which is clearly incidental to that of the principal building or to the use of the land and which is not attached by any part of a common wall or roof to the principal building. The setback provisions of this Part 3 shall not apply to an accessory building measuring less than 90 square feet in gross floor area and less than nine feet in height.

**BUILDING, FLOOR AREA OF** — The total number of square feet of floor area in a principal building, excluding attics, cellars and crawl spaces, unenclosed or uncovered steps, terraces, patios, porches and breezeways, attached private garages, and accessory buildings as hereinbefore defined. Any space with a clear ceiling height of less than the minimum prescribed in the New Jersey Uniform Construction Code shall not be included as part of the floor area of a building. Only those portions of a basement, as hereinbefore defined, finished off and used for living purposes, shall be considered as part of the floor area for a residential building. The floor area shall be determined by using horizontal measurements between the exterior faces of walls or between the center lines of common party walls.

**BUILDING, GROUND AREA OF** — The number of square feet of horizontal surface covered by a building, including covered porches, covered wood decks, attached garages and accessory buildings. All measurements shall be made between exterior faces of walls, foundations, piers or other means of support.

**BUILDING, HEIGHT OF** — The vertical distance measured from the natural existing grade elevation to the highest roof surface of the front roof to the declivity of a mansard roof or the mean height level between the eaves and ridges of a gable, hip or gambrel roof; provided, however, that the original grade of the property shall not have been altered.

**BUILDING, PRINCIPAL** — A building or buildings on a lot in which is conducted the principal use of the property.

**CELLAR** — That portion of a building below the first-floor joists, at least 1/2 of whose clear ceiling height is below the average finished grade at the foundation. Such space shall not be used as a separate dwelling unit or for business purposes and shall not be counted as a story in applying the height regulations of this Part 3.

**CERTIFICATE OF NONCONFORMITY** — A certificate issued by the Township of Clark certifying that a specific use or structure is a lawful nonconforming use or structure.

**CERTIFICATE OF OCCUPANCY** — A certificate issued by the Construction Code Official upon the completion of the construction, erection or alteration of a building upon its use or occupancy, or upon any change in the use or occupancy of a building or other structure or lot or area of land, or part thereof, certifying that all applicable requirements and amendments and adjustments thereof, and all other applicable requirements have been complied with.

**CLINIC, ANIMAL** — A facility for the treatment of animals in which there are no boarding provisions and no outdoor facilities or runs.



**CLINIC, MEDICAL** — A facility for the medical treatment of outpatients only, without boarding or overnight provisions for patients.

**CONSTRUCTION CODE OFFICIAL** — The official who administers the construction codes adopted pursuant to the New Jersey Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq.

**COURT** — Any open, uncovered, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two or more sides by such building or group of buildings.

**COURT, INNER** — A court enclosed on all sides by exterior faces of a building or group of buildings or by freestanding walls. The least dimension, the distance between opposite sides measured at right angles to the longest side, is controlling in design and layout of the inner court.

**COURT, OUTER** — A court open on at least one side for not less than 75% of its width and extending to any yard on the lot or to a street, alley or public way. The depth of an outer court shall be the greatest horizontal dimension measured at right angles from the yard, street, alley or public way upon which such court opens to the face of the building or freestanding wall opposite thereto. The width of an outer court is its least horizontal dimension measured at right angles to the depth of such court.

**DISTRICT** — A division of the total area of the Township within which the uses of land and the use, bulk and density of structures are regulated consistent with the objectives and policies established in the Comprehensive Master Plan.

**DWELLING** — A building, or portion thereof, used to provide living facilities for one or more families, but not including boardinghouse or rooming house facilities or motel and hotel facilities.

**DWELLING UNIT** — A building, or portion thereof, used for occupancy by not more than one family for living purposes and having cooking and bathroom facilities.

**DWELLING, AGE-RESTRICTED** — A housing unit that is restricted to occupancy by at least one person that is at least 55 years of age or older.

**DWELLING, DETACHED** — A building used to provide living facilities to one or more families and which is entirely separated from any building by spaces on all sides.

**DWELLING, MULTIFAMILY** — A building containing three or more dwelling units.

**DWELLING, MULTIPLE-GROUP** — A group of two or more multifamily buildings occupying a parcel of land under one ownership, all joined as a unit by common open space and similar architectural styling and subject to the special regulations and provisions set forth in § 195-128, R-A District.

**DWELLING, SEMIDETACHED** — A building situated astride two abutting lots and consisting of two dwellings separated by a common party wall along the dividing lot line and separated from any other building by space on all sides.

**DWELLING, TOWNHOUSE** — One of a series of three to 10 attached dwelling units separated from one another by continuous vertical walls without openings from basement (cellar) floor to roof.

**DWELLING, TWO-FAMILY** — A building containing not more than two dwelling units, arranged one above the other or side by side.

**EDUCATIONAL INSTITUTION, NONPUBLIC** — Any private or parochial institution which offers college, high school, junior high school, elementary, kindergarten or nursery school instruction, provided that the following requirements shall apply:

- (1) The Planning Board shall review the plot plan and make recommendations thereon prior to the issuance of any building permit or certificate of occupancy.
- (2) The minimum lot area shall not be less than 25,000 square feet. Lot area shall be determined on the basis of a minimum of 1,250 square feet per pupil.
- (3) The minimum lot frontage shall be 125 feet.
- (4) Schools or studies offering music, art or dancing instruction, or instruction in a vocational trade, shall not be classified as nonpublic educational institutions.

**ELECTRONIC MESSAGE CENTER OR SIGN (EMC)** — An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMCs typically use light emitting diodes (LEDs) as a lighting source. (See also following terms principally associated with electronic message centers: display time, dissolve, dynamic frame effect, fade, frame, frame effect, scroll, transition, travel.)

- (1) **DISPLAY TIME** — The amount of time a message and/or graphic is displayed on an electronic message sign.
- (2) **DISSOLVE** — A mode of message transition on an electronic message sign accomplished by varying the light intensity or pattern, in which the first message gradually appears to dissipate and lose legibility with the gradual appearance and legibility of the second message.
- (3) **DYNAMIC FRAME EFFECT** — An electronic message sign frame effect in which the illusion of motion and/or animation is used.
- (4) **FADE** — A mode of message transition on an electronic message sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.
- (5) **FRAME** — A complete, static display screen on an electronic message sign.
- (6) **FRAME EFFECT** — A visual effect on an electronic message sign applied to a single frame. See also "dynamic frame effect."
- (7) **SCROLL** — A mode of message transition on an electronic message sign in which the message appears to move vertically across the display surface.
- (8) **TRANSITION** — A visual effect used on an electronic message sign to change from one message to another.
- (9) **TRAVEL** — A mode of message transition on an electronic message sign in which the message appears to move horizontally across the display surface.

**ESSENTIAL SERVICES** — The erection, construction, alteration or maintenance by public utilities or by municipal or other governmental services in any street, alley, right-of-way or easement provided therefor on a subdivision plat of underground or overhead electrical and communications systems; gas, steam, or water transmission, distribution or supply systems; sewerage and other collection and disposal systems; and traffic control and police protection systems, including all equipment, accessories, and appurtenances in connection therewith, provided that "essential services" shall not

be construed to include "public utility installations," as defined in this section. In the event of conflict between the two, "public utility installation" shall be deemed to apply. Essential services may not exceed 50 feet in height.

**FAMILY** — One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit, who are living together as a bona fide, stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.

**FARM** — Any parcel of land, five acres or greater in size, used for the raising and sale of agricultural, poultry or dairy products or livestock, but not including the slaughtering of animals for commercial purposes.

**FARM STANDS** — Farm stands shall only be permitted where:

- (1) The products sold are in their natural state.
- (2) The stands are located on a farm.
- (3) The place of sale or storage of any such products, whether of a permanent or temporary nature, shall not be closer than 100 feet to any side or rear lot line.
- (4) The sale of any such products shall not have a deleterious effect on adjoining properties by reason of nuisance or health hazard or other factors as specified in this Part 3.
- (5) The sale of any such products shall also require that a suitable amount of off-street parking and loading space be required as provided in this Part 3.

**FLOOR AREA RATIO (FAR)** — The ratio of the gross floor area of a building to the total lot area.

**FUNERAL HOME (MORTUARY)** — An establishment whose uses shall be limited to the usual and normal funeral activities, provided that the embalming of persons shall be limited to the embalming of clients of the funeral home and shall not include embalming for other funeral homes.

**GARAGE, PRIVATE** — An enclosed accessory building or portion of a principal building used for the housing of private motor vehicles and in which no occupation, business or service for profit may be carried on and which shall be a minimum of 240 square feet of surfaced floor area, but not more than 300 square feet for one-car garages and not to exceed 650 square feet for two-car garages. No more than one two-car garage shall be permitted for any one- or two-family detached dwelling. In the event that the gross floor area of a residential dwelling, exclusive of garage area, exceeds 3,000 square feet, the garage may be expanded to an amount not to exceed 25% of the gross floor area, exclusive of the garage. However, no more than three garage door openings shall be permitted. A garage may be a detached accessory building on the same lot of such dwelling or may be attached to or incorporated into such dwelling.

**GARAGE, SERVICE AND REPAIR** — A building, or portion thereof, other than a motor vehicle sales establishment, used for the repair and servicing of motor vehicles and the sale of replacement parts and accessories. Heavy body and collision repair work, painting and refinishing shall be excluded. Such garage shall not be used for the storage of dismantled or wrecked motor vehicles or junk.

**GASOLINE FILLING STATION** — Any area of land, including buildings and other structures thereon that are used for dispensing of motor vehicle fuels, oils and accessories at retail, where repair service is incidental, where no storage or parking space is offered for rent, and where storage of dismantled or wrecked motor vehicles or motor vehicle sales is prohibited. No gasoline filling station shall be located within 1,500 feet of a public or nonpublic educational institution, nor another gasoline

filling station where such station would be located on the same street or on an intersecting street. Such distance shall be measured on a radius of 1,500 feet from any part of the lot or plot on which such station is to be located from the lot line of a public or nonpublic educational institution or another gasoline filling station.

**GOLF COURSE** — Land laid out for golf and having a minimum area of 50 or more contiguous acres to support a nine-hole, full-size facility, together with the necessary uses, buildings and structures, such as, but not limited to, clubhouse facilities, driving range, dining and refreshment facilities, equipment sale facilities ("pro shop"), swimming pools, tennis courts and other recreational facilities, provided that the operation of all such facilities is incidental to the operation of the golf course.

**GRADE PLANE** — That grade of ground area representing the average of finished ground level (after grading and seeding) adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the ground level shall be established by the lowest points within the area between the building and the lot line. Similarly, when the lot line is more than six feet from the building, the ground level shall be established by the lowest points between the building and a point six feet from the building, excluding any advantage retaining walls or slopes greater than three to one might provide in creating a ground level that would result in a structure being constructed higher than allowed by the existing ground surface as interpreted by the Township Engineer. The foregoing is to be utilized when calculating height requirements.

**GRADE, FINISHED** — The average ground elevation of the lot at the front building line after all proper lot grading has taken place.

**GROSS FLOOR AREA** — The sum of the gross horizontal areas of the several floors of a building from the exterior faces of exterior walls, but excluding basements, cellars, garages and any space where the floor-to-ceiling height is less than six feet.

**HEALTH CLUB** — An establishment that provides facilities for any personal improvements, such as aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities and saunas, showers, massage rooms and lockers, or similar activities.

**HOME OCCUPATION** —

- (1) An accessory use customarily conducted for profit entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental to the use of the dwelling for residential purposes and does not alter the character thereof, provided that:
  - (a) In connection with which there is used no display except one sign, not exceeding a total area of two square feet, affixed to the building, and if illuminated, illuminated only by a shielded indirect light source or equivalent light not offensive to surrounding residences;
  - (b) In connection with which there is kept no stock-in-trade or commodity sold upon the premises;
  - (c) In connection with which only a member, or members, of the resident family are employed; and
  - (d) Not more than 30% of the floor area of the building is used for such accessory use.
- (2) Such activities and uses as boardinghouse or rooming house operations, tourist homes, clinics, barbershops and beauty parlors, animal hospitals, private nursery and kindergarten schools, music studios, art or dancing schools for group instruction, repair of heavy

mechanical or electrical equipment, the keeping of and use of mechanical or electrical equipment that would cause electrical or other interference with radio or television reception in nearby residences, and all other activities and uses which would cause offensive and excessive noise, light, vibration or other disturbances, or would result in excessive residential street traffic, shall not be deemed home occupations under the terms of this Part 3.

**HOSPITAL** — A state regulated institution providing primary health services and medical or surgical care to persons suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including inpatient and outpatient services, institution-related facilities, such as diagnostic and treatment facilities, laboratories, training facilities, medical offices and staff residences.

**HOTEL** — A building, usually multistory, containing a group of two or more rooms or suites of rooms, with entrances from interior hallways or corridors, used for the overnight accommodations of transient guests and where no individual cooking facilities are provided. A boardinghouse or rooming house denotes occupancy on a more permanent basis.

**IMPERVIOUS COVER** — The sum of the areas of all impervious surfaces and structures divided by the area of the lot; impervious surfaces and structures include buildings, sidewalks, driveways, patios, decks and roofed structures.

**JUNKYARD** — Any lot or parcel, or part thereof, used for the abandonment, storage, keeping, collecting or baling of paper, rags, scrap metal or other scrap or discarded materials or for the abandonment, storage, dismantling, demolition or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

**LIMITED MANUFACTURING** — The fabrication, processing or assembly of goods and materials, or the storage of bulk goods and materials, where such activities, goods or materials create no major hazard from fire or explosion, produce no toxic or corrosive fumes, gas, smoke or odors, produce no obnoxious dust or vapors, produce no offensive noise or vibrations, glare, flashes or objectionable effluent or produce no danger from radiation.

**LOADING SPACE** — An off-street space, bay or berth on the same lot with a structure, or contiguous to a group of structures and buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**LOT** — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law, to be used, developed or built upon as a unit. The term "lot of record" shall apply to an individual area of land legally existing, as shown by the latest official records or as shown by the latest approved subdivision plat filed among the land records of Union County. Adjoining parcels in common ownership which do not meet the dimensional and area requirements for building lots as set forth herein shall be considered as a single lot for the purposes of this chapter.

**LOT AREA** — The total horizontal area included within all lot lines and existing or proposed street lines.

**LOT COVERAGE** — The ratio, expressed as a percentage, of the ground area of buildings to the lot area. Lot coverage limits may be exceeded by no more than 500 square feet for the construction of an in-ground pool.

**LOT DEPTH** — The average horizontal distance between the front and rear lot lines.

**LOT FRONTAGE, MINIMUM** —

- (1) At the building line, the least permissible width of a lot, measured horizontally along the

front building line.

- (2) At the front lot line, the least permissible width of a lot, measured horizontally along the front lot line.

**LOT LINE, FRONT** — The street line running along the front of the lot, separating it from the street. In a double-frontage lot, both lines abutting the street shall be deemed to be front lot lines.

**LOT LINE, REAR** — The lot line opposite and most distant from the front lot line, except in a double-frontage lot. If the rear lot line is less than 10 feet long, or the lot comes to a point at the rear, the rear lot line is assumed to be a line not less than 10 feet long, lying wholly within the lot, parallel to the front lot line or, in the case of a curbed front line, parallel to the chord of the arc of such front lot line.

**LOT LINE, SIDE** — Any lot line, other than a front or rear lot line. For corner lots, whichever of the two lot lines separating the lot from the intersecting streets is the greater in length shall be deemed to be a side street line.

**LOT, CORNER** — A lot with frontage on two or more streets at their intersection, where the interior angle of the intersection does not exceed 135°.

**LOT, DOUBLE-FRONTAGE** — A lot, other than a corner lot, having frontage on two streets.

**LOT, INTERIOR** — Any lot, other than a corner lot, but including a double-frontage lot.

**MASTER PLAN** — A document adopted by the Planning Board, generally comprising a report or statement on land use and development proposals, with maps, diagrams and text, pursuant to N.J.S.A. 40:55D-28.

**MEDICAL CLINIC** — An establishment where ambulatory patients are examined and treated by licensed medical personnel, psychologists, or social workers on an outpatient basis and where such treatment requires a stay of less than 24 hours.

**MEDICAL OFFICE** — The office of medical practitioners, including but not limited to medical doctors, dentists, veterinarians, chiropractors, podiatrists, psychologists and licensed therapists.

**MIXED-USE DEVELOPMENT** — The development of a tract of land, building or structure containing more than one principal permitted use and designed as a comprehensive, integrated development.

**MOTEL** — A building or group of buildings containing any group of two or more rooms or suites of rooms, usually having a direct entrance from the exterior of the building, for the overnight accommodation of transient guests and having adjacent, readily accessible off-street parking facilities.

**MOTOR INN** — See "hotel."

**MOTOR VEHICLE SALES ESTABLISHMENT** — A lot, or portion thereof, and any structures thereon, including buildings, used for the storage, display and sale of new and/or used motor vehicles and where normal servicing and repair work is incidental to the principal use of such lot, or portion thereof, and structures.

**NONCONFORMING STRUCTURE** — A structure the size, dimension or location of 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.

**NONCONFORMING USE** — 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.

**NURSING HOME or ASSISTED LIVING FACILITY** — A multifamily residence designed to provide a supportive living environment for the semi-independent to frail older adult and which typically offers, in addition to private or semi-private rooms, the following services: meals, personal care, financial management, monitoring of medication or supervision of self-administration of medication, housekeeping, social and recreation activities, transportation and twenty-four-hour site supervision. Assisted living housing facilities are licensed and inspected by the N.J. Department of Community Affairs as a Class C rooming and boarding home or are licensed and inspected by the N.J. Department of Health as an assisted living residence.

**OCCUPIED** — Includes "arranged, intended or designed to be occupied."

**OPEN SPACE** — An area of land associated with and located on the same lot, parcel or tract of land as a principal building or group of buildings in relation to which it serves to provide light and air and scenic, aesthetic, recreational or similar purposes. Such space shall, in general, be available for entry and use by the occupants of the building or buildings involved, but may include a limited proportion of open space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. "Open space" may include, but not be limited to, lawns, decorative plantings, sidewalks and walkways, active and passive recreation areas, wooded areas and watercourses, but shall not include parking lots or vehicular surfaces, accessory buildings other than swimming pools, nor areas so located, so small or so circumscribed by buildings or parking areas as to have no substantial value for the purposes stated in this definition.

**OUTDOOR COMMERCIAL AMUSEMENT** — A facility without a Township permit for an outdoor entertainment facility that includes such facilities as batting cages, mini-golf, bumper cars, bumper boats, go-cart racing, water slides, or the use of land as for mock war games that involve paintball equipment or similar equipment that generally involves the use of safety gear such as goggles or vests. Outdoor commercial amusement may also include indoor or outdoor areas with games, food service, and incidental retail uses (e.g., souvenir shops) that are subordinate to the principal outdoor amusement uses.

**PARKING SPACE** — A permanently surfaced off-street area of not less than 180 square feet, exclusive of interior driveways or entrance and exit driveways, either within a structure or in the open, for the parking of one automobile.

**PARKING, LAND-BANKED** — Required parking, or portion thereof, the construction of which is permitted to be deferred until needed.

**PARKING, OFF-STREET AREA** — The off-street accommodations for the parking of automobiles in connection with a business establishment, industry, public or quasi-public use, multiple-group apartment and other public and private uses. Such parking accommodations shall be considered as accessory uses and shall not be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

**PILOT PLANT** — Part of a research facility used to test out concepts and ideas, to determine physical layouts, material flows, type of equipment required and costs and to secure other information prior to full-scale production.

**PLANNED COMMERCIAL DEVELOPMENT** — An area of a minimum contiguous size, as specified by ordinance, to be developed according to plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses, or both, and

any other uses incidental to the predominant use as may be permitted by this Part 3.

**PLANNING BOARD** — The Planning Board of the Township as established under Chapter 195, Part 1, Administrative Procedures.

**PLOT PLAN** — A plan submitted for review which shows the location of a building or buildings, driveways, parking areas, provisions for drainage, lighting and landscaping and whatever other information may be required.

**PRIVATE OR QUASI-PUBLIC CLUB** — An incorporated or unincorporated association or organization for civic, social, cultural, religious, literary, political, recreational or like activities, operated for the benefit of its members and not open to the general public.

**PROFESSIONAL OFFICE** — The office of a recognized professional, including but not limited to an accountant, attorney at law, architect, engineer, teacher and realtor. For the purposes of this definition, "teacher" shall be restricted to a person giving individual instruction in a musical instrument, in voice or art, in dancing or in academic or scientific subjects to a single pupil at a time. When conducted in a home in a residential district, a professional office shall be accessory to the principal use, shall be conducted by a member of the family residing on the premises, shall employ or engage not more than one person who is not a member of such resident family, and shall not occupy more than the equivalent of 40% of the ground or first-floor area of the principal building.

**PUBLIC UTILITY INSTALLATIONS** — Pumping stations, enclosures, including fenced areas, and buildings for the housing of switching equipment, regulators, stationary transformers, and other such devices for supplying electric service and telephone exchanges and repeater stations, but not including service, maintenance and storage yards.

**RESTAURANT** — An establishment where customers or patrons are served food or drink for consumption within the confines of the building or structure where the business is conducted, including taverns and other places where alcoholic beverages are served on a commercial basis.

**RESTAURANT, DRIVE-IN** — A restaurant or refreshment stand, commonly called a snack bar, dairy bar, hamburger stand, hot dog stand or fast-food establishment, where customers or patrons are served food, soft drinks, ice cream and similar confections for the immediate consumption at counters, stools or bars outside the confines of the building or structure in which the business is conducted, or for consumption in automobiles parked upon the premises, whether brought to such automobile by the customer or patrons or by waiters or waitresses employed by the operator. The above shall not include refreshment stands at parks, clubs, athletic fields or other similar recreation areas, or the temporary operation of refreshment stands at properly licensed circuses, bazaars and other similar functions.

**SELF-STORAGE FACILITY** — A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

**SERVICE ORGANIZATION** — Any nonprofit organization or institution which:

- (1) Provides volunteer aid in times of disaster;
- (2) Provides any emergency or religious, social, physical or benevolent services; or
- (3) Is devoted entirely to the betterment of the community.

**SETBACK LINE** — See "building line."

**SHED** — An accessory structure not attached to the principal building and utilized for storage, with a maximum floor area of 100 square feet and a maximum height of 10 feet. Only one shed shall be



allowed per lot.

**SHOPPING CENTER** — A group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

**SIGN** — Any device whatsoever, whether a structure, portion thereof, thing, or material of any kind, whether freestanding or attached to a structure or natural object, whether painted or otherwise represented on such structure or natural object, whether illuminated or not, and used as, or in the nature of, an announcement, advertisement, designation of or direction to the subject to such device, but not including any flag, badge or insignia of any government or governmental agency or of any civic, charitable, religious, fraternal or similar organization.

**SIGN, BUSINESS** — A sign which calls attention to a process, service, profession, business or other activity conducted upon the premises or to a product made or commodity sold on the premises upon which the sign is located.

**SIGN, INFORMATIONAL** — A sign indicating the location of, or designating, an institution or facility of a public or quasi-public nature or indicating the opening of an event of public interest, but not including signs pertaining to real estate.

**SIGN, OUTDOOR ADVERTISING** — A sign which calls to attention a service, business enterprise or similar activity conducted elsewhere than on the same premises upon which the sign is located or to a product or commodity made, sold or offered elsewhere than on the same premises upon which the sign is located, but does not include informational signs as hereinbefore defined nor necessary directional signs in connection with advertising real estate.

**SIGN, REAL ESTATE** — A sign advertising the sale, lease, rental or development of any particular premises wherein such sign is located on the premises or directing attention to the opening and location of a new subdivision or land development project where such sign is not necessarily located on the premises to which it draws attention.

**STORY** — That portion of a building between the surface of any floor and the surface of the floor, ceiling or other surface above. A basement shall be considered as a story above grade when the finished surface of the floor above the basement is more than six feet above grade plane, more than six feet above the finished ground level for more than 50% of the total building perimeter, or more than 12 feet above the finished ground level at any point; otherwise, it shall be considered a cellar. A mezzanine floor shall be counted as a story if it covers more than 1/3 of the area of the floor next below it or if the vertical distance between the floor next below and the floor next above is 20 feet or more. A single story which exceeds 18 feet in height shall be counted as two stories.

**STORY, HALF** — A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such partial story; provided, however, that no such partial story may be used as a separate dwelling unit.

**STREET** — Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or Township roadway, or a street or way shown upon a plat heretofore approved pursuant to law or approved by official action, or a street or way on a map or plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board, and the grant to such Board of the power to review plats. "Street" also includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines. The term "street" shall include "road," "avenue," "drive," "circle," "highway," "place," "lane" or similar terms. See

## § 195-54, Definitions.

**STREET LINE** — A line defining the edge of a street right-of-way and separating the street from abutting property or lots. Front lot lines and side street lines, as hereinbefore defined, are street lines.

**STRUCTURE** — Anything constructed or erected on or under the ground or upon another structure or building. For the purposes of interpreting this Part 3, "structure" shall not include sidewalks, driveways, street pavements, curbs and essential services, as hereinbefore defined. "Structure" includes the word "building."

**STRUCTURE, ACCESSORY** — Any structure subordinate to and located upon the same lot with the principal building, the use of which is clearly incidental to that of the principal structure or to the use of land, and which may or may not be attached to the principal building.

**TEMPORARY SIGN** — A sign constructed of paper, cloth, canvas, plastic, plywood, or other lightweight material intended to be displayed for a short period of time not to exceed 30 days.

**TRAILER (including AUTOMOTIVE TRAILER and MOBILE HOME)** — Any vehicle or structure which at any time was mounted on wheels, propelled or drawn by its own or other motive power, and designed and constructed to provide living and/or sleeping quarters for one or more persons or for the conduct of a business, profession, trade or occupation or for use as a selling or advertising device.

**TRAILER COACH PARK; MOBILE OR MANUFACTURED HOME PARK** — Any lot, parcel or tract of land used to accommodate two or more individual trailers for living purposes, including all accessory buildings, tents and other appurtenances, and regardless of whether or not a charge is made for such accommodations.

**USE, ACCESSORY** — A use of a lot or building, or portion thereof, which is customarily incidental or subordinate to the principal use of the lot or building.

**USE, PRINCIPAL** — The main or primary purpose for which a building or lot is used or occupied. Except as specifically permitted, no lot shall contain more than one principal use.

**USED** — Includes "arranged, designed, constructed, rented, leased, or intended to be used."

**WAREHOUSE** — A building for the storage and redistribution of commercial or industrial products and materials, but shall not include truck terminals where products or materials are directly transferred between trucks. If direct sales to the public are made from such storage building, it shall be classified as a warehouse outlet.

**WAREHOUSE OUTLET** — A combination of a storage facility for commercial or industrial products and materials and sales to the public. This shall be considered a retail use, except that retail parking requirements shall be applied to the part of the building used by salespersons and for the handling of goods for the customers, and warehouse parking requirements shall be applied to the rest of the space in the building, if any, devoted to storage of goods not for direct public sale.

**WINDOW GRAPHIC** —

- (1) Any graphic which is painted, attached, glued or otherwise affixed to a window, either inside or outside, or depicted upon a card, paper, or other material and placed on, taped on or hung immediately behind the window or displayed from a window in such a way as to be viewed from the outside, in close proximity to the building in which the window is located. Not more than 25% of any window area may be so occupied. Window graphics may be utilized where wall signs are permitted, provided they conform to area and sign classification limitations for the zoning district.

- (2) Permanent window graphics shall not be included in the calculation of the maximum aggregate sign area for the site but shall require a permit to be issued by the Construction Code Official.

**WINDOW SIGN** — A sign, other than a projecting sign, to include design elements placed inside the window or immediately behind the windowpane or upon the window pane, and whether attached to the window pane or not, used to advertise, announce, or identify a person, entity, or product, or to communicate information of any kind, or to draw attention to the business or use.

**YARD** — An open area on the same lot with a building or group of buildings, lying between the building or outer building of a group and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except as provided in this Part 3. All yard dimensions are measured at right angles to the lot lines to the nearest point of a building, except for projections and overhangs as hereinafter set forth.

**YARD, FRONT** — An open area extending across the full lot frontage between the front line (street line) and the nearest line of the building, or any covered or enclosed portion thereof.

**YARD, REAR** — An open area extending across the full width of the lot from side lot line to side lot line and extending from the rear lot line to the nearest line of the building, or any covered or enclosed portion thereof.

**YARD, SIDE** — An open area between the side lot line and the nearest line of the building, or any covered or enclosed portion thereof, extending from the front yard to the rear yard.

**ZONE** — See "district."

**ZONING BOARD** — The Zoning Board of Adjustment of the Township, as established under Chapter 195, Part 1, Administrative Procedures.

**ZONING MAP** — The Zoning District Map of the Township, as set forth in § 195-113, together with all amendments thereto subsequently adopted.

**ZONING OFFICER** — The Zoning Officer is the administrative official designated to administer and enforce the Zoning Ordinance and, in the process of issuing building permits, the Zoning Officer must issue a zoning permit as a prerequisite to a building permit being issued.

**ZONING PERMIT** — A document signed by the Zoning Officer which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration or conversion of a structure or building and which acknowledges that such use, structure or building complies with the provisions of this Part 3 or variance therefrom, duly authorized by a municipal agency pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-60 or 40:55D-70.

ARTICLE XXI  
**Establishment of Districts**

**§ 195-112. Designation of zoning districts.**

For the purpose of this Part 3, the Township is hereby divided into the following classes of land use districts:

	<b>District</b>
R-150	One-Family Detached Residential
R-100	One-Family Detached Residential
R-75	One-Family Detached Residential
R-60	One-Family Detached Residential
R-A	Multiple-Family Apartment Residential
R-B	Multiple-Family Residential with a Low- and Moderate-Income Set-Aside
R-16	Multifamily Residential District (Density of 16/units per acre)
R-20	Multifamily Residential District (Density of 20/units per acre)
DTV	Downtown Village
CO	Commercial Office
CN	Neighborhood Service Commercial
COH	Commercial Office, Multistory
CG	General Commercial
O	Conservation
P	Public
GC	Golf Course
CI	Commercial Industrial
COR	Corporate Office Research Overlay
R-SH	Age-Restricted/Senior Housing Overlay
R-TH	Residential Townhouse
LCI	Limited Commercial Industrial District

<b>Redevelopment Zones</b>	
Walnut Avenue Redevelopment Zone	Block 155, Lots 7 and 10
Westfield Avenue Redevelopment Zone (A & P)	Block 91, Lot 21 and Block 105, Lots 2 and 26.01
Terminal Avenue Redevelopment Zone (L'Oreal)	Block 58, Lots 4 and 5
Raritan Road Redevelopment Zone (Cubsmart)	Block 60, Lots 60.01, 61, 62, 63

**Redevelopment Zones**

Westfield Avenue Redevelopment Zone (Knights of Columbus)	
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**Redevelopment Districts**

Raritan Road Redevelopment District
Terminal Avenue Redevelopment District
Walnut Avenue Redevelopment District
Westfield Avenue Redevelopment District
Westfield Avenue Block 77 Redevelopment District
Westfield Avenue Block 91 Redevelopment District

**§ 195-113. Zoning Map.**

The location and boundaries of districts established herein are shown on the current Zoning Map, as amended, which map accompanies and is declared to be part of this Part 3. The Zoning Map is on file in the office of the Township Clerk and is hereby incorporated in and made a part of this Part 3 as though appended thereto.

**§ 195-114. District boundaries.**

Where uncertainty exists as to the boundaries of any of the districts established, as shown on the Zoning District Map, the following rules shall apply:

- A. District boundary lines are intended to follow the center line of streets, alleys, and watercourses, parkway and railroad rights-of-way, or lots and parcels as they exist on plots of record at the time of the enactment of this Part 3.
- B. Where such a district boundary line does not coincide with such center lines, right-of-way lines or lot or parcel lines, or where it is not shown by dimensions or otherwise clearly indicated, its location shall be determined by the scale of the map.
- C. Where a boundary line dividing two or more districts divides a lot or parcel of record, the district covering the greatest portion of the frontage of such lot or parcel shall be considered as extending to the entire lot or parcel, providing that such extension shall be within 50 feet of the dividing boundary line and shall include the entire lot or parcel.
- D. Where not resolved, the exact location of a district boundary line shall be determined by the Zoning Board, as provided in § 195-18.

## ARTICLE XXII

**General Regulations, Exceptions and Modifications****§ 195-115. Compliance required.**

Except as otherwise provided, the following provisions of this article shall apply.

**§ 195-116. Use regulations; prohibited uses.**

- A. No structure shall be erected or altered, nor shall any land or structure be used in any manner or for any purpose, other than those included among the uses hereafter listed as permitted in the district in which such structure or land is located.
- B. Every principal building shall be erected upon a lot as hereinbefore defined, and, except as hereinafter provided, there shall not be more than one one-family detached dwelling on one lot.
- C. The following uses and activities are specifically prohibited in any district:
  - (1) All outdoor advertising signs, whether freestanding or attached to a structure or painted or otherwise represented on the surface of any structure, which are not expressly related to the business being conducted on the premises.
  - (2) Outdoor commercial amusements.
  - (3) Trailers, trailer coach parks and trailer sales.
    - (a) Exception. Where, as the result of an emergency caused by fire, flood or other disastrous circumstances, the Construction Code Official determines it to be necessary and appropriate to permit residents, property owners or commercial enterprises to utilize a trailer as a temporary place of residency or business during any period of reconstruction of damages to premises, then, upon application by the property owner, the Construction Code Official may issue a permit for the use of the trailer on a temporary basis for a period not to exceed six months. The issuance of such permit shall be conditioned upon the applicant's compliance with all relevant health and sanitation codes.
    - (b) Fee. Upon application for such a permit, the applicant shall pay to the Township a permit fee as set forth in § 195-51, Fees established.
  - (4) Junkyards.
  - (5) Privately owned and operated dumps for disposal of garbage, trash, refuse, junk or debris of any kind.
  - (6) No halfway house, reformatory facility, jail, penal institution, house of remediation, or any other such facility wherein convicted criminals are housed while serving sentences imposed by the court shall be permitted to be established in any zone within the Township. "Halfway houses" shall be defined so as to include those places of housing where convicted criminals adjust to life in general society.
  - (7) Massage, bodywork and somatic therapy establishments are prohibited in all zone districts except that they may be permitted in the LCI Zone, but only if the same are properly licensed in accord with the provisions of N.J.S.A. 45:11-53, entitled "Massage and Bodywork Therapist Licensing Act," in which case the use shall be deemed a principal permitted use.

- (8) Drive-through services such as a restaurant, fast-food establishment, personal services provider, bank or other financial institution that is not an accessory use to a primary use being provided on the premises. Food or beverages being served to consumers in vehicles cannot be consumed on the premises.
- D. Whenever special requirements are provided in Article XXVIII (§ 195-176 through § 195-179) for selected uses permitted in certain specified districts as conditional uses, and when any such selected uses are permitted as permitted uses in other districts, the special requirements as provided shall also apply in those districts where such selected use is a permitted use.

**§ 195-116.1. Cannabis establishments, cultivators, manufacturers, wholesalers, retailers, distributors, and delivery services prohibited.**

- A. Purpose. Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act (P.L. 2021, c. 16), N.J.S.A. 24:6I-45b, all classes of cannabis establishments, including, without limitation, a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, a cannabis distributor and cannabis delivery service, but not the delivery of cannabis items and related supplies by a delivery service which is not located within the Township, are hereby prohibited from operating within the Township of Clark.
- B. Definitions. As used in this chapter, all classes of cannabis establishments, including, without limitation, a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, a cannabis distributor and a cannabis delivery service, shall have the meanings as defined in Section 3 of P.L. 2021, c. 16, N.J.S.A. 24:6I-33 et seq.
- C. General prohibition. All classes of cannabis establishments, including, without limitation, a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, a cannabis distributor and a cannabis delivery service, but not the delivery of cannabis items and related supplies by a delivery service which is not located within the Township, as said items are defined in Section 3 of P.L. 2021, c. 16, N.J.S.A. 24:6I-33 et seq., are hereby declared to be prohibited uses or activities within the Township of Clark.
- D. Fines and penalties. Upon conviction by a court of competent jurisdiction, including, without limitation, the Municipal Court, of a violation or violations of this section, such court shall be authorized to impose such fines and penalties as are authorized by law, including, but not limited to, such fines and penalties as are authorized under any applicable state statute, under Chapter 1, Article III, General Penalty, of these ordinances, or under any other Township ordinance as, in its discretion, such court deems warranted; provided that the court may impose the maximum penalty provided under Chapter 1, Article III, § 1-21, but in no event shall such penalty be less than the minimum penalty prescribed by Chapter 1, Article III, § 1-22, and the court shall treat each and every day in which a violation exists as a separate violation pursuant to Chapter 1, Article III, § 1-25. The Township, by and through the Township Attorney, also shall be entitled to institute an action in Superior Court of New Jersey to enjoin and restrain conduct which is found to violate this section. Such fines, penalties and rights shall be cumulative, in addition to, and not in limitation of, any and all fines, penalties and rights available to the Township at law or in equity.

**§ 195-117. Height regulations.**

- A. General limitation; accessory structures. No structure shall be erected or altered to exceed in height the limit hereinafter designated for the district in which such structure is located, except as otherwise specifically provided. Wherever in Part 3, Zoning, a height limit is designated in feet or in number of

stories, such designation, in combination, shall be considered as the maximum permitted height. Unless otherwise specified as exempted or excluded from height controls, no accessory building or structure shall exceed a height of 20 feet, except for antennas or aerials, the height of which shall be governed by the provisions set forth below.

- B. Structures excluded from height controls. The height limits set forth in Part 3, Zoning, shall not apply to church spires, belfries, cupolas, penthouses or roof structures for the housing of elevators, ventilating fans, air-conditioning equipment or similar equipment required to operate and maintain the building, utility poles, and television or radio antennas or aerials less than 60 inches in height and/or 30 inches in diameter, water storage towers and tanks, chimneys and smokestacks, fire and parapet walls, or similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purposes they are to serve. Nothing in this subsection shall be deemed to permit signs of any kind to exceed the height limits for any district as prescribed in Part 3, Zoning. No roof structure shall have an area greater than 20% of the roof area of the principal structure.
- C. Additional story on steep lot. On any lot with an average ground slope greater than one foot vertical to five feet of horizontal distance, one full story in addition to the number permitted in the district in which such lot is situated shall be permitted, except that this provision shall not apply to one-family detached residential buildings, and provided that, in any case, the building height limit shall not otherwise be increased above that specified for the district in which such building is located.
- D. Public and quasi-public buildings. Public buildings, churches and church schools may exceed the height limitations of this Part 3, provided that the minimum front, rear and side yards shall be increased one foot for each foot by which such building exceeds the height limit herein established for such district in which such building is erected, and provided further that in no case shall any such building have a height greater than 50 feet.
- E. Antennas and aerials.
  - (1) For the purposes of this section, all antennas and aerials in excess of 60 inches in height and/or 30 inches in diameter shall require the same permits as required for accessory buildings.
  - (2) Television or radio antennas, or aerials greater than 60 inches in height and/or 30 inches in diameter, shall be erected only after receiving the approval of the Construction Code Official and upon meeting the conditions set forth below:
    - (a) No antennas more than 60 inches in height and/or 30 inches in diameter may be mounted on a roof. Antennas larger than 60 inches in height and/or 30 inches in diameter shall be ground-mounted in such a manner as to be suitable to maintain stability under all conditions, and the plans for same shall be subject to the approval of the Township Engineer.
    - (b) No antennas greater than 10 feet in height and/or eight feet in diameter may be located in any zone.
  - (3) No television or radio antenna or aerial shall be located in the front yard or required side yard. Rear yard distance requirements shall be the same as those set forth in this Part 3 for accessory buildings in the zone where such antenna or aerial is proposed.
  - (4) The antenna or aerial shall be located and screened to minimize visibility from the street and adjacent properties. In considering such uses, the Construction Code Official may require



additional buffering or screening so as to accomplish the objective of this section.

- (5) Antennas or aerials recommended to be installed on the ground by the manufacturer shall be so located. A copy of the manufacturer's installation recommendations shall be submitted to the Construction Code Official for his/her review before issuing any permit if the installation is contemplated other than in the manner recommended by the manufacturer.

**§ 195-118. Area and yard provisions.**

**A. General yard and open spaces provisions.**

- (1) No building or structure shall be erected or altered to encroach upon or reduce in any manner the required yard dimensions, areas or open spaces hereinafter designated for the district in which such building is located, except as otherwise specifically provided.
- (2) No yard or other open spaces provided about any building for the purpose of complying with the provisions of Part 3, Zoning, shall be considered as a yard or open space for any other building, and no yard or other open space of a building on one lot shall be considered as a yard or open space for a building on any other lot.
- (3) All yards and courts required by this Part 3 shall be open and unobstructed to the sky, except as provided herein.
- (4) No lot shall be reduced in area so as to make any yard or other open space less than the minimum required by Part 3, Zoning.

**B. Undersized lots.**

- (1) Any lot of record, or any lot shown on a recorded subdivision plat at the time of enactment of this Part 3, with an area or width less than that prescribed for a lot in the district in which such lot is located, may be used for any purpose permitted in such district; provided, however, that no lot of less than 5,000 square feet in area or less than 40 feet of minimum lot frontage at the building line shall be used.
- (2) On any undersized lot in single ownership, where the owner of which owns no adjoining lots, the combined total side yard requirements for the district in which such lot is located may be reduced by six inches for each foot a lot is less than the required minimum lot frontage at the building line prescribed for such district, where necessary to permit construction thereon of a building having a minimum floor area prescribed for such district. However, no principal building shall be placed any nearer than five feet to any side lot line, except where specifically permitted by Part 3, Zoning, and provided further that no principal building shall be placed any nearer than 15 feet to any principal building on an adjoining lot.
- (3) Where the owner of an undersized lot owns adjoining lots upon which there are not any principal structures situated, and where the composite of the lots, or a portion thereof under single ownership, meets the minimum area requirements for the district in which the composite of lots is located, such composite, or portion thereof, shall be considered as one single lot, and the area and yard provisions of this Part 3 shall apply:

**C. Corner lots.**

- (1) Front yards. All yards facing upon a public street shall conform to the minimum front yard requirements for the particular district, except that:

- (a) Where a block frontage (total length of lot frontage along a street between the nearest two intersecting streets) is entirely formed by the side street lines of two abutting corner lots, the depth of the front yards facing such side street lines may be reduced by not more than 40% of the required depth.
  - (b) For any corner lot of record that is not of sufficient width to permit the adherence to the minimum requirements for a front yard in a particular district, the front yard abutting the side street line may be reduced by not more than 1/3 of the required depth for a front yard. Nothing in this subsection shall permit the reduction in width or depth of the other required yards of such corner lots.
- (2) Side yards. All side yards not abutting and facing upon a public street shall conform to the minimum side yard requirements for the particular district, except that the side yard of a corner lot which adjoins the required front yard abutting the side street line shall conform to the minimum rear yard requirements for the adjoining interior lots.
  - (3) Rear yards (nonexistent). For the purposes of applying the provisions of this Part 3, a corner lot shall be deemed to have front yard and side yards only.
  - (4) Adjoining districts. Where a corner lot in a commercial, industrial or less restrictive residential district directly abuts a lot in a more restrictive residential district along the same side of a public street, all of the regulations of such more restrictive residential district for front yards shall apply to such corner lot along the street whose frontage it shares with the more restrictive residential district, except that Subsection C(1)(a) and (b) above shall apply where such corner lots are not of sufficient frontage.

D. Front yards.

- (1) Corner lots. Front yards required on corner lots shall be subject to the provisions of Subsection C(1)(a) above.
- (2) Double-frontage lots. Yards facing upon public streets shall be considered as front yards and shall conform to the minimum front yard requirements for the particular district. The building line of any principal structure or building erected or constructed upon such lots shall not be established in excess of 15 feet of the average front yard depth of adjoining lots on either side.
- (3) Master Plan and Official Map.
  - (a) Where a lot has frontage upon a street which, on the major street portion of the Master Plan, or on the Official Map of the Township, is contemplated for right-of-way widening, the required yard depth and area shall be measured from such proposed future right-of-way line.
  - (b) For the purpose of measuring and determining front yards, no street or road shall be considered as having an established right-of-way of less than 50 feet in width.
- (4) Front yard depth in developed areas. If the front yard depth of two or more existing principal buildings on each side of a lot within a distance of 150 feet and fronting on the same side of the same public street between the nearest two intersecting streets is greater or less than the front yard depth required in Part 3, Zoning, for a particular district, the average of the existing depths, from street line to building line, within such specified distance shall be the required front yard depth for the lot in question.

- (5) Accessory buildings. Unless otherwise provided, no accessory buildings shall be permitted in any required front yard.
- E. Permitted extensions and projections. The following portions of, or attachments to, a principal building may extend and project into a required yard as described below:
- (1) Uncovered steps only may project up to five feet into a required front or rear yard. If the existing front yard setback is nonconforming, uncovered steps may be reconstructed in their existing locations and footprints, but not increased further in size or encroach further into the required front yard area.
  - (2) In all residential zones, a covered porch or stair landing of a principal structure may project up to five feet into a required front yard. In addition, uncovered steps giving access to said porch may be installed. Neither the porch nor the covered landing shall be enclosed or screened. In addition, there shall be no habitable space created above the porch or landing. If the existing front yard setback is nonconforming, an existing porch and landing may be reconstructed and covered in their existing locations and footprints, but not increased further in size or encroach further into the required front yard area.
  - (3) On grade patios and barbecues are permitted in any rear yard or side yard, provided they satisfy the requirement for accessory structures in the zone.
  - (4) Cornices, eaves beyond the foundation wall, bay windows, sills, awnings, ornamental features, architectural features and chimneys may project up to two feet into any minimum required front, side or rear yard.
  - (5) Fire escapes and outside stairways may project into any required yard area.
  - (6) Show windows in commercial districts, but not more than 18 inches into any front yard.
  - (7) Room air-conditioning equipment and ground-mounted generators may be located only within any side or rear yard, so long as the furthest extending side is not less than five feet from any property line. Outside central air-conditioning equipment may be located only in any side or rear yard, provided that the closest face of the unit is not less than five feet from the property line.
  - (8) Habitable areas of a building may be extended up to two feet beyond the foundation wall into any required side yard or rear yard area beginning at the second floor level.

#### **§ 195-119. Vision clearance at intersections.**

In all districts where front yards are required on corner lots, all walls, fences, ornamental structures, hedges, shrubbery or other plantings, other fixtures and structures, and ground elevation located within a triangular area having two twenty-five-foot sides measured along the front lot line and side street line from the intersection point of such lines shall be limited in height so as to prevent the impairment of vision at such street intersection. Such height shall not be in excess of three feet above the established curb elevation of the nearest curb, except that retaining walls shall be permitted where changes in street grade, width, or alignment have made such structures necessary. In the case of trees within this triangular area, all branches shall be trimmed away to a height of nine feet above the curb level where vision is measurably impaired or obstructed.

#### **§ 195-120. Fences and walls.**

- A. Fences and walls shall be exempt from the yard requirements detailed herein.
- B. Where any fence or wall is situated on a corner lot, the provisions of § 195-119 shall apply with respect to the height limitations for visibility clearance at street intersections.
- C. No fence or wall hereafter erected, constructed or added to that is situated between two abutting residential properties shall be any greater in height than 6 1/2 feet, measured from the finished grade elevation along the length of such wall or fence.
- D. In the case of a residential corner lot, a fence or wall of any type not greater than 6.5 feet in height may be permitted to extend along the right-of-way where such wall or fence encloses the yard area of a home located on a corner lot, providing that the conditions of § 195-119 are also met and that no such fence shall be allowed beyond a parallel line extended from the front facing side of the home to the right-of-way.
- E. Nothing in this section shall apply to shrubbery, hedges or other plantings located between such properties.
- F. Open security fences up to eight feet high shall be permitted in any industrial zone upon proper application to the Construction Code Official.
- G. The face, or finished side, of a fence or wall shall face the adjacent property.
- H. No fence or wall shall be constructed with barbed wire, metal spikes or other such dangerous material or constructed in such a manner as to be dangerous to animals or humans.
- I. Solid fences shall not be permitted to be constructed in the front yard of any residential property and any such fence shall be required to be open, partial or board-on-board, except as specifically allowed per § 195-120D.
- J. Prior to the installation of fencing in the Township, a permit shall be obtained from the Building Department.

**§ 195-121. Essential services exemption.**

Essential services shall be exempt from the provisions of Part 3, Zoning, for every zone.

**§ 195-122. Performance standards.**

- A. Restrictions. No building may be erected, altered or used, and no lot or premises may be used, for any use which is noxious or offensive by reason of odor, dust, vibration, illumination, electrical interference, noise, or which constitutes a public hazard by reason of fire, explosion or air or water pollution.
- B. Noise.
  - (1) In residential and commercial districts, when measured at the lot line, and industrial districts, when measured at any point on the boundary of the nearest residential or office district, the sound-pressure level radiated continuously from a facility between the hours of 10:00 p.m. and 6:00 a.m. shall not exceed the following in any active band of frequency:

Frequency Band (cycles per second)	Sound-Pressure Level (decibels re 0.0002 microbar)
20 to 75	69
75 to 150	54
150 to 300	47
300 to 600	45
600 to 1,200	41
1,200 to 2,400	34
2,400 to 4,800	31
4,800 to 10,000	28

- (2) If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 6:00 a.m., one or more of the following corrections shall be added to or subtracted from each of the decibel levels given above:

Type of Operation/Character of Noise	Correction in Decibels
Daytime operation only	+5
Noise source operated less than 20% of the time	+5*
Noise source operated less than 5% of the time	+10*
Noise source operated less than 1% of the time	+15*
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, screech)	-5

**NOTES:**

\* Applying one of these corrections only.

The sound-pressure level shall be measured with a sound-level meter and an octave bank analyzer that conforms to the latest specifications published by the American Standard Association, New York, New York.

- C. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot line, nor shall any vibration produced exceed 0.002 g peak, measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.

**§ 195-123. Aboveground outside storage tanks.**

Any outdoor aboveground storage tank in any zone district within the Township of Clark shall be enclosed by a solid wall no higher than eight feet in height and constructed of noncombustible materials.

**§ 195-123.1. Front yard setback for flagpoles.**

In all zones wherein the owner of the property seeks to erect a flagpole in accord with the terms hereof, the front yard setback for said flagpole shall be a distance equal to 50% of the front yard setback required for the erection of a principal structure in said zone.

**§ 195-123.2. Requirements for residential accessory uses and structures.**

Except as may be specifically provided otherwise in this chapter, the following provisions shall apply to the specific accessory buildings, uses and/or structures for all residences in all residential and nonresidential zones; provided, however, that except for improvement coverage requirements herein, this article shall not apply to parking, signs and other accessory structures regulated elsewhere in this chapter when such regulations expressly or by clear implication supersede those in this article:

**A. Detached private garage.**

- (1) No detached private garage shall be closer than three feet from the rear or side property line, except where the detached private garage is on a street side yard in which case it shall be no closer than half of the established front yard depth pursuant to this Part 3.
- (2) Detached private garages shall be limited to one story and shall have a peaked roof with a maximum pitch of no greater than one on one and shall not be larger than 500 square feet in the floor area. No premises shall have more than one detached garage, regardless of its size.

**B. Sheds.** Sheds, as defined in Article XX, § 195-111, Definitions, shall comply with the following:

- (1) Sheds shall be permitted only in the rear yard.
- (2) Sheds shall not be larger than 100 square feet in floor area, nor greater than 10 feet in height, and no premises shall have more than one shed, regardless of its size.
- (3) No shed shall be closer than three feet from the rear or side property line, except where the shed is on a street side yard in which case it shall be no closer than half of the established front yard depth pursuant to Part 3.

**C. Gazebos.** Gazebos are accessory structures and are subject to the provisions of this article. Gazebos shall comply with the following:

- (1) Yard location. Gazebos shall be permitted only in the rear yard or in the side yard for corner lots.
- (2) Gazebos shall not be larger than 100 square feet in the floor area nor greater than 12 feet in height, and no premises shall have more than one gazebo, regardless of its size.
- (3) No gazebo shall be closer than 10 feet from any side or rear property line, except where the gazebo is on a side street yard, in which case it shall be no closer than half of the established front yard depth pursuant to Part 3.

**D. Decks and patios.** Decks and patios are accessory structures and are subject to the provisions of this

article. The following specific requirements shall apply to decks and patios in all residential zones and accessory to any residential use in a nonresidential zone:

- (1) Yard location. Decks shall be permitted only in the rear yard.
- (2) Setback requirements. Decks and patios shall be set back from the side lot lines a distance equal to or greater than the distance required for principal buildings.
- (3) Lighting. Artificial lighting shall be permitted, provided that any lighting shall be placed so as to eliminate the transmission of glare to adjoining properties or to adjoining streets, and provided further that such lighting shall not be located higher than six feet above the elevation of the deck floor.
- (4) Subfloor areas. The space between the floor of the deck and the ground shall be screened with appropriate plantings or shrubbery or shall be covered with a skirt of lattice or other material so that open space between the deck and the ground, if any, is not visible. Skirts, lattices or appropriate screening shall have at least one inch and no more than three inches of ground clearance and shall provide a method of human access under the deck or raised patio.

E. Private swimming pools.<sup>4</sup> Private swimming pools shall comply with the following:

- (1) Use. Private swimming pools shall be designed and intended only for the private use of the occupants of the premises and their guests as a swimming pool.
- (2) Where permitted. Private swimming pools are permitted only in the residential zone districts.
- (3) Location. Swimming pools shall be permitted only in the rear yard. On corner lots, the swimming pool shall be set back from the side street line a distance at least equal to the street side yard setback requirement for a principal building.
- (4) Lighting. Artificial lighting shall be permitted below the surface of the water and/or at a height not to exceed six feet above grade level, and any lighting above grade level shall be placed so as to eliminate the transmission of glare to adjoining properties or to adjoining streets.
- (5) Pool circulation pumps and pool heaters shall have a minimum five-foot setback from any property line.
- (6) Other provisions of law. All other provisions of state law and Township Code with respect to swimming pools shall be satisfied.
- (7) Exclusions. Hot tubs, wading pools, landscape pools and fish pools are not swimming pools and are not required to meet the specific requirements of this subsection, but are considered to be accessory uses and must meet all other applicable requirements of this article.

F. Hot tubs. Hot tubs are required to meet all the general requirements for accessory uses as set forth in this section, provided the following additional requirements shall be satisfied:

- (1) Location. Hot tubs shall be permitted only in the rear yard. The hot tub shall not be closer than five feet from any side or rear property line. On corner lots, the hot tub shall be set back from the side street line a distance at least equal to the street side yard setback requirement for a principal building.

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4. Editor's Note: See also § 195-210, Swimming pools.

- (2) In the event a hot tub is located within or adjacent to a deck, the hot tub shall be required to comply with the requirements for decks.
  - (3) In the event a hot tub is constructed as a freestanding structure, the hot tub shall be subject to the same setback requirements applicable to swimming pools.
  - (4) Hot tubs installed outside a building shall have a hard permanent lockable cover which must be kept closed and locked when not in use.
- G. Game courts. Game courts involving a ball in play, such as but not limited to private tennis courts, racquetball courts, paddleball courts, platform tennis courts, handball courts, basketball courts and similar recreational facilities, are conditional uses and shall be subject to the following:
- (1) Location. The recreational facilities included in this subsection shall be permitted only in the rear yard.
  - (2) Coverage by recreational facilities. Except as may be otherwise provided in this chapter, the total coverage by accessory buildings and above-grade structures in the rear yard shall not exceed 25% of the area of the rear yard. The foregoing coverage restriction shall not be construed as permitting the total coverage by buildings and above-grade structures or the total coverage by improvements on the lot to exceed the maximum coverage permitted in the particular zone district or for the particular use, as applicable, or as excluding such coverage in the rear yard from the calculation of total coverage by buildings and above-grade structures on the lot, or as excluding such coverage from the calculation of total coverage by improvements on the lot.
  - (3) Setback. The recreational facility shall not be closer than 15 feet from any side or rear property line. On corner lots, the recreational facility shall be set back from the side street line a distance equal to or greater than the street side yard setback requirement for a principal building.
  - (4) Enclosures. The height of the recreational facility enclosure, if there be one, shall not exceed 15 feet. In the event the enclosure is greater than six feet high, the enclosure shall comply with the setbacks applicable to recreational facilities in Subsection G(3) above. Enclosures shall be of open chain link construction, shall not include slats or coverings, and shall include a top rail.
  - (5) Lighting. No artificial lighting is permitted.
- H. Antennas. Antennas are permitted and regulated as set forth in § 195-117E, Antennas and aerials.
- I. Other miscellaneous residential accessory uses and structures. The following regulations shall apply as specified:
- (1) Wading pools, sandboxes, trellises, seasonal temporary tents, dog houses, kennel enclosures, patios, grape arbors, permanent barbecue facilities, and other structures or uses customarily associated with residential uses shall all be set back from any property line at least five feet and shall not be located in the front or side yards; provided, however, that patios may be located in any side yard. Notwithstanding anything to the contrary set forth herein, temporary structures for religious services may be located in the front, side and/or rear yards.
  - (2) Bocci courts shall not be located in the front or side yards and shall be at least five feet from any property line.
  - (3) Playground equipment shall not be located in the front or side yard, shall be no higher than 15



feet above the ground, and shall be at least five feet from any property line.

- (4) Air conditioners and heat pumps, or portions thereof, which are not mounted in the window or walls of a building or structure but are placed upon the ground or on a ground-based platform outside of a structure or building may not be located in the front yard. Such structures shall be at least five feet from any property line. Any ground level air conditioner, compressor, and/or heat pump shall be screened.
- (5) Generators shall be set back from the side lot lines a distance equal to or greater than the distance required for principal buildings. Any ground level generator shall be screened by an attractive and appropriate wall, fence or planting of appropriate height and density to obscure the generator from view of adjacent properties, which screening shall be subject to the approval of the Zoning Officer. Generators shall not be located in the front or front side yard on corner properties.
- (6) Basketball backboards may be fastened to the house. Movable backboards shall not be positioned in such a manner to interfere with either pedestrian or vehicular traffic. No basketball backboards shall be located anywhere but on the individual owner's property and not in the public right-of-way.
- (7) Mailboxes, artwork, gate posts, portable barbecues and planters shall be exempt from the provisions of this article and any other provision of this chapter.
- (8) Skateboard ramps. Any structure or ramp designed for use with skateboards, whether on a temporary or permanent foundation, is prohibited in all residential zone districts.
- (9) Other uses and structures. The Zoning Officer shall determine the applicability of this chapter to accessory uses and structures for residential use which are not specifically regulated herein.

ARTICLE XXIII  
**District Regulations**

**§ 195-124. R-150 One-Family Detached Residential District.**

- A. Permitted uses. In any R-150 District, only the following uses shall be permitted, except as provided in Subsection B:
- (1) Dwellings, one-family detached.
  - (2) Accessory uses:
    - (a) Customary accessory structures and buildings, including detached private garages.
    - (b) Off-street parking, pursuant to the provisions of Article XXIV (§ 195-141 through § 195-148).
    - (c) Signs, pursuant to the provisions of Article XXV (§ 195-149 through § 195-161).
    - (d) Private permanent swimming pools enclosed in a yard by a fence not less than four feet high.
  - (3) Farms and accessory agricultural uses and activities, but not including farm produce stands.
- B. Conditional uses. In any R-150 District, the following conditional uses may be permitted, pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Farm stands.
  - (2) Home occupations and professional offices in the home as accessory uses.
  - (3) Churches and related uses.
  - (4) Developed nonpublic recreational uses, such as golf courses, tennis clubs and swim clubs.
  - (5) Horticultural nurseries, but greenhouses or structures for the indoor cultivation of plants shall only be of permanent-type construction or permanent foundations and shall be set back a minimum of 100 feet from the street line.
  - (6) Private clubs, service organizations.
  - (7) Public and nonpublic schools.
  - (8) Public utility installations.
- C. Area, yard and building dimensions. In any R-150 District, the following dimensional requirements shall apply:
- (1) Lot dimensions:
    - (a) Lot area (minimum): 15,000 square feet.
    - (b) Lot frontage at building line (minimum): 100 feet.
    - (c) Lot frontage at front lot line for lots fronting on ends of culs-de-sac (minimum): 40 feet.

- (2) Coverage and floor area ratio:
  - (a) Lot coverage (maximum): 15%.
  - (b) Impervious cover (maximum): 50%.
  - (c) Floor area ratio (maximum): 40%.
- (3) Yard dimensions:
  - (a) Front, minimum depth: 40 feet. See exception in § 195-118D(4).
    - [1] Accessory building: 40 feet.
  - (b) Rear, minimum depth: 35 feet.
    - [1] Accessory building: 15 feet.
  - (c) Side, minimum width: 15 feet.
    - [1] Accessory building: 10 feet.
    - [2] Total, both side yards: 30 feet.
- (4) Building dimensions. Maximum height shall be 35 feet and 2 1/2 stories.

**§ 195-125. R-100 One-Family Detached Residential District.**

- A. Permitted uses. In any R-100 District, only the following uses shall be permitted, except as provided in Subsection B:
  - (1) Any permitted use in an R-150 District.
- B. Conditional uses. In any R-100 District, the following conditional uses may be permitted, pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
  - (1) Any conditional use in an R-150 District.
- C. Area, yard and building dimensions. In any R-100 District, the following dimensional requirements shall apply:
  - (1) Lot dimensions:
    - (a) Lot area (minimum): 10,000 square feet.
    - (b) Lot frontage at building line (minimum): 85 feet.
    - (c) Lot frontage at front lot line for lots fronting on ends of culs-de-sac (minimum): 40 feet.
  - (2) Coverage and floor area ratio:
    - (a) Lot coverage (maximum): 20%.
    - (b) Impervious cover (maximum): 50%.
    - (c) Floor area ratio (maximum): 40%.

- (3) Yard dimensions:
  - (a) Front, minimum depth: 30 feet. See exception in § 195-118D(4).
    - [1] Accessory building: 30 feet.
  - (b) Rear, minimum depth: 25 feet.
    - [1] Accessory building: 10 feet.
  - (c) Side, minimum width: 10 feet.
    - [1] Accessory building: six feet.
    - [2] Total, both side yards: 25 feet.
- (4) Building dimensions. The maximum building height shall be 35 feet and 2 1/2 stories.

**§ 195-126. R-75 One-Family Detached Residential District.**

- A. Permitted uses. In any R-75 District, only the following uses shall be permitted, except as provided in Subsection B:
  - (1) Any permitted use in an R-100 District.
- B. Conditional uses. In any R-75 District, the following conditional uses may be permitted, pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
  - (1) Any conditional use in an R-100 District.
- C. Area, yard and building dimensions. In any R-75 District, the following dimensional requirements shall apply:
  - (1) Lot dimensions:
    - (a) Lot area (minimum): 7,500 square feet.
    - (b) Lot frontage at building line (minimum): 75 feet.
    - (c) Lot frontage at front lot line for lots fronting on ends of culs-de-sac (minimum): 35 feet.
  - (2) Coverage and floor area ratio:
    - (a) Lot coverage (maximum): 30%.
    - (b) Impervious cover (maximum): 50%.
    - (c) Floor area ratio (maximum): 40%.
  - (3) Yard dimensions:
    - (a) Front, minimum depth: 25 feet. See exception in § 195-118D(4).
      - [1] Accessory building: 25 feet.
    - (b) Rear, minimum depth: 20 feet.

- [1] Accessory building: five feet.
- (c) Side, minimum width: eight feet.
  - [1] Accessory building: five feet.
  - [2] Total, both side yards: 20 feet.
- (4) Building dimensions. Maximum height shall be 35 feet and 2 1/2 stories.

**§ 195-127. R-60 One-Family Detached Residential District.**

- A. Permitted uses. In any R-60 District, only the following uses shall be permitted, except as provided in Subsection B:
  - (1) Any permitted use in the R-75 District.
  - (2) Public buildings and uses.
- B. Conditional uses. In any R-60 District, the following conditional uses may be permitted, pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
  - (1) Any conditional use in an R-75 District.
- C. Area, yard and building dimensions. In any R-60 District, the following dimensional requirements shall apply:
  - (1) Lot dimensions:
    - (a) Lot area (minimum): 6,000 square feet.
    - (b) Lot frontage at building line (minimum): 60 feet.
    - (c) Lot frontage at front lot line for lots fronting on ends of culs-de-sac (minimum): 35 feet.
  - (2) Coverage and floor area ratio:
    - (a) Lot coverage (maximum): 30%.
    - (b) Impervious cover (maximum): 50%.
    - (c) Floor area ratio (maximum): 40%.
  - (3) Yard dimensions:
    - (a) Front, minimum depth: 25 feet. See exception in § 195-118D(4).
      - [1] Accessory building: 25 feet.
    - (b) Rear, minimum depth: 20 feet.
      - [1] Accessory building: five feet.
    - (c) Side, minimum depth: eight feet.
      - [1] Accessory building: five feet.

[2] Total, both side yards: 18 feet.

(4) Building dimensions. The maximum height shall be 35 feet and 2 1/2 stories.

**§ 195-128. R-A Multiple-Family Apartment Residential District.**

- A. Permitted uses. In any R-A District, only the following uses shall be permitted, except as provided in Subsection B:
- (1) Dwellings, multiple-family (garden apartment) project.
  - (2) Accessory uses:
    - (a) Customary accessory structures and buildings, including detached private garages.
    - (b) Off-street parking, pursuant to the provisions of Article XXIV (§ 195-141 through § 195-148).
    - (c) Signs, pursuant to the provisions of Article XXV (§ 195-149 through § 195-161).
    - (d) Swimming pools for the exclusive use of the residents of the multiple-group dwelling located on the same lot or parcel.
  - (3) Nonpublic educational institutions.
  - (4) One-family detached dwellings, provided that the area, yard and building dimensions of the adjacent most restrictive one-family detached residential district shall apply.
- B. Conditional uses. In the R-A District, the following conditional uses may be permitted, pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Medical or dental clinics.
  - (2) Nursing homes.
  - (3) Off-street parking in connection with commercial uses.
  - (4) Private clubs and service organizations.
  - (5) Public utility installations.
  - (6) Swimming clubs.
- C. Area, yard and building dimensions. In any R-A District, the following dimensional requirements shall apply, except that all uses, other than a multiple-group-dwelling project, shall conform to the area, yard and building dimensions of the most restrictive adjacent one-family detached residential district:
- (1) Lot dimensions.
    - (a) Minimum area. No multiple-group-dwelling project shall be permitted upon a lot or parcel of any less than one acre of land.
    - (b) Minimum frontage. No multiple-group-dwelling project shall have a frontage of less than 100 feet on a paved public street.

- (2) Lot coverages:
  - (a) By buildings and accessory structures: not more than 20% of the lot or parcel area.
  - (b) By parking areas, driveways, and other vehicle surfaces: not greater than 25%.
  - (c) By open space, as hereinbefore defined in § 195-111: not less than 55% of the lot or parcel area.
- (3) Maximum dwelling unit density. No multiple-group-dwelling project shall have a density exceeding 16 dwelling units per acre.
- (4) Minimum setback requirements.
  - (a) Front. No multifamily dwelling constituting a part of a multiple-group-dwelling project shall be placed any nearer to a front lot line than 45 feet; provided, however, where such front lot line abuts a street designated on the major street portion of the Comprehensive Master Plan as a major arterial street or a secondary arterial street, the setback distance shall be increased to 75 feet. The same provisions shall apply to all accessory buildings.
  - (b) Rear. No such dwelling shall be placed any nearer to a rear lot line than 40 feet. Accessory buildings shall be placed no nearer than 20 feet to such line.
  - (c) Side. No such dwelling shall be placed any nearer to a side lot line than 30 feet; provided, however, that where such line is a side street line, the distance shall be increased to 40 feet. In any event, no such dwelling shall be less than 50 feet from any other dwelling or place of business on any abutting property. Accessory buildings shall be located at least 20 feet from a side lot line and at least 40 feet from a side street line.
- (5) Building requirements.
  - (a) Minimum spacing. Where two or more multifamily dwellings are located on the same lot or parcel, the minimum distance between such principal buildings shall be 35 feet.
  - (b) Maximum height. The maximum height of any principal building shall not exceed 2 1/2 stories or 35 feet, except that an additional full story may be permitted, not to exceed three full stories, where the topography permits, pursuant to the provisions of § 195-117C. For accessory buildings, the maximum height shall be two stories or 20 feet.
  - (c) Minimum floor area. The living area of a one-bedroom dwelling unit shall be not less than 800 square feet, and the living area of a two-bedroom dwelling unit shall not be less than 950 square feet.
- (6) Off-street parking.
  - (a) Minimum space allocation. Each dwelling unit shall be allocated two spaces for off-street parking purposes.
  - (b) Garages. Thirty percent of the required off-street parking spaces may be enclosed in attached or detached private garages. No such garages shall be located in any front yard, and no garages shall face a public street.
  - (c) Screening required. All off-street parking areas shall be subject to the provisions of § 195-145 with respect to screening when such areas adjoin other residential properties. In

any event, parking areas shall be attractively landscaped.

- (d) Paving. All off-street parking areas shall be surfaced in accordance with Township standards.
- (e) Location upon lot. No off-street parking area shall be located in any front yard unless the Planning Board adjudges that such area is adequately landscaped and screened. In no event shall such parking area be closer than 10 feet to any rear lot line, 15 feet to a front lot line or side street line, or five feet to a side lot line.

D. Other general design and site requirements.

(1) Roads and access.

- (a) Roads. All interior private roads shall have a minimum width of 22 feet for two-way traffic or 12 feet for one-way traffic. Paving shall be in accordance with Township standards.
- (b) Access. Points of ingress and egress shall be located not less than 150 feet apart or shall be combined at one point if located on the same public street frontage. Wherever possible, access to the multiple-group-dwelling project should not be gained directly from a major arterial street or a secondary arterial street, unless such access is controlled by a traffic signal where warranted.

(2) Court provisions.

- (a) Outer court. No outer court shall have a width of less than 50 feet, nor a depth of greater than 120 feet.
- (b) Inner court. Inner courts shall be permitted.

(3) Utilities and services.

- (a) Water and sewerage. Water, storm and sanitary sewerage connections shall be provided and shall be installed in accordance with sound engineering practice as approved by the Township Engineer and provided that the Township Engineer shall certify that the facilities for existing trunk drains, drainage lines and sewers will not be impaired by the proposed plans.
- (b) Electric and telephone service. All such services shall be provided to a multiple-group-dwelling project by means of underground facilities.
- (c) Accessory roof structure. Antennas for the purposes of television reception shall be provided by one master tower for the project, wherever practicable.
- (d) Refuse collection. Provisions shall be made for the collection of refuse from refuse containers of substantial construction and satisfactory to any appropriate Township Health Officer, board or agency.
- (e) Laundering. Sufficient enclosed area and equipment shall be provided within each multifamily dwelling, or within each unit wherever practicable, for washing and drying purposes. No outside area shall be provided for such purposes, unless such area is enclosed by a solid screen of shrubs and fencing at least six feet high.

(4) Building design.



- (a) Construction of multifamily dwellings shall be of quality materials in accordance with the Township Building Code and any amendments thereto.
  - (b) Balconies and variations in the building line shall be used wherever practicable.
  - (c) Where steep terrain permits an additional story pursuant to the provisions of § 195-117C, such shall not be deemed to permit a vertical arrangement of any more than two apartment units in any multifamily dwelling.
- (5) Supervision and maintenance. No multiple-group-dwelling project shall be permitted under this article or any other article of this Part 3 unless provision shall be made for a superintendent to live upon the premises. The superintendent shall have as his/her full-time occupation the care, supervision and maintenance of the project at which he/she is employed.

**§ 195-129. R-B Multiple-Family Residential District.**

- A. Purpose of district. The purpose of the R-B District is to allow for the construction of multifamily residential buildings, including townhouses and garden apartments, meeting the minimum density requirement for inclusionary housing of the New Jersey Council on Affordable Housing and providing for the required set-aside of units within such developments affordable to low- and moderate-income families, complying with the obligation of the Township to provide a regional fair share of low- and moderate-income housing.
- B. Permitted uses. The permitted uses are townhouses and garden apartments.
- C. Accessory uses and structures. The following accessory uses and structures shall be permitted in the R-B Zone District:
  - (1) Parking and parking facilities as regulated in Article XXIV.
  - (2) Signs pursuant to the provisions of Article XXV for the uses for which signs are permitted.
  - (3) Other accessory uses and structures customarily subordinate and incidental to permitted principal uses.
- D. Development standards.
  - (1) Definition of uses. Garden apartments include multiple dwellings arranged in flats, up to 2 1/2 stories in height. Townhouses comprise single-family dwellings attached side by side, up to 2 1/2 stories in height. A half story is one within a gable roof, in which not over 1/2 of the floor area of the full story below has a full ceiling height.
  - (2) Density. The maximum density shall be eight units per acre of site area.
  - (3) Lower-income housing requirements. A minimum of 20% of the housing units shall be sold or rented and shall be maintained for a minimum period of 30 years so as to be affordable to families and persons of low and moderate income, under the lower-income housing requirements specified in Subsection E below.
  - (4) Building requirements, garden apartments. Maximum building height shall be 2 1/2 stories and 35 feet, and maximum building length shall be 120 feet.
  - (5) Building requirements, townhouses. Maximum building height shall be 2 1/2 stories and 35 feet, and there shall not be more than six housing units per structure.

- (6) Setbacks and spacing, garden apartments. The minimum setback from street and property lines shall be 50 feet, except that accessory garages, if provided, may be within 20 feet of side or rear lot lines. The minimum distance between buildings shall be 35 feet between fronts and backs, and 20 feet end to end. The minimum setback from parking areas and driveways shall be 10 feet.
- (7) Setbacks and spacing, townhouses. The minimum setback from streets and property lines shall be 50 feet. The minimum separation between buildings shall be 50 feet between fronts and backs, and 25 feet end to end. The minimum setbacks from driveways and parking areas shall be 20 feet from building fronts and 25 feet from building rears, and 20 feet on building ends.
- (8) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and shall be arranged such that appropriate active and passive recreation facilities will be provided. Where the site adjoins other zones on the side or rear, a suitable landscaped buffer strip of at least five feet in width shall be provided to form a visual screen.
- (9) Parking areas and access drives. A minimum of two parking spaces shall be provided for each dwelling unit. For townhouses, one of these spaces shall be provided within the unit or in a garage, except that this requirement shall not apply to lower-income units. All off-street parking areas shall be surfaced in accordance with Township standards. No off-street parking shall be located within front yards or within less than 10 feet from side and rear property lines.
- (10) Other general design and site requirements. Other general design and site requirements shall be as required in the R-A Multiple-Family Apartment Residential District, in § 195-128 herein.

E. Lower-income housing requirements.

- (1) Purpose. The purpose of this section is to establish criteria for the development of land to comply with the provisions of the New Jersey Supreme Court decision commonly referred to as "Mt. Laurel II." The regulations and controls contained in this section shall be interpreted to assure the construction of lower-income housing which meets the standards and guidelines set forth in Mt. Laurel II.
- (2) Number and type of lower-income dwelling units required.
  - (a) Garden apartment and townhouse developments shall be required to provide 20% of all dwelling units to be affordable for lower-income households. All units shall be affordable in senior citizen housing.
  - (b) At least 1/2 of all lower-income units shall meet HUD Section 8 eligibility requirements for very low income and 1/2 shall meet HUD eligibility requirements for lower income (Mt. Laurel II Moderate Income). There shall be a range of affordability within the maximum income limits as required by the regulations of the New Jersey Council on Affordable Housing.
  - (c) The developer shall agree not to impose age restrictions upon the occupants of any low- and moderate-income unit.
  - (d) Unit size distribution shall be as follows, divided evenly between low and moderate income:

[1] At a minimum, 35% of all low- and moderate-income units shall be two-bedroom

units;

- [2] At a minimum, 15% of all low- and moderate-income units shall be three-bedroom units; and
- [3] No more than 20% of all low- and moderate-income units may be efficiency units.
- (e) The lower-income units shall be architecturally similar to the market rate units and shall be generally distributed among the market rate units rather than isolated.
- (3) Pricing of low- and moderate-income units.
  - (a) The average price of low- and moderate-income units within an inclusionary development shall be, as best as practicable, affordable to households at 57.5% of median income as contained in N.J.A.C. 5:92-12.4.
  - (b) For purchased housing, as best as practicable, the following distribution of prices shall be used for every 20 low- and moderate-income units:

	Proposed Pricing Stratification
Low	1 at 40% through 42.5%
	3 at 42.6% through 47.5%
	6 at 47.6% through 50%
Moderate	1 at 50.1% through 57.5%
	1 at 57.6% through 64.5%
	1 at 64.6% through 68.5%
	1 at 68.6% through 72.5%
	2 at 72.6% through 77.5%
	4 at 77.6% through 80%

- (c) For initial occupancy, priority shall be given to households that fall within the median income categories delineated in the preceding subsection.
- (d) In computing affordability and eligibility, not more than 30% of the family income may be used for rental housing and 28% for sales housing, as follows:

Rental units: rent, excluding utilities. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limits.	
Sales Units:	Principal and interest
	Insurance
	Taxes
	Condominium or homeowners' association fees

**Condominium or homeowners' association fees shall be consistent with N.J.A.C. 5:92-12.12(a), which is as follows:**

"5:92-12.12 Initial pricing

- (a) Municipalities shall require that the initial price of a low- and moderate-income owner-occupied single-family housing unit be established so that after a down payment of 10%, the monthly principal, interest, taxes, insurance and condominium fees do not exceed 28% of an eligible gross monthly income. Municipalities shall, by ordinance, require that master deeds of inclusionary development regulate condominium or homeowner association fees or special assessments of low- and moderate-income purchasers at a specific percentage of those paid by market purchasers. Once established within the master deed, the percentage shall not be amended without prior approval from the Council on Affordable Housing."
  
- (e) The following criteria shall be considered in determining rents and sale prices:
  - [1] Efficiency units shall be affordable to one-person households.
  - [2] One-bedroom units shall be affordable to two-person households.
  - [3] Two-bedroom units shall be affordable to three-person households.
  - [4] Three-bedroom units shall be affordable to five-person households.
  
- (4) Subsidies. Government subsidies may be used at the discretion of the applicant to fulfill the requirements of this section. The lack of the subsidies shall in no way alter or diminish the lower-income requirements of this section.
  
- (5) Phasing of construction.
  - (a) Within inclusionary developments, low- and moderate-income housing units shall be built in accordance with the following schedule:

Minimum Percentage of Low- and Moderate-Income Units Completed	Percentage of Market Housing Units Completed
0%	25%
10%	25%, plus 1 unit
50%	50%
75%	75%
100%	90%
100%	100%

- (b) Any development for which a subdivision or site plan has been approved shall be considered a single development for purposes of this section, regardless of whether parts or sections are sold or otherwise disposed of to persons of legal entities other than the one which received approval. All such approvals and conditions of approvals shall run with the land. Any tracts or parcels sold shall include documentation, satisfactory to the Township

Attorney, setting forth the requirements for low- and moderate-income housing units.

- (6) Administration of low- and moderate-income housing.
  - (a) The governing body is hereby designated the Affordable Housing Board of the Township to administer or to provide for and supervise the administration of low- and moderate-income housing units hereunder and to assure that such units are made available and remain affordable to low- and moderate-income households for a period of not less than 30 years.
  - (b) The Township Administrator is hereby designated to carry out such administrative responsibilities within the Township as may be determined by the Affordable Housing Board.
  - (c) Appropriate outside agencies such as the Affordable Housing Management Service of the New Jersey Department of Community Affairs may be utilized for such administrative responsibilities as designated by the Affordable Housing Board of the Township.
  - (d) The cost of such administration by outside agencies shall be met, to a reasonable extent, by the developers of the housing projects, including low- and moderate-income units.
- (7) Resale and rental of lower-income housing.
  - (a) All lower-income dwelling units shall be required to have covenants running with the land to control the resale price of for-sale units or to employ other legal mechanisms which shall be approved by the Township Attorney and will, in his opinion, ensure that such housing will remain permanently affordable to persons of lower income for a period of at least 30 years.
  - (b) Selection procedures and an appropriate administration mechanism for assuring that low- and moderate-income housing units remain affordable to low- and moderate-income households shall be directed and administered by the Affordable Housing Board or an agency designated by it.
  - (c) The price of an owner-occupied housing unit and the rents of affordable housing units may increase annually based on the percentage increase in median income for each housing region as determined from the uncapped Section 8 income limits, published by HUD, or other recognized standard adopted by the Council on Affordable Housing.
  - (d) Persons wishing to sell affordable units shall notify the Affordable Housing Board or an agency designated by it of the intent to sell. The seller may apply for permission to offer the unit to a non-income-eligible household at the maximum price permitted. The seller shall document efforts to sell the unit to an income-eligible household as part of this application. If the request is granted, the seller may offer low-income housing units to moderate-income households and moderate-income housing units to households earning in excess of 80% of the median. In no case shall the seller be permitted to receive more than the maximum price permitted. In no case shall a sale pursuant to this section eliminate the resale controls on the unit or permit any subsequent seller to convey the unit except in full compliance with the terms of N.J.A.C. 5:92-12.
  - (e) Property owners of single-family, owner-occupied housing may apply to the Affordable Housing Board or an agency designated by it for permission to increase the maximum price for eligible capital improvements. Eligible capital improvements shall be those that

render the unit suitable for a larger household. In no event shall the maximum price of an improved housing unit exceed the limits of affordability for the larger household. Property owners shall apply to the Affordable Housing Board or an agency designated by it if an increase in the maximum sales price is sought.

- (f) A judgment of the foreclosure or a deed in lieu of foreclosure by a financial institution regulated by state and/or federal law shall extinguish controls on affordable housing units, provided there is compliance with N.J.A.C. 5:92-10. Notice of foreclosure shall allow the Township, through the Affordable Housing Board, to purchase the affordable housing unit at the maximum permitted sale price.
  - (g) In the event of a foreclosure sale, the owner of the affordable housing unit shall be personally obligated to pay to the Township, through the Affordable Housing Board, any surplus funds, but only to the extent that such surplus funds exceed the difference between the maximum price permitted at the time of foreclosure and the amount necessary to redeem the debt to the financial institution, including costs of foreclosure.
- (8) Affirmative marketing.
- (a) No low- and moderate-income housing units are presently under construction or are as yet planned by the respective property owners. However, at such time as these units are constructed, affirmative marketing will be conducted by the Township through a Housing Officer or an appropriate agency to be appointed by the governing body. Such marketing will include the following:
    - [1] Legal advertisements and also announcements suitable for newspaper articles will be prepared for local newspapers and those covering Union, Essex, Morris, and Sussex Counties, prescribing the available low- and moderate-income housing and procedures for application and inviting such applications.
    - [2] Permitted newspapers.
      - [a] The newspapers for such advertisements and announcements include the following:
        - [i] Clark Eagle.
        - [ii] Star Ledger.
      - [b] Of the above, Clark Eagle is the official newspaper of the Township.
    - [3] In addition, announcements of such housing will be posted in the Municipal Building, the post office, and other appropriate public locations. Local church groups will be contacted announcing the availability of such units, and an announcement will be made on community-access cable television.
      - [a] Announcements will also be distributed to the County Planning Board and Housing Authority, local service organizations, the Welfare Director, and other appropriate local and areawide groups.
      - [b] As provided in the rezoning ordinance, 50% of the units shall be made available on a priority basis to income-eligible households that reside in the municipality or work in the municipality and reside elsewhere, for a period not to exceed 15

business days from the time such units are listed for sale or resale or made available for rent.

- [c] Screening of occupants will be the responsibility of the Township Housing Officer or appropriate agency designated by the governing body, who will work in conjunction with the project's developers. Such developers will be required to pay the reasonable costs of advertisements and will be required to cooperate with the Township in preparing the required announcements and advertisements.
  - [d] The marketing program will commence at least 90 days before the issuance of either temporary or permanent certificates of occupancy and shall continue until all low- and moderate-income housing units are under contract of sale and/or lease.
- (b) No more than 50% of the units shall be made available on a priority basis to income-eligible households that reside in the municipality or work in the municipality and reside elsewhere, for a period not to exceed 15 business days from the time such units are listed for sale or resale or made available for rent, subject to the regulations of the New Jersey Council on Affordable Housing.
- (9) Waiver of fees.
- (a) Notwithstanding any ordinance requirement of the Township, the applicable approving agency shall waive the following fees for every unit designated as lower-income housing:
    - [1] Subdivision and site plan application fees.
    - [2] Building permit fees, except state and third-party fees.
    - [3] Certificate of occupancy fees.

**§ 195-130. R-SH Age-Restricted/Senior Housing Overlay District.**

- A. Purpose of district. The purpose of the Age-Restricted/Senior Housing District is to permit construction of an age-restricted multifamily residential development with a 20% affordable housing set-aside in accordance with the Township's adopted Housing Element and Fair Share Plan and the terms and conditions of the Township's Judgment of Compliance and Repose.
- B. Permitted uses. Age-restricted multifamily residential development containing a 20% set-aside for low- and moderate-income households ages 55 years and older. The development may be constructed as multifamily dwellings, multiple-group dwellings, or garden apartments, townhouses or a townhouse/flat combination.
- C. Accessory uses and structures. The following accessory uses and structures shall be permitted in the R-SH Zone District:
  - (1) Parking and parking facilities as regulated in Article XXIV.
  - (2) Signs pursuant to the provisions of Article XXV for the uses for which signs are permitted.
  - (3) Other accessory uses and structures customarily subordinate and incidental to permitted principal uses.

## D. Development standards:

- (1) Minimum tract area: 10 acres.
- (2) Minimum frontage: a minimum of 250 feet on a paved public street.
- (3) Density. The maximum density shall be 32 units per acre for multifamily dwellings, multiple-group dwellings, or garden apartments, and 15 units per acre of gross site area for townhouses and townhouse/apartment/flat combinations.
- (4) Low- and moderate-income housing requirements. A minimum of 20% of the total age-restricted dwelling units shall be affordable to low- and moderate-income households as regulated by the Township's Court-approved Affordable Housing Ordinance (Chapter 66 of the Township Code).
- (5) Building height. Maximum building height shall be 45 feet and four stories.
- (6) Design standards. All development shall incorporate the following design standards. Waivers from these standards may be granted by the Board pursuant to N.J.S.A. 40:55D-51b.
  - (a) Building design. The objectives of the building design standards are to provide overall high-quality building with special emphasis on methods that reduce the visual impact of large buildings. The exterior appearances of buildings shall complement the character of existing development in the surrounding area.
    - [1] Elements that draw focus, introduce scale and provide three-dimensional effects.
    - [2] Variations and articulation to overall building facades by changing the facade plane.
    - [3] Use of subdued wall coloration, patterning, texture and reveals.
    - [4] Extensive use of landscaping to shield and break up building planes.
  - (b) Specific design features that reduce the visual impact of large buildings shall be used. These include but are not limited to:
    - [1] Elements that draw focus, introduce scale and provide three-dimensional effects.
    - [2] Variations and articulation to overall building facades by changing the facade plane.
    - [3] Use of subdued wall coloration, patterning, texture and reveals.
    - [4] Extensive use of landscaping to shield and break up building planes.
  - (c) Building mass. Solid and unarticulated buildings are not permitted. The mass, scale and visual impact of buildings shall be reduced by staggered building walls. The staggered building walls shall incorporate a setback or bump-out that, in the opinion of the Board, provides an equivalent reduction in the mass, scale and visual impact of the buildings.
  - (d) Architectural interest. To provide architectural interest, create a three-dimensional effect and further reduce the visual scale and impact of a building, the following techniques shall also be used:
    - [1] Variations in building treatment shall be liberally used and shall include painted panels, awnings or canopies, wall openings, wall texture changes, changes in building height and variations in rooflines.
    - [2] Building entries and building corners shall be readily identifiable through the use of canopies, marquees, architectural treatment and the use of different materials.
    - [3] Extensive use of small-scale elements, such as planter walls and hedges, shall be provided particularly around building entrances.



- [4] Landscaping shall be employed to further reduce the visual impact of building mass.
- (e) Materials.
- [1] The front and two side elevations of all buildings and structures shall be constructed of brick, architectural block, architectural precast concrete or tilt-up construction using similar materials of equally high quality and aesthetics. Utility standard concrete panels or masonry units may be used on rear elevations if the rear elevations are not visible from any public right-of-way after berming, fencing or landscaping treatment.
- [2] Rooflines and parapets shall be designed to minimize the visual impact of rooftop-mounted equipment, such as vents and stacks, from public rights-of-way.
- (f) Pedestrian circulation.
- [1] On-site concrete or brick sidewalks, or such other material acceptable to the Board, shall be provided to create a continuous pedestrian network and to connect with existing sidewalks and neighborhoods.
- [2] Vehicular and pedestrian circulation patterns shall be separated. A landscaped buffer shall provide a separation between pedestrian and vehicular ways.
- [3] Pedestrian crossings shall be indicated by such techniques as changed pavement materials or texture, signals, signage, or painted stripes, as determined by the Board.
- [4] Secure and convenient pedestrian walkway access shall be provided between parking lots, sidewalks and primary entrances to buildings. Sidewalks shall be barrier-free, a minimum of five feet in width and shall be set back a minimum of five feet from all buildings.
- (7) Setbacks. The following setback standards shall apply:
- (a) Buildings:
- [1] Front yard: 45 feet or the height of the principal building, whichever is greater.
- [2] Side yard: 40 feet.
- [3] Rear yard: 40 feet.
- (b) Accessory building:
- [1] Front yard: 50 feet.
- [2] Side yard: 25 feet.
- [3] Rear yard: 25 feet.
- (8) Building coverage. Buildings and accessory structures shall cover not more than 40% of the lot or parcel area. Accessory structures devoted to parking shall count towards total lot coverage.
- (9) Total lot coverage. Not more than 70% of the lot or parcel area shall be covered by a combination of buildings, accessory structures, parking areas, driveways, and other impervious surfaces.

- (10) Minimum open space. Not less than 30% of the parcel area shall be open space as defined in § 195-111.
- (11) Parking. Off-street parking shall be provided in accordance with the residential site improvement standards, but in no event shall the parking ratio for one- and two-bedroom units be greater than 1.5 spaces per unit. No off-street parking shall be located less than 25 feet from any property line. A carport and adjacent driveway space shall be counted as two spaces; designated stacked parking spaces shall also be counted as two spaces. Parking spaces may be located at grade in the building footprint (garage), without limitation.
- (12) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and be arranged such that appropriate active and passive recreation opportunities will be provided on site for the residents of the development (e.g., walking paths, benches, gazebos, or ponds or water features); a suitable landscaped buffer strip of at least 25 feet in width shall be provided to the property boundaries to form a visual screen.
- (13) Parking lot setback and landscaping. Parking areas shall be attractively landscaped in accordance with the following standards:
  - (a) Parking lots shall be set back a minimum of 25 feet from the right-of-way of a public street. The setback area shall be landscaped with shade trees and shrubs adaptable to the location and able to provide low-level screening of the view of the parking lot; at least one shade tree for each 40 feet of frontage shall be provided.
  - (b) In addition to landscaping required along public streets, the interior of the parking lot shall be landscaped with at least one tree for every 20 parking spaces, which shall be planted in suitably prepared and protected landscaping islands.
  - (c) No more than 20% of the required parking shall be provided between the building line and the public right-of-way.
- (14) Townhouse and townhouse/apartment combination building spacing. The minimum spacing between buildings shall be 50 feet between front and front/back, 35 feet front/back to side and 25 feet end to end. The minimum setbacks from driveways and parking areas shall be 15 feet from primary buildings, unless a garage is attached.

### **§ 195-131. DTV Downtown Village District.**

#### **A. Purpose of the district.**

- (1) The downtown of any community should be a mixed-use center with many diverse retail shops and restaurants where the community can gather on nights and weekends. The Downtown Village District has been created in that area along Westfield Avenue between Washington Street and Broadway, from Denman Avenue and Benjamin Street to the Rahway border. The purpose of the DTV Downtown Village District is to permit construction of a multifamily residential development with a 15% affordable housing set-aside in accordance with the Township's adopted Housing Element and Fair Share plan and the terms and conditions of the Township's Court-approved Affordable Housing Ordinance (Chapter 66 of the Township Code). The DTV Zone District is intended to encourage retail sales and personal services oriented to pedestrian shopping on the ground floor. Second floors may be commercial or residential, and shall have only one use, commercial or residential in any one building. Only residential uses are

allowed on the third and fourth floors of any building.

- (2) Authentic period (Colonial, Federal or Victorian) reproductions are encouraged to complement the established character of more recently constructed buildings. In any case, as a minimum, in order to assure compatibility of new building construction or alterations of existing buildings, the building design standards in this section shall be adhered to, except that the Planning Board may grant waivers of specific requirements on a showing by the developer of unavoidable hardship.
  - (3) Exterior walls shall be finished with face brick, integrally colored masonry units (not panels), or wood clapboards, cedar shingles or vertical boards. All exterior walls of buildings shall be finished with the same materials or combinations of materials. Exceptions require Board of Adjustment or Planning Board approval.
  - (4) Visible sections of roof areas shall be cedar shingle or textured asphalt shingle, in dark colors. Mansard roofs, when provided, shall be full canopies of textured asphalt shingle, or fiberglass in dark colors.
  - (5) All design features applied to building exteriors shall be functional, rather than superimposed for decorative purposes only, unless part of authentic period architecture. Shutters, when provided, shall be designed to fit the windows to which they are attached.
  - (6) No rooftop mechanical structures shall be permitted in the DTV Zone without Planning Board or Board of Adjustment approval. All mechanicals shall be adequately screened so as to conceal them.
  - (7) All development applications containing proposed new buildings and structures or alterations or modifications to existing structures shall conform to the building site design standards set forth in § 195-182 of this chapter.
- B. Principal uses and structures. The following principal uses and structures shall be permitted in the DTV Zone District:
- (1) Business establishments devoted primarily to the retail sales of goods and personal services on the premises. Retail establishments that serve local needs may include the sale of baked goods, office supplies, flowers and the dispensing of pharmaceutical products.
  - (2) Taverns and restaurants and food establishments intended for food consumption on the premises. Outdoor dining is permitted as an accessory use.
  - (3) Takeout of food is permitted as an accessory use, provided that the food is consumed off-premises.
  - (4) Personal and consumer service establishments, such as hair salons.
  - (5) Businesses that provide permanent cosmetics as such term is defined in N.J.A.C. 8:27-1.3.
  - (6) Banks and other financial institutions engaged in the business of accepting deposits from the public and/or extending credit to the public in the form of loans. Such business must be conducted on the premises and must be the principal activity of the use on the premises; drive-through service is permitted as an accessory use only.
  - (7) Business, administrative and professional offices or other business establishments providing the following services:

- (a) Finance, insurance or real estate sales or services;
  - (b) Business or professional services;
  - (c) Health services;
  - (d) Social services;
  - (e) Consulting services;
  - (f) Private clubs and service organizations.
- (8) Museums, art galleries and indoor motion-picture theaters and theaters for conducting live entertainment or cultural performances; music and dance studios.
  - (9) Child-care centers.
  - (10) Public parks and playgrounds.
  - (11) Residential dwelling units limited to the second, third and fourth floors, which shall include a 15% set-aside for very-low-, low- and moderate-income housing, if the affordable units will be for rent, and a 20% set-aside for low- and moderate-income housing, if the affordable units will be for sale.
  - (12) Commercial parking lots.
- C. Accessory uses and structures. The following accessory uses and structures shall be permitted in the DTV Zone District:
- (1) Parking and parking facilities as regulated in Article XXIV (§ 195-141 through § 195-148).
  - (2) Signs, pursuant to the provisions of Article XXV (§ 195-149 through § 195-161), for the uses for which signs are permitted.
  - (3) Other accessory uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.
- D. Conditional uses and structures. The following conditional uses and structures shall be permitted in the DTV District only if they comply with the appropriate regulations for such uses or structures in Article XXVIII (§ 195-176 through § 195-179):
- (1) Nonprofit chartered membership organizations;
  - (2) Public utility installations;
  - (3) Certain telecommunications antennas as set forth in Article XXVI (§ 195-162 through § 195-168.1).
- E. Prohibited uses and structures. Any use or structure other than those uses or structures permitted in Subsections B, C and D above are prohibited. In addition, and notwithstanding the above permitted uses, the following uses shall be specifically prohibited:
- (1) Any business conducted outside the confines of a building, except those temporary activities permitted by special permission from the Township Mayor and Council or allowed elsewhere in this chapter;

- (2) Gasoline filling stations, gasoline service stations, public garages, automobile body repair or painting shops;
  - (3) Lumberyards or building material yards;
  - (4) Sale, rental or repair of automobiles, motorcycles, boats, trailers, lawn mowers, small gasoline or other liquid-fuel engines;
  - (5) Dry-cleaning establishments where the dry cleaning is done on the premises;
  - (6) Warehouses or businesses which do not sell directly to the general public;
  - (7) Public or private schools;
  - (8) Funeral services, undertakers, crematories and morticians;
  - (9) Residential use of any kind, other than those uses as permitted in Subsection B(11) above. Existing nonconforming residential buildings or structures shall not be extended or enlarged for use relating to a business, unless the first floor is used entirely for business use and off-street parking;
  - (10) All aboveground and underground bulk storage of liquefied petroleum gases, gasoline, diesel fuel, kerosene, No. 2 fuel, fuel oil, chemicals or similar hazardous, flammable or combustible liquids in any amount, except as permitted otherwise by permit. Aboveground or basement storage of up to 530 gallons of kerosene or No. 2 heating fuel in approved storage tanks and used exclusively for heating purposes on the premises is exempted from the above prohibition;
  - (11) Any building, structure or use which would create an undue hazard of fire, explosion or nuisance by reason of odor, noise, dust or smoke, or which in any way would be detrimental to the health, public morals and public safety of the community; and
  - (12) Private commercial parking lots as a principal use.
- F. Area, yard and building dimensions. In any DTV District, the following dimensional requirements shall be applied, unless otherwise excepted:
- (1) Minimum lot dimensions:
    - (a) Lot area: 7,500 square feet.
    - (b) Lot frontage: 75 feet.
  - (2) Minimum yards.
    - (a) Front yard. There shall be a minimum front yard of 15 feet, except that when abutting a residential district, the front yard requirement of such residential district shall apply to the abutting yard. No parking service shall be located closer than five feet to any street line.
    - (b) There shall be no minimum single side yard requirement except that:
      - [1] When abutting a residential district, the side yard requirement of such residential district shall apply to the abutting property; and
      - [2] When developing adjacent to existing structures which are to remain on an adjacent property, a combined minimum distance of 10 feet shall be maintained between

structures.

- (c) Rear yard: 20 feet for principal structures; five feet for accessory structures.
  - (3) Maximum building dimensions:
    - (a) Height shall be a maximum of 35 feet and three stories, except that a height of 45 feet and four stories will be permitted, provided the building setback from the property line is a distance equal to or exceeding the proposed height of the structure.
    - (b) Building coverage: 80%.
    - (c) Impervious cover: 90%.
    - (d) Floor area ratio: 3.0.
    - (e) Density: 32 units per acre.
  - (4) Open space. There shall be a minimum of 10% open space. When open space is adjacent to a designated parking space, the owner shall be prohibited from conducting snow removal or stockpiling activities where those activities infringe upon the designated parking area. Snow removal plans shall be provided as a part of any application for development. Snow shall promptly be removed from any open space area.
- G. Streetscape standards. Private development within the DTV District shall include street improvements to enhance the downtown streetscape. Required streetscape improvements will include a specific architectural and site design theme similar to the streetscape improvements undertaken by the Township of Clark within this area during the period 2000 through 2001. Site improvements will include benches, trash receptacles, area lighting, street trees, brick pavers and planters. These improvements shall be consistent with plans and specifications on file with the Township Engineer. Architectural details and standards not included therein will be developed and adopted by the Township Engineer to encourage a unity among the diverse uses and structures that make up this village neighborhood. Building architectural features will involve facade and large window treatments, cornice lines that are visually connective with neighboring buildings, finishes and rooflines.
- H. Integrated shopping units.
- (1) Nothing in this section shall be construed to prevent the construction or erection of a series or row of attached stores, shops or offices on a single piece of property, or a composite of lots under one ownership, where such a grouping forms an integrated limited shopping unit. Such unit shall be constructed or erected in accordance with a site plan and shall meet any applicable dimensional requirements set forth in this section for the DTV District. Each such integrated shopping unit shall consist of a group of individual shops or offices and shall have a uniform architectural design and appearance. Such design shall be consistent with the goals and objectives of the zone.
  - (2) Signs shall be in accordance with the provisions of Article XXV. In addition, such shopping unit is permitted one sign stating the name or designation of such shopping unit or listing the names or designations of stores, shops or offices therein. Such sign shall be no greater in area than 48 square feet and shall be no higher than the height of the principal building. Any illumination of such sign shall be nonflashing, uncolored and confined to the face of such sign.

- I. Screening of commercial uses. Any lot used for commercial purposes which abuts any permitted dwellings, public buildings or institutional premises in the DTV District or other district along any lot line, except a front lot line or side street line, shall be screened along such lot line. Such screen shall be a solid wall or a solid fence not less than four feet in height, together with a three-foot planting strip along the outside face of such wall or fence, planted in shrubs or evergreens. In lieu of such wall, fence and planting strip, a compact evergreen hedge of not less than three feet in height at the time of planting may be used. Such wall, fence, planting or hedge shall be maintained in good condition, and no advertising shall be placed thereon. Such screening shall be indicated on the site plan.
- J. Dumpsters are required in this zone where the property contains multiple uses or units.

**§ 195-132. CO Commercial Office District.**

- A. Purpose of district. The Commercial Office District is designed to define those existing areas of the Township which exhibit both residential and commercial characteristics. In this respect, these areas contain a mixture of dwellings, business and combined uses such as home occupations and professional offices in the home. The district designation has been used to prevent intensive commercial development which would produce excessive traffic conflicts in such districts.
- B. Permitted uses. In any CO District, no other than the following uses shall be permitted, except as provided in this section:
- (1) Customary accessory uses and buildings.
  - (2) Business and professional offices; banks; business schools.
  - (3) One-family dwellings on lots adjoining an R District, subject to the dimensional requirements of such R District.
  - (4) Places of worship and related uses.
  - (5) Home occupations and professional offices in a dwelling, but subject to maintaining the residential appearance of the property and not paving such a large proportion of the lot as to impair such residential appearance or create incompatibility with adjoining residential properties, as determined by the Township Planning Board.
  - (6) Funeral homes; mortuaries.
  - (7) Off-street parking in connection with commercial uses.
  - (8) Signs, pursuant to Article XXV (§ 195-149 through § 195-161), for the uses for which signs are permitted.
- C. Conditional uses. In any CO District, the following conditional uses may be permitted pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Public utility installations.
- D. Area, yard and building dimensions. In any CO District, the following dimensional requirements shall apply, unless otherwise excepted:
- (1) Minimum lot dimensions:

- (a) Frontage: 80 feet.
- (b) Area: 10,000 square feet.
- (2) Minimum yards:
  - (a) Front: 20 feet, plus one foot for each two feet of height over 30 feet.
  - (b) Side: five feet, except that when abutting an R District, the side yard requirement of such R District shall apply to the abutting yard.
  - (c) Both sides: 25% of lot width at the front building line.
  - (d) Rear: same as side yard requirements.
- (3) Maximum building dimensions:
  - (a) Height: 40 feet and three stories, except for lots contiguous to a residential district where the commercial building is within 80 feet of the contiguous lot line. In this case, the height requirements of a residential district shall apply.
  - (b) Lot coverage: 30%.
  - (c) Floor area ratio (FAR): 0.4.
- (4) Open space. There shall be a minimum of 15% open space.

**§ 195-133. CN Neighborhood Service Commercial District.**

- A. Permitted uses. In any CN District, no other than the following uses shall be permitted, except as provided in Subsection B:
- (1) All uses permitted in the CO District, except business schools.
  - (2) Private clubs and service organizations.
  - (3) Retail establishments serving local needs, including, but not limited to, the sale of groceries, baked goods, office supplies, flowers and the dispensing of pharmaceutical products.
  - (4) Personal and consumer service establishments, such as beauty shops and barbershops.
  - (5) Businesses that provide permanent cosmetics as such term is defined in N.J.A.C. 8:27-1.3.
  - (6) Indoor theaters.
  - (7) Signs, pursuant to the provisions of Article XXV (§ 195-149 through § 195-161), for the uses for which signs are permitted.
  - (8) Restaurants designed and used primarily to serve customers consuming food inside the restaurant building. This shall not be deemed to include takeout counters for more than incidental or occasional use. Consumption of food in automobiles on the premises is prohibited. Drive-up windows for service in automobiles are also prohibited.
  - (9) Art, music and dance studios.
  - (10) Hospitals and related uses, but not including animal hospitals.



- (11) Animal clinics, provided there are no outdoor facilities.
  - (12) Taverns.
  - (13) Self-storage facilities.
- B. Conditional uses. In any CN District, the following conditional uses may be permitted, subject to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Those conditional uses permitted in the CO District.
- C. Area, yard and building dimensions. In any CN District, the following dimensional requirements shall be applied, unless otherwise excepted:
- (1) Minimum lot dimensions:
    - (a) Area: 7,500 square feet.
    - (b) Frontage: 75 feet.
  - (2) Minimum yards.
    - (a) Front. There shall be a minimum front yard of 15 feet, except that when abutting an R District, the front yard requirement of such R District shall apply to the abutting yard. No parking service shall be located closer than five feet to any street line.
    - (b) Side.
      - [1] There are no minimum single side yard requirements, except that when abutting an R District, the side yard requirement of such R District shall apply to the abutting yard.
      - [2] The total of both side yards should be a minimum of 20 feet.
    - (c) Rear: 20 feet.
      - [1] Accessory buildings and uses: five feet.
  - (3) Maximum building dimensions:
    - (a) Height: 35 feet and 2 1/2 stories.
    - (b) Lot coverage: 40%.
    - (c) Floor area ratio (FAR): 0.5.
  - (4) Open space. There shall be a minimum of 10% open space.
- D. Integrated shopping units. Nothing in this section shall be construed to prevent the construction or erection of a series or row of attached stores, shops or offices on a single piece of property, or a composite of lots under one ownership, where such a grouping forms an integrated limited shopping unit. Such unit shall be constructed or erected in accordance with a plot plan and shall meet any applicable dimensional requirements set forth in this section for the CN District. Each such integrated shopping unit shall consist of a group of four or more individual shops or offices and shall have a uniform architectural design and appearance, which shall not be so markedly incongruous with the character of the neighborhood as to be seriously detrimental to the value of adjacent or nearby

properties. For this purpose, such design shall be approved in the course of the plot plan review by the Planning Board, in accordance with the above standard. Signs shall be in accordance with the provisions of Article XXV (§ 195-149 through § 195-161). In addition, such shopping unit is permitted one sign stating the name or designation of such shopping unit or listing the names or designations of stores, shops or offices therein. Such sign shall be no greater in area than 48 square feet and shall be no higher than the height of the principal building. Any illumination of such sign shall be non-flashing, uncolored and confined to the face of such sign.

- E. Screening of commercial uses. Any lot used for commercial purposes which abuts any permitted dwellings, public buildings or institutional premises in the CN District or other district along any lot line, except a front lot line or side street line, shall be screened along such lot line. Such screen shall be a solid wall or a solid fence not less than four feet in height, together with a three-foot planting strip along the outside face of such wall or fence, planted in shrubs or evergreens. In lieu of such wall, fence and planting strip, a compact evergreen hedge of not less than three feet in height at the time of planting may be used. Such wall, fence, planting or hedge shall be maintained in good condition, and no advertising shall be placed thereon. Such screening shall be indicated on the plot plan. The Planning Board may waive the screening requirements for that portion of a side lot line between adjoining front yards where, in its opinion, such screening would impair vision at entrance and exit points on the properties affected.

**§ 195-134. COH Commercial Office, Multistory District.**

- A. The purpose of the COH Commercial Office, Multistory District is to encourage business, administrative and professional offices, banks, business schools, funeral homes, hotels and theaters. Well-planned, large-scale commercial developments that are designed in a comprehensive manner that will contribute to the economic welfare of the Township are also encouraged. Such large-scale development shall provide an attractive and harmonious development within Clark and integrate the needs of pedestrians, employees and vehicles in site design.
- B. Nothing in this section shall be construed to prohibit the construction of two or more principal uses on one piece of property, or composite of lots under single ownership, where such development would form an integrated unit with shared access and parking.
- C. Permitted uses. In any COH District, no other than the following uses shall be permitted, except as provided in Subsection D:
- (1) All uses permitted in the CO District, except one-family dwellings.
  - (2) Motor inns and hotels.
  - (3) Theaters.
- D. Conditional uses. In any COH District, the following conditional uses may be permitted, subject to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Those conditional uses permitted in the CO District.
- E. Area, yard and building dimensions. In any COH District, the following dimensional requirements shall apply unless otherwise excepted:
- (1) Minimum lot dimensions:
    - (a) Area: 20,000 square feet.

- (b) Frontage: 125 feet.
- (2) Minimum yards:
  - (a) Front: 25 feet, plus one foot for each foot of building height over 35 feet.
  - (b) Side: one foot for each two feet of building height or 15 feet, whichever is greater.
    - [1] Accessory building or use: five feet.
  - (c) Both sides: 25% of the lot width at the front building line.
  - (d) Rear: same as side yard requirement.
- (3) Maximum building dimensions:
  - (a) Height: 52 feet, except that, for lots greater than three acres in area, an additional 13 feet shall be permitted for each additional acre of lot, up to a maximum of 78 feet.
  - (b) Lot coverage: 25%.
  - (c) Floor area ratio (FAR): 0.8.
- (4) Open space. There shall be a minimum of 15% open space.

F. Parking.

- (1) Notwithstanding the parking requirements set forth in § 195-142, if there is more than one principal use on a lot or lots under single ownership, a shared parking arrangement shall be permitted if the uses are complementary. A shared parking arrangement shall mean that parking spaces can serve both uses on the property, provided they have opposite, or complementary, peak parking demands as determined by nationally recognized standards and/or actual parking data and experience for the proposed uses.
- (2) In the event that an applicant requests approval for parking to be shared between two uses, the ordinance requirements for parking may be reduced where it can be demonstrated to the satisfaction of the Board that the reductions are supported by analyses consistent with nationally recognized standards and/or actual parking data and experience for the proposed uses showing that the peak parking demands of the two or more uses do not coincide and the accumulated parking demand at any one time of the two or more uses does not exceed the total capacity of the facility. The applicant shall also be required to provide a legal instrument assuring the continued existence and availability of the shared parking spaces in connection with the uses they serve.
  - (a) Parking shall be permitted within the setbacks.

**§ 195-135. CG General Commercial District.**

- A. Permitted uses. In any CG District, no other than the following uses shall be permitted, except as provided in Subsection B:
  - (1) All uses permitted in the CN District, except dwellings.
  - (2) Motor inns and hotels.

- (3) Business schools.
  - (4) Gasoline filling stations.
  - (5) Indoor commercial recreation facilities, including theaters and bowling alleys.
  - (6) Retail establishments.
  - (7) Motor vehicle sales.
- B. Conditional uses. In any CG District, the following conditional uses may be permitted, subject to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Public utility installations.
  - (2) Service and repair garage.
  - (3) Veterinary clinic or animal hospital.
  - (4) Car wash.
- C. Area, yard and building dimensions. In any CG District, the following dimensional requirements shall apply, unless otherwise excepted:
- (1) Minimum lot dimensions:
    - (a) Area: 15,000 square feet.
    - (b) Frontage: 100 feet.
  - (2) Minimum yards:
    - (a) Front: 20 feet.
    - (b) Side: five feet, except that when abutting an R District, the side yard requirement of such R District shall apply to the abutting yard.
    - (c) Rear: same as side yard requirement.
  - (3) Maximum building dimensions:
    - (a) Height: 30 feet, two stories.
    - (b) Lot coverage: 40%.
    - (c) Floor area ratio (FAR): 0.4.
  - (4) Open space. There shall be a minimum of 10% open space.

### § 195-136. (Reserved)

#### § 195-136.1. CI Commercial Industrial District.

- A. Purpose of district. The purpose of the Commercial Industrial District is to encourage well-planned, larger-scale commercial development in a comprehensive manner, integrating the needs of pedestrians, employees and vehicles. All of the parcels on the east and west side of Terminal Avenue

and on Central Avenue and on the south side of Westfield Avenue which are currently zoned IL Limited Industrial are included in the new CI Commercial Industrial District. The larger commercial properties on Central Avenue which are currently zoned CG should also be included in the new CI Zone.

- B. Permitted uses. In the CI District, only the following uses shall be permitted, except as provided in Subsection C:
- (1) Retail establishments.
  - (2) Personal and consumer service uses.
  - (3) Businesses that provide permanent cosmetics as such term is defined in N.J.A.C. 8:27-1.3.
  - (4) Supermarkets.
  - (5) Wholesale price clubs and big-box retail stores.
  - (6) Restaurants and eating and drinking establishments.
  - (7) Banks and financial institutions, including drive-through banks.
  - (8) Art, music and dance studios.
  - (9) Shopping centers and mixed-use development.
  - (10) Motor inns and hotels.
  - (11) Banquet and catering facilities.
  - (12) General, administrative, executive and professional offices.
  - (13) Hospitals and related uses.
  - (14) Medical offices.
  - (15) Veterinary hospitals and animal clinics.
  - (16) Computer and data processing centers.
  - (17) Research laboratories for scientific or industrial research or testing.
  - (18) Limited manufacturing as defined herein.
  - (19) Indoor commercial recreational facilities.
  - (20) Public utility installations.
  - (21) Self-storage facility.
  - (22) The following accessory uses shall be permitted:
    - (a) Outdoor seating in conjunction with a permitted restaurant or eating and drinking establishment.
    - (b) Other accessory uses, structures and buildings which are customary and accessory to the principal use.

- (c) Day-care center.
  - (d) Off-street parking.
  - (e) Satellite and cellular antennas, excluding towers as defined in Article XXVI (§ 195-162 through § 195-168.1).
  - (f) Signs.
  - (g) Storage areas.
  - (h) Structured parking garages, either within the principal building or as a standalone structure, including below- and above-grade parking, and notwithstanding § 195-190D, shall be subject to the same area, yard and building dimensions as principal uses in the CI Overlay District, except that the height shall be restricted to 36 feet in height.
- C. Conditional uses. In the CI District, the following conditional uses may be permitted pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Nursing home.
  - (2) Car wash.
- D. Area, yard and building dimensions. In any CI District, the following dimensional requirements shall apply:
- (1) Minimum lot dimensions:
    - (a) Area: 40,000 square feet.
    - (b) Frontage: 100 feet.
  - (2) Minimum yards:
    - (a) Front: 30 feet.
    - (b) Rear: 25 feet.
    - (c) Side: 15 feet for one; total of 40 feet for both side yards.
  - (3) Maximum building dimensions:
    - (a) Building height:
      - [1] Commercial uses: 40 feet and three stories.
      - [2] Hotel uses: 65 feet and five stories.
    - (b) Lot coverage:
      - [1] Forty percent for buildings.
      - [2] Eighty-five percent for impervious cover.
      - [3] Fifteen percent for open space.
- E. Parking requirements.

- (1) Minimum parking requirements shall adhere to the requirements as set forth in Article XXIV (§ 195-141 through § 195-148) and to the following requirements:
  - (a) For retail uses in the CI District: one parking space per 200 square feet of gross floor area.
  - (b) For medical office uses in the CI District: one parking space per 150 square feet of gross floor area.
- (2) Parking design.
  - (a) For properties with frontage on Terminal Avenue, not more than 10% of all required parking facilities shall be located between the building line and the street line.
  - (b) No parking shall be located nearer than 20 feet to any property line or street right-of-way line. This does not apply to interior lot lines in the case of multiple lots developed as a single comprehensive development.
  - (c) All parking and service areas shall be screened from the view of streets.
  - (d) The parking setback area shall be landscaped with shade trees and shrubs adaptable to the location and able to provide low-level screening of the view of the parking lot. At least one shade tree for each 40 feet of frontage shall be provided.
  - (e) In addition to landscaping at the periphery of the parking lot along public streets as required in Subsection E(2)(d) above, the interior of all surface parking lots shall be landscaped with at least one tree for every 20 parking spaces, which shall be planted in suitably prepared and protected landscaped islands.
- (3) Loading requirements.
  - (a) No loading dock or service area may be on or visible from any street frontage.
  - (b) Provisions for handling all freight shall be on those sides of the buildings which do not face on any street or proposed street.

F. Additional requirements.

- (1) Design. The design standards for nonresidential development provided in Article XVI (§ 195-86 through § 195-91) shall be addressed.
- (2) Outdoor storage. Any area used for outdoor storage shall not be located within the front yard and shall be enclosed by a wall or fence. Landscaping shall also be provided if visible from a public roadway or residential dwelling. There shall be no storage, sale or display of merchandise outside a completely enclosed building or storage area.

**§ 195-136.2. LCI Limited Commercial Industrial District.**

A. Purpose of district.

- (1) The Limited Commercial Industrial District (LCI) includes the properties on the block formed by the Garden State Parkway, Central Avenue, Raritan Road and Walnut Avenue, with the exception of the office development in the existing COH Zone.
- (2) It is the purpose of the LCI District to encourage the beneficial redevelopment of property currently occupied by obsolete industrial buildings and/or existing retail and commercial

buildings with comprehensively designed developments integrating buildings, parking, landscaping, signage, lighting, pedestrian walkways, vehicular access, and attractive architectural elements.

- (3) The vision for a retail and commercial center in Clark depicts a vibrant hub of community activity. We envision a future in which this area is highly accessible to pedestrians, bikers, transit, and automotive modes of travel. This area should be a place where people will come to stroll, walk, talk, work, buy food and drink, and conduct their daily business.
  - (4) This area should be planned to develop over time into a thriving, economically sustainable commercial center that provides many of the goods and services that residents need on a daily basis to reduce the number of resident trips outside of the Township.
  - (5) Consistent with this vision, any future development should be designed to allow this area to evolve into a community focal point and should evoke a sense of place on a human scale that is consistent with the suburban nature of the remainder of the Township.
  - (6) Clark Township's dedication to a vision for our suburban community should be evidenced in our commercial center by our dedication to environmentally friendly and green building practices. A central architectural focus such as a fountain, plaza, clock tower or landscaped boulevards should encourage people to linger and enjoy the ambiance of the suburban setting.
- B. Permitted uses. In the LCI District, only the following uses shall be permitted, except as provided in Subsection C:
- (1) Excluding a supermarket, no more than one additional retail establishment may occupy space measuring between 45,001 square feet and 80,000 square feet.
  - (2) Retail establishments of 45,000 square feet or less.
  - (3) Supermarkets of 80,000 square feet or less.
  - (4) Personal and consumer service uses.
  - (5) Hotels.
  - (6) Restaurants and eating and drinking establishments.
  - (7) Banquet and catering facilities.
  - (8) Banks and financial institutions, including drive-through banks.
  - (9) Art, music and dance studios.
  - (10) Pharmacies, including drive-through windows.
  - (11) General, administrative, executive or professional offices.
  - (12) Public uses and buildings.
  - (13) Medical offices.
  - (14) Veterinary hospitals and animal clinics.
  - (15) Computer and data processing centers.



- (16) Indoor commercial recreational facilities, including but not limited to health clubs, gyms and fitness centers.
  - (17) Shopping centers comprised of some or all of the preceding principal uses.
  - (18) Day-care or child-care center.
  - (19) Self-storage facility,
  - (20) Massage, bodywork and somatic therapy establishments.
  - (21) The following accessory uses shall be permitted:
    - (a) Outdoor seating in conjunction with a permitted restaurant or eating and drinking establishment.
    - (b) Other accessory uses, structures and buildings which are customary and accessory to the principal use.
    - (c) Day-care or child-care center.
    - (d) Off-street parking and loading. Structured parking is allowed, provided it meets the requirements of § 195-136.1B(22)(h).
    - (e) Satellite and cellular antennas, excluding towers as defined in Article XXVI (§ 195-162 through § 195-168.1).
    - (f) Signs, as permitted herein and in accordance with Article XXV, § 195-160D.
    - (g) Storage buildings, limited to the storage of materials owned and used only by the permitted use(s). Outside storage is not allowed.
    - (h) Fences and walls.
- C. Conditional uses. In the LCI District, the following conditional uses shall be permitted, pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):
- (1) Public utility installations.
  - (2) Car wash.
- D. Prohibited uses.
- (1) Except for a supermarket and one additional retail use as permitted in Section B(1) above, no single retail uses of over 45,000 square feet shall be permitted.
  - (2) Outdoor storage, display or sale of merchandise.
- E. Area, yard and building dimensions. In the LCI District, the following dimensional requirements shall apply:
- (1) Minimum lot dimensions:
    - (a) Area: 10,000 square feet.
    - (b) Frontage: 100 feet.

- (2) Minimum yard setbacks:
  - (a) Front: 40 feet.
  - (b) Rear: 25 feet.
  - (c) Side: 15 feet.
- (3) Maximum building dimensions:
  - (a) Building height: 40 feet and three stories, except as allowed in § 195-117.
  - (b) Lot coverage:
    - [1] Twenty-five percent for buildings.
    - [2] Seventy-five percent for impervious cover.
    - [3] Twenty-five percent for open space, landscaping and buffer.
      - [a] A two-for-one preservation credit shall be granted for the preservation of existing wooded areas and environmentally sensitive areas which shall be included when calculating open space, landscaping and buffer area percentages.
- (4) Once final site plan approval has been given to a shopping center, the requirements in Subsection E(1), (2) and (3) above shall not apply to any proposed subdivision of the property, whether the lots are in common ownership or not, provided that appropriate cross easements for access, parking, drainage, utilities, other shared facilities and the maintenance of common areas have been executed between the owners of the lots and have been provided to the Township of Clark for review and approval in order to ensure that the development will continue to function in accordance with the approved site plan.

F. Parking and loading requirements.

- (1) Notwithstanding Article XXIV (§ 195-141 through § 195-148), the minimum parking requirements shall adhere to the requirements as set forth below, which shall take precedence over Article XXIV (§ 195-141 through § 195-148) in the case of any conflict:
  - (a) For all retail uses within shopping centers or mixed-use developments: one parking space per 200 square feet of gross floor area.
  - (b) For medical office uses: one parking space per 150 square feet of gross floor area.
  - (c) For a freestanding restaurant on a separate pad site: one parking space per three seats.
  - (d) There shall be no additional parking requirement for any square footage devoted solely to ancillary storage, office or employee lunchrooms on any mezzanine space within that portion of a building occupied by the individual use to which the storage, office and/or employee lunchroom is ancillary.
  - (e) Notwithstanding the provisions of § 195-141A(2) and (3) of Article XXIV, each parking space within a shopping center or mixed-use development shall be a minimum of nine feet by 18 feet, and each aisle providing access to perpendicular parking spaces shall be a minimum of 22 feet for one-way aisles and 24 feet for two-way aisles.

- (f) Notwithstanding the provisions of § 195-91F, the development shall be required to provide safe and adequate pedestrian circulation throughout the complex and minimize to the greatest extent possible conflicts between pedestrians and vehicles.
- (g) Deferred or land-banked parking requirements for the LCI District.
  - [1] When an applicant can demonstrate that fewer than the total number of parking spaces than required will satisfactorily meet the parking requirements of the proposed use, the Planning Board may defer or land-bank that number of parking spaces that are not immediately needed, subject to the following:
    - [a] No more than 20% of the total number of required spaces shall be land-banked.
    - [b] The applicant shall provide a site plan that shows that the required number of spaces, if needed, can be provided on site without exceeding the maximum impervious coverage.
    - [c] All land-banked spaces are required to meet all of the applicable requirements of the Township zoning and design requirements, including drainage and lighting, and, to the extent necessary, variances and waivers shall be applied for and obtained.
    - [d] Those parking spaces which are not immediately required shall be maintained in the interim as lawn or landscaped open space, until and if such spaces are needed in the future.
    - [e] The land-banked parking area shall not count towards the minimum open space requirement for the site.
    - [f] Within one year of initial occupancy, a post-construction parking analysis shall be conducted by the applicant to demonstrate that sufficient parking is available on site without the provision of the land-banked spaces.
    - [g] The construction of the land-banked parking spaces may occur either when the Zoning Officer of the Township or the Planning Board, upon a vote of its members, determines that such spaces are required to fulfill the parking needs of the tenant or user of the site, or if and when the owner so chooses.
    - [h] No amendment to the site plan shall be required for such installations, but a building permit shall be required.
    - [i] Such spaces shall be constructed within six months of such action.
    - [j] The property owner shall provide a performance bond sufficient to cover the costs of construction of the land-banked parking area. The Planning Board shall authorize the release of the performance bond upon submittal and acceptance of the post-construction analysis.
  - (2) Parking design.
    - (a) For properties with frontage on Walnut Avenue, none of the required parking facilities shall be located between the building line and Walnut Avenue, and screening with landscaping and/or fences or walls shall be provided between the street and any structure on the property.

- (b) No parking shall be located nearer than 20 feet to any property line, paved access drive or street right-of-way line. This does not apply to interior lot lines in the case of multiple lots developed as a single comprehensive development.
  - (c) All parking and service areas shall be screened with landscaping and/or fencing.
  - (d) The parking area shall be landscaped with shade trees and shrubs adaptable to the location and able to provide low-level screening of the view of the parking lot. At least one shade tree for each 40 feet of frontage shall be provided unless adequate evergreen screening is provided. No shade tree shall obstruct the view of any use or sign in close proximity to the street.
  - (e) In addition to landscaping at the periphery of the parking lot along public streets as required in Subsection F(2)(d) above, the interior of all surface parking lots shall be landscaped with at least one tree for every 25 parking spaces, which shall be planted in suitably prepared and protected landscaped islands or medians.
- (3) Loading requirements.
- (a) No loading dock or service area may be directly located on or visible from any street frontage.
  - (b) Shared loading areas are encouraged. Individual uses on pad sites are not required to provide a designated loading area, provided that the use can demonstrate that none is needed and loading/unloading activities occur at off-peak hours for the business and/or the shopping center.
  - (c) No loading or unloading shall occur between 11:00 p.m. and 7:00 a.m. for any business/occupant located within a building abutting a residential zone.
  - (d) Motor vehicles shall not idle more than three minutes in accordance with New Jersey state statute.

G. Additional requirements.

- (1) Notwithstanding the provisions of § 195-146C of this chapter, where a lot in the LCI Zone has a minimum of 1,000 feet of frontage on a public street, more than one driveway shall be permitted along that street, provided that the vehicular circulation to and from the street will be facilitated by a traffic signal at the main entrance to any shopping center or mixed-use development measuring at least 100,000 gross square feet (GSF) and that the center lines of separate driveways shall be spaced at least 350 feet apart.
- (2) For applications in the LCI Zone:
  - (a) A traffic impact study of the proposed development and surrounding areas shall be required.
  - (b) A fiscal impact study shall be required and submitted as part of the site plan review process.
  - (c) A conceptual plan shall be submitted to the Planning Board for approval prior to the submission of a site plan application.

**§ 195-137. (Reserved)**

**§ 195-137.1. COR Corporate Office Research Overlay District.**

- A. Purpose of overlay district. The purpose of the COR Overlay District is to permit the development of modern, functional and comprehensive research and development facilities, including administrative and executive offices and accessory facilities, such as training and educational facilities, cafeterias and conference centers, that will contribute to the economic welfare of the Township and will constitute an attractive and harmonious development within Clark Township.
- B. Permitted uses. In the COR Overlay District, only the following uses shall be permitted, except as provided in Subsection C:
- (1) Research laboratories for scientific or industrial research or testing.
  - (2) Pilot plants as defined herein.
  - (3) Limited manufacturing as defined herein.
  - (4) General, administrative, executive and professional offices.
  - (5) Banks.
  - (6) Computer and data processing centers.
  - (7) Public uses and buildings.
  - (8) The following accessory uses shall be permitted:
    - (a) Satellite and cellular antenna, excluding towers as defined in Article XXVI (§ 195-162 through § 195-168.1).
    - (b) Day-care centers for children of employees only.
    - (c) Restaurants or cafeterias serving meals only to employees and guests of the principal uses.
    - (d) Conference and in-service training facilities.
    - (e) Indoor and outdoor recreation facilities, such as but not limited to tennis courts, basketball courts, jogging paths and exercise stations.
    - (f) Other accessory uses, structures and buildings which are customary and accessory to the principal use.
    - (g) Structured parking garages, either within the principal building or as a standalone structure, including below- and above-grade parking, and notwithstanding § 195-190D, shall be subject to the same area, yard and building dimensions as principal uses in the COR Overlay District, except that the height shall be restricted to 36 feet in height.
    - (h) Off-street parking.
    - (i) Signs.
    - (j) Storage areas.
- C. Conditional uses. In the COR Overlay District, the following conditional uses may be permitted pursuant to the provisions of Article XXVIII (§ 195-176 through § 195-179):

- (1) Public utility installations.
  - (2) Car wash.
- D. Area, yard and building dimensions. In any COR District, the following dimensional requirements shall apply:
- (1) Minimum lot dimensions:
    - (a) Area: eight acres.
    - (b) Frontage: 400 feet.
  - (2) Minimum yards:
    - (a) Front: 40 feet.
    - (b) Rear: 25 feet.
    - (c) Side: 30 feet for one; a total 60 feet for both side yards.
      - [1] For interior lot lines, in the case of multiple lots developed as a single comprehensive development, zero lot lines shall be permitted. If developed as a single comprehensive development, subject to a joint development plan, such lots need not be under common ownership.
  - (3) Maximum building dimensions:
    - (a) Height: 60 feet and four stories.
    - (b) Lot coverage:
      - [1] Buildings: 50%.
      - [2] Impervious cover: 85%.
      - [3] Open space: 15%.
- E. Parking and loading requirements.
- (1) Minimum parking requirements in the COR Overlay District:
    - (a) For research and development facilities: one parking space per 500 square feet of gross floor area or one parking space per 1.5 employees, whichever is lesser.
    - (b) For office space separate and apart from research and development facilities: one parking space per 250 square feet of gross floor area.
    - (c) For pilot plants or space used for limited manufacturing: one parking space per 400 square feet of gross floor area.
    - (d) All other uses: per the requirements of § 195-142, Off-street parking schedule, of Part 3, Zoning.
  - (2) Deferred or land-banked parking requirements for the COR Overlay District.
    - (a) When an applicant can demonstrate that fewer than the total number of parking spaces

than required will satisfactorily meet the parking requirements of the proposed use, the Planning Board may defer or land-bank that number of parking spaces that are not immediately needed, subject to the following:

- [1] No more than 25% of the total number of required spaces shall be land-banked.
  - [2] The applicant shall provide a site plan that shows that the required number of spaces, if needed, can be provided on site without exceeding the maximum impervious coverage.
  - [3] All land-banked spaces are required to meet all of the applicable requirements of the Township zoning and design requirements, including drainage and lighting, and, to the extent necessary, variances and waivers shall be applied for and obtained.
  - [4] Those parking spaces which are not immediately required shall be maintained in the interim as lawn or landscaped open space, until and if such spaces are needed in the future.
  - [5] The land-banked parking area shall not count towards the minimum open space requirement for the site.
  - [6] Within one year of initial occupancy, a post-construction parking analysis shall be conducted by the applicant to demonstrate that sufficient parking is available on site without the provision of the land-banked spaces.
  - [7] The construction of the land-banked parking spaces may occur either when the Zoning Officer of the Township or the Planning Board, upon a vote of its members, determines that such spaces are required to fulfill the parking needs of the tenant or user of the site, or if and when the owner so chooses.
  - [8] No amendment to the site plan shall be required for such installations, but a building permit shall be required.
  - [9] Such spaces shall be constructed within six months of such action.
  - [10] The property owner shall provide a performance bond sufficient to cover the costs of construction of the land-banked parking area. The Planning Board shall authorize the release of the performance bond upon submittal and acceptance of the post-construction analysis.
- (3) Parking design.
- (a) For properties with frontage on Terminal Avenue, not more than 10% of all required parking facilities shall be located between the building line and the street line.
  - (b) No parking shall be located nearer than 20 feet to any property line or street right-of-way line. This does not apply to interior lot lines in the case of multiple lots developed as a single comprehensive development.
  - (c) All parking and service areas shall be screened from the view of streets.
  - (d) The parking setback area shall be landscaped with shade trees and shrubs adaptable to the location and able to provide low-level screening of the view of the parking lot. At least one shade tree for each 40 feet of frontage shall be provided.

- (e) In addition to landscaping at the periphery of the parking lot along public streets as required in Subsection E(3)(d) above, the interior of all surface parking lots shall be landscaped with at least one tree for every 20 parking spaces, which shall be planted in suitably prepared and protected landscaped islands.
- (4) Loading requirements.
  - (a) No loading dock or service area may be on or visible from any street frontage.
  - (b) Provisions for handling all freight shall be on those sides of the buildings which do not face on any street or proposed street.
- F. Additional requirements.
  - (1) Design. The design standards for nonresidential development provided in Article XVI (§ 195-86 through § 195-91) are applicable to all development applications.
  - (2) Outdoor storage. Any area used for outdoor storage shall not be located within the front yard and shall be enclosed by a wall or fence. Landscaping shall also be provided if visible from a public roadway or residential dwelling. There shall be no storage, sale or display of merchandise outside a completely enclosed building or storage area.

#### **§ 195-138. P Public District.**

- A. Purpose of district. This district is to apply to areas owned and occupied by the Township, county or state, or agencies thereof, on a permanent basis, for public purposes.
- B. Permitted uses. Permitted uses shall include public buildings and uses, subject to review and recommendation of the Planning Board pursuant to N.J.S.A. 40:55D-31.
  - (1) On municipal and Board of Education properties, electronic message centers (EMCs) are permitted as a freestanding monument sign. EMCs are prohibited elsewhere in the Township.
  - (2) Additional general EMC regulations:
    - (a) It is recommended that all EMC signs have automatic dimming controls, either by photocell (hardwired) or via software settings.
- C. Zoning in the event of reversion to private use. If the public use of any areas in the P Public District is discontinued, and the property reverts to private ownership or use, no new use shall be established until another zone district is applied to this property by the Township Council, following the submission of a recommendation by the Township Planning Board.

#### **§ 195-139. O Conservation District.**

- A. Purpose of district. It is the intent of this section, in furtherance of the objectives of the Comprehensive Master Plan, to establish certain districts wherein both land and water resources shall be preserved free from encroachment by any residential, commercial or industrial uses and buildings. The preservation of these designated areas in their open and natural state is deemed necessary:
  - (1) To reduce the amount of soil erosion along stream and river banks to minimize sedimentation of such bodies of water.
  - (2) To preserve the natural amenities of such areas.



- (3) To create and preserve open areas as separations between densely settled urban areas or neighborhoods.
  - (4) To preserve as much as possible the natural drainage characteristics of the watershed to minimize floor or high-water damage.
  - (5) To preserve the quality of bodies of water as sources of water supply.
  - (6) To provide opportunities for the use of these areas as parks and recreation areas readily accessible to all parts of the community and for the enjoyment of all inhabitants thereof.
- B. Permitted uses. In any O District, no other than the following uses shall be permitted, except as provided in Subsection C:
- (1) Any quasi-public or private recreational activity not involving the construction or erection of any building or other structure, or the installation of a parking surface, but not including a rifle, pistol or skeet-shooting range.
  - (2) Any public recreational use.
- C. Conditional uses. In any O District, the following conditional uses may be permitted pursuant to the authority granted to the Zoning Board in § 195-176:
- (1) Private boat rental facilities, including necessary structures and docks, where adequate suitable land is available and is of sufficient depth from the edge of any water area to permit a suitably sized off-street parking area.
  - (2) Public utility installations.

#### **§ 195-140. GC Golf Course District.**

- A. Purpose of district. The purpose of the GC District is to allow for development of a nine-hole, regulation-length golf course, while protecting any wetland areas, on the sixty-seven-acre former Hyatt-General Motors site, Block 143, Lot 1, to provide opportunities for use of this area as a recreation area readily accessible to all parts of the community and for the enjoyment of all inhabitants thereof.
- B. Permitted uses. In any GC District, no other than the following uses shall be permitted:
- (1) A nine-hole, regulation-length golf course.
  - (2) Accessory and ancillary uses associated with operations of a golf course.

#### **§ 195-140.1. R-TH Residential Townhouse District.**

- A. Purpose of district. The purpose of the R-TH Residential Townhouse District is to allow moderate-density townhouses to be developed as a transitional use between single-family homes and more intensive nonresidential uses. Single-family detached residences as per the R-75 District requirements are also permitted.
- B. Permitted uses. In any R-TH District, only the following uses shall be permitted, except as provided in Subsection C:
- (1) Single-family residences, subject to the minimum and maximum requirements set forth in

§ 195-126 for the R-75 District.

- (2) Townhouses.
  - (3) Public buildings and uses.
  - (4) Home occupations.
  - (5) The following accessory uses shall be permitted:
    - (a) In conjunction with townhouses, swimming pools, clubhouses and similar indoor and outdoor recreation for use by residents and their guests only.
    - (b) Attached or detached private parking garages and/or off-street parking.
    - (c) Other accessory uses, structures and buildings customary and accessory to the principal use.
    - (d) Signs.
    - (e) Parking to serve the principal use, located within 200 feet of the property.
- C. Conditional uses. In the R-TH District, the following conditional uses may be permitted pursuant to the provisions of this section:
- (1) Public utility installation.
- D. Area, yard and building dimensions. In any R-TH District, the following dimensional requirements shall apply:
- (1) For single-family detached residences, the provisions in the R-75 District in § 195-126 shall apply.
  - (2) Townhouses:
    - (a) Minimum lot dimensions:
      - [1] Area: 40,000 square feet.
      - [2] Frontage: 100 feet.
    - (b) Minimum perimeter setback: 20 feet between a building and the exterior lot line.
    - (c) Minimum distances between buildings:
      - [1] Front-to-front: 35 feet.
      - [2] Front-to-side: 30 feet.
      - [3] Front-to-rear: 30 feet.
      - [4] Side-to-side: 15 feet.
      - [5] Side-to-rear: 30 feet.
      - [6] Rear-to-rear: 25 feet.

- (d) Maximum number of units per building: six units.
- (e) Maximum building dimensions:
  - [1] Height: 35 feet and 2.5 stories.
  - [2] Lot coverage:
    - [a] Buildings: 25%.
    - [b] Impervious cover: 50%.
- (f) Maximum density: eight units per acre of site area.
- (g) Setbacks for off-street parking:
  - [1] From exterior lot lines: 10 feet.
  - [2] From buildings: 10 feet.
  - [3] From driveways: five feet.
- (h) Minimum open space coverage: 35%.
- (i) Minimum parking requirements shall be provided as per RSIS Standards.
- (j) Circulation shall be designed so that access to parking garages shall be from on-site driveways, not the adjoining street. Parking lots shall not be located between the building line and the street line.
- (k) Affordable housing set-aside. A minimum of 20% of the units shall be affordable to low- and moderate-income households, pursuant to N.J.A.C. 5:97-6.4 and N.J.A.C. 5:80-26.

**§ 195-140.2. R-B-16 Multiple-Family Residential District.**

- A. Purpose of district. The purpose of the R-B District is to allow for the construction of multifamily residential buildings, including townhouses and garden apartments, meeting the minimum density requirement for inclusionary housing and providing for the required set-aside of units within such developments affordable to low- and moderate-income families, complying with the obligation of the Township to provide a regional fair share of low- and moderate-income housing.
- B. Permitted uses. The permitted uses are townhouses and garden apartments.
- C. Development standards.
  - (1) Definition of uses. Garden apartments include multiple dwellings arranged in flats, up to 40 feet in height. Townhouses comprise single-family dwellings attached side by side, up to 2 1/2 stories in height. A half story is one within a gable roof, in which not over 1/2 of the floor area of the full story below has a full ceiling height.
  - (2) Density. The maximum density shall be 16 units per acre of site area.
  - (3) Affordable housing requirements. A minimum of 20% of the housing units shall be deed-restricted so as to be affordable to and occupied only by qualified low- and moderate-income family households, including very-low-income households, if applicable, in full accordance

with the Township's Court-approved Affordable Housing Ordinance (Chapter 66 of the Township's Code).

- (4) Building requirements, garden apartments. Maximum building height shall be 40 feet, and maximum building length shall be 120 feet.
- (5) Building requirements, townhouses. Maximum building height shall be 2 1/2 stories and 35 feet, and there shall not be more than six housing units per structure.
- (6) Setbacks and spacing, garden apartments. The minimum setback from street and property lines shall be 50 feet, except that accessory garages, if provided, may be within 20 feet of side or rear lot lines. The minimum distance between buildings shall be 35 feet between fronts and backs, and 20 feet end to end. The minimum setback from parking areas and driveways shall be 10 feet.
- (7) Setbacks and spacing, townhouses. The minimum setback from streets and property lines shall be 50 feet. The minimum separation between buildings shall be 50 feet between fronts and backs, and 25 feet end to end. The minimum setbacks from driveways and parking areas shall be 20 feet from building fronts and 25 feet from building rears, and 20 feet on building ends.
- (8) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and shall be arranged such that appropriate active and passive recreation facilities will be provided. Where the site adjoins other zones on the side or rear, a suitable landscaped buffer strip of at least five feet in width shall be provided to form a visual screen.
- (9) Parking areas and access drives. A minimum of two parking spaces shall be provided for each dwelling unit. For townhouses, one of these spaces shall be provided within the unit or in a garage, except that this requirement shall not apply to lower-income units. All off-street parking areas shall be surfaced in accordance with Township standards. No off-street parking shall be located within front yards or within less than 10 feet from side and rear property lines.
- (10) Other general design and site requirements. Other general design and site requirements shall be as required in the R-A Multiple-Family Apartment Residential District, in § 195-128 hereunder, as well as the standards below:
  - (a) Maximum impervious cover: 80%.
  - (b) There shall be a minimum of 20% open space.

D. Affordable housing requirements.

- (1) Definitions. As used in this section, the following terms shall have the meanings indicated:

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the regional median household income by household size.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

VERY-LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.
- (2) Affordable units in this district shall not be age-restricted.

- (3) Affordable units in this district shall be architecturally similar to the market rate units and shall be distributed among the market-rate units rather than isolated.

**§ 195-140.3. R-B-20 Multiple-Family Residential District.**

- A. Purpose of district. The purpose of the R-B District is to allow for the construction of multifamily residential buildings, including townhouses and garden apartments, meeting the minimum density requirement for inclusionary housing and providing for the required set-aside of units within such developments affordable to low- and moderate-income families, complying with the obligation of the Township to provide a regional fair share of low- and moderate-income housing.
- B. Permitted uses. The permitted uses are townhouses and garden apartments.
- C. Development standards.
  - (1) Definition of uses. Garden apartments include multiple dwellings arranged in flats, up to 45 feet in height. Townhouses comprise single-family dwellings attached side by side, up to 2 1/2 stories in height. A half story is one within a gable roof, in which not over 1/2 of the floor area of the full story below has a full ceiling height.
  - (2) Density. The maximum density shall be 20 units per acre of site area. A minimum of 168 units are permitted, with three-bedroom units permitted for both market-rate and affordable units. At the applicant's option, the maximum units permitted would be 177, provided that the only permitted three-bedroom units would be affordable units to meet the Township's obligation.
  - (3) Lower-income housing requirements. A minimum of 16% of the housing units shall be sold or rented and shall be maintained for a minimum period of 30 years so as to be affordable to families and persons of low- and moderate-income, under the lower-income housing requirements specified in Subsection D below. If the total unit count is 168 units, the affordable housing set-aside shall be 27 units. If the total unit count is 177 units, the affordable housing set-aside shall be 28 units.
  - (4) Building requirements, garden apartments. Maximum building height shall be 45 feet.
  - (5) Building requirements, townhouses. Maximum building height shall be 2 1/2 stories and 35 feet, and there shall not be more than six housing units per structure.
  - (6) Setbacks and spacing, garden apartments. The minimum setback from street and property lines shall be 50 feet, except that accessory garages, if provided, may be within 20 feet of side or rear lot lines. The minimum distance between buildings shall be 35 feet between fronts and backs, and 20 feet end to end. The minimum setback from parking areas and driveways shall be 10 feet.
  - (7) Setbacks and spacing, townhouses. The minimum setback from streets and property lines shall be 50 feet. The minimum separation between buildings shall be 50 feet between fronts and backs, and 25 feet end to end. The minimum setbacks from driveways and parking areas shall be 20 feet from building fronts and 25 feet from building rears, and 20 feet on building ends.
  - (8) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and shall be arranged such that appropriate active and passive recreation facilities will be provided. Where the site adjoins other zones on the side or rear, a suitable landscaped buffer strip of at least five feet in width shall be provided to form a visual screen.

- (9) Parking areas and access drives. A minimum of two parking spaces shall be provided for each dwelling unit. For townhouses, one of these spaces shall be provided within the unit or in a garage, except that this requirement shall not apply to lower-income units. All off-street parking areas shall be surfaced in accordance with Township standards. No off-street parking shall be located within front yards or within less than 10 feet from side and rear property lines.
- (10) Other general design and site requirements. Other general design and site requirements shall be as required in the R-A Multiple-Family Apartment Residential District, in § 195-128 hereunder, as well as the standards below:
  - (a) Maximum impervious cover: 80%.
  - (b) There shall be a minimum of 20% open space.

D. Affordable housing requirements.

- (1) Definitions. As used in this section, the following terms shall have the meanings indicated:

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the regional median household income by household size.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

VERY-LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.
- (2) Affordable units in this district shall not be age-restricted.
- (3) Affordable units in this district shall be architecturally similar to the market-rate units and shall be distributed among the market-rate units rather than isolated.

ARTICLE XXIV  
**Off-Street Parking and Loading**

**§ 195-141. General provisions.**

Parking spaces, off-street parking areas or off-street loading spaces shall be provided for any principal building or other structure erected or constructed upon a lot or for any lot or area of land put into use after the date of the enactment of this Part 3 in accordance with the following provisions:

A. General design standards.

- (1) All single-family detached homes shall have a garage.
- (2) Each parking space, as hereinbefore defined, shall have the minimum dimensions of nine feet by 18 feet, except as required to meet ADA requirements. All parking spaces shall directly connect to a driveway.
- (3) For the purpose of determining the land requirement of an off-street parking area, as hereinbefore defined, each parking space to be provided in accordance with the parking schedule, § 195-142, or as recommended by the Planning Board, pursuant to § 195-148, shall be allotted not less than 350 square feet of area, which shall be sufficient to include the area or the parking space plus area to be devoted to interior drives, backup areas or turning areas. In addition, sufficient entrance and exit driveways shall be provided.
- (4) All off-street parking areas shall be separated from sidewalks, streets or alleys by curbing, except at entrances and exits, and all such sidewalks, streets or alleys shall be protected from vehicular overhang by wheel bumpers, curbs, planted strips, walls, fences or other appropriate method where the yard depth for accessory uses is not sufficient to accomplish this purpose. Curbing may be designed as flush curbing when being incorporated into a stormwater management scheme utilizing natural vegetation or grassed swales.
- (5) Entrance and exit driveways to and from all off-street parking areas shall be at least 12 feet in width to allow for free one-way movement, and at least 22 feet in width for two-way movement, provided that two-way entrances and exits shall be no wider than 28 feet in width. Whenever possible, one-way movement should be provided for all entrance and exit driveways, as well as interior driveways.
- (6) Wherever practicable and not prohibited in this Part 3, access to off-street parking areas shall be gained from local streets or service streets rather than from streets designated on the Comprehensive Master Plan as arterial streets.
- (7) No required off-street parking shall be encroached upon by buildings, other structures, open storage areas or other uses.
- (8) No layout of an off-street parking area shall be acceptable if such layout would require vehicles to back out onto a street to exit from such off-street parking or loading area.
- (9) When any land or building is used for two or more purposes, the number of parking spaces required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this article. Parking spaces for one use shall not be considered as providing the required parking spaces for any other use.
- (10) Requirements for the provision of parking facilities with respect to two or more property uses

of the same or different types may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common off-street parking area, cooperatively established and operated, provided that the total number of spaces designated is not less than the sum of the individual requirements.

- (11) All public garages or roof space allocated for the parking of vehicles shall be considered part of the required off-street parking area.
- (12) When off-street parking areas shall be used at night, they shall be adequately lighted. Such lighting shall be installed and maintained in a manner not to reflect or cause glare into abutting or facing residential properties.
- (13) All parking or loading space surfaces shall be paved in accordance with Township standards.
- (14) Required off-street parking spaces may be provided on a nearby lot, provided that the distance between the parking lot and the entrance to the use it serves shall not exceed 200 feet.
- (15) In residential zones, R-150, R-100, R-75, R-60, and R-A, off-street parking shall be prohibited for all commercially registered vehicles whose empty gross weight, as defined in § 347-30, exceeds 6,500 pounds and for all commercially registered vehicles whose loaded gross weight, as defined in § 347-30, exceeds 8,000 pounds, other than those vehicles temporarily parked for the purpose of making deliveries.
- (16) Tandem parking, such as single, double-length perpendicular parking spot, shall be prohibited.

**§ 195-142. Off-street parking schedule.**

- A. Off-street parking shall be provided in accordance with the following schedule:

Use	Minimum Spaces
Business and professional offices, banks	3.5 per 1,000 square feet of gross floor area
Civic or fraternal organizations, libraries	3.5 per 1,000 square feet of gross floor area
Commercial recreation facilities, such as bowling alleys and health clubs	3.5 per 1,000 square feet of gross floor area
Dwellings, one- and two-family	2 per unit; a paved private driveway and private garage space shall be considered as fulfilling the dwelling requirement
Dwellings, townhouse and multifamily	As required by the Residential Site Improvement Standards (RSIS)
Educational institutions	1.5 parking spaces per staff member or employee
Funeral homes	1 per each 10 square feet in main chapel or parlor
Furniture stores	3.5 per 1,000 square feet of gross floor area
Gasoline filling stations	2 per each bay or similar service area located within a building, plus 1 per employee on duty; minimum 5
Hospitals	1 per bed



Use	Minimum Spaces
Hotels, motels, rooming houses	1 per guest room and 1 per 1.5 employees
Manufacturing plants	1 per 200 square feet of gross floor area (or 1 per 1.5 employees)
Medical or dental clinics	3.5 per 1,000 square feet of gross floor area
Nursing homes	1 per bed
Personal service businesses	3.5 per 1,000 square feet of gross floor area
Places of assembly, including churches and theaters	1 per 4 seats; Should seating not be provided, then 1 space for each 15 square feet of worship space
Professional offices	1 parking space per employee, plus for the office of a physician, doctor or dentist, 5 spaces for each practitioner on the premises
Restaurants	10 per 1,000 square feet of gross floor area
Retail businesses	3.5 per 1,000 square feet of gross floor area
Service or repair garages	Minimum of 8 spaces
Warehouses, wholesaling operations	1 per 1,000 square feet of gross floor area

- B. If it can be shown that a particular applicant can demonstrate that fewer spaces would be required and that an area can be set aside for additional spaces if necessary, the number of spaces required herein can be reduced by up to 20% of the required spaces.
- C. Should a proposed use not have a matching parking requirement listed herein, the applicant shall provide a parking analysis based on accepted industry standards, such as the Institute of Traffic Engineers or other published standard satisfactory to the Zoning Officer.
- D. Off-street parking shall be prohibited for all commercial registered vehicles larger than 8,000 pounds, other than those parked temporarily for the purpose of making deliveries, in the following residential zones within the Township: R-60, R-75, R-100, R-150 and R-A.
- E. Parking and/or storage of all utility and recreational vehicles, including but not limited to boats, trailers, and campers, on private driveways is prohibited in the R-60, R-75, R-100, R-150 and R-A Districts, unless the said vehicle, as defined hereinabove, is parked on the owner's private driveway at least 15 feet distant from the curbline and six feet distant from the adjoining property owner's side and rear yards.

#### **§ 195-143. Electric vehicle supply/service equipment.**

- A. Purpose. The purpose of this section is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and make-ready parking spaces through municipal parking regulations and other standards. EVSE and make-ready parking spaces will support the state's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and stormwater runoff contaminants. The goals are to:
- (1) Provide adequate and convenient EVSE and make-ready parking spaces to serve the needs of

the traveling public.

- (2) Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
- (3) Provide the opportunity for nonresidential uses to supply EVSE to their customers and employees.
- (4) Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**CERTIFICATE OF OCCUPANCY** — The certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the Act and the regulations. See State Uniform Construction Code Act, P.L. 1975, c.217 (N.J.S.A. 52:27D-119 et seq.) and regulations adopted pursuant thereto.

**CHARGING LEVEL** — The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

- (1) Level 1 operates on a fifteen- to twenty-amp breaker on a 120-volt AC circuit.
- (2) Level 2 operates on a forty- to 100-amp breaker on a 208- or 240-volt AC circuit.
- (3) Direct-current fast charger (DCFC) operates on a sixty-amp or higher breaker on a 480-volt or higher three-phase circuit with special grounding equipment. DCFC stations can also be referred to as "rapid charging stations" that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

**ELECTRIC VEHICLE** — Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

**ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT** or (EVSE) — The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

**MAKE-READY PARKING SPACE** — The pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of electric vehicle supply equipment or electric vehicle service equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. "Make ready" includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate electric vehicle supply equipment or electric vehicle service equipment on a "plug and play" basis. "Make-ready" is synonymous with the term "charger ready," as used in P.L. 2019, c.362 (N.J.S.A. 48:25-1 et al.).

**PRIVATE EVSE** — EVSE that has restricted access to specific users (e.g., single- and two-family homes, executive parking fleet parking with no access to the general public).

**PUBLICLY-ACCESSIBLE EVSE** — EVSE that is publicly available (e.g., park and ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multifamily parking lots, etc.).

C. Approvals and permits.

- (1) An application for development submitted solely for the installation of EVSE or make-ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to N.J.S.A. 40:55D-70.
- (2) EVSE and make-ready parking spaces installed pursuant to Subsection D below in development applications that are subject to site plan approval are considered a permitted accessory use as described in § 195-143C(1) above.
- (3) All EVSE and make-ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- (4) The administrative official, Zoning Officer, and/or Municipal Engineer shall enforce all signage and installation requirements described in this section. Failure to meet the requirements in this section shall be subject to the same enforcement and penalty provisions as other violations of the Township of Clark's land use regulations.
- (5) An application for development for the installation of EVSE or make-ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to N.J.S.A. 40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:
  - (a) The proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
  - (b) All other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
  - (c) The proposed installation complies with the construction codes adopted in or promulgated pursuant to the State Uniform Construction Code Act, P.L. 1975, c.217 (N.J.S.A. 52:27D-119 et seq.), any safety standards concerning the installation, and any state rule or regulation concerning electric vehicle charging stations.
- (6) An application pursuant to § 195-143C(5) above shall be deemed complete if:
  - (a) The application, including the permit fee and all necessary documentation, is determined to be complete;
  - (b) A notice of incompleteness is not provided within 20 days after the filing of the application; or
  - (c) A one-time written correction notice is not issued by the administrative official, Zoning Officer, and/or Municipal Engineer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.

- (7) EVSE and make-ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
- (8) A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

D. Requirements for new installation of EVSE and make-ready parking spaces.

- (1) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
  - (a) Prepare as make-ready parking spaces at least 15% of the required off-street parking spaces, and install EVSE in at least one-third of the 15% of make-ready parking spaces;
  - (b) Within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15% of make-ready parking spaces; and
  - (c) Within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15% of make-ready parking spaces.
  - (d) Throughout the installation of EVSE in the make-ready parking spaces, at least 5% of the electric vehicle supply equipment shall be accessible for people with disabilities.
  - (e) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or make-ready parking spaces at a faster or more expansive rate than as required above.
- (2) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in § 195-143D(1) above shall:
  - (a) Install at least one make-ready parking space if there will be 50 or fewer off-street parking spaces.
  - (b) Install at least two make-ready parking spaces if there will be 51 to 75 off-street parking spaces.
  - (c) Install at least three make-ready parking spaces if there will be 76 to 100 off-street parking spaces.
  - (d) Install at least four make-ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
  - (e) Install at least 4% of the total parking spaces as make-ready parking spaces, at least 5% of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
  - (f) In lieu of installing make-ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
  - (g) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or make-ready parking spaces at a faster or more expansive rate than as

required above.

- (h) Notwithstanding the provisions of this section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or make-ready parking spaces.

E. Minimum parking requirements.

- (1) All parking spaces with EVSE and make-ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to Article XXIV, § 195-142, Off-street parking schedule, of the Township of Clark Code.
- (2) A parking space prepared with EVSE or make-ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10% of the total required parking.
- (3) All parking space calculations for EVSE and make-ready equipment shall be rounded up to the next full parking space.
- (4) Additional installation of EVSE and make-ready parking spaces above what is required in Subsection D above may be encouraged, but shall not be required, in development projects.

F. Reasonable standards for all new EVSE and make-ready parking spaces.

- (1) Location and layout of EVSE and make-ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
- (2) Installation.
  - (a) Installation of EVSE and make-ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
  - (b) Each EVSE or make-ready parking space that is not accessible for people with disabilities shall be not less than nine feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
  - (c) To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and make-ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
  - (d) Each EVSE or make-ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- (3) EVSE parking.
  - (a) Publicly accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.

- (b) Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
  - (c) Public parking. Pursuant to N.J.S.A. 40:48-2, publicly accessible EVSE parking spaces shall be monitored by the municipality's Police Department and enforced in the same manner as any other parking. It shall be a violation of this section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of this Municipal Code contained in Chapter 1, Article III, § 1-21, Maximum penalty. Signage indicating the penalties for violations shall comply with § 195-143F(5) below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.
  - (d) Private parking. The use of EVSE shall be monitored by the property owner or designee.
- (4) Safety.
- (a) Each publicly accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to § 195-143F(5) below.
  - (b) Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with the Township of Clark's ordinances and regulations.
  - (c) Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly accessible EVSE. Nonmountable curbing may be used in lieu of bollards if the EVSE is set back a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be three to four feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.
  - (d) EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in § 195-143F(4)(e) below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
  - (e) Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
  - (f) Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
  - (g) Publicly accessible EVSEs shall be maintained in all respects, including the functioning of

the equipment. A twenty-four-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the Township of Clark shall require the owners/designee of publicly accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

(5) Signs.

- (a) Publicly accessible EVSEs shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs, including parking restrictions, shall be installed immediately adjacent to, and visible from, the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
- (b) All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
- (c) Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with § 195-143F(5)(b) above.
- (d) In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly accessible EVSE parking spaces:
  - [1] Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
  - [2] Usage fees and parking fees, if applicable; and
  - [3] Contact information (telephone number) for reporting when the equipment is not operating or other problems.

(6) Usage fees.

- (a) For publicly accessible municipal EVSE: In addition to any parking fees, the fee to use parking spaces within the municipality identified as EVSE spaces shall be zero for each hour that the electric vehicle is connected to the EVSE or per kWh.
- (b) This fee may be amended by a resolution adopted by the governing body.
- (c) Private EVSE. Nothing in this section shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable state and federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

**§ 195-144. Off-street loading.**

- A. An off-street loading space shall have minimum dimensions of 12 feet by 25 feet for standard two-axle commercial vehicles and 14 feet by 50 feet for standard three-or-more-axle vehicles. A minimum

clear height of 14 feet shall be required.

- B. Off-street loading spaces for commercial and industrial uses shall be provided in accordance with the following:

Floor Area Devoted to Use (square feet)	Number of Spaces Required
30,000 to 70,000	2
70,000 to 120,000	3
Each additional 60,000	1

**§ 195-145. Screening requirements.**

- A. All off-street parking areas with provision for more than five vehicles, or establishments with more than two loading bays or spaces for the temporary parking of commercial vehicles, shall be effectively screened on each side which adjoins or faces a residential district or an institutional premises, except that such screening shall not be required where the parking or loading area is already effectively screened by a natural terrain feature or a street classified in the major street portion of the Comprehensive Master Plan as a major arterial street requiring a right-of-way of 80 feet or more.
- B. Such screening shall be a solid wall or a solid fence, not less than five feet in height, together with a three-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. In lieu of such wall, fence and planting strip, a compact evergreen hedge of not less than three feet in height at the time of planting may be used. The fence, wall, planting strip or hedge shall be maintained in good condition, and no advertising shall be placed thereon. Where appropriate, native vegetation is required.
- C. The screening shall be so designed that vehicle sight distance shall not be affected by entrances, exits and street intersections. Where an off-street parking area abuts or adjoins another, a five-foot-wide planting strip, maintained in good condition, may be used in lieu of the required screening. Separation in impervious areas with the use of vegetative strips of land is encouraged to minimize runoff and to enhance water quality.

**§ 195-146. Street access regulations.**

- A. Any portion of any entrance or exit driveway shall not be any closer than 20 feet to the curblin of an intersecting street.
- B. Any two driveways leading from a street to a single lot shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot. Driveways require a two-foot setback from any property line.
- C. No lot shall have more than two driveway entrances or exits along the same street. Not more than one such driveway shall be provided unless traffic circulation on the site and to and from the street will be facilitated.
- D. In any commercial or industrial district, no vehicle entrance or exit to or from any lot used for commercial or industrial purposes shall be permitted to or from any local street where such street serves abutting properties in any adjacent residential district.



- E. Requiring the installation of traffic control signs on manners of ingress or egress to commercial properties.
- (1) Any application for development which is presented to the Board of Adjustment or the Planning Board of the Township of Clark for commercial property of whatsoever nature and which provides for ingress and egress shall have been determined by the Planning Board or Board of Adjustment to be one way only, shall be signed accordingly, prior to the issuance of a final certificate of occupancy, and the owners of the property shall, as a condition of issuance of a certificate of occupancy and of final approval by any Board, be required to grant to the Township of Clark the authority to approve all motor vehicle laws and regulations on the property.
  - (2) All signs and traffic control devices required hereunder shall be in accord with and shall be of a design and construction as provided for in the Manual on Uniform Traffic Control Devices, current edition, which is incorporated herein by reference.

**§ 195-147. Waiver or modification of requirements.**

- A. Off-street parking or loading requirements for uses other than those cited above shall be determined in consultation with the Planning Board.
- B. The Planning Board may waive the requirements of § 195-142 or may require additional spaces if the particular use so warrants.

**§ 195-148. Site plan review by Planning Board.**

- A. No application for a building permit or certificate of occupancy for a building or use in any district shall be approved unless there is included within the site plan for such building or use a plan showing the required space designated for off-street parking or loading purposes to be provided as accessory uses to such building or use and in accordance with the provisions of this article.
- B. The design and layout of any off-street parking area, hereinbefore defined as having spaces for five or more automobiles, and loading areas in which two or more spaces are required shall be reviewed by the Planning Board with respect to the adequacy of such areas to serve the principal use of the lot and the layout and design of exits and entrances to such areas with respect to the ease of traffic movement in and out of such off-street areas. The site plan of the lot shall show in detail the location and extent of such off-street areas; the locations and types of screening provided; the layout of parking and loading spaces, driveways and other maneuvering areas; and other requirements of this Part 3.
- C. The Planning Board may recommend a reasonable number of parking spaces for those uses not listed in the parking schedule above, in accordance with the standards set forth in Subsection B above.

## ARTICLE XXV

**Signs****§ 195-149. Purpose; intent; compliance required.**

- A. Purpose. These zoning regulations are designed to prevent the overconcentration, improper placement, and excessive height, bulk, and area of signs in order to promote an optimum level of signage consistent with the needs and character of different areas; to permit legible and effective signage of individual sites for the convenience of the public and in the interest of the full enjoyment of property rights, and to prevent the obstruction by sign clutter of traffic visibility, traffic signs and signals, neighboring uses and signs, and scenic views.
- B. To accomplish these purposes, it is the intent of this article to encourage and authorize the use of signs which will:
- (1) Be compatible with and an enhancement of the character of the surrounding district and adjacent architecture when considered in terms of scale, color, materials, light levels, adjoining uses and historic character.
  - (2) Be of high quality, durable materials.
  - (3) Comply with the standards enumerated herein.
- C. No sign, as hereinbefore defined, shall be erected, hung, placed or painted in any district except as hereinafter provided.

**§ 195-150. Permit requirements.**

All signs, except as hereinafter provided, shall require a permit. Applications for permits shall be submitted in triplicate to the Construction Code Official. Each application shall be accompanied by a description of the sign and/or a sketch or plan showing the size, location and other pertinent data required by the Construction Code Official.

**§ 195-151. Unsafe signs.**

Whenever a freestanding, overhanging or attached sign becomes unsafe or unkempt, the Construction Code Official shall order that such sign be repaired, replaced, made safe or removed. Such order shall be complied with within 10 days of receipt thereof by the person, corporation or other body owning the sign or owning the business, building or structure to which it is attached.

**§ 195-152. Existing signs.**

Any sign erected, hung or otherwise displayed prior to the adoption of this article which does not conform to these provisions shall not be altered by changing the overall dimensions. If deteriorated or damaged to the extent of 1/2 of its replacement value, such sign shall not be rebuilt and shall be removed within 60 days following notice to do so by the Construction Code Official; provided, however, that nothing contained herein shall prevent maintenance, repainting or posting of such signs.

**§ 195-153. Illumination of signs.**

- A. In all cases where illumination of signs is necessary and is permitted under the terms of this article, such sign shall not be illuminated by other than a shielded or otherwise indirect, nonflashing light,

preferably a white light, or a light from the interior of a sign with a translucent face.

- B. In no event will red or green illumination be permitted, whether flashing or not, on any sign located in the same line of vision as a traffic control signal. The Township shall have the authority to compel the removal or correction of such sign within 60 days of notification of its decision, whether or not such sign existed at the time of enactment of this Part 3.
- C. In no event will any illumination of any sign be so arranged as to produce undue glare or offensive light annoying to residents in the surrounding area. The Township shall have the authority to compel the removal or correction of such sign within 60 days of notification of its decision, whether or not such sign existed at the time of enactment of this Part 3.

#### **§ 195-154. Temporary signs.**

Temporary signs shall be allowed without permit in all districts subject to the following:

- A. The total area of all signs/graphics temporary or otherwise shall not exceed 30% of the aggregate area of building window.
- B. Unless otherwise noted herein, such signs shall not remain longer than 30 days. The date of installation shall be noted on the sign in the lower right-hand corner.
- C. Information on such signs shall be limited to advertisements for special promotions, temporary sales and other such nonpermanent sales promotions and seasonal decorations.
- D. Signs shall be maintained in neat and orderly manner and shall not contain content of an obscene or offensive nature.
- E. This section shall not be interpreted as to limit or prohibit a business from displaying merchandise in a window display area.
- F. Signs may be freestanding or attached to building. Freestanding signs shall not exceed four square feet without obtaining sign permit.
- G. Temporary signs shall not be illuminated.
- H. Signs shall not be permitted on telephone poles or trees.

#### **§ 195-155. Determination of sign area.**

- A. For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
- B. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any backing of a different color than the finished material of the building face.
- C. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters and symbols.
- D. Permanent window graphics shall not be included in the calculation of the maximum aggregate sign

area for the site but shall require a permit. Window graphics may be utilized, provided they conform to area and sign classification limitations.

- E. Graphics on awnings which are free of text shall not be included in the maximum aggregate sign area. Awning graphics may be utilized, provided they conform to area and sign classification limitations.
- F. Any drive-through restaurant use approved by the Township may include up to two ground-mounted signs to provide menu information to the public. The first sign shall be a maximum of 30 square feet in area. The second sign shall be 50% of the area of the first sign.

**§ 195-156. Setback and height requirements.**

- A. In the case of a sign attached flat against the face of a building or other structure, such signs shall not extend or project beyond the face of such building or other structure located in any residential district a distance of more than six inches, and in no event shall such projection be any greater than 18 inches in any other district where signs are permitted.
- B. No freestanding sign shall be located within five feet of any lot line.

**§ 195-157. Exempted signs.**

- A. Nothing herein shall be construed to affect in any way any directional, informational, or street name signs erected by any municipal, county, state or federal government agency or utility in connection with street identifications, public buildings, railroad crossings, electric utility lines and installations and other like uses, buildings or activities or any nonilluminated nameplate or plaque of less than two square feet in area or any directional signs on premises less than three square feet in area indicating traffic movements, exits and entrances.
- B. Nothing herein shall be interpreted as to prevent the use of seasonal decorations by a property or business owner.
- C. Menus posted by restaurant uses shall be exempt from signage requirements, provided same is posted in the window or a display case and does not exceed 1.5 square feet.

**§ 195-158. Obstruction prohibited.**

No sign shall be located so as to obstruct any door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure. No sign shall be permitted where such sign would obstruct vision at a street intersection or at any curve in any street. Such signs where they exist are subject to action by the Township and must be corrected or removed within 60 days of the notification to do so.

**§ 195-159. Number of signs permitted.**

Unless otherwise provided, no more than one sign on any street frontage shall be permitted on any premises in a residential, commercial or industrial district. This section shall not apply to signs indicating the entrance to or exit from a premises, or any such similar permitted signs. For properties on corner lots, one sign may be permitted on each street frontage, providing that the aggregate area of signs is not greater than 1 1/2 times the area of a single sign as hereinafter specified.

**§ 195-160. Permitted signs.**

- A. Residential districts.

- (1) One unlighted real estate sign advertising a premises for sale or rent, provided that such sign shall not exceed six square feet in area and shall be set back at least 1/2 the required front yard depth.
- (2) One temporary sign, not exceeding 40 square feet, identifying a project, building, owner, architect, contractor or engineer during construction, provided such sign shall be removed promptly after completion of the building and shall be set back at least 1/2 the required front yard depth.
- (3) One sign or bulletin board for a permitted nonresidential use, provided that such sign shall not exceed 16 square feet and shall be set back at least 1/2 the required front yard depth.
- (4) One sign identifying a permitted accessory professional office or home occupation, provided that such sign shall not exceed two square feet and shall be attached to the dwelling.

B. DTV, CN, CO, CI, COR and COH Districts.

- (1) Any sign permitted in residential districts.
- (2) One sign advertising services offered or goods sold or produced on the premises. Such sign shall not exceed 10% of the area of the facade of the building on which the sign is located.
- (3) No roof signs shall be permitted.
- (4) Freestanding signs shall only be permitted for the purpose of identifying automobile filling stations or integrated shopping units consisting of four or more individual shops or offices. Such signs shall not have an area of more than 24 square feet; for automobile filling stations, a height in excess of 20 feet; and for integrated units, a height of greater than 10 feet.
- (5) Canopy signs.
  - (a) For the gas station and convenience store, three canopy signs and logo shall be permitted on each side of a canopy which faces a dedicated street, driveway, or parking area.
  - (b) Canopy signs shall not exceed one square foot per foot of length of such canopy to which the sign is attached or a total area of 25 square feet, whichever is less.
  - (c) Canopy signs shall not extend beyond the ends or extremities of the canopy to which they are attached.
- (6) Menu board signs.
  - (a) One ordering menu board and preordering menu board sign which does not advertise the name of the business is permitted for each drive-through lane associated with a drive-through restaurant.
  - (b) The maximum sign area shall not exceed 40 square feet for menu board sign, and 25 square feet for the preordering menu board.
  - (c) The maximum height for both menu board and preordering menu board signs shall not exceed six feet.
  - (d) Menu board and preordering menu board signs shall be digital LED signs.

C. CG and CI Districts.

- (1) Any sign permitted in an R District, where applicable.
- (2) Signs advertising the service offered or goods sold or produced on the premises, the aggregate area of which shall not exceed 1 1/2 square feet for each linear foot of building frontage which is identified or one square foot for each 300 square feet of lot area, whichever is greater, up to a maximum of 200 square feet.
- (3) No roof signs are permitted.
- (4) Freestanding signs shall not exceed a height of 25 feet.

D. LCI Zone.

- (1) Notwithstanding the provisions contained herein, a shopping center or a mixed-use development shall be permitted one freestanding sign, not exceeding 250 square feet in area on each side and 25 feet in height, along each abutting street frontage except those abutting a residential zone. In addition, monument-style entrance and exit signs near access driveways shall be permitted, as well as monument and directional signs within the shopping center.
  - (a) A major driveway monument sign of 100 square feet is permitted, and a minor driveway monument sign of 50 square feet is permitted. Monument signs shall not exceed eight feet in height, nor shall they violate the required sight triangle. Directional signs shall not exceed four square feet in area.
    - [1] Major driveway: a driveway on a street fronting the development which offers unrestricted turn movements or is signalized. Only one driveway per each street fronting the development may be designated as major.
    - [2] Minor driveway: any driveway that is not a major driveway.
- (2) A separate use under unrelated ownership not part of a shopping center or mixed-use development shall be permitted one freestanding sign along each abutting street frontage, not exceeding 80 square feet in area and 20 feet in height.
- (3) Each permitted use on its own lot or each permitted use within a shopping center or mixed-use development is allowed signage on the front and side of the building, or portion thereof occupied by the individual use that faces a street or a parking area serving the use, provided that:
  - (a) The total of all signs on the front of the building does not exceed 1.5 square feet for each linear foot of building facade occupied by the individual use and upon which the sign is to be located, or 200 square feet, whichever is less; and
  - (b) The total of all signs on the side of the building does not exceed 50% of the size of the sign(s) on the front of the building.
- (4) No signage or advertising identifying an occupant of the premises shall be permitted on the rear portion of any building or on any roof.
- (5) Any sign permitted in an R District, where applicable, shall be permitted.
- (6) A signage plan shall be required with the submission of any site plan for approval. The signage plan shall identify the location and type of all proposed business signs and visually represent their lettering, illumination, color, and height. The approving authority may apply such restrictions on color(s), size, location, sign types, letter height, illumination, or mounting height

as it deems appropriate to the purpose of encouraging coordinated design to achieve a desirable visual environment.

- (7) Any additional signs other than those permitted herein within a shopping center or mixed-use development comprising 100,000 square feet or more shall require site plan approval.
- (8) Window graphics and window signs shall comply with the following requirements:
  - (a) Permanent window signs or window graphics shall not exceed 25% of the total aggregate window area. Signs and graphics on doors shall not exceed 10% of the door glass area for safety purposes.
  - (b) Window signs and window graphics should be artful in design and should generally be permanent. Permit application review shall include an evaluation of the quality of the sign and its aesthetic value.

E. Electronic message centers.

- (1) On municipal and Board of Education properties, electronic message centers (EMCs) are permitted as a freestanding monument sign. EMCs are prohibited elsewhere in the Township.
- (2) Additional general EMC regulations:
  - (a) It is recommended that all EMC signs have automatic dimming controls, either by photocell (hardwired) or via software settings.

**§ 195-160.1. Banners.**

A. As used herein, a "banner" shall be defined as a temporary sign of cloth, vinyl or similar material that celebrates an event, season, community, neighborhood, or district, and is sponsored by a recognized community agency or organization or local business.

B. Approvals.

- (1) All banners shall require the approval of the Zoning Officer upon a formal application made not less than 72 hours prior to the desired time of placement, together with the payment of an application fee in the amount set forth in § 195-51, Fees established.
- (2) Banners shall only be permitted to be placed in nonresidential zones.
- (3) Banners shall be erected and may remain in place for a period not to exceed 14 days and on not more than two occasions per year.
- (4) Banners shall be no more than two feet wide and, in cases where the banner is affixed to a building, no longer than 3/4 of the width of the side of the building to which it is affixed. Stand alone banners shall not exceed eight feet in height.
- (5) Multiple banners are allowed, provided that the sum total of the visible area of the banner does not exceed 50 square feet in area.

C. Prohibitions.

- (1) The following types of banners shall not be permitted in any zone:
  - (a) Fluttering, moving or rotating banners.

- (b) Any banner erected, constructed, or maintained which obstructs or interferes with a fire escape, window, door, or opening used as a means of egress or ingress or for firefighting purposes, or placed so as to interfere with any opening required for legal ventilation.
  - (c) Any banner which is of such form, character, or shape as to be likely to confuse or distract the attention of the operator of a motor vehicle including, but not limited to, banners visible from the street using the word "stop" or "danger" or any other word, phrase, symbol, or character with the effect of simulating a public safety warning or traffic sign.
  - (d) Any series of two or more banners placed in a line parallel to the roadway, or in a similar fashion, all carrying a single advertising message, part of which is contained on each banner or when the use of multiple banners exceeds 50 square feet in area.
  - (e) Banners which in any way simulate official, directional, or warning signs erected or maintained by the State of New Jersey, a county or municipality thereof, or by any railroad or public utility or similar agency concerned with the protection of the public health or safety.
  - (f) Banners not associated with a business on the same property.
  - (g) Roof banners and banners on the side of any structure extending above the edge of the roof.
  - (h) Banners on railroad or vehicular overpasses.
  - (i) Banners which obstruct driving vision, traffic signals, sight triangles, and traffic direction and identification signs.
- (2) Nothing in this section shall be construed to prohibit banners erected by the Township itself or authorized by the Mayor and Council.

**§ 195-160.2. Prohibited signs.**

A. The following types of signs shall not be permitted in any zone:

- (1) A flashing, fluttering, animated, moving, vibrating, sequential, tracer, electronic or rotating sign.
- (2) Electronic message signs or boards except those used by government facilities.
- (3) Signs with any lighting or control mechanism that may cause radio or television interference.
- (4) Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as a means of egress or ingress or for firefighting purposes or placed so as to interfere with any opening required for legal ventilation.
- (5) Any sign which is of such a form, character or shape as to confuse or dangerously distract the attention of the operator of a motor vehicle, including but not limited to signs visible from the street using the word "stop" or "danger" or any other word, phrase, symbol or character with the effect of simulating a public safety warning or traffic sign.
- (6) Any advertisement which uses a series of two or more signs or units placed in a line parallel to the highway, or in similar fashion, all carrying a single advertising message, part of which is contained on each sign.



- (7) Signs which in any way simulate official, directional or warning signs erected or maintained by the State of New Jersey, a county or municipality thereof, or by any railroad or public utility or similar agency concerned with the protection of the public health or safety.
  - (8) Billboard and/or outdoor display structures not associated with a business on the same lot.
  - (9) Roof signs and signs on the side of any structure extending above the edge of the roof.
  - (10) Signs on railroad or vehicular overpasses.
  - (11) Any use of flags or similar displays, not otherwise referenced in this section, to attract attention, except in connection with a particular holiday or season of the year.
  - (12) Any use of pennants or similar displays, not otherwise referenced in this section, to attract attention.
  - (13) Any commercial exterior use of outdoor icicle or string lighting. Notwithstanding the foregoing, icicle or string lighting is permitted when such lights are used to illuminate merchandise on display or for purposes of indicating that a commercial establishment is open, subject to the following:
    - (a) Such lights are to be small, white and unblinking.
    - (b) No such lights may be used when the exterior of the building is floodlit, "floodlit" being defined as a strong beam of light that is used to illuminate a substantial portion of a building exterior or grounds.
    - (c) All such lights must be turned off at the close of business for an establishment using such lights.
  - (14) Signs tacked, pasted, painted or otherwise attached to or inserted into public buildings, poles, posts, trees, fences, sidewalks or curbs.
  - (15) Signs which obstruct driving vision, traffic signals, sight triangles and traffic direction and identification signs.
  - (16) Ionized inert gas sign lighting where the light source tubing is directly exposed to view, except neon "open" signs as permitted.
  - (17) Signs projected by light onto the facade of a building.
- B. The term "internally illuminated sign" shall include awnings and vending machine displays which are translucent or transparent and which meet the definition of sign as contained herein which are illuminated from the rear so that such awning or vending machine display acts as an internally illuminated sign.
- C. Any sign advertising a use or business that is no longer in existence at that location shall be removed within 30 days of the close of the business.
- D. Any sign indicating commercial property is for rent or for sale shall conform to the size limitations as if it were a permanent sign.
- E. Any type of sign not specifically permitted is hereby prohibited.

**§ 195-161. Fees.**

- A. Each application filed with the Construction Code Official for a sign permit shall be accompanied by a fee payable to the Township in accordance with the schedule of fees set forth in § 122-2.
- B. There shall be no fee charged for permits for temporary signs advertising school board elections, municipal elections, charitable or eleemosynary functions or activities; provided, however, that such signs shall only be permitted to be posted for a period 15 days prior to and seven days after the date of the election, event or occurrence advertised thereon.

## ARTICLE XXVI

**Wireless Telecommunications Facilities****§ 195-162. Purpose, goals and general conditions.**

- A. The purpose of this article is to encourage the siting of personal wireless services facilities in nonresidential areas and to protect, to the maximum extent permitted to local governments by the Telecommunications Act of 1996, the aesthetics, the suburban character of the Township of Clark, the property values of the community, the health and safety of citizens and a citizen's ability to receive communications signals without interference from other communications providers, while not unreasonably limiting competition among communications providers or unreasonably limiting reception of receive-only antennas.
- B. No antenna(s), personal wireless telecommunications facility, tower or supporting structure shall be located, constructed or maintained on any lot, building, structure or land area, except in conformity with the requirements of Article XXVI of the Code of the Township of Clark (§ 195-162 through § 195-168.1).
- C. Personal wireless telecommunications equipment facilities (PWTEFs) and personal wireless telecommunications facilities (PWTFs) located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this article, provided that a license or lease authorizing such PWTEFs and PWTFs has been approved by the governing authority.
- D. Purpose; goals. The purpose of this section is to establish general guidelines for the siting of PWTEFs and PWTFs. The goals of this section are to:
- (1) Encourage the location of PWTFs in nonresidential areas and minimize the total number of telecommunications towers throughout the community;
  - (2) Encourage strongly the joint use of new and existing PWTEFs and PWTFs sites;
  - (3) Encourage users of PWTEFs and PWTFs to locate them, to the greatest extent possible, in areas where the adverse impact on the community is minimal;
  - (4) Encourage users of PWTEFs and PWTFs to configure them in a way that minimizes the adverse visual impact of the telecommunication towers and antennas; and
  - (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

**§ 195-162.1. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ALTERNATIVE TOWER STRUCTURE** — Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANTENNA** — A device that converts radio frequency electrical energy to radiated electromagnetic energy and vice versa; in a transmitting station, the device from which radio waves are emitted.

**ANTENNA SUPPORT STRUCTURE** — A structure other than a telecommunications tower which is attached to a building and on which one or more antennas are located.

**ANTENNA, RECEIVING** — An antenna, other than a satellite dish antenna, used exclusively to receive radio, television programming or any other electromagnetic signal.

**ANTENNA, SATELLITE DISH** — An antenna with a reflective surface used to receive and/or transmit radio or electromagnetic waves from an orbiting satellite.

**BASE TRANSMITTER** — A stationary transmitter that provides radio telecommunications service to mobile and/or fixed receivers, including those associated with mobile stations.

**CELLULAR SYSTEM** — An automated high-capacity system of one or more multichannel base stations designed to provide radio telecommunications services to mobile stations over a wide area in a spectrally efficient manner. Cellular systems employ techniques such as low transmitting power and automatic handoff between base stations of communications in progress to enable channels to be reused at relatively short distances.

**CO-LOCATION** — Use of a common site by two or more wireless license holders or by one wireless license holder for more than one type of communication technology and/or placement of a PWTF on a structure.

**FAA** — The Federal Aviation Administration.

**FCC** — The Federal Communications Commission.

**GOVERNING AUTHORITY** — The governing body of the Township of Clark.

**HEIGHT** — When referring to a tower or other similar structure, the height is the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is an antenna. However, utility poles and wireless poles shall be measured from the ground level to the top of the structure and not include any other antennas thereon.

**MONOPOLE** — Any freestanding pole greater than 25 feet in height upon which an antenna or antennas may be located.

**MUNICIPAL RIGHT-OF-WAY** — Definition set forth at § 310-33, Definitions, of the Code of the Township of Clark.

**PERSONAL COMMUNICATIONS SERVICES** — Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services, including cellular radiotelephone, specialized mobile radio system and personal communications services. This term shall also include the term "personal wireless service."

**PERSONAL WIRELESS TELECOMMUNICATIONS EQUIPMENT FACILITIES (PWTEFs)** — Facilities serving and subordinate in area, extent and purpose to, and on the same lot as, a telecommunications tower or antenna location. Such facilities include, but are not limited to, transmission equipment, storage sheds, storage buildings, and security fencing.

**PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES (PWTFs)** — Facilities for the provision of wireless communications services, including, but not limited to, antennas, antenna support structure, telecommunications towers, and related facilities other than PWTEFs.

**PREEXISTING TOWERS AND ANTENNAS** — The meaning set forth in § 195-163D below.

**PUBLIC UTILITY** — Any person, firm, corporation or governmental agency, duly authorized to furnish to the public, under governmental regulation, electricity, gas, water, sewage treatment, steam or telephone service. A provider of personal wireless telecommunications services is not a public utility within the Township of Clark and this definition shall not bestow any special status or standing not already provided by state or federal law.

**TELECOMMUNICATIONS** — The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**TELECOMMUNICATIONS EQUIPMENT** — Equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, including software integral to such equipment (including upgrades).

**TELECOMMUNICATIONS SERVICE** — The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**TELECOMMUNICATIONS TOWER** — Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

**UNLICENSED WIRELESS SERVICE** — The offering of telecommunications services using duly authorized devices which do not require individual licenses. The provision of direct-to-home satellite services, as defined in this chapter, is not incorporated into this definition.

**WIRELESS COMMUNICATIONS** — Any personal wireless services as defined in the Federal Telecommunications Act of 1996 (FTA) which includes FCC-licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. It does not include any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas, nor does it include noncellular telephone service.

### **§ 195-163. Applicability.**

- A. Personal wireless telecommunications equipment facilities (PWTEFs) and personal wireless telecommunications facilities (PWTFs) shall be permitted within any zone within the Township of Clark provided that said uses comply with the requirements for each respective zone.
- B. District height limitations. The requirements set forth in this article shall govern the location of towers that either comply with or exceed permitted height limitations and antennas that are installed at a height in conformance with or in excess of the height limitations specified for each zoning district. The height limitation for all telecommunications towers shall be the maximum height permitted for a principal structure within the zone that the telecommunications tower is located.
- C. Amateur radio; receive-only antennas. This article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- D. Preexisting towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this article shall not be required to meet the requirements of this article, other than the requirements of § 195-164E and F below. Any such towers or antennas shall be referred to in this article as "preexisting towers" or "preexisting antennas." Any application that would alter the height of the existing structure, require any new antennas or affect the size of any new equipment or equipment areas will invalidate the exempt status of these structures and facilities.

### **§ 195-164. General guidelines and requirements.**

- A. Principal or accessory use. Antennas and telecommunications towers, including all PWTFs and PWTEFs, may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or telecommunications tower on such lot. Although the PWTEF and PWTFs may be considered as either principal or accessory uses, the setback requirements for all such structures shall be those designated for the principal structure in the zone. For purposes of determining whether the installation of a telecommunications tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or telecommunications towers may be located on leased parcels within such lots. Telecommunications towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Setback standards. All PWTFs and PWTEFs shall be subject to the minimum yard requirements of the zoning district in which they are located, provided the minimum setback may be increased where necessary to address safety concerns. If PWTEFs are located on the roof of a building, the area of the PWTEFs and other equipment and structures shall not occupy more than 25% of the roof area.
- C. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Township Clerk an inventory of its existing towers that are either within the Township or within 1/4 mile of the border thereof, including specific information about the location, height and design of each tower. The Township Clerk may share such information with other applicants applying for administrative approvals or special use permits under this article or other organizations seeking to locate antennas within the Township; provided, however, that the Township Clerk is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Visual impact standards. All PWTFs and PWTEFs shall be located to minimize visual impacts on the surrounding area in accordance with the following standards.
- (1) Sites for PWTFs and PWTEFs must demonstrate that they provide the least visual impact on residential areas. All potential visual impacts must be analyzed to illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility.
  - (2) PWTEFs should be located to avoid being visually solitary or prominent when viewed from residential areas and the public way. The facility should be obscured by vegetation, tree cover, topographic features and/or other structures to the maximum extent feasible.
  - (3) PWTFs and PWTEFs shall be placed to ensure that historically significant views, streetscapes, and landscapes are protected. The views of and vistas from architecturally and/or significant structures should not be impaired or diminished by the placement of telecommunication facilities.
  - (4) The applicant must document they are using the least visually obtrusive technology to provide the required service. The applicant must present, to the reviewing board, information on the available technologies for the proposed location and how the selected technology has the least visual impact.
  - (5) The Planning Board may waive any of the above standards upon the applicant showing that strict compliance with the requirements of this article will create an undue hardship upon the applicant.
- E. Federal requirements. All towers must meet or exceed current standards and regulations of the FAA,

the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- F. Building codes; safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, the governing authority may remove such tower at the owner's expense.
- G. Site design standards. The following design standards shall apply to PWTFs and PWTEFs installed or constructed pursuant to the terms of this subsection:
- (1) Co-location. Ordinance limitation on the number of structures on a lot shall not apply when PWTFs and PWTEFs are located on a lot with buildings or structures already on it.
  - (2) Fencing and other safety devices. PWTFs and PWTEFs shall be surrounded by security features, such as a fence, which prevent unauthorized access. Other safety measures such as anticlimbing devices may be considered by the Board in accordance with applicable federal United States Department of Labor, Occupational Safety and Health Administration, standards and state building code requirements.
  - (3) Landscaping. Landscaping shall be provided along the perimeter of the security fence to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setback areas shall be landscaped. All PWTEFs shall be screened by an evergreen hedge eight feet to 10 feet in height at planting time and/or a solid fence eight feet in height.
  - (4) Signs. Signs shall not be permitted except for signs displaying owner contact information, warnings, equipment information, and safety instructions. Such signs shall not exceed two square feet in area. No commercial advertising shall be permitted on any PWTF or PWTEF.
  - (5) Color. PWTFs and PWTEFs shall be of a color appropriate to the locational context and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
  - (6) Activity and access. All equipment shall be designed and automated to the greatest extent possible in order to reduce the need for on-site maintenance and thereby to minimize the need for vehicular trips to and from the site. Access shall be from established site access points whenever possible.
  - (7) Dish antennas. Dish antennas shall be colored, camouflaged or screened to make them as unobtrusive as possible and in no case shall the diameter of a dish antenna exceed six feet.
  - (8) Lighting. No lighting is permitted except as follows:
    - (a) PWTEFs 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 devices and/or sensors so that the light is turned off when not needed for safety or security purposes; and

- (b) No lighting is permitted on a PWTF except lighting that specifically is required by the Federal Aviation Administration (FAA), and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby properties.
  - (9) Monopole. Any proposed new telecommunications tower shall be a monopole unless the applicant can demonstrate that a different type pole is necessary for the co-location of additional antennas on the tower. Such towers may employ camouflage technology.
  - (10) Noise. No equipment shall be operated so as to produce noise in excess of the limits set by the local noise ordinance,<sup>5</sup> except for in emergency situations requiring the use of a backup generator.
  - (11) Radio frequency emissions. The FTT gives the FCC sole jurisdiction of the field of regulation of radio frequency (RF) emission and PWTFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts. Applicants shall provide current FCC information concerning PWTFs and radio frequency emission standards. PWTFs shall be required to provide information on the projected power density of the proposed facility and how this meets the FCC standards.
  - (12) Structural integrity. PWTFs must be constructed to 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.
  - (13) Maintenance. PWTFs shall be maintained to assure their continued structural integrity. The owner of the PWTF shall also perform such other maintenance of the structure and of the site as to assure that it does not create a visual nuisance.
  - (14) PWTFs and PWTEFs, which are located on lands owned by the Township of Clark shall be exempt from site plan review. However, such facilities shall comply with the site design standards and zoning requirements set forth in the Township Code.
- H. Co-location policy. It is the policy of the Township of Clark to minimize the number of PWTFs and to encourage the co-location of PWTEFs of more than one wireless telecommunications service provider on a single PWTF.
- (1) The Township Clerk shall maintain an inventory of existing PWTF locations within or near the Clark Township community.
  - (2) An applicant proposing a PWTF at a new location shall demonstrate that it made a reasonable attempt to find a co-location site that is technically feasible and that none was practically or economically feasible and shall include in its design the opportunity for co-location by others or explain why co-location is not feasible. Applications that include existing structures such as buildings, steeples, bell towers or other similar structures that can be used for PWTEFs and PWTFs in such a manner as to render antennas and related equipment as unobtrusive shall be

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5. Editor's Note: See Ch. 223, Noise.



considered exempt from this requirement.

- (3) Each application for a PWTF shall be accompanied by a plan which shall reference all existing PWTF locations in the applicant's Clark Township inventory, any such facilities in the abutting towns which provide service to areas within the Township of Clark, any changes proposed within the following twelve-month period, including plans for new locations and the discontinuance or relocation of existing facilities.
- (4) Each application shall include a site location alternative analysis describing the location of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs, and the reason why the subject site was chosen. The analysis shall address the following issues:
  - (a) How the proposed location of the PWTF relates to the objective of providing full wireless communication services within the Township of Clark at the time full service is provided by the applicant throughout the Township of Clark;
  - (b) How the proposed location of the proposed PWTF relates to the location of any existing antennas within and near the Township of Clark;
  - (c) How the proposed location of the proposed PWTF relates to the anticipated need for additional antennas within and near the Township of Clark by the applicant and, to the extent known, by other providers of wireless communication services within the Township of Clark;
  - (d) How the proposed location of the proposed PWTF relates to the objective of co-locating the antennas of many different providers of wireless communication services on the same PWTF. Applications within the fourth locational priority are exempt from this requirement; and
  - (e) How its plan specifically relates to and is coordinated with the needs of all other providers, to the extent known, of wireless communication services within the Township of Clark.
  - (f) The Planning Board or Zoning Board of Adjustment may retain technical consultants as it deems necessary to provide assistance in the review of the site location alternatives analysis. The service provider shall bear the reasonable cost associated with such consultation, which cost shall be deposited in accordance with Clark Township's escrow provisions.
  - (g) The co-location of PWTEFs onto existing PWTFs shall be subject to § 195-170 of the Revised General Ordinances of the Township of Clark.

### **§ 195-165. Approval process.**

#### **A. General.**

- (1) When an application for development does not require variances from the Zoning Ordinance, an application shall be made to the Planning Board and the Planning Board shall review and, if appropriate, approve the uses listed in this section as a minor site plan in accordance with Article XIA.
- (2) For uses that require variances of any kind, the application for development must be reviewed and approved by the Zoning Board of Adjustment as a major site plan with variances in

accordance with § 195-73. A height of any PWTFs that exceeds the permitted height of a principal structure in the zone that the PWTFs is located shall be considered to be nonconforming and a violation of the Zoning Ordinance. When the height of any PWTFs exceeds by 10 feet or 10% of the maximum height permitted in the zone for a principal structure, then a use variance will be required in accordance with N.J.S.A. 40:55D-70(d)(6).

**§ 195-166. Relief from requirements of Zoning Ordinance (variance).**

- A. General. The following provisions shall govern the issuance of relief from the requirements of the Zoning Ordinance; a variance. This section applies to both PWTEFs and PWTFs.
- (1) If a proposed PWTEF or PWTF is found to be nonconforming due to a violation of bulk requirements of the Zoning Ordinance such as lot area, yard setbacks, impervious lot coverage or building coverage, or due to height requirements, then an approval of a major site plan with a variance shall be required from the Zoning Board of Adjustment for the construction of said PWTEF or PWTF or the placement of an antenna in any zone.
  - (2) In granting a variance with site plan approval the Zoning Board of Adjustment may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed facility on adjoining properties.
  - (3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- B. Information required. Each applicant requesting a preliminary major site plan approval and variance under this article shall make an application to the Zoning Board of Adjustment in accordance with § 195-174 and shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimension of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this article.
- C. Factors considered in granting zoning relief. The Zoning Board of Adjustment shall consider the following factors in determining whether to issue a site plan approval and variance, although the Board may waive or reduce the burden on the applicant of one or more of these criteria if the Board concludes that the goals of this article are better served thereby:
- (1) Height of the proposed tower or antenna;
  - (2) Proximity of any part of the facility to residential structures and residential district boundaries;
  - (3) Nature of uses on adjacent and nearby properties;
  - (4) Surrounding topography;
  - (5) Surrounding tree coverage and foliage;
  - (6) Design of the facility, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (7) Proposed ingress and egress; and
  - (8) Availability of suitable existing towers and other structures as described in Subsection D.

- D. Availability of suitable existing facilities: i.e., towers, antennas or other structures. Specifically, no new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Board of Adjustment that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
  - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) 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 unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- E. Tower and antenna setbacks and separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a variance is required; provided, however, that the Zoning Board of Adjustment may reduce the standard setbacks and separation requirements if the goals of this article would be better served thereby:
- (1) Towers must be set back a distance equal to the height of the tower from any off-site residential property boundary.
  - (2) Towers, guys and accessory facilities must satisfy the minimum zoning district setback requirements.
  - (3) In zoning districts other than heavy industrial or commercial zoning districts, towers over 75 feet in height shall not be located within 1,500 feet from any existing tower that is over 75 feet in height.
- F. Landscaping. In addition to the requirements of § 195-164G, the following requirements shall govern the landscaping surrounding towers for which a preliminary major site plan and variance is being sought; provided, however, that the Zoning Board of Adjustment may waive such requirements if the goals of this article would be better served thereby:
- (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
  - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced.
  - (3) Existing mature tree growth and natural land forms on the site shall be preserved to the

maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

**§ 195-167. Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within 90 days, the governing authority may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this section shall not become effective until all users cease using the tower.

**§ 195-168. (Reserved)**

**§ 195-168.1. Co-location onto existing towers and base stations.**

- A. This section implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act"),<sup>6</sup> as interpreted by the Federal Communications Commission's ("FCC") Acceleration of Broadband Deployment Report and Order, which requires a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.
- B. Definitions. The following terms, shall, when used in this section have the following meanings:

**BASE STATION —**

- (1) A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications users, equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. This term includes base stations in the municipal right-of-way. Base stations include, without limitation:
- (a) Equipment associated with wireless communications services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
  - (b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
  - (c) Small cell equipment located within the municipal right-of-way.
  - (d) Any structure other than a tower that, at the time the relevant application is filed, supports or houses equipment described in Subsection (1)(a) to (b) that has been reviewed and approved under the applicable zoning, siting, or administrative process, even if the structure was not built for the sole or primary purpose of providing that support.
- (2) The term does not include any structure that, at the time of application is filed the Planning Board, Zoning Board or pursuant to any other administrative process does not support or house equipment described in Subsection (1)(a) to (b) of this subsection.

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6. Editor's Note: See 47 U.S.C. § 1455.

**CO-LOCATION** — The mounting or installing of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**ELIGIBLE FACILITIES REQUEST** — Any request for modification of an existing tower or base station that does not substantially change the physical dimension or such tower or base station, involving:

- (1) Co-location of new transmission equipment;
- (2) Removal of transmission equipment; or
- (3) Replacement of transmission equipment.

**ELIGIBLE SUPPORT STRUCTURE** — Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the Planning Board, Zoning Board or applicable municipal official.

**EXISTING** — A constructed tower or base station is existing for the purposes of this section if it has been reviewed and approved under the applicable zoning, siting or administrative process.

**SUBSTANTIAL CHANGE** —

- (1) For towers other than towers in the municipal rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater;
- (2) For towers other than towers in the municipal rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the municipal rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- (4) It entails any excavation or deployment outside the current site;
- (5) It would defeat the concealment elements of the eligible support structure; or
- (6) It does not comply with the conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in Subsections (1) through (4) of this definition.

**TOWER** — Any structure built for the sole or primary purpose of supporting any FCC-licensed

or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This term includes towers in the municipal right-of-way.

**TRANSMISSION EQUIPMENT** — Equipment that facilitates transmission for any FCC licensed or authorized wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

C. Application review.

- (1) Type of review. Upon receipt of an application for an eligible facilities request pursuant to this section, the Planning Board, Zoning Board or otherwise applicable municipal official shall review such application to determine whether the application qualifies.
- (2) Time frame for review. Within 60 days of the date on which an applicant submits an application seeking approval under this section, the Planning Board, Zoning Board or otherwise applicable municipal official shall approve the application unless it is determined that the application is not covered by this section.
- (3) Tolling of the time frame for review. The sixty-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the Planning Board, Zoning Board or otherwise applicable municipal official and the applicant, or in the cases where the application is deemed incomplete.
  - (a) To toll the time frame for incompleteness, the Planning Board, Zoning Board or otherwise applicable municipal official must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
  - (b) The time frame for review begins running again when the applicant makes a supplemental submission in response to the notice of incompleteness by the Planning Board, Zoning Board or otherwise applicable municipal official.
  - (c) Following a supplemental submission, the Planning Board, Zoning Board or otherwise applicable municipal official will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in Subsection C(3) of this subsection. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- (4) Interaction with 42 U.S.C. § 332(c)(7). If the Planning Board, Zoning Board or otherwise applicable municipal official determines that the applicant's request is not covered by the Spectrum Act as delineated under this section, the presumptively reasonable time frame under 42 U.S.C. § 332(c)(7), as prescribed by the FCC, will begin to run from the issuance of decision that the application is not a covered request by the Planning Board, Zoning Board or otherwise applicable municipal official.

ARTICLE XXVII  
**Nonconforming Uses**

**§ 195-169. Continuance.**

Any use of a building, other structure, lot or area of land lawfully existing on the date of enactment of this ordinance may be continued, even though such use does not conform to the regulations of the district in which it is located, except that this section shall not apply to any uses found to be hazardous to the public health, safety or welfare by the Township Council.

**§ 195-170. Extension or enlargement.**

No nonconforming use shall be extended or enlarged in any way. Nothing in this or any other provision of this ordinance shall be deemed to permit any building or structure used as a nonconforming use to encroach upon any required yards, open spaces, off-street parking areas or loading spaces, nor shall the height, lot coverage or other requirement be exceeded.

**§ 195-171. Alteration.**

- A. No nonconforming use shall be in any way altered, except as hereinbefore provided.
- B. Such use shall not be changed unless to a conforming use.
- C. If destroyed, no such use shall be repaired, restored or reconstructed.

**§ 195-172. Abandonment.**

No nonconforming use that has been abandoned for a period of 12 consecutive months or more shall be reactivated or reestablished. For the purpose of this section, "abandonment" shall be defined as the cessation of a nonconforming use for the period hereinbefore specified.

**§ 195-173. Exceptions.**

- A. Nothing in this article shall be construed to deem nonconforming lots and nonconforming structures, as hereinbefore defined, as nonconforming uses, unless such lots or structures are used as nonconforming uses.
- B. Any structure that is nonconforming in its use and does not conform to applicable requirements for dimensions or location upon a lot may be continued and structurally repaired, restored, or enlarged, provided such continuation, repair, restoration or enlargement is within the area of the preexisting nonconformity and does not create any new nonconforming infringement upon lot or yard requirements.

**§ 195-174. Effect of amendments; certificate of nonconformity.**

- A. Any amendment to Part 3, Zoning, hereafter adopted which would change the permitted uses in a particular district, would create a new district designation wherein only certain uses would be permitted, or would realign certain district boundaries, and, as a result, would cause a use conforming to the provisions of this Part 3 as originally adopted to become nonconforming under the provisions of such amendment, such use shall be then deemed a nonconforming use and shall be subject to all the provisions of this article.

- B. Upon request, the Zoning Officer shall authorize the issuance of a certificate of nonconformity where uses or structures predate the adoption or amendment of this chapter and are not in accordance with the Zoning Ordinance as a result of such adoption or amendment.

**§ 195-175. Variances exceeding maximum impervious cover.**

Applicants requiring variances that exceed the maximum percent impervious cover must mitigate the impact of the additional impervious surfaces unless the stormwater management plan for the development provided for these increases in impervious surfaces. This mitigation effort must address water quality, flooding, and groundwater recharge as described in the Township's Stormwater Management Plan. A detailed description of how to develop a mitigation plan is presented therein.



ARTICLE XXVIII  
**Conditional Uses**

**§ 195-176. Authority.**

The Planning Board shall have the authority to receive applications for conditional uses where listed as a conditional use in applicable zone standards contained herein or below, and to approve such applications where the considerations and conditions are met as hereinafter outlined in this article.

**§ 195-177. Criteria for approval.**

The following criteria shall be considered by the Planning Board in processing applications for conditional uses:

- A. The type and location of the proposed use in relation to the needs and growth pattern of the Township.
- B. The adequacy of the site area for the use proposed.
- C. The arrangement of buildings and structures, driveways, parking and loading areas and other site plan features, with respect to compatibility with adjoining present and prospective uses as permitted by this Part 3.

**§ 195-178. Conditions of approval.**

The approval of a conditional use may be subject to conditions, which may include or relate to, but are not limited to, design of buildings, aesthetics and appearance, plantings and their maintenance as screens between dissimilar uses, other landscaping features, hours of operation of the proposed use, lighting, density or extent of use, nuisance factors and public health measures.

**§ 195-179. Conditional uses.**

- A. Churches and religious buildings.
  - (1) Permitted as conditional use. Houses of worship, including churches, and other buildings which are principally used for religious purposes and which are owned and operated by fully incorporated, nonprofit, religious corporations and/or associations holding tax-exempt status are hereby determined to be conditional uses in all zones where not already identified as an allowable use.
  - (2) Bulk requirements. Before any zoning permit, building permit or certificate of occupancy, as the case may be, may be issued for any conditional use, as specified in Subsection A, in any zoning district, a site plan shall be submitted to and approved by the Planning Board. Any conditional use, as specified in Subsection A, shall meet or exceed the following standards:
    - (a) Minimum lot frontage. There shall be a minimum lot frontage of 400 feet.
    - (b) Minimum lot area. There shall be a minimum lot area of two acres or 87,120 square feet.
    - (c) Front yard. There shall be a minimum front yard of 50 feet.
    - (d) Rear yard. There shall be a minimum rear yard of 75 feet.
    - (e) Side yard. There shall be a minimum side yard of both sides combined of 50 feet, with a

minimum side yard of 15 feet for any one of such combined side yards. If adjoining any residentially zoned property, the minimum side yard shall be at least as wide as the maximum height of the primary structure, including steeple, if any.

- (f) Height. No building or structure shall exceed 2 1/2 stories or 35 feet in height, whichever is less, except that steeples on houses of worship may be up to 45 feet in height.
  - (g) Open space. Has to meet the prevailing open space of the underlying zone that the structure is located.
  - (h) Buffer required. There shall be a landscaped buffer area of a minimum of 25 feet in width provided on the subject premises, between the subject premises and adjacent residential properties and zones.
  - (i) Off-street parking requirements shall be as follows:
    - [1] There shall be a minimum of 50 off-street parking spots provided or the use must meet the off-street parking in accordance with Article XXIV of the Code of the Township of Clark, whichever is greater.
    - [2] No parking shall be permitted in the front yard.
    - [3] All parking areas shall be screened by landscaping from public rights-of-way.
    - [4] All ancillary uses are to be additive to establish the parking requirement for the conditional use.
  - (j) Zone district regulations to control. Except as set forth herein, all of the required conditions regulating the particular zone district in which the property is situated shall apply.
- B. Farm stands.
- (1) The products sold are in their natural state.
  - (2) The stands are located on a farm.
  - (3) The place of sale or storage of any such products, whether of a permanent or temporary nature, shall not be closer than 100 feet to any side or rear lot line.
  - (4) The sale of any such products shall not have a deleterious effect on adjoining properties by reason of nuisance or health hazard or other factors as specified in this Part 3.
  - (5) The sale of any such products shall also require that a suitable amount of off-street parking and loading space be required as provided in this Part 3.
- C. Home occupations and professional offices in the home as accessory uses.
- (1) An accessory use customarily conducted for profit entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental to the use of the dwelling for residential purposes and does not alter the character thereof, provided that:
    - (a) In connection with which there is used no display except one sign, not exceeding a total area of two square feet, affixed to the building, and if illuminated, illuminated only by a shielded indirect light source or equivalent light not offensive to surrounding residences;

- (b) In connection with which there is kept no stock-in-trade or commodity sold upon the premises;
    - (c) In connection with which only a member, or members, of the resident family are employed; and
    - (d) Not more than 30% of the floor area of the building is used for such accessory use.
  - (2) Such activities and uses as boardinghouse or rooming house operations, tourist homes, clinics, barbershops and beauty parlors, animal hospitals, private nursery and kindergarten schools, music studios, art or dancing schools for group instruction, repair of heavy mechanical or electrical equipment, the keeping of and use of mechanical or electrical equipment that would cause electrical or other interference with radio or television reception in nearby residences, and all other activities and uses which would cause offensive and excessive noise, light, vibration or other disturbances, or would result in excessive residential street traffic, shall not be deemed home occupations under the terms of this Part 3.
- D. Developed nonpublic recreational uses such as golf courses, tennis clubs and swim clubs.
- E. Horticultural nurseries, but greenhouses or structures for the indoor cultivation of plants shall only be of permanent-type construction or permanent foundations and shall be set back a minimum of 100 feet from the street line.
- F. Private clubs/service organizations.
  - (1) Lot dimensions:
    - (a) Lot area (minimum): 30,000 square feet.
  - (2) Coverage and floor area ratio:
    - (a) Lot coverage (maximum): 8%.
  - (3) Access. On corner lots, access shall be provided from the higher road classification.
  - (4) Buffer. In residential zones, a ten-foot perimeter buffer shall be planted in the side and rear yards.
- G. Public and nonpublic schools. Public schools covering any or all grades pre-kindergarten through grade 12 and full-time private schools covering any or all grades pre-kindergarten through grade 12 that are operated by charitable, religious or eleemosynary organizations to satisfy state-mandated educational requirements, where permitted as a conditional use, provided said conditional use shall meet all of the following requirements:
  - (1) Charter.
    - (a) The application shall be accompanied by the existing or proposed charter and bylaws of the organization and such other material as may be required to guarantee, to the satisfaction of the Board, the following:
      - [1] The organization is or will be a bona fide nonprofit school organized for educational purposes and such other activities normally carried on by such schools.
      - [2] The organization has been granted exemption from taxation under the laws of both the State of New Jersey and the United States.

- [3] The organization will not engage in sales of products or materials to the general public or otherwise engage in activities normally carried on as a business or commercial activity, except that:
- [a] The organization may conduct intermittent commercial activities open to the general public designed solely to raise funds to support the purposes of the organization or for related or affiliated organizations with charitable, educational or religious purposes, provided such activities are conducted inside a building or structure. Such activities shall only be permitted outside of a building or structure under the authority of a special license granted by the Township Council of the Township of Clark, which shall contain such conditions as are considered necessary for the public health, safety and welfare. This paragraph shall not prevent the organization from hiring or otherwise engaging profit-making organizations to conduct fund-raising activities, even though a portion of the funds raised is taken by such profit-making organization as a fee.
  - [b] The sale of items, products or materials required for the educational programs or welfare of the students, or accessory to and having a relation to the activities conducted on the premises, such as, but not limited to, books, art materials and school supplies, or tickets for student activities, or other school-related events, or food for school lunches, are permitted on a continuous basis, provided such sales are conducted inside the building or structure.
- (2) Bulk requirements. Before any zoning permit, building permit or certificate of occupancy, as the case may be, may be issued for any conditional use, a site plan shall be submitted to and approved by the Planning Board subject to the following standards:
- (a) Minimum lot frontage. There shall be a minimum lot frontage of 400 feet.
  - (b) Minimum lot area. There shall be a minimum lot area of two acres or 87,120 square feet.
  - (c) Front yard. There shall be a minimum front yard of 50 feet.
  - (d) Rear yard. There shall be a minimum rear yard of 75 feet.
  - (e) Side yard. There shall be a minimum side yard of both sides combined of 50 feet, with a minimum side yard of 15 feet for any one of such combined side yards. If adjoining any residentially zoned property, the minimum side yard shall be at least as wide as the maximum height of the primary structure.
  - (f) Height. No building or structure shall exceed three stories or 45 feet in height.
  - (g) Open space. Subject to the prevailing open space requirement of the underlying zone.
  - (h) Buffer required. There shall be a landscaped buffer area having a minimum width of 25 feet located between the subject premises as well as adjacent residential properties and zones.
  - (i) Off-street parking requirements shall be as follows:
    - [1] There shall be a minimum of 50 off-street parking spots provided, or the use shall meet the off-street parking requirements in accordance with Article XXIV

(§ 195-141 through § 195-148) of the Code of the Township of Clark, whichever is greater.

- [2] No parking shall be permitted in the front yard.
  - [3] All parking areas shall be screened by landscaping from public rights-of-way.
  - [4] All ancillary uses are to be additive to establish the parking requirement for the conditional use.
- (j) Zone district regulations to control. Except as set forth herein, all of the required conditions regulating the particular zone district in which the property is situated shall apply.

#### H. Public utility installations.

- (1) Bulk requirements. Before any zoning permit, building permit or certificate of occupancy, as the case may be, may be issued for any conditional use, a site plan shall be submitted to and approved by the Planning Board subject to the following standards:
- (a) Minimum lot frontage. There shall be a minimum lot frontage of 400 feet.
  - (b) Minimum lot area. There shall be a minimum lot area of two acres or 87,120 square feet.
  - (c) Front yard. There shall be a minimum front yard of 50 feet.
  - (d) Rear yard. There shall be a minimum rear yard of 75 feet.
  - (e) Side yard. There shall be a minimum side yard of both sides combined of 50 feet, with a minimum side yard of 15 feet for any one of such combined side yards. If adjoining any residentially zoned property, the minimum side yard shall be at least as wide as the maximum height of the primary structure.
  - (f) Height. No building or structure shall exceed three stories or 45 feet in height.
  - (g) Open space. Subject to the prevailing open space requirement of the underlying zone.
  - (h) Buffer required. There shall be a landscaped buffer area having a minimum width of 25 feet located between the subject premises as well as adjacent residential properties and zones.
  - (i) Exterior appearance of structures. The exterior appearance of any building or structure required for such use shall be compatible with the character of buildings or structures in the area in which the site is located, as determined by the Board.

#### I. Nonprofit chartered membership organizations.

- (1) The organization is, or will be, a bona fide nonprofit group organized solely for charitable purposes or for the benefit and enjoyment of its members who shall be primarily residents of Clark and the surrounding communities.
- (2) The use will not involve the sale or consumption of liquor or alcoholic beverages in any form, unless the Planning Board specifically finds that such sales or consumption will not be detrimental to the character of the area and the safety and welfare of the public.

- (3) The organization will not engage in sales of products or materials to the general public or otherwise engage in activities normally carried on as a business or commercial activity, except that:
  - (a) The premises may be made available on a rental basis for meetings of other groups, private social functions and the like.
  - (b) The organization may conduct intermittent commercial activities open to the general public designed solely to raise funds to support the purposes of the organization or for related or affiliated organizations with charitable, educational or religious purposes, provided such activities are conducted inside of a building or structure. Such activities shall also be permitted outside of a building or structure under the authority of a special license granted by the Township Council of the Township of Clark, which shall contain such conditions as are considered necessary for the public health, safety and welfare. This paragraph shall not prevent the organization from hiring or otherwise engaging profit-making organizations to conduct fund-raising activities, even though a portion of the funds raised is taken by such profit-making organization as a fee.
  - (c) Sale of items, products, or materials related to or accessory to the primary function or activity of the organization conducted on the premises, such as, but not limited to, food or alcoholic beverages (if the organization holds a license for the sale of same), athletic equipment, and the like, are permitted on a continuous basis, provided such sales are conducted inside the building or structure.
- (4) Overnight accommodations shall not be provided.
- (5) The hours of use are fixed in a manner in which the property rights of nearby property owners will not be adversely affected.
- (6) Activities of the organization will be carried on primarily within an enclosed building or structure.
- (7) Street access. The subject property shall be located on, and driveway access shall be provided to, an arterial or collector street as designated by the Township Engineer.
- (8) Minimum lot area. There shall be a minimum lot area of 30,000 square feet, plus an additional 150 square feet of lot area for each 15 square feet of gross floor area in excess of 1,500 square feet of gross building floor area.
- (9) Minimum lot frontage. There shall be a minimum lot frontage of 150 feet.
- (10) Maximum coverage by buildings and above-grade structures. The coverage of the lot by buildings and above-grade structures shall not exceed 20% of the total lot area.
- (11) Maximum coverage by improvements. The coverage of the lot by all buildings, structures, sidewalks, parking areas, driveways, and other improvements shall not exceed 50% of the total lot area.
- (12) Front yard. There shall be a front yard equal to the front yard required in the zone in which the site is located.
- (13) Minimum side yard. There shall be a minimum side yard equal to the height of the building or structure, or 25 feet, whichever is greater.

(14) Minimum rear yard. There shall be a minimum rear yard equal to 1.5 times the height of the building or structure, or 50 feet, whichever is greater.

J. Medical/dental clinics.

(1) Lot dimensions:

(a) Lot area (minimum): one acre.

(2) Coverage and floor area ratio:

(a) Lot coverage (maximum): 30%.

(3) Access. On corner lots, access shall be provided from the higher road classification.

(4) Buffer. In residential zones and adjoining residential uses, a ten-foot perimeter buffer shall be planted in the side and rear yards.

K. Nursing homes.

(1) Licensing. The facility shall be licensed by the N.J. Department of Community Affairs as a Class C rooming and boarding home or by the N.J. Department of Health as an assisted living residence.

(2) Minimum lot area. The lot for such facility shall contain a minimum area of three acres.

(3) Maximum density. There shall be no more than 25 residential units for each acre of lot area provided.

(4) Maximum floor area ratio. The total habitable floor area within all buildings or structures on any lot shall not be more than 50% of the total lot area.

(5) Maximum number of habitable floors. No principal building shall exceed two habitable floors, exclusive of the basement.

L. Car wash. Allow car washes as conditional use in CG, CI, LCI and COR Zones. Car washes are allowed as a conditional use in the zones indicated elsewhere herein will be subject to the following conditions:

(1) Lot area shall be a minimum of one acre.

(2) Car wash shall be automatic and brushless.

(3) No vehicle services shall be provided (e.g., oil changes, tune-ups, coolant flushing/replacement, etc.).

(4) No accessory/incidental retail component shall be allowed.

(5) No truck washing shall be permitted.

(6) No storage of hazardous materials shall be permitted.

(7) An onsite queuing area shall be provided with bypass option to provide for a minimum of 20 vehicles.

(8) Facility shall comply with applicable noise standards measured at the perimeter of the site.

- (9) A minimum landscaped buffer of 25 feet shall be provided adjacent to any residential use.
- (10) The applicant shall apply for and obtain sanitary sewer flow rights from the Township and will pay the Township Sewer Utility applicable fees for sanitary sewer disposal based on water consumption. Should the facility qualify as a significant industrial user based on flows, it shall provide for required monitoring and testing as may be required by the Township, Rahway Valley Sewage Authority, the local sewer utility and/or the New Jersey Department of Environmental Protection.



**Part 4**  
**Design Standards And Improvement Specifications**

ARTICLE XXIX  
**Standards and Specifications**

**§ 195-180. General improvement standards.**

- A. All improvements shall be installed in complete accordance with the standards of this Part 4, Design Standards and Improvement Specifications, with other particular specifications approved by the reviewing agency and Township Engineer, and with all other applicable municipal, county, state and federal regulations, including the Residential Site Improvement Standards (N.J.A.C. 5:21).
- (1) Should improvements be required which are not provided for within the particular sections of this Part 4, they shall be designed and constructed in accordance with good engineering practice and recognized design standards.
  - (2) The developer (or his/her engineer) shall submit calculations and construction specifications in each instance.
  - (3) Prior to initiation of such specialized design, the particular standards to be utilized shall be submitted for review by the reviewing agency and Township Engineer.
- B. The Standard Specifications for Road and Bridge Construction of the New Jersey Department of Transportation (latest edition), including all addenda, and the Standard Construction Details of the New Jersey Department of Transportation (latest revision), as modified, supplemented, amended or superseded by the requirements of this Part 4, by the approved final plat, by particular agreement among the reviewing agency, Township Council and subdivider or by other applicable Township, county, state or federal regulations, shall govern the completion of the required improvements. Such Standard Specifications and Standard Construction Details (Standards) are made a part of this Part 4 by reference and will not be repeated herein. The requirements of this Part 4 of an approved final plat or of particular agreements and conditions of approval and of applicable Township, county, state or federal regulations shall govern and prevail in the case of conflict between them and the Standard Specifications or Standard Construction Details. Should the Township adopt, subsequent to the effective date of this Part 4, particular and specific Standard Construction Details for the Township, they shall govern and prevail over the Standard Construction Details of the New Jersey Department of Transportation previously referred to.

**§ 195-181. General design standards.**

- A. All site plans, plot plans and subdivision plats shall conform to design standards that will encourage desirable development patterns within the Township.
- (1) Where either or both an Official Map or Master Plan have been adopted, the plot, site and subdivision plans shall conform to the proposals and conditions shown thereon.
  - (2) The streets, drainage rights-of-way, school sites, public parks and playgrounds and other municipal facilities shown on an adopted Master Plan or Official Map shall be considered in the review of plot, site and subdivision plans.
  - (3) Where no Master Plan or Official Map exists, or makes no provisions therefor, streets and drainage rights-of-way shall be shown on the final plat in accordance with N.J.S.A. 40:55D-38

and shall be such as to lend themselves to the harmonious development of the Township and the enhancement of the public welfare.

- B. Within the criteria established by and subject to the review and approval of the reviewing agency, all design of a plot, site or subdivision plan is the responsibility of the developer, and he shall be responsible for and bear the entire cost of any and all investigations, tests, reports, surveys, samples, calculations, environmental assessments, designs, researches or any other activity necessary to the completion of the design.
- (1) The standards set forth in this article shall be taken to be the minimum necessary to meet its purposes as set forth elsewhere herein.
  - (2) The responsibility of the reviewing agency shall be to see that these minimum standards are followed and, in those cases not covered by these standards, sufficient precautions are taken to assure that the eventual design is conducive to the implementation of the purposes of this Part 4 and the Township Master Plan.
  - (3) The reviewing agency may employ professionals in various disciplines to advise and assist it in its determinations.
  - (4) Any decisions of the reviewing agency regarding the suitability or sufficiency of any design proposal, taken upon advice of its professionals and subject to the provisions of this Part 4, shall be deemed conclusive.
- C. When a developer determines that it will be necessary to utilize design standards in addition to or other than those minimum requirements established herein, he is advised to consult with the Township Engineer prior to beginning his detailed design, for review and approval of his proposed design standards.
- (1) Standards utilized should generally be nationally recognized and in common use in this area.
  - (2) Design standards may not be utilized if they do not have the approval of the Township Engineer.
  - (3) The design standard change shall be approved by the reviewing agency upon a report from the Township Engineer.
- D. It is recognized that, in certain instances, preexisting conditions or the uniqueness of a particular proposal may require the waiver of some of the standards presented herein.
- (1) The reviewing agency may consider and, for cause shown, may waive strict conformance with such of these detailed design standards as it sees fit.
  - (2) Any developer desiring such action shall present with his application for development a listing of all such waivers desired, together with the reasons therefor.

**§ 195-182. Building site design standards.**

- A. The following standards and guidelines contained herein shall apply to all development applications submitted for approval containing proposed new buildings and structures or alterations or modifications to existing structures.
- B. These building design objectives are intended to assist the reviewing agency in the review of specific development proposals:

- (1) All buildings should be located with proper consideration of their orientation and relationship to other buildings, both existing and proposed, in terms of light, air and usable open space; access to public rights-of-way and off-street parking; height and bulk; drainage and existing topography; trees and vegetation; watercourses; solar access and energy conservation.
  - (2) Groups of related buildings shall be designed to present a harmonious appearance in terms of architectural style and exterior materials.
  - (3) Buildings should be designed to be attractive from all vantage points, including fences, storage areas and rear entrances.
  - (4) Building setbacks should be varied to the extent practicable in order to provide an interesting interplay of buildings and open spaces.
  - (5) Accessory buildings and structures should be architecturally treated in the same manner as principal structures.
  - (6) All exterior storage and service yards, loading docks and ramps, electrical and mechanical equipment and enclosures, storage tanks and the like shall be screened from the public view, within and from the outside of the development, by a fence, wall or mature landscape materials, consistent with the exterior design of the building within the development.
  - (7) Colors, materials and finishes shall be coordinated in all exterior elevations of buildings to achieve continuity of expression. All roof and wall projections, such as gutters, flues, louvers, utility boxes, vents, grills, downspouts, exposed flashing and overhead doors, shall be painted or installed with an anodized or acrylic finish, in a color to match adjacent surfaces.
  - (8) Buildings of a traditional design should have steeper roofs. Overhangs should be consistent in the front and rear.
  - (9) All openings in the wall of a structure, such as windows and doors, should relate to each other on each elevation, vertically and horizontally, in a clearly defined order, and should take into account orientation to the sun, in terms of architectural elements for sun shading and consideration of the efficiencies of heat loss and gain through such openings.
  - (10) Buildings and parking areas should be designed to relate to existing grade conditions. Exposed basement walls are not acceptable as an architectural treatment. All exposed basement walls must be covered to relate properly to the side of the building.
  - (11) Landscape elements shall relate to architectural design elements and shall be considered a strong unifying component of the overall site design, reflecting the natural and man-made (architectural and aesthetic) qualities of the development.
  - (12) Flagpole(s) should be incorporated into the site and/or building design.
- C. These residential design standards and guidelines are intended to assist in the review of specific proposals:
- (1) Residential design should create the appearance of individuality of housing units and avoid the appearance of a large, undifferentiated project.
  - (2) Dwelling units should have adequate interior living space, using low-maintenance, high-quality and aesthetically attractive materials.

- (3) Easy access to outdoor space and parking from all residential units should be provided.
  - (4) The design should provide a safe, well-lighted residential environment, free of through traffic and congestion.
- D. Dwelling units in a development which are designed for the possible use by physically handicapped persons shall meet or exceed the New Jersey Uniform Construction Code minimum property standards and the additional requirements contained in N.J.A.C. 5:23-1 et seq., pertaining to barrier-free regulations.
- E. The commercial office and industrial design standards contained below are intended to assist in the review of specific proposals:
- (1) Exterior materials may include brick, stone, anodized aluminum and baked enamel metal panels, precast concrete and similar materials, with appropriate texture and trim to prevent large, undifferentiated facade of the same material.
  - (2) All roof planes or caps meeting the exterior facade shall have overhangs or appropriate cornice and trim details.
  - (3) All major entrances to buildings shall be properly identified with architectural elements, such as recessed entranceways, projected overhangs and porticos.
  - (4) Flat roof canopies on metal pipe columns shall not be used on commercial buildings.
  - (5) Window and door openings shall include appropriate trim and either recesses or overhangs to promote a harmonious variety of light and shade on the facade of the building.
  - (6) Buildings and structures used for functional purposes, such as warehouses, indoor sports facilities and manufacturing facilities, shall include appropriate landscaping adjacent to boundary facades in the public view.

**§ 195-183. Blocks.**

- A. The block length, width and acreage within bounding roads shall be such as to accommodate the size and dimensions of lots required for the zoning district by this Part 4 and to provide for convenient access, circulation control and safety of vehicles and pedestrians.
- B. Block lengths may vary between 400 and 2,000 feet, but blocks along other than local collector streets shall not be more than 1,000 feet long.
- C. Interior crosswalks, with a right-of-way 20 feet wide, containing a sidewalk of five feet or greater in width and fenced on both sides may be required for blocks longer than 1,000 feet, from the ends of the culs-de-sac to adjacent streets and elsewhere as required by the public convenience, including the provision of walks giving access to schools, playgrounds and shopping centers without the necessity of crossing traffic thoroughfares.
- D. For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.

**§ 195-184. Bulk storage.**

- A. In zoning districts where bulk storage is a permitted accessory use, the following minimum requirements shall apply:

- (1) No bulk storage of material or equipment shall be permitted in any required front yard area or within 50 feet of any public street, whichever is greater.
  - (2) No bulk storage of materials or equipment shall be permitted between any side or rear lot line and the required side or rear setback line.
  - (3) All bulk storage areas shall be screened from public view by means of suitable fencing and/or evergreen plantings as required by the reviewing agency. Where the property is adjacent to a residential zone or use, the screening shall meet the minimum requirements in this Part 4, and a six-foot solid fence or equivalent shall be provided.
- B. No fence used to screen a bulk storage area shall be placed closer to any property line than the distance constituting the required front, side or rear setbacks, and all setback areas shall be landscaped in accordance with the requirements in this Part 4.
- C. All service roads, driveways and bulk storage areas shall be paved with bituminous concrete or other surfacing material, as required by the reviewing agency, which shall be of sufficient strength to handle the anticipated use.
- D. In no instance shall on-site bulk storage of material exceed the height of 10 feet.
- E. No heavy equipment shall be operated or parked closer to the front property line than the required front setback, plus 20 feet, except as the same may be in transit to or from the site.

**§ 195-185. Clearing and grading.**

- A. All grading, excavation or embankment construction shall be in accordance with the approved final plat and shall provide for the disposal of all stormwater runoff and such groundwater seepage as may be encountered. All clearing, excavation and embankment construction shall be in accordance with the applicable requirements of the New Jersey Department of Transportation Standard Specifications. No excavated material may be removed from the site, except in accordance with an approved final plat, nor without the prior approval of the Township Engineer. The stockpile or removal of soil from a site, except in relationship to an approved plan, shall not be permitted except as provided by other ordinances of the Township. Where borrow excavation materials from off-site sources are required to complete the necessary grading, such material shall meet the requirements of the Standard Specifications for Borrow Excavation, Zone 3, and shall be subject to the approval of the Township Engineer. All trees to be saved must have a snow fence erected at the dripline of the tree.
- B. Material which the Township Engineer judges unsuitable for use in roadway embankments may be used for grading outside the roadway right-of-way or in building areas with the permission of the Township Engineer and the Construction Code Official (for building areas). Any unsuitable material which cannot be satisfactorily utilized on the site shall be removed from the site and disposed of at places to be provided by the developer.
- C. No slopes shall be constructed which exceed a slope of one foot vertical per three feet horizontal. The minimum slope shall be 1%.
- D. Such slopes shall be suitably planted with perennial grasses or other ground cover plantings in accordance with the plans approved by the reviewing agency.
- E. In areas where excavations or embankments would extend significantly beyond road rights-of-way, thereby causing disruption to the natural environment of the development, the reviewing agency may, upon the application of the developer, consider or may, upon its own initiative, direct the use of

terraces, retaining walls, crib walls or other means of maintaining roadway slopes.

- (1) In any event, the entire roadway right-of-way shall be fully graded, and any retaining walls, crib walls or terraces shall be located outside of the roadway right-of-way, and their maintenance shall be the responsibility of the owner of the property on which they are constructed.
  - (2) The developer shall make suitable provisions in the instrument transferring title to any property containing such terraces, retaining walls or crib walls and shall provide a copy thereof to the reviewing agency and the Township Clerk.
  - (3) All graded areas within or outside of the roadway right-of-way shall be neatly graded, topsoiled, fertilized and seeded to establish a stand of perennial grasses.
- F. The tops of slopes in excavations and the toe of slopes in embankment areas shall not extend beyond the right-of-way line or, where provided on the plan, to the limit of grading as shown on the final plan. Sidewalk and easement areas shall slope at 2% to the top of the curb elevation, and sidewalk construction shall conform to this slope.
- G. Lot grading. Lots shall be graded to secure proper drainage and to prevent the collection of stormwater. The grading shall be performed in a manner which will minimize the damage to or destruction of trees growing on the land. Topsoil shall be provided and/or redistributed on the surface as cover and shall be stabilized by seeding or planting. Grading plans shall have been submitted with the preliminary and final plats, and any departure from these plans must be approved in accordance with the requirements of this Part 4 for the modification of improvements. Grading shall be designed to prevent or minimize drainage to structures or improvements when major storms, exceeding the design basis of the storm drainage system, occur.
- (1) Wherever possible, the land shall be graded so that the stormwater from each lot shall drain directly to the street. If it is impossible to drain directly to the street, it shall be drained to a system of interior yard drainage designed in accordance with the standards for drainage facilities, and suitable drainage easements shall be provided.
  - (2) Unless otherwise required by the Standard Specifications, all tree stumps, masonry and other obstructions shall be removed to a depth of two feet below finished grade.
  - (3) The minimum slope for lawns shall be 2%, and, for smooth, hard-finished surfaces, other than roadways, 3/4 of 1%.
  - (4) The maximum grade for lawns within five feet of a building shall be 5%. The maximum slope within 10 feet of a property line shall be 5%. No lawn areas shall exceed 30% in slope. Further, when there exists a vertical grade differential that exceeds two feet between first-floor elevations of structures on adjacent properties, the reviews may require the use of retaining walls, terracing or other features to minimize the impact, visual and otherwise, on the adjoining property.
  - (5) Retaining walls installed in slope control areas shall be constructed of heavy treated timber of logs, reinforced concrete, other reinforced masonry or of other construction acceptable to the Township Engineer and adequately designed and detailed on the final plat to carry all earth pressures, including any surcharges. The height of retaining walls shall not exceed 1/3 of the horizontal distance from the foundation wall of any building to the face of the retaining wall. Should the Township adopt, subsequently to this Part 4, standard details for such construction, the same shall govern.

- (6) The developer shall take all necessary precautions to prevent any siltation of streams during construction. Such provisions may include, but are not limited to, construction and maintenance of siltation basins or holding ponds and division berms through the course of construction.

**§ 195-186. Concrete requirements.**

- A. All concrete used in any subdivision or site improvement shall be prepared in accordance with the requirements of the Standard Specifications for the various classes of concrete used, except that the twenty-eight-day compressive strength of the concrete used shall not be less than the following:

Type of Concrete	Strength (pounds per square inch)
Class A	5,000
Class B	4,500
Class C	4,000
Class D	3,500

- B. Unless specific written permission is obtained from the Township Engineer to the contrary, only concrete obtained from dry-batched, redi-mixed trucks shall be allowed.
- C. Concrete shall be cured with a compound in accordance with the following methods or materials:
- (1) **Methods of application.** The compound shall be applied in a continuous uniform film by means of power-operated pressure-spraying or distributing equipment at the rate directed by the Township Engineer, but not less than one gallon per 200 square feet of surface. The equipment for applying the compound shall provide for adequate agitation of the compound during application and must be approved by the Township Engineer before work is started. If the compound becomes too thick for satisfactory application during cold weather, the material may be warmed in a water bath at a temperature not over 100° F. Thinning with solvents will not be permitted. Should the method of applying the compound produce a nonuniform film, its use shall be discontinued, and the curing shall be done by another method approved by the Township Engineer that will conform to the requirements for curing concrete.
  - (2) **Materials for curing:** liquid compound, clear or translucent. Clear or translucent liquid-curing compound shall consist of a blend of resins and other suitable materials held in solution in a volatile solvent. It shall not separate on standing, shall be nontoxic and shall become dry to the touch within four hours after being applied to the concrete under ordinary conditions. Acceptance for continued use also will be based upon satisfactory field performance.
  - (3) **Consistency.** The consistency of the compound shall be such that it can be applied to the concrete in the amount specified as a fine spray by means of an atomizing nozzle.
  - (4) **Character of film.** The compound shall adhere to damp, vertical or horizontal concrete surfaces forming a continuous coherent film when applied at the specified rate. When dry, the film shall not be tacky or track off the concrete when walked upon, nor impact a slippery condition to the surface.
  - (5) **Color.** The compound shall produce no darkening or changing of the color of the concrete to which it is applied. It shall, however, be of such a nature or so treated that the film will be

distinctively visible for at least four hours after application. Any coloring matter added to the compound shall be a fugitive organic dye of a color approved by the Township Engineer. All trace of this color shall be indistinct 30 days after application.

- (6) Reaction with concrete. The compound shall not react deleteriously with the wet course and shall form a superficial layer over the surface thereof.
- (7) Moisture retention. When tested in accordance with current ASTM Designation C 156, the moisture loss shall be not more than 0.055 gram per square centimeter of the mortar specimen surface, based on the amount of water in the mortar at the time the curing material is applied.

### **§ 195-187. Curbs and gutters.**

Curbing shall be constructed on both sides of all streets shown on all major and minor subdivisions and shall be required for all plot and site plans in accordance with municipal standards. Unless otherwise noted, all parking areas and driveways on site plans shall be curbed. Concrete stops, unless part of a planned stormwater management plan, shall not be permitted.

### **§ 195-188. Easements.**

#### **A. Drainage easements.**

- (1) If the property on which a proposed development is to be located is or is proposed to be traversed by a drainage facility of any kind, including a pipe, channel, stream or swale, the reviewing agency may require that a stormwater and drainage easement or right-of-way along said facility shall be provided by the developer, conforming substantially with the lines of such facility.
- (2) If existing land drainage structures, such as french drains, are encountered during the course of construction of any development, such drainage structures shall either be removed entirely or a revised final plat showing the location of such drainage structures and accompanied with detailed cross sections thereof shall be filed with the Township Engineer for consideration by the reviewing agency. The reviewing agency, after consulting its Engineer and other appropriate agencies, shall either require a drainage easement, require that the structure be removed in part or in its entirety or recommend such other action to the governing body as it deems appropriate.
- (3) All easements shall be shown on the final plat or site plan with a notation as to the purpose and restrictions of the easement. Easement lines of a final plan shall be shown with accurate dimensions and bearings unless the easement lines are parallel or concentric with lot lines.
- (4) The land which is the subject of an easement or right-of-way shall, in the case of storm drains or constructed channels, be of a suitable width meeting the requirements for design of drainage facilities, or be a strip which conforms substantially to the floodplain of any watercourse along both sides of the watercourse to a width of 35 feet in each direction from the center line of the watercourse, whichever is the greater; except, however, that if the location of such watercourse is at or near the boundary of the subdivision, the dimensions of the easements and right-of-way shall be modified to retain it within the confines of the development.
- (5) The easement and right-of-way shall include provisions assuring the following:
  - (a) Preservation of the channel of the watercourse.
  - (b) Except in the course of an authorized drainage improvement, prohibition of alteration of



the contour, topography or composition of the land within the easement and right-of-way.

- (c) Prohibition of construction within the boundaries of the easement and right-of-way which will obstruct or interfere with the natural flow of the watercourse.
- (d) Reservation of a public right of entry for the purpose of maintaining the storm drain, drainage channel or the natural flow or drainage through the watercourse, of maintaining any and all structures related to the exercise of the easement and right-of-way and of installing and maintaining a storm or sanitary sewer system or other public utility.

B. Conservation easements.

- (1) Conservation easements may be required along all drainage and stormwater rights-of-way in the development and may be required also along ponds, marshes, swamps and streams or other watercourses along which drainage rights-of-way are not required. Such easements are intended to help prevent the siltation of streams and other courses and adjacent lands.
- (2) The land subjected to a conservation easement shall be a strip at least 25 feet but more than 100 feet in width, independently located or running adjacent to each side of any required drainage or stormwater right-of-way.
- (3) Such conservation easement shall contain provisions to restrict the removal of trees and ground cover, except for the following purposes: removal of dead or diseased trees; thinning of trees and other growth to encourage a more desirable growth; removal of trees to allow for structures designed to impound water; and removal of trees in areas to be flooded for the creation of ponds or lakes.
- (4) The easements shall also prohibit filling or grading of the lands or the disposal of refuse or waste material of any type within the limits of the easement.
- (5) The easement shall be indicated on the plat and shall be marked on the land by iron stakes wherever the lines of such easement change direction or intersect lot lines.

C. Sight triangle easements.

- (1) In addition to right-of-way widths required for the full design of all streets and the wider intersections as specified, sight triangle easements may be required on all corners at all street intersections.
- (2) Such easements shall include provisions to restrict the planting of trees or other plantings or the location of structures exceeding 30 inches in height that would obstruct the clear sight across the area of the easements and a reservation to the public right of entry for the purpose of removing any object, natural or otherwise, that obstructs the clear sight.
- (3) Such easements shall include the area of each street corner that is bounded by Township street right-of-way lines and a straight line connecting points on each right-of-way line 50 feet from the intersection of the right-of-way lines with points on the intersecting right-of-way line, which points are the following distances from the intersection of the right-of-way lines, or of their prolongations:
  - (a) On local streets: 50 feet.
  - (b) On collector streets: 100 feet.

- (c) On arterial streets: 200 feet.
- (4) Where intersections occur on highways or roadways under the jurisdiction of the State of New Jersey or County of Union, the sight triangle easements required by the state or the County of Union shall be substituted in lieu of the requirements above.

**§ 195-189. Fire hydrants.**

- A. A certificate of occupancy shall not be issued for a new residential structure which is the subject of a major subdivision or site plan, located in an area serviced by Elizabethtown Water Company, unless the distance from the midpoint of the frontage of such premises to a functioning fire hydrant which has been tested and approved, as measured down to the center line of connecting public streets, is 600 feet or less.
- B. Final subdivision plats shall not be approved by the reviewing agency unless fire hydrants are indicated on the final plat in accordance with the requirements herein contained as to location of and distance between fire hydrants.
- C. Fire hydrants shall not be placed at the closed end of the turnaround of a cul-de-sac unless the distance between the open end and the closed end is greater than 400 feet, in which event, the fire hydrants shall be placed at both the open end and the closed end of the cul-de-sac.
- D. The installation of fire hydrants, with respect to any subdivision, shall not be considered a subdivision improvement to be included in the bonding requirements of this Part 4, but rather the proper installation of fire hydrants shall be a condition of the issuance of the certificate of occupancy; however, all costs shall be borne by the developer.
- E. All fire hydrants shall be painted in accordance with the standards of Clark Township.

**§ 195-190. Garages.**

- A. Underground garages or garages under structures shall be properly lighted.
  - (1) Roofs of garages may be landscaped or utilized for approved recreation uses, such as but not limited to tennis courts.
  - (2) The garage shall be designed to be properly drained.
- B. A garage which is within the building line of a principal building shall contain not more than 50 parking spaces.
  - (1) Private garages which are an integral part of an individual dwelling unit shall not contain more than two parking spaces each, and each parking space shall contain a minimum of 240 square feet of floor area.
  - (2) A private garage for an individual dwelling unit shall not have access thereto from another dwelling unit or garage.
- C. An accessory commercial or industrial building garage shall be fully enclosed and have a full roof covering all parking spaces.
  - (1) Such garage shall contain at least four parking spaces.
  - (2) No portion of more than one level shall be above ground.

- (3) All levels shall be lighted and properly ventilated, and any underground levels shall meet all the requirements set forth above for an underground garage.
- D. No freestanding commercial garage or parking structure shall be placed nearer than 100 feet to a side or rear property line. In no case shall a garage or accessory building be permitted between a street frontage and building.
- (1) Garages, whether attached or detached, shall be arranged to open to the side or rear of the lot, except fully detached garages located entirely to the rear of the principal building.
  - (2) Attached garages shall have a joint capacity of not more than 10 vehicles arranged in a row, and there shall be a minimum distance of 20 feet between such structures.
  - (3) Garages and other accessory buildings shall be no more than one story in height.
  - (4) The architectural design and materials used in the construction thereof shall conform to the design and building materials used in the construction of the main structures.
  - (5) No part of any garage or other accessory building shall be used for living purposes.
- E. All public garages shall have adequate security provisions.
- F. Only passenger vehicles, small vans, pickup trucks and similar vehicles, whether such carry passengers or commercial plates, may be parked in any parking space for extended periods.
- G. Garages and parking areas shall be used as automobile parking units only, with no sales, dead storage, dismantling or servicing of any kind permitted.

#### **§ 195-191. Guardrails.**

- A. Guardrails, pipe railing or other appropriate barricades, as required by the reviewing agency, shall be designed and placed at drainage structures, streams, embankment limits, curries and other required locations.
- B. Guardrails shall be standard steel-beam type with galvanized steel posts in accordance with the Standard Specification details. Alternate design of guardrails and barricades may be used and shall be submitted for approval as part of the final plat submission. The use of cables, lines or chains shall not be permitted.

#### **§ 195-192. Lighting.**

- A. All parking areas for five or more motor vehicles shall be illuminated with approved exterior lighting standards, with a minimum of 1/2 horizontal footcandle's average lighting level at the surface of the lot. Freestanding lighting standards or poles shall not exceed the height of adjacent buildings served by the parking lot or a maximum of 20 feet.
- B. All major pedestrian walkways and sidewalks which are not within a street right-of-way or abutting a private internal street serviced by streetlighting and which are used by the public after sunset shall be illuminated with a minimum lighting level of 1/2 horizontal footcandles average at the surface of the walk.
- C. Lighting levels and uniformity standards shall be per the Illuminating Engineers Society (IES).

**§ 195-193. Lots.**

- A. Unless otherwise provided in this Part 4, lot area and dimensions shall not be less than the requirements of the respective zoning districts as set forth in Part 3, Zoning.
- (1) The reviewing agency may require larger lots where additional area will partially or completely eliminate the necessity of changes in grade, which, in the opinion of the Board, would cause unreasonable destruction of the topography or environment or would create drainage or erosion problems.
  - (2) The reviewing agency may require larger lots adjacent to collector or arterial streets where, in the opinion of the Board, the larger lots would promote the health, safety and general welfare of the public and the residents of the development.
  - (3) The reviewing agency may require larger lots where such lots are plotted on a tract or tracts containing tidal or freshwater wetlands, steep slopes in excess of 8%, lakes and ponds, stream corridors, floodways and floodplains. Where such conditions exist, the Board may require that each lot contain an area unencumbered by the aforementioned conditions equal to the minimum area requirements of the respective zone district.
- B. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- C. Lot line on widened street. Where extra width is to be provided for the widening of existing streets, lot measurements shall begin at the proposed right-of-way line, and all setbacks shall be measured from such lines unless otherwise provided by this Part 4.
- D. Unsuitable lots. All lots shall be suitable for the purpose for which they are intended to be used. To prevent the use of lots which are not suitable because of adverse topography, flood conditions, shallow depth to water table or similar circumstances:
- (1) The reviewing agency may withhold approval of such lots or require revisions in a layout of the subdivision to provide that the area of the unsuitable lot is included in other lots by increasing the size of the remaining lots.
  - (2) Unsuitable lots may be included in an area to be deeded to the Township or other public or quasi-public body and will be held in their natural state for conservation and/or recreation purposes.
  - (3) Some other suitable arrangement could be derived to alleviate the condition.
- E. A minimum of five substantially different front elevations with varied setbacks, as approved by the reviewing agency, shall be used for dwellings in each subdivision.
- F. Only those trees shall be removed as shall be necessary to permit construction of streets, driveways, lawns and dwellings and other authorized structures.
- G. In accordance with the Tax Map specifications of the State of New Jersey, dated May 1975, prepared by the State of New Jersey, Department of the Treasury, as amended, subdivided lots and blocks shall generally bear the original numbers, with a decimal and a number added as a subscript. Lot and block numbers shall be assigned by the Township Engineer.
- H. House numbers shall be assigned to each lot prior to final plat approval by the reviewing agency.

- I. Lot frontage. Each lot shall front on an approved street accepted or to be accepted by the Township.
- J. All structures shall be accessible by means of an approved driveway. The driveway shall be not less than 10 feet wide and shall have a center-line grade of not less than 0.5% and not greater than 10%. For all non-single-family uses, driveways must provide turnarounds to eliminate the necessity of any vehicle backing onto any street.

**§ 195-194. Monuments and iron stakes.**

Monuments shall be of a size and shape required by N.J.S.A. 46:26B-3, and amendments and supplements thereto, and the New Jersey State Board of Professional Engineers and Land Surveyors and shall be placed in accordance with the statute. In addition to the required monuments after the grading is finished, the developer shall install a solid steel stake one inch in diameter and 30 inches in length on lot corners, lot line angle points or other changes in direction not marked by monuments and at all angle points or discontinuities in easement lines where such easements are not parallel to property lines.

**§ 195-195. Public open space and common open space.**

- A. Public open space or common open space shall be proposed to be provided in conjunction with applications for development for subdivisions or site plans in accordance with requirements contained herein.
- B. Natural features, such as trees, brooks, hilltops and views, shall be preserved whenever possible in designing any subdivision containing such features.
- C. If the Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood-control basins or public areas within the proposed development, before approving a subdivision or site plan, the reviewing agency may further require that such streets, ways, basins or areas be shown on the plat in locations and sizes suitable to their intended uses.
  - (1) Any land shown on the Master Plan as proposed for park, playground, school site or other public use shall be designated and reserved for such use.
- D. Where it is considered appropriate by the reviewing agency, portions of proposed open spaces may be designated for passive and/or active recreational activities.
  - (1) Passive recreational activities may include, but are not limited to, pedestrian paths, bicycle paths, sitting areas and naturally preserved areas.
  - (2) Active recreation activities may include, but are not limited to, swimming pools, tennis courts and ball fields.
  - (3) The location and shape of any land to be designated for recreational activities shall be approved by the reviewing agency based on, but not limited to, the standards contained herein:
    - (a) The reviewing agency shall consider the natural topography and shall attempt to preserve the same to the greatest extent possible.
    - (b) The reviewing agency shall attempt to tailor the location and shape of recreational areas to harmonize with the shape of the entire development.
    - (c) The reviewing agency shall consider the extent to which specific recreational areas shall be used for passive or active recreational purposes.

- (d) The reviewing agency shall consider the sequence of development.
- E. Within open space areas, the reviewing agency may require a developer to make certain site preparation improvements, which may include, but are not limited to, those contained herein:
- (1) Removal of dead or diseased trees.
  - (2) Thinning of trees or other growth to encourage more desirable growth.
  - (3) Removal of trees in areas planned for ponds, lakes, active recreational facilities or pathways.
  - (4) Grading and seeding.
- F. Open space areas shall be subject to these requirements:
- (1) Open space areas should not be less than 50 feet in width at any location, except, where such open space is to be utilized primarily for walkway access from a public street to the open space at the rear of building lots, it may have a minimum width of 20 feet for a length not to exceed 250 feet.
  - (2) Where possible, certain land areas and features as follows shall be preserved as open space:
    - (a) Floodway and flood hazard areas.
    - (b) Areas containing a significant number of trees 12 inches or greater in diameter.
    - (c) Existing watercourses or ponds.
    - (d) Land with a seasonal high-water table of less than two feet.
    - (e) Wetlands, as defined by the New Jersey Wetlands Act of 1970<sup>7</sup> and delineated on wetlands maps prepared by the New Jersey Department of Environmental Protection.
- G. The type of ownership of land dedicated for open space purposes shall be selected by the owner, developer or subdivider, subject to the approval of the reviewing agency.
- (1) These shall include:
    - (a) The Township of Clark, subject to acceptance of the Township Council.
    - (b) Other public jurisdictions or agencies, subject to their acceptance.
    - (c) Quasi-public organizations, subject to their acceptance.
    - (d) Homeowners' or condominium associations or organizations.
    - (e) Shared, undivided interest by all property owners in the development.
  - (2) Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the reviewing agency, which ensure that:
    - (a) The open space area will not be further subdivided in the future.
    - (b) The use of the open space areas will continue in perpetuity for the purpose specified.

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7. Editor's Note: See N.J.S.A. 13:9A-1 et seq.

- (c) Appropriate provisions are made for the maintenance of the open space areas.
  - (3) No final approval of a subdivision or site plan containing open space created pursuant to this article shall be granted until the developer has submitted, and the reviewing agency has approved, the master deed for such open space and the bylaws of the organization established pursuant to this Part 4.
- H. The Township or other governmental agency may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the reviewing agency shall not require, as a condition of approval, that land proposed to be set aside for common open space be dedicated or made available to public use.
- (1) The developer shall provide for an organization for the ownership and maintenance of any open space for the benefit of owners or residents of the development if the open space is not dedicated to the Township or other governmental agency.
    - (a) 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.
    - (b) 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 Zoning Officer 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.
    - (a) The notice shall include a demand that such deficiencies of maintenance be cured within 35 days thereof and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice.
    - (b) At such hearing, the Zoning Officer may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time, not to exceed 65 days, within which they shall be cured.
    - (c) If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within 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 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 by the owners.
      - [1] Before the expiration of the year, the Zoning Officer shall, upon his initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon 15 days' written notice to such organization and to the owners of the development to be held by the Zoning Officer, at which hearing such 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.
      - [2] If the Zoning Officer shall determine that such organization is ready and able to maintain the open space in reasonable condition, the Township shall cease to maintain the open space at the end of the year.

- [3] If the Zoning Officer shall determine that such organization is not ready and able to maintain the open space in a reasonable condition, the Township may, in its discretion, continue to maintain the open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter.
  - [4] The decision of the Zoning Officer in any such case shall constitute a final administrative decision subject to judicial review.
- (d) 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 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.

### **§ 195-196. Recreation areas.**

Where recreation areas and facilities are required or provided, the regulations and standards contained herein shall apply, along with appropriate sections of this Part 4:

- A. Sufficient outdoor play and activity equipment shall be installed in accordance with standards of the National Parks and Recreation Association for the expected number of residents in the development.
  - (1) It should be located in an area which will not be detrimental to adjacent properties or uses.
  - (2) The provision and location of such equipment shall be subject to reviewing agency approval.
- B. Private swimming pools in residential areas shall have a gross area of water and deck designated for the needs of the residents of the development.
  - (1) All swimming pools shall be fully enclosed by a four-foot chain-link or other fully approved fence equipped with gates and locks.
  - (2) All swimming pools shall have adequate lifesaving equipment.
  - (3) Within accessory building(s), all such pools shall have adequate lavatory facilities, plus, under lock and key, storage facilities wherein shall be kept all pool chemicals and equipment.

### **§ 195-197. Residential units.**

In order to preserve and assure the harmonious relationship of residential units to the comprehensive neighborhood pattern and to prevent undue similarity of design which may lead to undue impairment of the stability and value of residential units and produce neighborhood degeneration and blight with attendant deterioration of conditions affecting the health, safety, morals and general welfare of the inhabitants thereof and the ownership at large, no major subdivision shall be approved until the planned construction (including front, side and rear elevations) of residential units has been reviewed and approved by the reviewing agency in accordance with the standards enumerated below, or unless a waiver of these requirements has been granted by the agency as provided for elsewhere in this Part 4:

- A. The residential reviewing unit shall be of such character, quality or architectural design and construction materials as will assure that the proposed structure will be in keeping with the general character of the area in which it is located and that:



- (1) The proposed structure will have a harmonious relationship with area residential structures; and
  - (2) The proposed structure is not likely to produce any of the harmful effects which lead to neighborhood degeneration and blight with attendant deterioration of conditions affecting the health, safety, morals and general welfare of the Township at large.
- B. The front facade for each residential unit shall be substantially different from the front facade of any existing or planned residential unit within five lots in either direction on the same side of the street from any portion of the above-described lots; in the case of the corner lots, the side and rear elevations of any existing or planned residential unit or any other corner lot at the same street intersection. To be deemed substantially different, the facade or side and rear elevation thereof, as the case may be, must be different in at least three of the following five respects:
- (1) The relative location of a garage, if attached, a portico, if any, or any other such structural appurtenance with respect to the residential unit itself.
  - (2) The relative location or type of windows and doors.
  - (3) The type or pitch of the roof.
  - (4) The type of siding material.
  - (5) The type of roofing material or the color thereof or the pattern.

**§ 195-198. Roadway construction.**

- A. Roadways and all appurtenances, including subgrade, subbase, base courses and pavements, shall be constructed in accordance with the applicable requirements of the Standard Specifications as modified herein. All subsurface utilities, including service connections (terminating at least two feet behind the sidewalk), to each lot and all storm drains shall be installed in all roadway areas prior to the construction of final pavement surfaces.
- B. All roadways shall be constructed with either a bituminous concrete flexible pavement structure or a portland cement concrete rigid pavement structure. Only one type of pavement shall be utilized throughout any development.
- C. The pavement structure design for each particular development utilizing either a flexible or rigid pavement type must be approved by the Township Engineer.
- (1) The pavement design shall be based upon traffic-loading projections and field sampling and laboratory analysis of the subgrade soils to be encountered in roadway areas in the development and shall follow current design recommendations of the Asphalt Institute, the Portland Cement Concrete Association or such other generally recognized standards as may be acceptable to the Township Engineer.
    - (a) As minimum requirements, rigid portland cement paving shall be expansion-joint-type paving utilizing joints similar to Type A expansion joints, according to the Standard Construction Details of the New Jersey Department of Transportation.
    - (b) Such paving shall be reinforced, constructed with Class B air-entrained concrete and shall have a minimum thickness of 6 1/2 inches for local, local collector and minor collector streets and eight inches for other classifications.
  - (2) Pavement on local, local collector and minor collector streets shall be a four-inch dense

- aggregate subbase, four-inch compacted thickness of bituminous stabilized base course (Mix I-2), with two-inch compacted thickness of bituminous concrete surface course (FABC, Mix I-5). On all other streets, not county or state maintained, the pavement should be a six-inch dense aggregate base course, six-inch compacted thickness of bituminous stabilized base course (Mix I-2), with a two-inch compacted thickness of bituminous concrete surface course (Mix I-5).
- D. All subgrade shall be prepared in accordance with the applicable requirements of the Standard Specifications for bituminous concrete and reinforced concrete pavements.
- E. Where granular subbase courses are included in the pavement design section proposed by the developer, they shall be constructed in accordance with the applicable requirements of the Standard Specifications.
- (1) Bituminous concrete pavements and stabilized bases may be constructed on subgrade without subbase or aggregate base courses, provided that the subgrade can be satisfactorily prepared as hereinbefore described.
  - (2) Dense graded aggregate base courses shall comply with the requirements of the Standard Specifications.
  - (3) Portland cement concrete pavements must be constructed with a minimum of six inches of a granular-type subbase meeting the requirements of the Standard Specifications.
  - (4) Any subbase course of aggregate base course to be utilized with any type of pavement shall have a minimum thickness of four inches.
- F. Bituminous base course for use with bituminous concrete pavements shall consist of plant-mixed bituminous stabilized base course (stone mix or gravel mix) in accordance with the requirements of the Standard Specifications, except that the requirements for the construction of the base course shall be amended to allow the laying of the base course with a single-lift maximum thickness not exceeding four inches. Prior to placement of any bituminous stabilized base course, the finished surface of any underlying subbase or aggregate base shall receive a prime coat in accordance with the requirements of the Standard Specifications.
- G. Bituminous pavements shall consist of a bituminous concrete surface course Type FABC-1, in accordance with the requirements of the Standard Specifications.
- (1) The bituminous pavement wearing surface should generally not be installed until just prior to the time the streets are prepared for final acceptance.
    - (a) Prior to the installation of a bituminous concrete surface, the bituminous base course shall be inspected by the Township Engineer.
    - (b) Any areas of the base course in need of repair shall be removed and replaced at the direction of the Township Engineer.
    - (c) If the Township Engineer directs, a leveling course of FABC (Mix I-5) material shall be placed on any uneven or below-grade base courses prior to the placement of finished pavement.
  - (2) No pavement surfaces shall be placed unless permission to do so has been granted by the Township Engineer.

- H. Concrete pavements shall be constructed in accordance with the requirements of the Standard Specifications.
- I. In areas where alternate pavement types are proposed or desired, either for decorative purposes, because of physical restrictions or existing conditions or because of limitations or shortages in certain types of construction materials, a detail of the type and/or location of alternate pavement type proposed shall be submitted for approval with the preliminary and/or final plat.
  - (1) The use of alternate pavement types may only be permitted if the applicant submits for review and approval details and specifications concerning the equipment, materials and methods proposed for use and if the Township Engineer has inspected the installation of and tested and approved of a suitable sample section of such pavement.
  - (2) In the event that the Township Engineer does not approve the sample section of pavement, the developer shall remove the same section and replace it with a type of pavement permitted by this Part 4 or such other alternate as may be approved by the reviewing agency.

**§ 195-199. Sewage disposal.**

- A. Prior to the approval of any plan, the full approval of any sanitary sewage disposal system must have been obtained from the Rahway Valley Sewerage Authority and filed with the municipal agency, or the final approval will be conditioned upon full approval of the Rahway Valley Sewerage Authority.
- B. The public sewage disposal system shall be installed in accordance with the rules and regulations of the New Jersey Board of Public Utility Commissioners and in accordance with other requirements of law and subject to the approval of the Rahway Valley Sewerage Authority.

**§ 195-200. Sidewalks and aprons.**

- A. Sidewalk construction shall be required on both sides of all streets within a development and entirely around the perimeter of all culs-de-sac. Where the development abuts an existing street, the sidewalk shall be constructed only on that side or as approved by the reviewing agency. Sidewalks shall also be constructed at any other places, such as pedestrian walkways or access points to open space, as shown on or required at the approval of the final plat.
  - (1) Installation of sidewalks may be waived by the reviewing agency, with the written permission of the Township Council, at the request of the developer or on its own initiative, provided that, upon granting such a waiver, the developer shall be required to pay the Township of Clark an amount equal to the reasonable cost of installing said sidewalks, said amount to be determined by the Township Engineer upon submission and consideration of various estimates and other documentation from the developer, other interested parties and the office of the Township Engineer.
  - (2) All funds collected by the Township from developers as a result of waivers granted in accordance with this section shall be maintained in a sidewalk construction account, the proceeds of which shall be available to install/repair sidewalks throughout the Township where and as authorized by the Township Council.
  - (3) Nothing contained herein shall affect the right of the Township to enact ordinances requiring assessments for sidewalks from property owners as authorized under N.J.S.A. 40:65-2 or other statutory rights granted to municipalities.

- B. Sidewalks within a street right-of-way shall generally be located with the sidewalk edge farthest from the roadway, placed one foot from the property line. Sidewalks not within street rights-of-way shall be located to provide for the most likely routes of pedestrian travel. In cases where the topography dictates or a proposed development provides for the extension of an existing street or abuts an existing street, where sidewalks have already been installed in a location other than as specified above or where such variations in sidewalk locations are needed to preserve trees or natural features, the municipal agency may approve alternate sidewalk locations in order to provide for preservation of physical features or the continuation of the existing sidewalks. Where appropriate, sidewalks shall be designed to discharge stormwater away from connecting paved surfaces and toward neighboring lawns where feasible to disconnect these impervious surfaces.
- C. Sidewalks shall be four feet wide and four inches thick of Class B, air-entrained portland cement concrete. Joints shall be cut in the sidewalk at intervals equal to the width of the sidewalk. Preformed cellular bituminous expansion joint filler shall be placed at joints not more than 20 feet on centers.
- D. Curb ramps for the physically handicapped shall be provided at all curb returns on the side(s) of the street where the sidewalk either exists or is proposed and in all curblines intersected by sidewalk. Details of the proposed ramps shall be shown on the preliminary plans of the proposed development.

**§ 195-201. Soil erosion and sediment control.**

- A. All developments shall protect streams, lakes and ponds from sedimentation and shall control erosion in accordance with the standards for soil erosion and sediment control in New Jersey, set forth in the Soil Erosion and Sediment Control Act, Chapter 251, Laws of 1975, as amended and supplemented.<sup>8</sup>
- B. Certification of the soil erosion and sediment control plan shall be required from the Somerset/Union Soil Conservation District, unless:
  - (1) Land disturbance is associated with the construction of a single-family dwelling unit, unless such unit is a part of a subdivision, site plan, zoning variance or building permit application involving two or more such single-family dwelling units.
  - (2) Land disturbance is 5,000 square feet or less of the surface area of land for the accommodation of construction for which the New Jersey Uniform Construction Code would require a building permit.
  - (3) Land disturbance associated with agricultural use of lands when operated in accordance with a farm conservation plan approved by the Somerset/Union Soil Conservation District or where the soil district has determined that such use will not cause excessive erosion and sedimentation.
  - (4) Land disturbance associated with gardening primarily for home consumption.

**§ 195-202. Solid waste storage.**

- A. Solid wastes from all uses other than single- or two-family homes, if stored outdoors, shall be placed in metal receptacles within a screened refuse area.
- B. The screened refuse area shall not be located within any front yard area.
- C. The refuse storage area shall be surrounded on three sides by a solid uniform fence or wall not less than six feet nor more than eight feet in height. Such fence shall be exempt from the provisions of

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8. Editor's Note: See N.J.S.A. 4:24-39 et seq.

any ordinance of the Township regulating the height of fences and requiring permits therefor.

- D. A five-foot minimum width landscaping area shall be provided along the fence or wall enclosing the refuse storage area. The landscaping to be provided shall be shown on the site plan submitted for municipal agency approval.
- E. The opening in the enclosed refuse area should be provided with a solid gate not less than five feet in height to permit access to the refuse enclosure and screening from adjoining properties and public streets.
- F. If located within or adjacent to a parking area or access drive, the enclosed refuse area shall be separated from such parking area or access drive by curbing.
- G. The enclosed refuse area shall not be located so as to interfere with traffic circulation or the parking of vehicles.
- H. All refuse shall be deposited in containers maintained within the refuse area. No containers shall be maintained anywhere on a site except in a refuse area meeting these requirements.
- I. If outdoor storage of solid waste is not proposed, the site plan submission shall detail the methods proposed for accommodating solid waste within the structure. The municipal agency may require that a suitable area be set aside, but not improved, for a future solid waste storage area meeting these requirements, even if indoor accommodations for solid waste are proposed.

#### **§ 195-203. Storm drainage facilities.**

Stormwater management in all proposed subdivisions and residential developments and all business, commercial and industrial developments shall be in accordance with the Residential Site Improvement Standards (N.J.A.C. 5:21-7), as modified by the NJDEP Stormwater Management Rules (N.J.A.C. 7:8) and shall be consistent with Chapter 306, Stormwater Management.

#### **§ 195-204. Storm drainage calculation criteria.**

- A. The minimum design storm frequencies for drainage calculations shall be the ten-year storm. Detention and retention basin calculations shall include an analysis to show that a one-hundred-year design storm will not overtop the basin wall and will have an emergency discharge.
- B. Velocity restrictions. In general, velocities in closed conduits at design flow should be at least 2.5 feet per second, but not more than the velocity which will cause erosion damage to the conduit, and velocities in open channels at design flow shall not be less than 1.5 feet per second and not greater than that velocity which will begin to cause erosion or scouring of the channel.
  - (1) For unlined earth channels, the maximum velocity allowed will be two feet per second.
  - (2) At transitions between closed conduits and open channels or different types of open channels, suitable provisions must be made to accommodate the velocity transitions.
- C. All encroachments of natural waterways must be referred to the New Jersey Department of Environmental Protection, Land Use Regulation Program, for approval in accordance with statute.
- D. Storm drainage facilities.
  - (1) In all proposed subdivisions and residential developments and all business, commercial and industrial developments, the peak runoff after development shall be in accordance with peak

rate reduction factors as per the Residential Site Improvement Standards (RSIS) (N.J.A.C. 5:21-7).

E. Runoff calculation criteria.

- (1) Peak runoff after development shall be no greater than the applicable percentage of the peak runoff prior to development computed for the one-, two-, ten-, and one-hundred-year design storm as stated in the Residential Site Improvement Standards.
- (2) "Water Quality Design storm" is defined as a twenty-four-hour storm using Type III rainfall distribution recommended by the United States Soil Conservation Service when using United States SCS procedures as outlined in TR-55 or as contained in applicable RSIS (N.J.A.C. 5:21-7) and/or NJDEP standards.
- (3) For the purposes of computing existing runoff, a site shall be assumed to be in good condition if the lands are pastures, lawns or parks, with good cover (if the lands are woods), or with conservation treatment (if the land is cultivated), regardless of actual conditions existing at the time of computation.
- (4) Time of concentration and travel time computations, for the purpose of computing site runoff, shall be estimated utilizing the methodologies as outlined in the Soil Conservation Service TR-55 or other methods acceptable to the Township Engineer.
- (5) Water quality control.
  - (a) The one-year, twenty-four-hour, Type III storm or a storm of 1 1/4 inches of rainfall in two hours shall be retained and released to allow 90% volumetric release in 18 hours (residential) and 36 hours (other).
  - (b) Minimum orifice diameter shall be three inches.
  - (c) Infiltration measures may be used to accomplish water quality requirements, but the lowest point in the basin must be a minimum of four feet above the seasonal high groundwater for residential developments. For other development, infiltration measures may be used on a case-by-case basis only, to avoid pollution of groundwater. Complete infiltration must occur within 72 hours.
  - (d) In retention ponds, the water quality requirements shall be satisfied if the volume of the permanent pond is at least three times the volume of runoff produced by the water quality design storm.

F. Design criteria for detention facilities.

- (1) Bottoms. To promote complete emptying and prevent standing water or soggy surfaces, vegetated bottoms shall be required.
  - (a) Four-foot-wide, V-shaped, concrete low-flow channels shall be constructed with a minimum slope of 1/2 of 1% from all influent pipes to the discharge structure.
  - (b) The lowest point in the pond bottom shall be at least four feet above the seasonally high groundwater level or bedrock unless adequate subsurface drains are provided.
  - (c) Subsurface drains connected to low-flow channels, principal outlet structures or other downstream discharge points are encouraged to promote quick and thorough drying of the

facility bottom.

(2) Embankments and side slopes.

- (a) For safe movement of personnel and safe operation of equipment, side slopes greater than five feet in height shall be no steeper than four horizontal to one vertical. Side slopes less than five feet high should not exceed three horizontal to one vertical.
- (b) The minimum top width of the embankment shall be 10 feet.
- (c) The minimum elevation to the top of the settled embankment shall be one foot above the water surface in the detention basin with the emergency spillway at the maximum design flow or a minimum of two feet above the crest of the emergency spillway, whichever is higher.

(3) Outlet structures.

- (a) Multiple-level outlets or other fully automatic outlets shall be designed so that discharge rates from the development for all design storms will not be increased over existing conditions.
- (b) The discharged water shall not cause erosion or other damage.
- (c) Outlets shall be designed to function without manual, electric or mechanical controls.
- (d) Outlet orifice and weir plates should be constructed from aluminum or other lightweight, noncorrodible materials. The plates should be fastened to the structure with noncorrodible, removable fasteners. A gasket of neoprene or similar material should be placed between the plate and the structure wall. The opening in the structure wall, over which the plate is bolted, should have at least twice the area of the outlet orifice or weir.
- (e) To facilitate access and movement by maintenance personnel, principal outlet structures should have a minimum horizontal interior dimension of four feet.
- (f) To facilitate cleaning, trash racks should be comprised primarily of sloping bars aligned longitudinally (in the direction of flow). Perpendicular bars, aligned transverse to the direction of flow, should be added for strength and rigidity. In general, longitudinal bars shall be spaced a distance equal to 1/2 the diameter of the outlet orifice or 1/2 the width or height (whichever is less) of the outlet weir. Minimum and maximum spacing of two inches and six inches on center, respectively, are recommended. Transverse bars should be spaced as necessary for strength and rigidity.
- (g) Trash racks should be hinged or attached with noncorrodible, removable fasteners to allow access to the outlet orifice or weir by maintenance personnel.

G. Storm sewer design and calculation criteria.

- (1) Storm sewers shall be designed utilizing the Rational Method. The minimum design storm frequency shall be 25 years.
- (2) Velocity restrictions. Velocities in closed conduits, at design flow, should be at least 2.5 feet per second, but not more than the velocity which will cause erosion damage to the conduit. Velocities in open channels, at design flow, shall not be less than 1.5 feet per second and not greater than two feet per second for unlined earth channels.

- (3) At transitions between closed conduits and open channels or different types of open channels, suitable provisions must be made to accommodate the velocity transitions.

**§ 195-205. Street design and construction.**

- A. All major and minor arterial, collector, local collector, local and marginal access streets shall be designed in accordance with the proposals contained in the Master Plan of the Township and in accordance with this section.
  - (1) Upon receipt by the reviewing agency of any subdivisions or site plans calling for the installation of new streets or the extension of old streets, the plats shall be referred to the Township Engineer, Police Department and Fire Department for review.
    - (a) They shall make recommendations as to the acceptable minimum widths of each street and shall base the recommendations upon such factors as the location, proposed use and intensity of traffic, with an emphasis upon safety considerations of a fire, first aid and police nature.
    - (b) These recommendations shall be submitted to the Township Engineer to be considered in conjunction with such studies and statistics and other data which the Engineer shall have assembled as a basis for determining minimum street widths within the Township.
  - (2) The enumerated standards are to be construed as minimum standards and may be increased where, because of high traffic volumes, steep grades or other such reasons, the municipal agency determines that such action is necessary.
  - (3) In residential subdivisions, the minimum street width required shall be in accordance with the Residential Site Improvement Standards (N.J.A.C. 5:21).
- B. The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension and/or realignment of existing streets, except that local and collector streets should only be extended when such extension is necessary, and the municipal agency concurs that such extension will promote safety and conform to the street standards contained elsewhere in this Part 4.
- C. Where developments abut existing roadways, sufficient right-of-way shall be reserved for the functional classification of the street in question.
  - (1) If the subdivision or site plan is along one side only, 1/2 of the required extra width shall be dedicated.
  - (2) The new cross section for the existing road shall be constructed so as to provide a cross section constructed to the satisfaction of the Township Engineer.
- D. Local streets shall be designed in accordance with the schedule of street design standards and the requirements contained herein:
  - (1) No street or road shall be designed which has an elevation at the center line lower than the one-hundred-year-flood elevation of the area as shown on the Flood Insurance Rate Map.
  - (2) Local streets shall be arranged to discourage through traffic.
  - (3) Culs-de-sac (dead-end streets) should have a center-line length, from the intersecting street center line to the center point of the turnaround of the cul-de-sac, of not less than 100 feet nor



longer than 2,000 feet and should not provide access to more than 25 lots or as applicable within the design criteria of specific zones in Part 3, Zoning.

- (a) They shall provide an end turnaround with a pavement radius of not less than 40 feet and a property line radius of not less than 50 feet and tangent whenever possible to the right side of the street, when viewed toward the closed end.
  - (b) In the event that it is contemplated that a dead-end street shall be extended in the future, a temporary turnaround, meeting the aforementioned design criteria, shall be required, and provisions shall be made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
- (4) Loop streets should provide access to not more than 45 lots:
- (a) Except that, where access is provided by a combination of a short loop street and cul-de-sac, the maximum shall be 60 lots, provided that the length of the loop street will not exceed 3,000 feet.
  - (b) Loop streets shall have both of their termini located on the same street.
- (5) P-loops, which are loop streets with a single access point, should have an entrance not exceeding 700 feet in distance from the loop intersection.
- (a) There should also be provided an emergency vehicular and pedestrian right-of-way of 15 feet in width from the loop providing access to a street which is not a part of the P-loop.
  - (b) The loop of a P-loop should have a street length not exceeding 3,000 feet.
  - (c) P-loops should provide access to no more than 45 lots, and the entrance street should be designed in accordance with the design standards for collector streets.
- E. In any development, it shall be the duty of the reviewing agency to approve classification of proposed streets according to their use and in accordance with the Residential Site Improvement Standards. In making decisions, the reviewing agency shall refer to the Master Plan and the Union County Planning Board classification of roadways and shall consider conditions within the development and the surrounding areas and shall use as a guide the street classification and criteria contained herein:
- (1) A "local street" is a street serving only single-family residences and, where feasible, should be either a cul-de-sac or a loop street meeting the requirements hereinabove set forth.
    - (a) A street which serves traffic having origins and destinations other than within the lots which abut the street shall not be considered a local street.
    - (b) The traffic normally expected on a local street shall be 400 vehicles per day.
    - (c) The design speed for local streets shall be 25 miles per hour.
  - (2) A "collector street" is generally a street gathering traffic from local streets and feeding it into a system of arterial highways.
    - (a) Even if laid out as a local street, a street should be considered a collector street if it provides access or could provide access to more than 150 lots, or would be utilized by traffic other than residential in nature.
    - (b) Collector streets should generally be expected to carry traffic volumes of approximately

3,000 vehicles per day.

- (c) The design speed of collector streets, for alignment and sight distance purposes, should be 50 miles per hour.
  - (3) "Arterials" are any federal, state or county highways intended to carry traffic between other arterials and from the Township to destinations outside the Township.
  - (4) Street classifications will be approved by the municipal agency in accordance with the foregoing definitions, in accordance with the provisions of the Master Plan and Official Map, if such is adopted, in accordance with the provisions of applicable county and state regulations or plans or, in the absence of specific information from the above, in accordance with its own best judgment concerning the use to which the various streets in any development will be put.
- F. All lots abutting collector streets should be provided with suitable driveways for two cars with turnarounds eliminating any necessity for vehicles to back into the collector street.
- G. Other means of providing a satisfactory buffer separating through and local traffic shall be provided as may be deemed proper by the municipal agency.
- H. Dwellings on corner lots shall have their driveway access on the roadway designed and intended to carry the lesser amount of traffic.
- I. Street intersections shall be designed according to the standards contained herein:
- (1) No more than two streets shall cross the same point. Street intersections shall be right angles wherever possible, and intersections of less than 60° (measured at the center line of streets) shall not be permitted.
  - (2) Local streets should not enter the same side of collector streets at intervals of less than 500 feet or arterials at intervals of less than 1,200 feet.
  - (3) Street jogs with center-line offsets of less than 125 feet shall be avoided. Streets which enter collectors or arterials from opposite sides shall be directly opposite to each other or must be separated by at least 300 feet between their center lines, measured along the center line of an intersected collector; or 500 feet along the center line of an arterial.
  - (4) Four-way (cross) intersections involving minor or collector streets shall be avoided.
- J. Street layouts shall be in accordance with the provisions contained herein:
- (1) Curved local streets are preferred to discourage speed and monotony. The maximum tangent distance between curves shall not exceed 1,000 feet.
  - (2) The municipal agency in all cases may require provisions for continuing circulation patterns onto adjacent properties and, for this purpose, may require the provision of stub streets (street extensions) abutting adjacent properties.
  - (3) Residential development areas containing more than 100 lots or housing units should have two access points from collector streets or arterial highways.
  - (4) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
- K. Street names and development names shall not duplicate, nearly duplicate or be phonetically similar

to the names of any existing streets or developments in the Township or contiguous areas of other communities. Any continuation of an existing street shall have the same street name. Names of new streets shall be approved by the Township.

- L. The developer shall complete all improvements to the limits of the development, unless other provisions have been made and approved by the municipal agency.
  - (1) In those instances where completion of certain improvements would not be possible until the development of adjacent land takes place, alternate temporary improvements may be constructed, subject to the approval of the municipal agency.
  - (2) Cash or a certified check representing the difference between the value of the temporary improvements and the required improvements may be accepted by the Township Council to be credited toward the completion of such improvements at such time as the adjacent land develops.
- M. The right-of-way width and other standards for internal roads and alleys in multifamily, commercial and industrial developments shall be determined by the municipal agency on an individual basis and shall, in all cases, be of sufficient width and design to safely accommodate maximum traffic, parking and loading needs and maximum access for fire-fighting equipment and shall generally conform to the requirements herein.
- N. There shall be no reserve strips or areas controlling access to streets except where control and disposal of the land comprising such strips or areas have been placed under jurisdiction of the Township Council under conditions approved by the municipal agency.

#### **§ 195-206. Subdivisions abutting public rights-of-way.**

Subdivisions abutting public rights-of-way shall not be exempt from the requirements of Chapter 310, Streets, Sidewalks and All Improvements Related Thereto.

#### **§ 195-207. Streetlighting.**

- A. For all major subdivisions which require site plan approval, the developer shall arrange with the serving public utility to provide streetlighting service upon the appropriate tariff and prevailing government rules and regulations. The reviewing agency may alter the streetlighting requirements as it deems appropriate due to special circumstances, including but not limited to intersections, curves, culs-de-sac and collector or arterial roadways.
- B. The serving public utility shall install wiring in addition to that on the approved streetlighting plan where the additional wiring is required to accommodate the full plan in accordance with the utility's filed tariff and approved procedure at the time.
- C. The cost of this additional wiring shall be the responsibility of the subdivider.
- D. Streetlighting shall be installed, as directed by and subject to approval by the reviewing agency, prior to the certificates of occupancy being issued.
- E. The cost of the additional wiring and electricity for streetlighting for all streets within the development shall be paid for the owner or subdivider until streets are accepted by the Township, all certificates of occupancy have been issued and the Township Council has authorized the release of all performance bonds upon completion of all improvements for the development.

- F. No major subdivision plat shall receive final approval unless the suggested streetlighting plan of the electric utility is shown thereon.
- G. No subdivision plat shall receive final approval unless the suggested streetlighting plan of the electric utility is shown thereon.
- H. After final acceptance, operation and maintenance costs of the streetlighting shall be the responsibility of the Township.
- I. All wiring shall be underground.

**§ 195-208. Street signs.**

- A. Street signs shall be appropriate metal street signs of a type and size approved by resolution of the Township Council and shall be properly installed at each street intersection.
- B. Street signs shall be placed, two per intersection, on the near right-hand corner as viewed from both directions on the street which is expected to carry the greatest traffic through the intersection at locations approved by the Township Engineer.
- C. Mountings shall be in accordance with the standard procedures of the Township or with requirements adopted by the Township Council.
- D. Street signs shall be placed before any certificate of occupancy for houses on the subject street is issued.

**§ 195-209. Street trees.**

- A. Any person erecting or constructing any new buildings or residences within the Township which require site plan or subdivision approval shall plant pollution-resistant shade trees on the property owner's side of the sidewalk adjacent thereto.
  - (1) In each subdivision of land, the developer shall plant between the sidewalk and the right-of-way line proper shade and/or decorative trees of a type approved by the municipal agency in consultation with the Shade Tree Commission.
  - (2) Planting sites shall be indicated on the preliminary plat.
- B. Street trees shall be planted on the property owner's side of the sidewalk, not to lie closer than five feet to existing or future sidewalks.
  - (1) In all cases, said trees shall be planted in a place which shall not interfere with utilities.
  - (2) Trees shall be of pollution-resistant varieties selected from among species determined by the Shade Tree Commission.
  - (3) The municipal agency, in consultation with the Shade Tree Commission, may reduce or waive such plantings if there are approved varieties of trees growing along such right-of-way or on the property abutting the street line. A developer shall make a donation to the Shade Tree Fund in lieu of the required plantings.
- C. The subdivider or developer shall be required to plant such number of trees as shall be necessary, when taking into consideration existing trees, to provide at least one tree in every 30 feet of front yard.

- (1) Pollution-resistant shade trees shall be planted along all private streets, undedicated roads, drives and parking areas at intervals of not more than 30 feet of curbing or edge of pavement.
  - (2) No tree shall be planted less than 25 feet from an existing or proposed streetlight or street intersection.
- D. Pollution-resistant trees referred to above shall be selected from among species determined by the Shade Tree Commission. Suitable trees shall be selected on the basis of specific site conditions.
- E. All shade trees to be hereafter planted in accordance with this Part 4 shall be nursery grown or of substantially uniform size and shape and shall have straight trunks.
- (1) Ornamental trees need not have straight trunks but must conform in all other respects to the provisions for trees and tree plantings outlined in this Part 4.
  - (2) All trees shall be of Grade A nursery stock, with a minimum caliper of two to 2 1/2 inches measured one foot from the butt.

### § 195-210. Swimming pools.<sup>9</sup>

- A. All types of private swimming pools to be located within residential side or rear yards are governed by the requirements contained herein, including:
- (1) Permanent in-ground.
  - (2) Permanent aboveground: aboveground pools equipped with fences built above the top level of the pool.
  - (3) Temporary aboveground: aboveground pools not equipped with fences built above the top level of the pool.
- B. All lighting fixtures for a private swimming pool shall be installed so as to comply with all applicable safety regulations and shall be shielded so as to prevent any direct beam of light from shining on any adjoining property.
- C. No overhead electric lines shall be carried across any swimming pool or wading area.
- D. No activities shall be conducted at any private swimming pool which shall cause undue noise or constitute a nuisance to any neighbor.
- E. When an application is made for a permit to construct and locate a private swimming pool, the applicant shall obtain approval from the Construction Code Official as to the suitability and adequacy of design, materials and construction or construction specifications of said pool, including all accessory equipment, apparatus and appurtenances thereto. The application for a private swimming pool building permit shall identify the building pool, all accessory equipment and apparatus, the type of pool, all basic dimensions, the location of steps, diving stands, boards and the location and detail specification of the enclosure and gate on the lot.
- F. An outdoor private swimming pool shall be located not less than eight feet from the side or rear of the residence on a building lot, or beyond the building setback lines.
- G. The pump of a filtration or pumping station of a private swimming pool shall be located not less than

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9. Editor's Note: See also § 195-123.2E, Private swimming pools.

the required setback for an accessory structure within the zone.

- H. Private pools situated or extended above ground level and less than 50 feet from an abutting property shall be surrounded by a suitable drainage system leading to a street or brook so as to be able to carry away all the water in the pool in the case of a break.
- I. Permanent in-ground pools shall be surrounded entirely by a fence, with no openings greater than two inches square, and meeting the requirements of the New Jersey Uniform Construction Code; however, sides of the residence may serve as part of the enclosure.
  - (1) The fence shall be located not less than six feet from the closest edge of the pool.
  - (2) Fences shall be at least four feet high, and, if made of wire, they must be of the chain-link type.
  - (3) All supporting structures shall be on the inside of the fence, and the top of such support shall be at least one inch lower than the top of the fence.
  - (4) Permanent aboveground pools constructed with an attached fence being at least four feet in height above ground level and meeting the requirements of the New Jersey Uniform Construction Code need no additional fencing.
  - (5) Temporary aboveground pools, when not in use, must be emptied or covered with a suitable protective covering, securely fastened or locked in place, unless enclosed by a fence meeting the requirements for a permanent in-ground pool.
- J. Any opening or openings in the fence to afford entry to the pool shall be equipped with a gate similar to the fence and shall extend from not more than two inches above the ground to the height of the fence. The gate shall be of a self-closing type, opening outwardly only, and shall be equipped with a lock and key or padlock and chain and shall be kept locked, except when the pool is in use.
- K. Swimming pool construction shall require the submission of a grading plan documenting compliance with § 195-185G, Lot grading.

#### **§ 195-211. Traffic control devices.**

- A. The developer shall, prior to final acceptance, install all traffic control devices required within any development or, with the consent of the Township Council, may pay to the Township Treasurer a nonrefundable sum, in cash or certified check, in the amount set by the Township Engineer equal to the cost of all necessary traffic control devices not installed by the developer.
- B. Traffic control devices shall include, but are not limited to, signs, traffic lines, lights, reflectors and channelizing markers.
  - (1) The number, type, legend, placement and size of all traffic control devices shall be in accordance with the Manual on Uniform Traffic Control Devices by the United States Department of Transportation and the requirements of municipal, county and state regulations.
  - (2) Proposed devices shall be according to an approved plan submitted at the time of final plat approval.
- C. Construction details of all proposed traffic control devices shall be in accordance with standards prepared by the Township Engineer and approved by the Township Council.

#### **§ 195-212. Utilities.**

- A. All utility lines and necessary appurtenances, including but not limited to electric transmission and electric and gas distribution, communications, streetlighting and cable television, shall be installed underground within easements or dedicated public rights-of-way in accordance with the Typical Utility Layout and Typical Road Section or in such other configuration as set forth by the approving body, Township Engineer and utility companies where necessary and appropriately coordinated.
- (1) The installation of all underground utilities shall conform to the regulations of the New Jersey State Board of Public Utilities.
  - (2) Installation of all utilities shall conform to the construction standards of the appropriate utility.
- B. Utilities may be required to be located along the rear property lines or elsewhere with easements as provided in this Part 4.
- (1) All utility installations shall be connected with a public utility system and shall be adequate for all present and probable future development of the subdivision.
  - (2) Wherever the utility is not installed in the public right-of-way, an appropriate utility easement not less than 25 feet in width shall be provided and located in consultation with the utility companies and/or Township departments concerned.
- C. For all major subdivisions, the developer shall arrange with the serving utility for the underground installation of the utility's distribution supply lines and service connections in accordance with the provisions of the applicable standard terms and conditions incorporated as part of its tariff as the same are then on file with the State of New Jersey Board of Public Utilities and shall submit to the municipal agency, prior to the granting of final approval, a written instrument from each serving utility which shall evidence full compliance with the provisions of this article; provided, however, that lots in such subdivisions which abut existing streets or public rights-of-way where overhead utility distribution supply lines have theretofore been installed on a portion of the streets involved may be supplied with service from such overhead lines or extensions thereof, but the service connections from the overhead lines shall be installed underground.
- D. In any event, new building service connections for all multifamily developments and for any industrial, commercial or office developments containing a floor area of 10,000 square feet or more shall be installed underground. All other new service connections shall also be installed underground unless a specific waiver is granted by the municipal agency.
- E. Where a state permit is required for utilities, the applicant shall submit said permit prior to any final approval or issuance of a building permit as determined by the Planning Board.
- F. Meters may be mounted on exterior walls. All meters shall be screened so that they are not visible from any internal or public streets, and access satisfactory to the supplying utility is maintained.

### **§ 195-213. Water supply.**

Prior to the approval of any final plat, the full approval of any public water system must have been obtained and filed with the municipal agency, or the final approval will be continued upon full approval from the appropriate utility.