Borough of Rocky Hill

County of Somerset

State of New Jersey

DEVELOPMENT REGULATIONS ORDINANCE

Codified on June 12, 1998

Updated through November 18, 2013

Editor's Note: This compilation has been prepared as a convenience to research the Borough of Rocky Hill's Land Use ordinances. It is updated regularly and every effort is made to keep it current. However, all users have the obligation to check with the applicable official to insure that it is current as to content. The Disposition List at the end of the publication lists the specific ordinances, the dates of enactment, the subjects, and the Articles amended that have been incorporated in this compilation. Copies of the specific ordinances are available from the Borough Clerk.

Please contact the Borough Office on Wednesdays from 3:30 p.m. to 6 p.m. at (609) 924-7445 to confirm that the compilation has the most recent ordinances or to ask any questions regarding content. Or e-mail the Borough Clerk at clerk@rockyhill-nj.gov or the Planning Board Secretary at PlanningBoard@rockyhill-nj.gov

For copies of application forms or checklists, see the Borough of Rocky Hill's website under the Forms section or click http://www.rockyhill-nj.gov/content/5681/default.aspx

TABLE OF CONTENTS

ARTICLE 1: SHORT TITLE **1**

ARTICLE 2: PURPOSE **1**

ARTICLE 3: DEFINITIONS **1**

ARTICLE 4: GENERAL PROVISIONS **1**

401 ADMINISTRATION 1
402 AMENDMENTS 1
403 APPEALS 1
404 APPLICATION CHARGES AND ESCROW DEPOSITS 2
405 COMPLIANCE 8
406 CONDITIONAL APPROVAL 9
407 CONDITIONAL USES 9
408 EFFECTIVE DATE 10
409 ENFORCING OFFICERS 11
410 EXCEPTIONS 11
411 EXEMPTIONS FROM SUBDIVISIONS AND SITE PLAN REGULATIONS 11
412 GUARANTEES AND INSPECTIONS 11
413 INCONSISTENT ORDINANCES REPEALED 18
414 INSPECTIONS 18
415 INTERPRETATION 18
416 PERMITS – ZONING PERMITS, BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY 19
417 PLANNING BOARD 19
418 PROHIBITED USES 26
419 PRESERVATION PERMITS 26
420 PROVISIONS APPLICABLE TO THE PLANNING BOARD 27
421 PUBLIC HEARINGS & NOTICE 30
421.1 REGISTRATION BY PUBLIC UTILITY, CABLE TELEVISION COMPANY, OR LOCAL UTILITY 33
422 SAVING PROVISION 33
423 SITE PLAN APPROVAL REQUIRED 34
424 USE VARIANCE APPLICATIONS 34
425 VACATING A STREET OR OTHER PUBLIC WAY 34
426 VALIDITY 34
427 VIOLATIONS AND PENALTIES 35
428 ZONING DISTRICTS AND ZONING MAP 36

ARTICLE 5: DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS 1

501 SIMULTANEOUS REVIEW 1
502 SUBMISSION OF CONCEPT PLAN FOR INFORMAL REVIEW 1
502.1 SUBMISSION OF SKETCH PLAT FOR MINOR SUBDIVISIONS OR MINOR SITE PLANS; ACTION THEREON 1
503 SUBMISSION OF PRELIMINARY PLATS FOR MAJOR SUBDIVISION AND SITE PLANS; ACTION THEREON 3
504 SUBMISSION OF FINAL PLATS FOR MAJOR SUBDIVISIONS AND SITE PLANS; ACTION THEREON 7

505 PLAT DESIGN STANDARDS FOR SUBDIVISIONS 10
506 PLAT DESIGN STANDARDS FOR SITE PLANS 16
507 SUBMISSION OF PRESERVATION PLAN FOR PRESERVATION PERMIT; ACTION THEREON 20

ARTICLE 6: DESIGN AND PERFORMANCE STANDARDS 20

601 GENERAL 1
602 ACCESSORY BUILDINGS 1
603 APARTMENTS AND TOWNHOUSES 1
604 BIKEWAYS 2
605 BLOCKS 2
606 BUFFERS 3
607 BUILDING PERMITS, SITE PLAN APPROVALS AND ZONING VARIANCES OUTSTANDING 4
608 CLUSTER DEVELOPMENT 4
609 CORNER LOTS & THROUGH LOTS 5
610 CURBS AND GUTTER 5
611 DRAINAGE 6
612 EASEMENTS 7
613 ENVIRONMENTAL IMPACT REPORT 8
614 FENCES AND WALLS 8
615 FIRE PROTECTION 9
616 FLOOD PLAIN REGULATIONS 9
617 GRADING AND FILLING 11
618 HOMEOWNERS' ASSOCIATION 11
619 LIGHTING 13
620 LOTS 13
621 MONUMENTS 14
622 NATURE FEATURES 15
623 NONCONFORMING USES, STRUCTURES, OR LOTS 15
624 OFFSITE AND OFF-TRACT IMPROVEMENTS 17
625 OFF-STREET PARKING 21
626 PERFORMANCE STANDARDS FOR THE BUSINESS, VILLAGE OFFICE AND INDUSTRIAL ZONES 24
627 PLANNED DEVELOPMENTS 27
628 PRINCIPAL USE 28
629 PUBLIC UTILITIES 28
630 SANITARY SEWERS 29
631 SHADE TREES 30
632 SIDEWALKS 30
633 SIGHT TRIANGLES 30
634 SIGNS 31
635 SOIL EROSION AND SEDIMENT CONTROL 37
636 SOIL REMOVAL AND REDISTRIBUTION 39
637 STORM WATER RUN-OFF 40
638 STREET LIGHTING 41
639 STREETS 42
640 STREET SIGNS 43
641 TOPSOIL REDISTRIBUTION 43
642 YARDS 43

ARTICLE 7: ZONING DISTRICTS & STANDARDS 1
701 ZONING DISTRICTS 1
702 ZONING MAP 1
703 R-1 SINGLE FAMILY RESIDENTIAL 1
704 AGE RESTRICTED/TRADITIONAL NEIGHBORHOOD DEVELOP-MENT R-1C 5
705 R-1A PLANNED RESIDENTIAL A 10
706 R-1B PLANNED RESIDENTIAL B 13
707 R-2 VILLAGE RESIDENTIAL 16
708 R-3 RESIDENTIAL CLUSTER 17
709 B BUSINESS 18
710 VO VILLAGE OFFICE 20
711 IND – INDUSTRIAL 22
712 CL COMMUNITY LAND 24
713 HISTORIC PRESERVATION – HP 25
714 AH AIRPORT HAZARD 32

ARTICLE 8: AFFORDABLE HOUSING 1
800 PURPOSE AND APPLICABILITY 1
801 REHABILATION PROGRAM 1
802 ACCESSORY APARTMENT PROGRAM 1
803 BEDROOM DISTRIBUTION, PHASING AND OTHER REQUIREMENTS 2
804 Affordability Controls 4
805 Affirmative Marketing 5
806 Administration of Affordable Housing 6
807 DUTIES AND RESPONSIBILITIES of the Municipal Housing Liaison 6
808 ADMINISTRATIVE AGENT FOR THE REHABILITATION AND ACCESSORY APARTMENT PROGRAMS 7

ARTICLE 9: AFFORDABLE HOUSING DEVELOPMENT FEES 1
901 Purpose 1
902 Basic Requirements 1
903 Definitions 1
904. Residential Development Fees 2
905 Non-residential Development Fees 4
906 Collection Procedures 5
907 Affordable Housing Trust Fund 7
908 Use of Funds 8
909 Monitoring 9
910 Ongoing Collection of Fees 9

ARTICLE 10: STORMWATER CONTROL 1
1000 SCOPE AND PURPOSE 1
1001 [Reserved] 2
1002 Definitions 2
1003 General Standards 6
1004 Stormwater Management Requirements for Major Development 6
1005 Calculation of Stormwater Runoff and Groundwater Recharge 18
1006 Standards for Structural Stormwater Management Measures 19
1007 Sources for Technical Guidance 20
1008 Safety Standards for Stormwater Management Basins 21
1009 Requirements for a Site Development Stormwater Plan 24

1010 Maintenance and Repair 26
1011 Penalties 28

ARTICLE 11: WELL HEAD PROTECTION 1
1100 Well Head Protection 1

ARTICLE 12: FLOOD DAMAGE PREVENTION 1
1201 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES1
1202 DEFINITIONS 3
1203 General Provisions 6
1204 DEVELOPMENT PERMIT 8
1205 PROVISIONS FOR FLOOD HAZARD REDUCTION 12

DISPOSITION LIST

ARTICLE 1: SHORT TITLE

This Ordinance may be known as "THE ROCKY HILL DEVELOPMENT REGULATIONS ORDINANCE".

ARTICLE 2: PURPOSE

The purposes of this Ordinance are to establish a pattern for the use of land and buildings based on the land use element of the master plan and to effectuate the master plan and enacted in order to encourage municipal action to guide the appropriate development of land in a manner which will promote the public health, safety, morals and general welfare of the people. This Ordinance is intended to regulate the use of land within zoning districts; secure safety from fire, flood, panic and other natural and man-made disasters; provide adequate light, air, and open space; limit and restrict buildings and structures to specified districts and regulate buildings and structures according to their type and the nature and extent of their use, and regulate the nature and extent of the use of land for trade, industry, residence, open space or other purposes; regulate the bulk, height, number of stories, and size of buildings and other structures; avoid a conflict with the development and general welfare of neighboring municipalities, the county and the state; establish appropriate population densities and concentrations contributing to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment; provide sufficient space for residential, recreational, commercial and industrial uses and open space; encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of such facilities and routes which result in congestion or blight; promote a desirable visual environment; promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment though improper use of land; provide procedures for planned developments which incorporate the best features of design and relate the type, design, and layout of residential, commercial, industrial and recreational development to the particular site; and encourage coordination of various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.

An additional purpose of this ordinance is to recognize that the Borough of Rocky Hill has an historic and architectural heritage which is among its most valued and important community, cultural, social, educational, and economic assets; that this heritage attracts both permanent residents and visitors; that the Borough appears to be in danger of losing many of the unique and distinctive historical and architectural resources which give it a harmonious and classical architectural character; that various studies show that property values increase in municipalities which preserve their districts of historic and architectural distinction; and that it is necessary to designate and provide for the protection of the historic district at the core of the Borough of Rocky Hill and registered on both the National and State Registers of Historic Places in order to safeguard the Borough's historic and architectural heritage, promote the physical, cultural, and aesthetic health of the community, foster civil pride, increase property values, encourage a sound long-range economic base, and implement the Master Plan.

ARTICLE 3: DEFINITIONS

300 Any word or term not defined shall be used with a meaning of standard usage for the context in which the word is used.

301 The following words and phrases in this ordinance are used as defined in the Municipal Land Use Law, as amended: Applicant, Application for Development, Board of Adjustment, Building, Circulation, Common Open Space, Conditional Use, Conventional, County Master Plan, County Planning, Board, Days, Developer, Development, Development Regulations, Division, Drainage, Erosion, Final Approval, Historic Site, Interested Party, Land Lot, Maintenance Guarantee, Master Plan, Map, Mayor, Municipal Agency, Nonconforming Lot, Nonconforming Structure, Nonconforming Use, Official County Map, Official Map, Offsite, Off-tract, Onsite, On-tract, Open-space, Party Immediately Concerned, Performance Guarantee, Planned Development, Planning Board, Plat, Preliminary Approval, Preliminary Floor Plans and Elevations, Public Areas, Public Development Proposal, Public Drainage Way, Public Open Space, Quorum, Residential Cluster, Residential Density, Re-subdivision, Sedimentation, Site Plans, Standard of Performance, Street, Structure, Transcript, Variance, Zoning Permit.

302 Certain phrases and words are herein defined as follows:

ACCESSORY APARTMENT. A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building or by the construction of a new accessory structure on the same site. An affordable accessory apartment is one that is rented to a low or moderate income household in compliance with the rules and regulations of the New Jersey Council on Affordable Housing. **[Amended on 6/15/2009 by Ord. #8, 2009]**

ACCESSORY BUILDINGS. Subordinate buildings, outbuildings, or structures on the same lot with a main building, occupied or devoted exclusively to an accessory use. Even if an accessory building is attached to a main building in a substantial manner by a wall or roof, such structure shall be considered an accessory building. For purposes of minimum setback and maximum height requirements, however, such structure shall be considered an accessory building only if it does not share a common wall with the main building. **[Amended on 11/18/2013 by Ord. #7, 2013]**

ACCESSORY USE. A use natural and normally incident to and subordinate to the primary function of the premises. More particularly, but not by way of limitation, same shall be construed to include areas used for avocations of the residents of the principal structure, a driveway, private swimming pool, private road, alley or other facilities for ingress whether by foot or vehicle.

ADMINISTRATIVE OFFICER. The Construction Code Official, the Zoning Officer, or other Borough employee or contracted professional designated to receive, review and process development and/or preservation plan applications.
[Amended on 11/18/2013 by Ord. #7, 2013.]

ADVERSE EFFECT. Development designs, situations, or existing features on a developer's property, or any nearby property, creating, imposing, aggravating or leading to impractical, unsafe, unsatisfactory or non-complying conditions such as a layout inconsistent with the zoning regulations; insufficient street width; unsuitable street grade; unsuitable street location; inconvenient street system; inadequate utilities such as water, drainage, shade trees, and sewerage; unsuitable size, shape and location of any area reserved for public use or land for open space in a planned development; infringement upon land designated as subject to flooding, and the creation of conditions leading to soil erosion by wind or water from excavation or grading, all as set forth in N.J.S.A. 40:55D-38 and measured against the design and performance standards of this ordinance.

AIRPORT HAZARD AREA. An area delineated by the New Jersey Department of Transportation, Division of Aeronautics, base on the standards promulgated in N.J.A.C. 16:62-3.

ALTER. To change the appearance of exterior elements of a structure of to change the visible materials and finishes used in such elements, but not including a change in color.

ALTERATIONS OR ADDITIONS, STRUCTURAL. Any change in supporting members of the building or additions to a structure requiring walls, foundations, columns, beams, girders, posts or piers, or the moving of a structure.

APARTMENT. A dwelling unit in a building having two or more dwelling units where entrance ways, hallways, basements, attics, heating systems, yards and similar services in the building are shared in common, singularly or in combination.

APPROVING AUTHORITY. The planning board unless a different agency is designated in the text of this ordinance when acting pursuant to the authority of the Municipal Land Use Law.

BASEMENT. An interior space or a portion of an interior space having a floor below the highest outside elevation of ground at the foundation wall.

BOARDING HOUSE. Shall be construed to be a family home or larger structural unit in which, for compensation, persons are given room and board including or not including, as the case may be heat, light, toilet and bathroom facilities; and in which there is no agreement between operator and boarder to give personal care or special attention.

BUILDING COVERAGE. The area of a lot covered by buildings measured on a horizontal plane around the periphery of the foundation(s) and including the area under the roof of any structure supported by columns, but not having walls, as measured around the extremities of the roof above the columns.

BUILDING HEIGHT. The vertical distance measured to the highest point of the building from the average elevation of the finished grade five feet from the foundation.

BUILDING LINE. A line established by law or agreement usually parallel to property line beyond which a structure may not extend. This generally dos not apply to uncovered entrance platforms, terraces and steps.

BUILDING, PRINCIPAL. A non-accessory building in which a principal use of the lot, on which it is located, is conducted.

CARTWAY. The hard or paved surface portion of a street customarily used by vehicles in their regular course of travel. Where there are curbs, the cartway includes only that portion between the curbs. Where there are no curbs, the cartway is that portion between the edges of the paved width.

CELLAR. A story partly underground and having more than one-half of its height below ground.

CEMETERY. A place for the permanent interment of dead human bodies or the cremated remains thereof.

CLUSTER DEVELOPMENT. A planned development technique based on the dwellings to be reduced so that individual segments of the tract have higher densities provided other portions of the tract are left in open space or common property so that the gross density limitation of the entire tract is not exceeded.

COAH. The New Jersey Council on Affordable Housing. **[Amended on 9/21/1998 by Ord. #6, 1998.]**

COMMON PROPERTY. Land or water, or a combination of land and water, together with improvements, within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common property includes common open space and may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

COMPLETE APPLICATION. An applications form provided by the borough and completed by the applicant together with all accompanying documents required by this ordinance for approval of the application for development, including where applicable, but not limited to, a site plan of subdivision plat provided that the

approving authority may require such 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 the approval of the applications for the development have been met. The applications shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the approving authority. An application shall be certified as complete immediately upon the meeting of all requirements specified in the ordinance and in the rules and regulations of the approving authority, and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the approving authority.

CONSERVATION EASEMENT. Grant or grants to the municipality sufficient to permit the municipality to fulfill the intent and purpose of this easement as provided in this ordinance.

CONSTRUCT. To make, remake, or make additions to the exterior of a structure by installing, assembling, and combining materials.

CONVALESCENT HOME. Any institution, whether operated for profit or not, which is not maintained, supervised or controlled by an agency of the government of the State or of any county or municipality, and which maintains and operates facilities for the diagnosis, treatment or care of two or more non-related individuals, who are patients as defined herein.

DAY NURSERY OR NURSERY SCHOOL. Any private agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than board or lodging over-night, for two (2) or more non-related children of preschool age whether for compensation or otherwise.

DEMOLISH. To partially or completely take down a structure.

DENSITY. A number expressing dwelling units per acre.

DEVELOPMENT COMMITTEE. A committee of at least three members of the approving authority, appointed by the chairman of the approving authority with the approval of the majority of the approving authority, for the purpose of reviewing subdivision and site plan applications prior to action by the entire approving authority to determine whether such applications comply with all ordinance provisions and to make recommendations to the approving authority for classification and action. In the even that no development committee has been created, the functions delegated to it shall be performed by the approving authority.

DEVELOPMENT FEES. Money paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted by COAH regulations. **[Amended on 9/21/1998 by Ord. #6, 1998.]**

DRAINAGE RIGHT-OF-WAY is the land required for the installation and maintenance of storm sewers or drainage ditches, or along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damages in accordance with Title 58 of the Revised Statues of the State of New Jersey.

DWELLING, MULTIPLE. A building containing more than two dwelling units.

DWELLING UNIT. A room or series of connected rooms containing living, cooking, sleeping and sanitary facilities for one family.

EASEMENT. A vested or acquired right to use land other than as a tenant, for a specific purpose, such right being held by someone other than the owner who holds title to the land.

EQUALIZED ASSESSED VALUE. The value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios as required by law. Estimates at the time of building permit may be obtained by the tax assessor utilizing estimates of construction cost. Final equalized assessed value shall be determined at project completion by the municipal tax assessor. **[Amended on 9/21/1998 by Ord. #6, 1998.]**

FAMILY. One or more persons living and cooking together as a single, non-profit housekeeping unit, exclusive of household servants.

FLOOD FRINGE. That portion of the flood hazard area outside of the floodway.

FLOOD HAZARD AREA. The floodway and the relatively flat area adjoining the floodway which has been or may be hereafter covered by flood water and which area, the improper development and general use of which would constitute a threat to the public safety, health and general welfare. The Flood Hazard Area shall constitute the total area inundated by the flood hazard design flood.

FLOODPLAIN. The same as the Flood Hazard Area.

FLOODWAY. The channel of a natural stream and portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any natural stream. This shall constitute the portions of the flood plain needed for the passage of the floodway design flood without an appreciable rise in the water surface profile.

FLOOR AREA RATIO. The total gross floor area of buildings on a lot divided by the area of the lot.

GARDEN APARTMENT. A building containing three or more apartments, such building having a maximum height of three stories.

GROSS ACRE. Gross acreage shall exclude the area of existing streets and 10 percent of the total area of the lot or tract in order to provide for new streets.

GROSS FLOOR AREA. The total floor area in a structure measured by using the outside dimension of the building at each story. The floor area of unites sharing a common wall shall be measured from the center of interior walls and the outside exterior walls. In residential uses, the gross floor area shall exclude the areas of the garage, attic, open porch or patio, cellar utility areas, heating and cooling rooms and all portions of floor areas which have a ceiling height above them of less than 7.5 feet. In non-residential structures, the gross floor area shall exclude areas used for utility, heating cooling and other mechanical equipment but shall include all other areas including cellars, warehousing and storage areas, regardless of ceiling height.

HABITABLE SPACE. The finished and heated area of a dwelling unit or nonresidential space that is fully enclosed by the inside surfaces of walls, windows, doors, and partitions and has a headroom of at least seven feet, including working, living, eating, cooking, sleeping and related spaces on living or working floors, such as hallways, vertical circulation, service and storage for residential purposes, but excluding garages, carports, parking spaces, unfinished and untreated attics, basements and cellars, and storage and utility space for nonresidential space, and meeting the New Jersey Uniform Construction Code and the BOCA Code. **[Amended 3/1/2004 by Ord. #1, 2004.]**

HISTORIC PRESERVATION COMMISSION. Local commission charged with the responsibility of planning and advising Borough officials regarding the protection of local historic sites and districts pursuant to N.J.S.A. 40:55D-107. The Rocky Hill Planning Board pursuant to N.J.S.A. 40:55D-27(d) shall exercise the powers of the Historic Preservation Commission. **[Amended 11/18/2013 by Ord. #7, 2013.]**

HISTORIC REVIEW SUBCOMMITTEE. A Subcommittee of the Planning Board appointed by the Planning Board Chairperson and charged with specific duties related to historic preservation plans as articulated in Section 507. **[Amended 11/18/2013 by Ord. #7, 2013.]**

HOME OCCUPATION. An occupation which can be carried on in a dwelling unit by a member of the family in residence without hiring or engaging workers or generating more than occasional visitors, such as:

1. occupations in which most communications are made electronically rather than in face-to-face conversations, including data entry and processing of forms, writing and editing, desktop publishing, investment management, and management consulting;

2. occupations which are customarily carried out in such locations, including instruction in music, dancing, and arts and crafts, but not or more than one pupil at a time; art studios and other spaces where creative works are made, but not sold; home offices for craftspersons, but not places for the storage of their material, large equipment, and large or multiple vehicles; cooking and baking using equipment customarily found in dwelling units; making of crafts and production of other homemade products; and dressmaking, clothing alterations, and tailoring; and

3. offices for architects, landscape architects, planners, and consulting engineers.

The main office of all other licensed professionals, including doctors, dentists, lawyers, accountants, engineers other than consulting engineers, and therapists; beauty and hair styling salons; and other occupations, which customarily hire or engage workers or generate frequent client visits shall not be considered home occupations.

HOMEOWNERS ASSOCIATION. An incorporated, non-profit organization operating under a recorded land agreement through which a) each lot owner, condominium owner, stockholder under a cooperative development, or other owner of property of interests in the project shall be a member; b) each occupied dwelling unit is subject to a charge for a proportionate share of the expenses for the organization activities and maintenance, including any maintenance costs levied against the association or the municipality, and c) each owner and tenant has a right to use the common property.

LOADING SPACE. An off-street berth but on the same lot with a building or group of buildings for the temporary parking of a vehicle while loading or unloading.

LOT AREA. The area contained within the lot lines but no including any portion of an existing street. The minimum lot area of a lot fronting on a street proposed to be widened in the adopted Master Plan shall be the minimum area required for the district in which it is located plus the additional area needed for widening of the street to conform to the Master Plan.

LOT, CORNER. A lot having at least two adjacent sides fronting on intersecting roads.

LOT COVERAGE. The area of a lot covered by buildings and paved and other impervious surfaces, including swimming pools and decking.

LOT DEPTH. The shortest horizontal distance between the front lot line and a line drawn parallel to the front line through the midpoint of the rear lot line.

LOT FRONTAGE. The horizontal distance between the side lot lines measured along the street lines. The minimum lot frontage shall be the same as the lot width except that on curved alignments with an outside radius of less than 500 feet, the lot frontage may be reduced to not be less than 75 percent of the required minimum lot width. In the case of a corner lot, either side may be considered the lot frontage.

LOT LINE. Any line forming a portion of the exterior boundary of a lot. The lot line is the same as the street line for that portion of a lot abutting a street. Lot lines extend vertically in both directions from ground level.

LOT WIDTH. The straight and horizontal distance between side lot lines measured at setback points on each side lot line at the minimum building setback from the street line.

LOW INCOME HOUSEHOLD: A household with a total gross annual income equal to fifty (50) percent or less of the median gross household income for households of the same size within the housing region in which the housing is located as adopted by COAH, and which is subject to affordability controls consistent with COAH regulations. A single individual occupying or assigned a bedroom in a group home shall be considered a one-person household for purposes of income qualifications under COAH regulations. **[Amended on 9/12/1998 by Ord. #6, 1998.]**

MODERATE INCOME HOUSEHOLD: A household with a total gross annual income in excess of fifty (50) percent but less than eighty (80) percent of the median gross household income for households of the same size within the housing region in which the housing is located as adopted by COAH, and which is subject to affordability controls consistent with COAH regulations. A single individual occupying or assigned a bedroom in a group home shall be considered a one-person household for purposes of income qualifications under COAH regulations. **[Amended on 9/12/1998 by Ord. #6, 1998.]**

NURSING HOME. A proprietary facility, license or regulated by the State Department of Health, for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services.

OFFICE. Unless specifically described, space within a building for the transaction of business, clerical work, the discharge of administrative or professional duties or services or the like, including mechanical or electronic devises used in connection therewith, but not including the storage (except for display purposes) or physical exchange or merchandise or the housing of equipment for service trade for which such office may be the administrative headquarters.

OFF-SITE AND OFF-TRACT IMPROVEMENTS. Improvements made outside the lot in question or the original tract, respectively, to accommodate conditions generated inside the original tract as the result of the proposed development which shall

include, but not be limited to, installation of new improvements and extensions and modifications of existing improvements.

ORDINARY MAINTENANCE. Acts required to preserve, repair, or restore the existing exterior structural or decorative elements of a building or a structure subject to this ordinance. Repairing any structural, cosmetic, or other deterioration, wear, or damage to a structure or any part hereof so as to restore same to its condition prior to the occurrence of such deterioration, wear, or damage without any change in the visible materials and finishes used. All replacement elements and materials must be in kind with the materials being replaced. **[Amended 11/18/2013 by Ord. #7, 2013.]**

OWNER. Any individual, firm, association, syndicate, co-partnership, trust, estate, corporation, or other legal entity having a proprietary interest in the land sought to be subdivided who has sufficient authority to commence and maintain proceedings to subdivide the same under this ordinance.

PARKING SPACE. Accommodations for off-street motor vehicle parking which shall have for each vehicle an area of not less than 200 square feet exclusive of access drives or aisles and a minimum of 10 feet in width measured perpendicular to the axis of the length with adequate provision for ingress and egress to all parking spaces.

PERMITTED USE. Any use of land or building as permitted by this ordinance.

PLAT, FINALS. The plat of all or a section of a subdivision or site plan submitted for final approval in accordance with this ordinance and the Municipal Land Use Law, as amended, and which, if approved as a subdivision, shall be filed with the county recording officer.

PLAT, PRELIMINARY. The plat prepared and submitted to the approving authority as part of the application for preliminary approval in accordance with Article 5 of this ordinance.

PLAT, SKETCH. The plat prepared and submitted to the approving authority for purposes of classification and discussion in accordance with Article 5 of this ordinance.

PRESERVATION PLAN. A plan, and other information as may be required for submission, setting forth the work for which a preservation permit is necessary. **[Amended 11/18/2013 by Ord. #7, 2013.]**

PRESERVATION PLAN, MAJOR. Building and/or site improvements that substantively alter the size or appearance of a structure from a public or private street, use materials that are not visually in kind with the materials being replaced, add or substantively alter decorative or structural elements, or involves demolition. **[Amended 11/18/2013 by Ord. #7, 2013.]**

PRESERVATION PLAN, MINOR. Building and/or site improvements that have no visual impact on the Historic District from a public or private street. Minor preservation plan construction must be of visually in kind materials and shall include but not be limited to such elements as siding, windows, exterior railings, shutters, and doors. Such minor plans may also include such site improvements as the placement and design of storage sheds of less than 100 square feet, fences or the retaining walls. Minor preservation plan improvements shall not substantially change the appearance of the primary structure or the lot. **[Amended 11/18/2013 by Ord. #7, 2013.]**

PRINCIPAL USE. The main purpose for which any lot and/pr building is used.

PRIVATE SCHOOL. An institution of education whose general course work is comparable to the public school system and whose curriculum is approved by the New Jersey Department of Education of the New Jersey Department of Higher Education.

PROFESSIONAL OFFICE. The office of a member of recognized profession which shall be so designated by the approving authority upon finding by such approving authority that such a occupation is professional in character and requires long academic training, licensing, and training and experience as condition for the practice thereof, and that the practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone to any greater extent than would the permitted uses listed in that district. The issuance of a state or local license for regulations of any such occupation shall not, alone, be deemed indicative of professional standing. When such office is combined with a residence, the conditions of a "Home Occupations" shall apply.

PUBLIC PURPOSE. The use of land by a borough, county, state or federal agency or authority.

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

ROWHOUSE. A townhouse in an unbroken front façade, except for porches, and with its front entrance oriented toward the street. **[Amended 3/1/2004 by Ord. #1, 2004.]**

SECONDARY BUILDING. Any building on a lot other than the principal structure.

SETBACK LINE. A line drawn parallel to a street line or lot line and drawn to the point of the building nearest to the street line or lot line beyond which a building does not project. The minimum yard requirements shall be the minimum required setbacks. All setbacks from public street shall be measured from the proposed right-of-way width as shown on the adopted Master Plan.

SHOPPING CENTER. One or more buildings, or parts thereof, designed as a unit to be occupied by one or more business enterprises for the conduct of business and conducted as an integrated and cohesively planned development.

SIGHT TRIANGLE. A triangular area abutting two intersecting streets where vision is unobstructed. The sight triangle is formed by the intersecting street sidelines and a line connecting a point on each sideline a set distance from the intersection.

SIGN. Any announcement, declaration, display, illustration or insignia placed in a position to be seen by the general public from any street or public way.

SILTATION BASIN. A facility through which storm water is directed and which is designed to collect silt and eroded soil from a designated area.

SINGLE FAMILY RESIDENCE. A detached building containing no more than one dwelling unit used for residential purposes. **[Amended 3/1/2004 by Ord. #1, 2004.]**

SITE PLAN, EXEMPT. Site plan approval by the approving authority shall not be required for individual lot applications for detached one dwelling-unit or two dwelling-unit buildings permitted as of right under Article 7 hereof and structures and uses incidental thereto, unless such uses are located in a flood hazard area or involve a home occupation. This exemption shall not apply whenever three or more dwelling units are proposed to be constructed under common ownership or control on contiguous lots or on lots within the same subdivision under construction permits issued during the same period of twelve months beginning with the date of the first permit issued. Internal building alternations and reconstruction and changes in occupancy which do not have an effect on parking or circulation or other external effects and which do not increase the intensity of use of a structure or of a part thereof shall be exempt.

SITE PLAN, MINOR. A development plan of one or more lots which (1) proposes new development or building alterations requiring less than ten parking spaces as required in this ordinance, containing less than 2,500 new or additional square feet of floor area, and not having more than 50 percent lot coverage; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be pro-rated pursuant to Section 624; and (3) does not involve any floodway or flood fringe area under Section 616.

SITE PLAN, MAJOR. All site plans not defined as minor or exempt.

STORY. That portion of a building comprised between a floor and the floor or roof next above. A half story is a story at the top of a building, the area of which is less than the area of the story below it, and the height of which shall not be less than 7.5 feet above at least one-third the area of the floor.

STREET LINE. The edge of the existing or future street right-of-way, whichever would result in the widest right-of-way, as shown on an adopted Master Plan or official map, or as required by this ordinance, forming the dividing line between the street and the lot.

STRUCTURE. A combination of materials and finishes which forms a construction for occupancy, use, or ornamentation installed below, at, or above the surface of the ground, including but not limited to buildings, patios, decks, swimming pools, tennis courts, fences, posts, walls, exterior lighting fixtures, walkways, signs, and accessory buildings but not including landscaping and plant materials. **[Amended 11/18/2013 by Ord. #7, 2013.]**

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this ordinance, if no new streets are created: (1) divisions of land found by the planning board to be for agricultural purposes where all resulting parcels are 5 acres or larger in size; (2) divisions of property by testamentary or intestate provisions; (3) divisions of property upon court order, including but not limited to judgments of foreclosure; (4) consolidation of existing lots by deed or by other recorded instrument; and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the borough. The term "subdivision" shall also include the term "resubdivision."

SUBDIVISION, MAJOR. Any subdivision not defined as minor or, by virtue of Section 411 hereof, exempt.

SUBDIVISION, MINOR. A subdivision of land that is for the creation of less than 4 lots (including the remainder of the original lot), provided that such subdivision does not involve (1) a planned development; (2) any new street; (3) extension of any off-tract improvement, the cost of which is to be pro-rated pursuant to Section 624; or (4) any floodway or flood hazard area under Section 616.

SUBSTANTIVE CERTIFICATION. A determination by COAH approving the Borough's Housing Element and Fair Share Plan in accordance with the provisions of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and the rules and criteria as set forth in N.J.A.C. 5:94-1.1 et seq. A grant of substantive certification shall run for a period of ten (10) years beginning on the date that a municipality files a Housing Element and Fair Share Plan with COAH in accordance with N.J.S.A. 52:27D-313, but shall not extend beyond a period of ten (10) years from December 20, 2005. **[Amended 12/18/06 by Ord. # 10, 2006]**

SWIMMING POOL. Facilities constructed above or below ground having a depth of more than two feet and/or a water surface of 100 square feet or more and

designed and maintained for swimming purposes. Swimming pools shall include all buildings, structures, equipment and appurtenances thereto.

TOWNHOUSE. One dwelling unit in a line of four or more attached dwelling units, with each dwelling unit extending from the ground to the roof and having individual outside access and no interior facilities, conveniences, or services shared with other dwelling units making up the overall building.

TRACT. An area of land comprised of one or more lots having sufficient dimensions and area to meet the requirements of this ordinance for the use(s) intended. The land area of the existing streets shall not be included in calculating the area of the tract.

TWO FAMILY RESIDENCE. Two dwelling units sharing a common wall or situated one over the other.

UTILITY. Services provided to a use including, but not limited to, sewage treatment, water supply, gas, electric, telephone and cable TV.

YARD. An open space extending between the closest point of any building and a lot line or street line. In an apartment, townhouse, office park or other development where more than one building may be erected on a lot, yards shall also be the open space extending between structures. All yard dimensions shall be measured horizontally and at right angles to either a straight street line, lot line, or building façade or perpendicular to the point of tangent of curved lines and facades. The minimum distance between buildings in developments where there is more than one building on a lot shall be the sum of the two yards of the structures and in no even shall two structures be closer to one another than the sum of both yards.

YARD, FRONT. The area extending across the full width of a lot line between the street line and the building and, for apartments, townhouses, office park or other development where more than one building may be erected on a lot, the front yard shall be measure from the designated front of the building to an imaginary line a designated distance away from the front of the building.

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

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

ZONING OFFICER. The building inspector.

ARTICLE 4: GENERAL PROVISIONS

401 ADMINISTRATION

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough of Rocky Hill. Any action taken by the Planning Board and Board of Adjustment under the terms of this ordinance shall give primary consideration to the requirements of this ordinance and to the welfare of the entire community.

402 AMENDMENTS

All provisions of this ordinance may be amended in accordance with applicable laws in effect at the time of the amendment.

403 APPEALS

Any interested party desiring to appeal the decision of the Board of Adjustment or Planning Board may appeal to the governing body (1) any final decision of the Board of Adjustment approving an application pursuant to Section 404B(d), and (2) any other final decision of the Board of Adjustment approving an application pursuant to Section 404B(d), and (2) any other final decision of the Board of Adjustment or Planning Board on any class of applications for development. Such appeal shall be made within 10 days of the date of publication of such final decision. The appeal to the governing body shall be made by serving the borough clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and name and address of his attorney, if represented. The appellant shall serve a copy of the notice of appeal on the municipal agency whose decision is being appealed. Such appeal shall be decided by the governing body only upon the record established before the Planning Board or Board of Adjustment. The appellant shall, (1) within 5 days of service of the notice of appeal, arrange to obtain a duplicate of the sound recording of the proceeding, at the applicant's expense pursuant to N.J.S.A. 40:55D-10f and (2) within 35 days of the notice of appeal, submit three copies of the transcript prepared from the sound recording, certified by the transcriber to be accurate, or three copies of the transcript as otherwise arranged, to the borough clerk; otherwise appeal may be dismissed for failure to prosecute.

The governing body shall concluded a review of the record below not later than 95 days from the date of publication of notice of the decision below pursuant to N.J.S.A. 40:55D-10 unless the applicant consents in writing to an extension of such period. Failure of the governing body to hold a hearing and conclude a review of the record below and to render a decision within such specified time shall constitute a decision affirming the action of the board appealed from.

Any appeal to the Borough Council for exception, variance or relief from the standards pertaining to an Airport Hazard Area shall follow the same procedures as all other appeals for variances or relief from this land use ordinance. The Council may grant such variance or relief if and only if that variance or relief is contingent upon the issuance of a permit allowing the variance or relief by the New Jersey Commissioner of Transportation.

404 APPLICATION CHARGES AND ESCROW DEPOSITS

[Amended on12/20/2004 by Ord. #15, 2004]

A. Application Procedures.

Every development application, application for informal review, preservation plan meeting the criteria set forth in Section 404F3c, appeal, request for interpretation, and other form of relief in Section 404F shall be accompanied by a check payable to the Borough in accordance with the schedule set forth in this section. Applications for development requiring a combination of approvals (e.g., a subdivision with site plan and hardship variances or both a preliminary and final site plan or subdivision) shall pay an amount equal to the sum of the amounts for the separate elements of relief requested, including an amount for each variance. In no case shall the escrow deposit required at the time of the application exceed $20,000.00. The amount of any unexpended escrow deposits for informal review shall be a credit toward fees for review of the application for development. The application shall be deemed incomplete if the fees and deposit are not paid. Whether or not specifically stated in the resolution of memorialization, payment in a timely manner of all escrow fees which become due shall be a condition of the approval of any application.

B. Use of Fees and Deposits.

The application charge is a flat fee to cover direct administrative expenses and is non-refundable. The escrow deposit is established to cover the costs of professional services, including engineering, legal, planning, traffic, landscape architecture, environmental, historic preservation, and other expenses in connection with the review of the submitted materials, including the hearings thereon, review of revised plans, review to ensure that conditions have been satisfied, and all other application follow-up. Sums not utilized in the review process shall be returned to the developer.

C. Insufficient Funds and Municipal Remedies Therefor.

If an escrow account contains insufficient funds to enable the borough or planning board to complete required application reviews, including follow-up as to documents and conditions, the Treasurer shall provide the applicant with a notice of insufficient escrow balance. In order for work to continue on the development or the application, the applicant shall within a reasonable time period post a

deposit to the account in an amount to be agreed upon by the borough or planning board and the applicant. In the interim, any required health and safety inspections shall be made and charges against the replenishment of funds. The time to act under the Municipal Land Use Law shall be tolled during the time when there has been no municipal action because the applicant has not posted the additional escrow deposit provided for in this subsection. If at the time of decision the applicant is in default of any required escrow payments or fees, the planning board shall deny the application. No building permits or certificates of occupancy shall be issued until all such escrow funds have been paid. All escrow charges which are due and owning shall become a lien on the premises with respect to which said charges are required and shall remain so until paid. Said overdue charges shall accrue the same interest from time to time as taxes upon real estate in the Borough. The Borough shall have the same remedies for the collection thereof with interest, costs, and penalties as it has by law for the collection of taxes upon real estate. The applicant shall be responsible for all costs of collection of unpaid fees, including reasonable attorneys' fees.

D. Periodic Accounting of Escrow Funds and Expenditures.

The Treasurer shall prepare and sent to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, and disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are $1,000 or less, or on a monthly basis, if monthly charges exceed $1,000.

E. Close-out Procedures.

The applicant shall send written notice by certified mail to the Treasurer, to the Planning Board, and to the municipal professionals who worked on the application review that the Planning Board has granted final approval; that, in the case of subdivisions or site plans, the subdivision or site plan has been signed by the planning board; and that, in the case of all other applications for approvals for which escrow deposits are necessary, the approval has been perfected and no further review by municipal professionals is necessary. After receipt of said notice, each professional shall render a final bill to the Treasurer within 30 days and shall send a copy simultaneously to the applicant. The Treasurer shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill from the professionals. Any balances remaining in the escrow account, including interest, shall be refunded to the applicant along with the final accounting.

F. Schedule of Application Fees and Escrow Deposits
[Amended on 7/19/2010 by Ord. #3, 2010.]

			Application Charge	Escrow Deposit
1.	Subdivision Plats			
	a.	Informal Concept Review		
		Minor Plats	$200.00	$187.50 per lot but not to exceed $1,000.00
		Major Plats	$300.00	$250 per lot for first ten lots, but no more than $187.50 per lot for the remaining lots but not to exceed $1,000.
	b.	Minor Plat	$100 per lot	$750 per lot
	c.	Preliminary Major Plat	$100 per lot	$1,000 per lot for the first 10 lots, but no more then $750 per lot for the remaining lots
	d.	Final Major Plat	$50 per lot	$500 per lot for the first 10 lots, but no more then $375 per lot for the remaining lots

The application charge for revisions to minor plat and preliminary and final major plats prior to approval shall be one-half the charge for the original submission of such plat.

2. Site Plans

		Application Charge	Escrow Deposit
a.	Informal Concept Review		
	Minor Plans	$150.00	For residential minor or major plans, $100 per 1,000 sq. ft. of building gross floor area, but no more than $1,000; for non-residential minor or major plans, $187.50 per 1,000 sq. ft. of building gross floor area or $93.75 per acre whichever is greater, but no more than $1,000.
	Major Plans	$300.00	
b.	Minor Plans	$200.00	Same as preliminary major plan
c.	Preliminary Major Plans		
(a)	Residential	$250 plus $15 per unit	$400 per 1,000 sq. ft. of building gross floor area
(b)	Non-Residential	$300 plus $15 per 1,000 sq. ft. of building gross floor area	$750 per 1,000 sq. ft. of building gross floor area or $375 per acre, whichever is greater
(c)	Non-Residential involving signage only	$100	$750
(d)	Residential and non-residential other than signage not involving floor area	$300	$10 per square foot of site being disturbed

d. Final Plans

One-half of the application charge and escrow deposit computed for the preliminary plan.

3. Preservation Plans

		Application Charge	Escrow Deposit
a.	Concept Review	None	None
b.	Minor plans and major plans except as set forth in subsection c below	$25	None
c.	Major plans in which a new principal structure or an addition to a principal structure exceeding 50% of the floor area of such principal structure is proposed or for which a determination is made in the manner set forth in section 507A1 that the proposed improvement works a major visual change in the appearance of a structure	$75	$400

		Application Charge	Escrow Deposit
4.	Other Submissions		
a.	Appeals under N.J.S.A. 40:55D-70a	$75	$750
b.	Interpretation or special questions under N.J.S.A. 40:55D-70	$75	$750
c.	Hardship variances under N.J.S.A. 40:55D-70c	$75	$1,000
d.	Special reason variances under N.J.S.A. 40:55D-70d	$250	$1,500
e.	Permits under N.J.S.A. 40:55D-34 and 35	$125	$350
f.	Conditional uses other than home occupations under N.J.S.A. 44:55D-67	$200	$1,000
g.	Conditional uses for home occupations under N.J.S.A. 44:55D-67	same as for final approval, except that the amount shall be $100 if the Planning Board determines that the proposed modification is minor	same as final approval except that the amount shall be $500 if the Planning Board determines that the proposed modification is minor
i.	Informal concept review for variances	$50	None
5.	Appeal to Borough Council	$75	None

		Application Charge	Escrow Deposit
6.	Property owner's list	$10 or $0.25 per listing, whichever is greater	None
7.	Certification of lawful nonconformity	$50	$200
8.	Extension of vesting Period	$100	$600
9.	Master plan or zoning change	$300	$3,000
10.	General development plans	$500	$20,000
11.	Maintenance guarantee application	10% of the maintenance guarantee or $500, whichever is greater	None
12.	Meeting minutes and agendas.		
	Single meeting minutes	Applicable fees set by State statutes	
	Minutes subscription	Applicable fees set by State statutes	
	Agendas	Applicable fees set by State statutes	
13.	Performance guarantee, inspection fees and maintenance guarantees are as outlined in the Section entitled "Guarantees and Inspections" in Article 4.		

405 COMPLIANCE

All zoning requirements shall be met at the time of any erection, enlargement, moving, or change in use. If a new structure is added to an existing complex of structures or if an existing structure has an addition, the site plan provisions of this ordinance shall apply to the enlargement or new structure.

All developments resulting from subdivision and site plan approvals shall comply with all the design and performance standards, including conditions imposed by the approving authority, as shown on the approved plat and/or included in the resolution adopted by the approving authority.

406 CONDITIONAL APPROVAL

Regulation of the development of land and the attachment of reasonable conditions to development applications is an exercise of valid police power delegated by the state to the borough. The applicant has the duty of compliance with reasonable conditions laid down by the approving authority for design, dedication, improvements, and the use of the land so as to conform to the physical and economical development of the municipality and to the safety and general welfare of the future residents and/or owners in the development and in the community at large. Where county planning board review or approval is required on a subdivision or site plan, the approving authority shall condition any approval it grants upon either timely receipt of a favorable report by the county planning board or approval by the county planning board due to its failure to submit a report within the required time period. If the county's report is negative or attaches conditions, the original action by the municipal approving authority shall be null and void and a new resolution shall be adopted which considers the county planning board's report.

407 CONDITIONAL USES

A. Before any permit shall be issued for a conditional use, application shall be made to the planning board. The planning board shall grant or deny the application after public hearing, but within 95 days of the date the application is deemed complete or within such further time as may be consented to by the applicant. Where a conditional use application involves a site plan or subdivision, the planning board shall review and approve or deny the subdivision or site plan simultaneously with the conditional use application. Failure of the planning board to act within the 95 day period shall constitute approval of the application. In reviewing the conditional use application, the planning board shall review the number of employees or users of the property and the requirements set forth in the ordinance and shall give due consideration to all reasonable elements which would affect the public health, welfare, safety, comfort and convenience such as, but not limited to, the proposed use(s), the character of the area, vehicular travel patterns and access, pedestrian ways, landscaping, lighting signs, drainage, sewage treatment, potable water supply, utilities, and structural location(s) and orientation(s). The planning board shall conduct a public hearing on the application. The use for which conditional uses are granted shall be deemed to be permitted uses in their respective districts, and each conditional use shall be considered as an individual case. In all requests for approval of conditional uses the burden of proof shall be on the applicant. All conditional uses shall require site plan approval by the planning board, except that an application for an affordable accessory apartment shall require minor site plan approval and further that, in the case of a home occupation, site plan approval shall be required only if additional parking or other exterior modifications are proposed or are required by a condition of approval. **[Amended on 6/15/2009 by Ord. #8, 2009]**

B. In granting conditional uses, a time limit of one (1) year from the date of adoption of the resolution memorializing the approval shall be set within which time the owner shall secure a building permit, otherwise the approval shall be null and void.

C. When applying for conditional use authorization for a home occupation, the applicant shall provide the following information in addition to the information required if site plan approval is sought:

1. Survey, sketch, or photograph showing general location of existing structures, parking areas, and driveways, with distances from property lines and residential structures on adjoining lots.

2. Floor plans or sketch identifying the portion of the structure which is proposed to be devoted to the home occupation.

3. Description of the home occupation, including nature of the business, expected frequency of visitors, equipment used, sounds and odors emitted, volume and frequency of mail and deliveries expected, inflammable, hazardous, and toxic material to be used and proposed notification with respect thereto, waste generated, and hours of operation.

D. An owner of a property for which conditional use authorization for a home occupation was secured by a prior owner may continue such operation, provided that there is no change in the nature, magnitude, location, or any other aspect of the home occupation originally approved and that he complies with all conditions of approval and further provided that, in the case of a lawful nonconforming home occupation, such home occupation has not been abandoned since it became nonconforming. The subsequent owner shall register his home occupation on such form as the Borough shall provide and shall provide details sufficient to demonstrate that it conforms in all respects to the home occupation originally approved, including the conditions of approval. A $50.00 fee shall be charged for the registration.

408 EFFECTIVE DATE

This ordinance shall take effect upon its final passage and publication according to law.

409 ENFORCING OFFICERS

It shall be the duty of the zoning officer to administer and enforce the zoning provisions of this ordinance. No building permit shall be issued unless the plans are accompanied by an approved zoning permit. No zoning permit shall be issued unless the proposed structure, use, temporary activity, and construction activities are in compliance with this ordinance. In cases involving the new use of an existing structure, no certificate of occupancy for the new tenant shall be issued until a zoning permit has been issued. **[Amended 11/18/2013 by Ord. #7, 2013.]**

410 EXCEPTIONS

The approving authority, when acting upon application for preliminary or minor subdivision approval and preliminary site plan approval, shall have the power to grant such exceptions from the "Design and Performance Standards" in Article 6 of this ordinance as may be reasonable and within the general purpose and intent of the provisions for subdivision/site plan review and approval if the literal enforcement of one or more provisions of this ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

411 EXEMPTIONS FROM SUBDIVISIONS AND SITE PLAN REGULATIONS

Divisions of land not considered a subdivision as defined in this ordinance and exempt site plans shall be exempt from compliance with the subdivision and site plan requirements of this ordinance respectively only after affirmative action by the approving authority determining that the division is not considered a subdivision, as defined in this ordinance, or that the site plan meets the definition of exempt site plan. Such action shall be taken following submission of sufficient documentation for the approving authority to make such determination. Until exempted from the subdivision regulations by the approving authority, no person shall transfer, sell, or unconditionally agree to transfer or sell, as owner or agent, any land which forms a part of a subdivision for which approval is required. Until exempted from the site plan regulations by the approving authority, no alterations, as described in Section 423 of this ordinance, shall be made, nor permits issued.

412 GUARANTEES AND INSPECTIONS

A. No final subdivision plat or site plan shall be approved by the approving authority until all improvements set forth in subsection 413E (onsite, offsite and off-tract) have either (1) been installed, inspected, certified, and approved by the Municipal Engineer and a maintenance guarantee has been filed and accepted by the governing body in accordance with requirements of this Section or (2) their installation shall have been provided for by a performance guarantee accepted and

approved by the governing body in accordance with the requirements of this Section. No facility for which further stages of work must be completed or which will need to be altered or re-worked in any manner due to the installation or connection of any other facility shall be accepted. No maintenance guarantee shall be accepted or any improvement which is incomplete. The cost of correcting any improvements installed prior to final plat application that do not meet the standards of this ordinance or other regulations shall be added to the performance guarantee.

B. A performance guarantee cost estimate shall be submitted to the approving authority by the Municipal Engineer as part of his report on preliminary and final plat review. The approving authority may request the Municipal Engineer to review and update this estimate from time to time as required. The cost of the installation of improvements set forth in the estimate shall be estimated by the Municipal Engineer based on documented construction costs for public improvements prevailing in the general area of the municipality. The developer may appeal the Municipal Engineer's estimate to the county construction board of appeals in the manner set forth in N.J.S.A. 40:55D-53.4.

C. The proposed performance guarantee required for final plat approval shall be submitted to the Municipal Engineer and Municipal Attorney for recommendation as to accuracy and form and then to the governing body for approval and acceptance by resolution. Submission for final plat approval shall not be made until the performance guarantee has been accepted and approved by the governing body. In the event that final approval is by stages or sections, the provisions of this section shall be applied by stage or section.

1. The performance guarantee shall consist of the performance guarantee cost estimate prepared by the Municipal Engineer and a performance bond, in which the developer shall be principal and an acceptable surety company license to do business in the State of New Jersey, and/or cash or certified check which shall be deposited with the borough by payment to the Municipal Treasurer, shall be surety. In lieu thereof, the governing body shall accept a performance guarantee which is an irrevocable letter of credit if it constitutes an unconditional payment obligation of the issuer running solely to the municipality for an express initial period of time in the amount of the Municipal Engineer's estimate; is issued by a banking or savings institution authorized to do and doing business in this State; is for a period of time of at least one year; and permits the borough to draw upon the letter of credit if the obligor fails to furnish another letter of credit which complies with the provisions of this section 30 days or more in advance of the expiration date of the letter of credit or such longer period in advance thereof as it stated in the letter of credit. The cost estimate shall be appended to the guarantee. The Treasurer shall issue a receipt for such deposits and shall retain the deposits as security for completion of all requirements to be returned to

the developer on completion of all required work or, in the event of default on the part of the developer, to be used by the borough to pay the costs of completing the requirements. If the required improvements have not been completed or corrected in accordance with the longer than 2 years, the obligor and surety for any bond shall be liable thereon to the borough for the reasonable cost of the improvements of the improvements not completed or corrected, and upon authorization by the governing body, the Municipal Attorney shall take the necessary steps to obtain such costs from the obligor and surety. The borough may, either prior to or after receipt of the proceeds thereof complete such improvements.

2. The total performance guarantee shall equal one hundred twenty percent (120%) of the performance guarantee cost estimate plus an amount equal to fifteen percent (15%) of the cost of any facilities installed prior to final submission as a maintenance guarantee. No more than ninety percent (90%) of this total shall be in either case, certified check or surety bond of a bonding company approved by and at the option of the governing body. The bonding company shall be registered to do business in the State of New Jersey and with the United States Department of Treasury. At least ten percent (10%) shall be in cash and shall be paid in like manner and under the same conditions as the security aforesaid. In the event of default, the ten percent (10%) cash fund herein mentioned shall be first applied to the completion of the requirements and the cash, certified check, or surety bond shall thereafter be resorted to, if necessary, for the completion of the requirements. The cash or surety bond may recite the foregoing provision. The Municipal Engineer's certification that the principal has satisfactorily installed or has failed to meet the required standards of construction shall be the basis for governing body action which accepts or rejects the improvements, withholds approval, or may extend the time allowed for installation of the improvements. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty percent (120%) of the cost of the installation as determined as of the time of the passage of the resolution.

D. The borough clerk shall immediately notify the approving authority and the Municipal Engineer when the performance guarantee has been approved and accepted by the governing body.

E. Prior to beginning construction, the developer shall arrange for a pre-construction conference between the developer, contractor, and Municipal Engineer. All improvements and utility installations shall be inspected during the time of their installation under the supervision of the Municipal Engineer to insure satisfactory completion. The Municipal Engineer shall be notified by the developer five (5) days in advance of the start of construction. The developer shall be responsible for all reasonable inspection fees. He shall be required to

deposit with the borough the greater of $500.00 or 5% of the cost of the improvements, except that in extraordinary circumstances the Borough Council may require a greater amount. For those developments for which the reasonably anticipated fees are less than $10,000, fees may at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall deposit the remaining 50% of the anticipated inspection fees. For those developments for which the reasonably anticipated fees are $10,000 or greater, fees may, at the option of the developers be paid in four installments. The initial amount deposited by a developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the Treasurer shall provide the developer with a notice of insufficient deposit balance and the developer shall make additional deposits of 25% of the reasonably anticipated fees. The Municipal Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit, except that any required health and safety inspections shall be made and charged back against the replenishment of funds. If an inspection deposit contains insufficient funds to enable the borough to perform required improvement inspections, the Treasurer shall provide the developer with a notice of insufficient deposit balance. In order for work to continue on the development, the developer shall within a reasonable time post a deposit to the account in an amount to be agreed upon by the borough of the developer. For all fees not covered by such deposit, the developer shall reimburse the municipality for all reasonable inspection fees by submitting a certified check or bank money order to the borough clerk upon receipt of a bill from the municipality.

Improvement costs, as estimated in this section, shall be defined to include construction and installation costs of grading, pavement, surveyor's monuments, drainage structures, storm sewers, sanitary sewers and other mean of sewage disposal, water mains, fire protection features, streets, gutters, curbs, culverts, sidewalks, street lighting, shade trees, street signs, erosion control and sedimentation control devices, public improvements of open space, and [other contract improvements], in the case of site plans only, parking areas and other on-site improvements and landscaping. The Treasurer shall provide the developer with an accounting of the deposit setting forth the information and in the intervals required for escrow deposits as set forth in section 412D. Upon the improvements being approved, the deposit shall be closed out in the same manner as it set forth for escrow accounts in Section 412E.

F. No work shall be done without permission from the Municipal Engineer. A representative of the Municipal Engineer's office shall, at the option of the Municipal Engineer, be present at the time all work is performed. No

underground installation shall be covered until inspected and approved. The Municipal Engineer's office shall be notified after each of the following phases of the work has been completed so that he may inspect the work: road sub-grade; curb and gutter forms; curbs and gutters; road paving (after each coat in the case of priming and sealing); drainage pipes and other drainage structures before backfilling shade trees and planting and strips; street names signs; and monuments.

G. Electrical, gas, telephone and all other utility installations installed by utility companies shall not be subject to the inspection requirements contained herein.

H. Occupancy permits will be issued only when the installation of curbs, utilities, functioning water supply and sewage treatment facilities, necessary storm drainage to insure proper drainage of the lot and surrounding land, rough grading of lots, soil stabilization, base course for the street and driveway, and sidewalks are installed to serve the lot and structure for which the permit is requested. Streets shall not receive surface course paving until all heavy construction is completed. Shade trees shall not be planted until all grading and earth moving is completed. Seeding of grass areas shall be the final operation.

I. Inspection by the Municipal Engineer of the installation of improvements and utilities shall not subject the municipality to liability for claims, suits, or liability of any kind that may arise because of defects or negligence, it being recognized that the responsibility to provide proper utilities and improvements and to maintain safe conditions at all times on all parts of the tract whether construction is waiting to start, is in progress, or is completed, or any combination of conditions on all or a part of the tract is upon the developer and his contractors or subcontractors, if any.

J. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request the governing body in writing, by certified mail addressed in care of the borough clerk, that the Municipal Engineer prepare, in accordance with the itemized cost estimate prepared by him and appended to the performance guarantee, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Municipal Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon, the Municipal Engineer shall inspect all improvements covered by the obligor's request and shall filed a detailed list and report, in writing, with the governing body, not later than 45 days after receipt of the obligor's request. The list shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each

completed improvement determined to be unsatisfactory. The report shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee. If the Municipal Engineer fails to send or provide the list and report as requested by the obligor within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Municipal Engineer to provide the list and report within a stated time and the costs of applying to the court, including reasonable attorneys' fees, may be awarded to the prevailing party.

K. The governing body, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Municipal Engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejections 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 Municipal 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 Municipal Engineer. Upon adoption of the resolution by the governing body the obligor shall be released from all liability pursuant to its performance guarantee with respect to those approved improvements except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements. If the governing body fails to approve or reject the improvements determined by the Municipal Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Municipal Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Municipal Engineer and appended to the performance guarantee and the costs of applying to the court, including reasonable attorneys' fees, may be awarded to the prevailing party. In the event that the obligor has made a cash deposit with the municipality or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body of the Municipal Engineer.

L. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in this section shall be followed.

M. To the extent that any of the improvements have been dedicated to the municipality on the subdivision plat or site plan, the governing body shall be deemed, upon the release of any performance guarantee, 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 approving authority, provided that such improvements have been inspected and have received final approval by the Municipal Engineer.

N. If the approving authority includes as a condition of approval of an application for development the installation of street lighting on a dedicated public street connected to a public utility, then upon notification in writing by the developer to the approving authority and governing body that (1) the street lighting on a dedicated public street has been installed and accepted for service by the public utility and (2) that certificates of occupancy have been issued for at least 50% of the dwelling units and 50% of the floor area of the nonresidential uses on the dedicated public street or portion thereof, the borough shall, within 30 days following receipt of the notification, make appropriate arrangements with the public utility for, and assume the payment of, the cost of the street lighting on the dedicated public street on a continuing basis. Compliance by the borough with the provision of this section shall not be deemed to constitute acceptance of the street by it.

O. Maintenance Guarantee

No improvement shall be accepted by the governing body unless and until all of the following conditions have been met:

1. The Municipal Engineer shall have certified in writing that all the improvements are complete and that they comply fully with the requirements of this ordinance and of other applicable local ordinances.

2. Provision for a maintenance guarantee to be posted with the governing body for a period not to exceed 2 years after final acceptance of the improvement, in an amount not to exceed 15 percent of the cost of the improvement, which cost shall be determined by the Municipal Engineer. Some or all of the guarantee may, at the developer's option, be in cash and otherwise shall be in the form of a bond or letter of credit meeting the standards set forth in section 413C1. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance

or maintenance guarantee, as the case may be, shall be required by the municipality for such utilities or improvements.

413 INCONSISTENT ORDINANCES REPEALED

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. Upon the adoption of this ordinance according to law, all previously adopted subdivision, site plan and zoning ordinances and their amendments are repealed.

414 INSPECTIONS

See section entitled "Guarantees and Inspections" in Article 4.

415 INTERPRETATION

A. The provisions of this ordinance shall be held to be minimum requirements. Where this ordinance establishes both minimum and maximum standards, both standards shall be met even though the combination of standards may not permit development to take advantage of all standards simultaneously. Where any provision of this ordinance imposes restrictions different from those imposed by any other provision of this ordinance or any other ordinance, rule or regulation, or other provision of law, whichever provision(s) are more restrictive or impose higher standards shall control.

B. Zoning district boundary lines are intended to follow street centerlines, streams and lot or property lines unless otherwise indicated by dimensions on the zoning map. Any dimension shown shall be in feet, measured horizontally and measured from the street right-of-way line even if the centerline of that street serves as a zoning district line. The location of any disputed zoning district line shall be determined by the Board of Adjustment. Zoning district lines extend vertically in both directions from ground level.

C. Where a zoning district line divides a lot, the zoning district line may be modified by the owner by moving the zoning district line up to the property line provided the property line is within 20 feet of the zoning district line as shown on the zoning map. A use permitted in the zoning district so extended shall thereafter be a permitted use in the extended area. A zoning district line shall be altered only once by utilizing this section of the ordinance after which the use shall be governed by the district in which it is located after the adjustment.

416 PERMITS – ZONING PERMITS, BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

A. No zoning permit, building permit, or certificate of occupancy shall be issued for any parcel of land or structure which was sold or on which improvements were undertaken in violation of the provisions of this ordinance or for use of a lot which was created by subdivision after the effective date of and not in conformity with the provisions of this ordinance. No site improvements such as, but not limited to, excavation or construction of public or private improvements shall be commenced except in conformance with this ordinance in accordance with plat approvals and the issuance of required permits.

B. A zoning permit shall be issued by the Zoning Office before the issuance of either a certificate of occupancy to a new occupant of an existing building or portion of an existing building, or before the issuance of a building permit.

C. It shall be unlawful to use or permit the use of any building or part thereof hereafter created, erected, changed, converted, altered or enlarged, wholly or in part, until a certificate of occupancy shall have been issued by the Building Inspector and no certificate shall be issued unless the land, building and use thereof comply with this ordinance; all matters incorporated on the approved subdivision or site plan have been completed and certified by the Municipal Engineer, and the building and health codes are complied with.

D. Each request for a zoning permit and a certificate of occupancy shall be accompanied by a certified check or bank money order payable to the Borough of Rocky Hill in the amount of $10 for a zoning permit and $5 per dwelling unit for a certificate of occupancy and $50 for each one thousand square feet of gross floor area of non-residential use for a certificate of occupancy.

E. No zoning permit, building permit or certificate of occupancy shall be issued, or approval granted by the approving authority if taxes or assessments for local improvements are due or delinquent on the property for which any application is made.

417 PLANNING BOARD

A. Establishment

There is hereby established pursuant to c. 291, P.L. 1975 in the Borough of Rocky Hill a planning board of 9 members consisting of the following four classes:

Class I. Mayor

Class II. One of the officials of the municipality other than a member of the governing body 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.

Class III. One member of the Borough Council to be appointed by Borough Council.

Class IV. Six other citizens of the municipality to be appointed by the Mayor.

The members of Class IV shall hold no other municipal 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 both 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. Terms

The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II shall be for the one year or terminate at the completion of their respective terms of office whichever occurs first, except for a Class II member who is also a member of the environmental commission. The term of a Class II or Class IV member who is also a member of the environmental commission shall be for three years or terminate at the completion of his term of office as a member of the environmental commission, whichever occurs first.

The term of a Class IV member who is also a member of the board of adjustment or the board of education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

The terms of all Class IV members first appointed pursuant to this ordinance shall be so determined that to the greatest practicable extent the expiration of such term shall be distributed evenly over the first four years after their appointment as determined by resolution of the governing body, provided however that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the planning board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter all Class IV members shall be appointed for terms of four

years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

C. Vacancies

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

D. Power and Duties

The planning board shall exercise the following powers and have the following duties:

1. To make, adopt and amend a master plan for the physical development of the municipality pursuant to the provisions of N.J.S.A. 40:55D-28.

2. To administer the subdivision and site plan provisions of this ordinance.

3. To approve conditional use applications as authorized by the Municipal Land Use Law, as amended, and by Section 407 of this ordinance.

4. Upon authorization of Borough Council, to prepare a capital improvement program in the manner set forth in N.J.S.A. 40:55D-29 and to refer same to Borough Council as per N.J.S.A. 40:55D-31.

5. To review and make recommendations on such matters as the location, character, or extent of capital projects in accordance with N.J.S.A. 40:55D-31 to the governing body or other public agency having jurisdiction on capital projects necessitating the expenditure of public funds.

6. In reviewing applications for approval of subdivision plats, site plans or conditional uses, to: (a) grant variances described in subsection 11c and (b) direct the 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 drainage way, flood control basin or public area reserved on the Official Map, or pursuant to N.J.S.A.40:55D-36 for a building or a structure not related to a street. Whenever relief is requested pursuant to this subsection, notice of the hearing on the application for development shall include reference to the request for variance or direction of issuance of a permit, as the case may be. The developer may elect to submit a separate application requesting approval of the variance or direction for the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the

variance or direction for the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the planning board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for a variance or the issuance of a permit, the planning board shall grant or deny approval of the application within 120 days after the application is deemed complete or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided. Failure of the planning board to act within this period shall constitute approval of the application.

7. To participate in the presentation and review of programs or plans required by state or federal law or regulations.

8. To assemble data on a continuing basis as part of a continuous planning process.

9. To consider and report to the governing body within 35 days after referral of any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, such report to include identification of any provisions of the proposed development regulations which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters the board deems appropriate, and to pass upon other matters referred to it by the governing body pursuant to the provision of N.J.S.A. 40:55-26b.

10. To perform such other advisory duties as are assigned to it by ordinance or resolution for the aid and assistance of the governing body or other municipal agencies or officers.

11. To exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment, including the powers to:

a. hear and decide, by majority vote, appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of this ordinance. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is

taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken. The Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the administrative officer from whom the appeal is taken. If, in the case of an appeal, the planning board determines that there is an error in any order, requirement, decision or refusal made by the administrative officer pursuant to a report submitted by the board in accordance with Section 507C1, it shall include the reasons for its determination in the findings of its decision thereon.

b. hear and decide by majority vote requests for interpretation of the zoning map or ordinance, or for decisions upon other special questions upon which such board is authorized to pass.

c. on applications not involving subdivisions, site plans, or conditional use authorizations, grant by majority vote a variance from the strict application of any zoning regulations (1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of such regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property so as to relieve such difficulties or hardship; or (2) where in an application or appeal relating to a specific piece of property the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement and the benefits of the deviation would substantially outweigh any detriment.

d. in particular cases and for special reasons, grant a variance to allow departure from zoning regulations to permit (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4, or (5) 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. A variance under this subsection shall be granted only by affirmative vote of at least five

members. The Class I and Class III members shall not participate in the consideration of applications for development which involve relief pursuant to this subsection.

e. direct the issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in a the bed of a mapped street or public drainage way, flood control basin or public area reserved on the official map or pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.

No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. With respect to an airport safety zone delineated under the "Air Safety and Zoning Act of 1983," N.J.S.A. 6:1-80 et seq., no variance or other relief may be granted under the terms of the sections permitting the creation or establishment of a nonconforming use which would be prohibited under the standards promulgated pursuant to that act except conditioned upon issuance of a permit by the Commissioner of Transportation.

Unless a longer period is consented to by the applicant, the board shall render its decision not later than 120 days after the date an appeal is taken from the decision of an administration officer, or not later than 120 days after the submission of a complete application for development without prior application to the administration officer. If the developer elects to submit pursuant to this subsection separate consecutive applications for a Section 418D11d variance followed by subdivision, site plan or conditional use applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this ordinance. Failure of the board to render a decision within the period prescribed or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant, and a certificate of the administrative officer as to the failure of the board to act shall be issued on request of the applicant. It shall be sufficient in lieu of the written endorsement or other evidence of approval herein required and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

In the granting of Section 418D11c and d variances, a time limit of one (1) year from the date of the variance approval shall be set than which time the owner shall secure a building permit. Otherwise the variance granted shall be null and void.

Whenever an applicant shall request a Section 418D11d variance, the board shall have the power to grant subdivision, site plan, or conditional use approval in conjunction with its action on such variance and may impose restrictions on the subdivision, site plan or conditional use approvals. The applicant 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 a use variance shall be conditioned upon grant of all required subsequent approvals by the board. No such subsequent approvals shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes of board members required to grant any subsequent approval shall be as otherwise provided for in this ordinance for the approval in question, and the special vote as provided for in the subsection shall not be required.

12. To exercise, to the same extent and subject to the same restrictions, all of the powers of a historic preservation commission, including the powers to: **[Amended 11/18/2013 by Ord. #7, 2013.]**

a. prepare a survey of historic sites in the Borough of Rocky Hill pursuant to criteria identified in the survey report;

b. act on applications for preservation plan approval, including such applications when filed in conjunction with applications for development, in the manner set forth in section 507;

c. maintain a collection of preservation materials to assist applicants in complying with the provisions of section 713;

d. carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough of Rocky Hill;

e. ensure that the master plan includes the historic preservation element and analyses required by N.J.S.A. 40:55D-109b, as may be amended from time to time;

f. provide advice on the inclusion of historic sites in a recommended capital improvement program;

g. act on applications for development pursuant to N.J.S.A. 40:55D-110, as may be amended from time to time, and as

provided within the Borough's Historic Preservation ordinance, and;

h. appoint annually the members of the Historic Review Subcommittee that consists of the Chairman of the Planning Board, the Borough Zoning Officer and one or two other members of Planning Board to act on Minor Preservation Plans as specified in section 507 C.

418 PROHIBITED USES

All uses not expressly permitted in this ordinance are prohibited.

419 PRESERVATION PERMITS

A. Requirements **[Amended 11/18/2013 by Ord. #7, 2013.]**

1. Covered Acts

The following activities shall require a Historic Preservation Permit:

a. Constructing, altering or restoring structures within the Historic Preservation District, except as exempted below;

b. Constructing, altering or restoring site improvements on lots within Historic Preservation District, except as exempted below;

c. Moving structures into or within the Historic Preservation District; and

d. Demolishing all or part of a structure in the Historic Preservation District.

2. Exempted Acts

The following activities are exempt from Historic Preservation review and do not require a Historic Preservation Permit:

a. Ordinary maintenance as defined in Section 302 of this ordinance;

b. Painting and/or changing the paint color of any surface that was previously painted;

c. Interior construction, and;

d. Construction, alteration, or restoration of a structure if the proposed activities will not be visible from a public or private street.

B. Effective Life

The preservation permit shall lapse 12 months after the date of its issuance unless prior thereto a building permit for the work authorized by the permit is secured or the time is extended by the planning board. If a building permit secured in a timely manner thereafter lapses, the preservation permit shall lapse as well.

C. Enforcement

1. Inspections: Cease and Desist Orders. All work performed pursuant to a preservation permit shall conform to the application and accompanying documents for which the preservation permit was granted except as otherwise conditioned by the permit. The zoning officer shall from time to time inspect any work performed pursuant to such permit to assure such compliance and shall have the right to enter upon the premises at any reasonable time for the purpose of making inspections. In the event work is not being performed in accordance with the permit, or that work for which a preservation permit, or that work for which a preservation permit is required is being performed without such permit, the zoning officer shall issue a cease and desist order and serve it forthwith upon the owner of the property or the person performing such work. Upon receipt of such order, the owner of the property or the person performing such work shall forthwith cease from performing any further work.

2. Injunctive Relief. In case any work is undertaken in violation of this section or in case such violation is threatened, or in case a property owner or the person performing such work fails to obey a cease and desist order, the zoning officer or the Borough Council, in addition to the other remedies set forth in this section, may institute an action in a court of competent jurisdiction to restrain, correct, or abate such violation or to prevent any illegal act, conduct, or work. Any interested party may also bring such an action.

3. Penalties. Any person violating any of the provisions of this section shall be subject the penalties set forth in Section 427.

420 PROVISIONS APPLICABLE TO THE PLANNING BOARD

A. Organization of Board.

The planning board shall elect a chair from its membership and vice-chair from the members of Class IV and shall elect a secretary, who may not be a member.

B. Attorney.

There is hereby created the office of planning board attorney. The planning board may annually appoint and fix the compensation of its attorney who shall be an attorney other than the municipal attorney.

C. Experts and Staff.

The planning board may employ or contract for the services of experts and other staff and services as they may deem necessary, including a secretary. The board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

D. Rules and Regulations.

The planning board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this ordinance.

E. Conflicts of Interest.

No member of the planning board shall act on any matter in which he or any immediate family member has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the board on the hearing of such matter nor participate in any board discussion or decision relating thereto.

F. Meetings.

Meetings of the planning board 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 process. Special meetings may be provided for at the call of the chair or on the request of any two board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.

No action shall be taken at any meeting without a quorum being present.

All actions shall be by majority vote of the members of the board present at the meeting except as otherwise required by Section 417D11d of this ordinance. Failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application.

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, ch. 231, Laws of N.J. 1975.

G. 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 person appearing by attorney, the actions taken by the board, the findings, if any, made by it, and the reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the municipal clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested parties may be charged a fee for the reproduction of the minutes for his use as provided for in the rules of the board.

H. Hearings.

1. Rules. The planning board 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 ordinance.

2. Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths or issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law (N.J.S.A. 2A:67A-1 et seq.) shall apply.

3. 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 interest 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 the time and number of witnesses.

4. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the board may exclude irrelevant, immaterial or unduly repetitious evidence.

5. Records. The planning board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense. The charge for a copy of a transcript shall not be more than the maximum

permitted by N.J.S.A. 2A:11-15, and the transcript shall be certified in writing by the transcriber to be accurate.

6. Voting Eligibility. A member of the board who was absent for one or more of the meetings shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings, provided, however that such board member has available to him the transcript or recording of all of the hearing from which he was absent and certifies in writing to the board that he has read such transcript or listened to such recording.

421 PUBLIC HEARINGS & NOTICE

A public hearing shall be held on each application for development and each application for exemption from the subdivision or site plan requirements pursuant to Section 411 of this ordinance. All public hearing dates shall be set by the approving authority. All public hearings conducted on such applications shall follow the requirements of this section and any other requirements of the Municipal Land Use Law, as amended.

A. Any maps and documents submitted for approval shall be on file and available for public inspection at least ten days before the hearing date during normal business hours in the office of the borough clerk.

B. The approving authority shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means.

C. The planning 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. It shall provide the findings and conclusions through:

1. A resolution adopted at a meeting held within the time period provided 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 the 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 publications required by subsections D and E. If the board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the board to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorneys' fees, shall be assessed against the Borough.

D. A copy of the decision shall be mailed by the board within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge, and to all who request a copy of the decision for a reasonable fee. A copy of the decision shall also be filed by the board in the office of the administrative officer. The administrative officer shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at his office during reasonable hours.

E. A brief notice of the decision shall be published in the official newspaper or a newspaper of general circulation in the borough. Such publication shall be arranged by the Borough clerk; provided that the applicant may arrange such publication if he so desires. The Borough may make a reasonable charge for its publications. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision, whether arranged by the Borough or the applicant.

F. Notice shall be given for hearings on all applications for development except for final subdivision approval. No notice shall be required on applications for exemptions from the subdivision or site plan requirements pursuant to Section 411 of this ordinance and on submissions for informal review of concept plans pursuant to Section 502 of the ordinance. All notices shall state the date, time and place of the hearing, the nature of the matters to be considered and an identification of the property proposed for development by street addresses, if any, or by reference to lot and block numbers and the location and times at which any maps and documents are available for public inspection. All required notices shall be the responsibility of the applicant and shall be given at least ten days prior to the hearing date.

1. Required notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

2. Required notices shall be given to the owner of all real property, as shown on the current tax duplicate, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has

a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. This notice shall be given by either serving a copy thereof on the property owner as shown on the current tax duplicate or his agent in charge of the property, or mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate.

3. Required notices to a partnership owner may be made by service upon any partner. Required notices to a corporate owner may be made by service upon its president, a vice president, a secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Required notices 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.

4. Required notices of all hearings on application for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

5. Required notices shall be given by personal service or certified mail to (1) the county planning board where the hearing concerns a property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land, or situated within 200 feet of a municipal boundary; (2) to the commissioner of transportation where the hearing concerns a property adjacent to a state highway; (3) to the director of the State Planning Commission where the hearing concerns a property which exceeds 150 acres or exceeds 500 dwelling units and the notice shall include a copy of any maps or documents required to be on file with the administrative officer.

6. Required notice for hearings on applications for approval of major subdivisions or of site plans not deemed as minor site plans shall be given by personal service or certified mail to any public utility, cable television company, or local utility which possesses a recorded right-of-way or easement within the Borough and which has registered with the Borough in the manner provided by law. Such notice shall be given to the person whose name appears on the registration form.

G. The applicant shall file an affidavit of proof of service with the planning board. Any notice made by certified mail shall be deemed complete upon mailing.

421.1 REGISTRATION BY PUBLIC UTILITY, CABLE TELEVISION COMPANY, OR LOCAL UTILITY

A. Every public utility, cable television company and local utility interested in receiving notice pursuant to N.J.S.A. 40:55D-12h may register with the Borough if it has a right-of-way easement within the Borough. The registration shall remain in effect until revoked by the public utility, cable television company or local utility or by its successor in interest.

B. The administrative officer shall adopt a registration form and shall maintain a record of all public utilities, cable television companies and local utilities which have registered with the Borough pursuant to subsection A of this section. The registration form shall include the name of the public utility, cable television company or local utility and the name, address and position of the person to whom notice shall be forwarded.

C. The Borough Clerk shall impose a fee of $10 for the initial registration and $5 for any re-registration on any public utility, cable television company or local utility which registers to receive notice pursuant to subsection A of this section.

422 SAVING PROVISION

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision, site plan or zoning regulation, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this ordinance, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the municipality except as shall be expressly provided for in this ordinance.

423 SITE PLAN APPROVAL REQUIRED

Except in accordance with final approval of a site plan granted pursuant to this ordinance, unless exempted in accordance with Section 411:

A. A structure shall not be erected, relocated, enlarged, or externally altered or reconstructed;

B. The use of a structure shall not be changed, except that, in the case of a home occupation, site plan approval shall not be required only if additional parking or other exterior modifications are proposed;

C. A structure shall not be internally altered or reconstructed or its occupancy changed when such alteration, reconstruction or change in occupancy has parking, circulation or other external affects or increases the intensity of use of a structure or a part thereof;

D. Land shall not be changed;

E. A watercourse shall not be diverted or its channel or flood plain dredged or filled;

F. An open parking area, accessory or otherwise, shall not be constructed, installed, or enlarged; and

G. A permit shall not be issued with respect to any such structure, land or parking area.

424 USE VARIANCE APPLICATIONS

Any appeal for a variance to allow a structure or use in a district restricted against such structure or use shall have three (3) copies of all supporting documents and the application filed with the administrative officer.

425 VACATING A STREET OR OTHER PUBLIC WAY

Where a street or public way serves as the zoning district line and it is lawfully vacated, the former centerline shall be considered the zoning district line.

426 VALIDITY

If any section, paragraph, clause, or other provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

427 VIOLATIONS AND PENALTIES

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

B. Except as otherwise provided in subsection C herein, any person who shall violate any provision of this ordinance shall be liable for one or more of the following: a fine not exceeding $1,000.00 dollars, or imprisonment for a term not exceeding ninety days, or community service for a period not exceeding ninety days. In the case of a continuing violation, each day that such violation continues shall be deemed a separate offense. Any complaint to impose such penalty may be filed in municipal court on behalf of the state by the Borough Council, zoning officer, or any interested party.

Any person who is convicted of violating this ordinance within one year of the date of a previous violation of the same provision shall be sentenced by the court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or more than the maximum fine fixed for a violation of the provision, but shall be calculated separately from the fine imposed by the violation of the provision.

Any person convicted of violating this Ordinance and who is in default of the payment of any fine imposed for the violation may, at the court's discretion, be imprisoned for a term not exceeding ninety days or be required to perform community service for a period not exceeding ninety days.

C. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which municipal approval is required by ordinance pursuant to this act, such persons shall be subject to a penalty not to exceed $1,000.00, and each lot disposition so made may be deemed a separate violation. In addition to the foregoing, the municipality may institute and maintain a civil action:

1. For injunctive relief; and

2. To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with R.S. 40:55D-56, by only if the municipality (1) has a

Planning Board and (2) has adopted by ordinance standards and procedures in accordance with R.S. 40:55D-38.

In any such action, the transferee, purchaser, or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within 2 years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within 6 years, if unrecorded.

D. See section entitled "Permits" and "Enforcing Officers" in Article 4.

428 ZONING DISTRICTS AND ZONING MAP

The zoning districts shall be as shown on the accompanying map and enumerated in the District Regulations.

ARTICLE 5: DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS

501 SIMULTANEOUS REVIEW

The approving authority shall have the power to review and approve or deny conditional uses or site plans simultaneously with a review for subdivision approval without the developer being required to make further application, or the approving authority being required to hold further hearings. The longest time period for action by the approving authority, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer in conjunction with a site plan or subdivision, notice of the hearing on the plat shall include reference to the request for such conditional use. See Section entitled "Conditional Use" in Article 4.

502 SUBMISSION OF CONCEPT PLAN FOR INFORMAL REVIEW

At the request of the developer, the planning board shall grant an informal review of a concept plan for development for which the developer intends to prepare and submit an application for development. The purpose will be to review concepts to assist the applicant in the preparation of subsequent plans. Concept plans must include a sketch plat conforming to the requirements of Section 505B and such other information necessary to enable the approving authority and the applicant to comment upon design concepts such as building location, ingress and egress, parking, major natural features that will have to be recognized or may influence certain design criteria, and the developer's basic intent for water, sewerage, and storm drainage facilities, and such other information as the developer may wish to provide. At least two weeks prior to the meeting at which the developer seeks informal review, it must file fifteen copies of the concept plan and fifteen completed copies of the application form and concept plan review check list with the administrative officer.

Neither the developer nor the approving authority shall be bound by this informal review. **[Amended on 4/19/1999 by Ord. #3, 1999.]**

502.1 SUBMISSION OF SKETCH PLAT FOR MINOR SUBDIVISIONS OR MINOR SITE PLANS; ACTION THEREON

A. Filing Procedure

Any developer seeking minor site plan or subdivision approval shall submit to the administrative officer at least two (2) weeks prior to the meeting of the approving authority 4 black on white copies of the completed sketch plat submission at the required scale plus 15 copies of the plat reduced to either 8-1/2 x 11, 8-1/2 x 14, or 11 x 17 page size; 15 completed copies of the application form for subdivision or site plan application for approval; 15 completed copies of the minor subdivision or site plan approval; 15 completed copies of the minor

subdivision check list; 15 copies of any existing or proposed protective covenants, deed restrictions and easements applying to the land being developed or a statement that none exist or are proposed; such other information as is necessary to comply with the requirements of this ordinance; the applicable fee; and certification by the tax collector that all taxes are paid to date. **[Amended on 7/16/07 by Ord. #5, 2007.]**

B. Action by the Approving Authority

1. The approving authority shall review the submission for its completeness and take action on accepting or rejecting the submission as a complete application. If rejected, the applicant shall be notified in writing of the deficiencies within forty-five days of submission, or it shall be deemed to be properly submitted. If the planning board finds that the application for development is complete and conforms to the definition of minor site plan or minor subdivision, as the case may be, it shall approve or conditionally approve such application. Otherwise, it shall reject the application. Such approval shall be deemed final approval, provided that the planning board may condition such approval on terms insuring the installation of improvements required by Article 6 of this Ordinance.

2. Minor site plan and subdivision approval shall be granted or denied within forty-five days of the date the approving authority deems the submission to be complete or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute approval, and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant. Such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval and shall be so accepted by the county recording officer for purposes of final subdivision plats.

3. Whenever review or approval of the application by the county planning board is required by N.J.S.A 40:27-6.3 or 6.6, the 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 county planning board by its failure to report thereon within the required time period.

4. Approval of a minor subdivision shall expire 190 days from the date of approval unless within such period a plat in conformity with such approval, including any conditions imposed by the approving authority, and in conformity with the provisions of the "Map Filing Law," P.L. 1960, C. 141 (N.J.S.A. 46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed by the developer with the County Recording Officer, the Municipal Engineer and the Borough Tax

Assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the approving authority (or the vice chairman or assistant secretary in their absence, respectively). In reviewing the application for development for a proposed minor subdivision the approving authority may accept a plat not in conformity with the "Map Filing Act," P.L. 1960, C. 141 (N.J.S.A. 46:23-9.9 et seq.), provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of said act.

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

C. Action by the Applicant

If an application is deemed incomplete by the approving authority as provided in subsection B(1) above, the applicant has forty-five days after the date of such incompleteness notification to correct the specified deficiencies to make the application complete. If the approving authority has not received the materials required to cure the deficiencies needed to make the application complete within 45 days of the date of incompleteness notification, said application shall be deemed withdrawn without prejudice. The approving authority will memorialize its determination that the application is deemed withdrawn without prejudice by resolution and forward a copy of such resolution to the applicant by certified mail. **[Amended on 7/19/2010 by Ord. #3, 2010.]**

503 SUBMISSION OF PRELIMINARY PLATS FOR MAJOR SUBDIVISION AND SITE PLANS; ACTION THEREON

Preliminary plats are required for all major site plans and major subdivisions.

A. Filing Procedure

1. Any developer seeking major site plan or subdivision approval shall submit to the administrative officer at least two (2) weeks prior to the meeting of the approving authority 4 black on white copies of the complete preliminary plat submission at the required scale plus 15 copies of the plat reduced to either 8-1/2 x 11, 8-1/2 x 14, or 11 x 17 page size; 15 completed copies of the application form for preliminary approval; 15 complete copies of the preliminary subdivision check list; 3 copies of any existing or proposed protective covenants, deed restrictions and easements applying to the land being developed or a statement that none exist or are

proposed; 3 copies of the drainage calculations; 15 copies of the Environmental Impact Report; the applicable fee, including inspection fees if improvements are to be installed prior to final approval; and certification by the tax collector that all taxes are paid to date.

2. A corporation or partnership shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership, as the case may be. If a corporation or partnership owns 10% or more of the stock of a corporation, or 10% or greater interest in a partnership, subject to disclosure pursuant to the subsection, that corporation or partnership shall list the names and addressees of its stockholders holding 10% or more of its stock or of 10% or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder, or partner in a partnership, until the names and addresses of the noncorporate stockholders and individual partners exceeding the 10% ownership criterion established in this subsection have been listed. The approving authority shall not approve the application of any corporation or partnership which does not comply with this requirement. **[Amended on 3/16/1999 by Ord. #3, 1999.]**

B. Action by the Approving Authority

1. The approving authority shall review the submission for completeness and take action on accepting or rejecting the submission as a complete application. If rejected, the applicant shall be notified in writing of the deficiencies within 45 days of submission, or it shall be deemed to be properly submitted. When accepted the approving authority shall set the public hearing date.

2. Upon submission of a plat, the administrative officer shall submit one (1) copy of the plat and supporting data to the County Planning Board, Municipal Engineer, and any other agency or person as directed by the approving authority for their review and action. Each shall have not more than thirty (30) days from receipt of the plat to report to the approving authority. In the even of disapproval, or recommendations that the application be rejected, such report shall state the reasons therefor. If an agency or person fails to report to the approving authority within the designated period, said plat shall be deemed to have been approved by them, or, if they do not have authority to approve said plat, they shall be deemed to have not made any recommendations that said plat be rejected. Upon mutual agreement between the County Planning Board and the approving authority, with approval of the applicant, the thirty (30) day period for a County Planning Board report may be extended for an additional thirty (30) days and any extension shall so extend the time within which the approving authority is required to act.

3. The approving authority shall grant or deny preliminary approval of a subdivision of ten (10) or fewer lots within forty-five (45) days of the date the approving authority deems the submission to be complete or within such further time as may be consented to by the developer. Upon the submission of a complete application for a subdivision of more than ten (10) lots, the approving authority shall grant or deny preliminary approval within ninety-five (95) days of the date the approving authority deems the submission to be complete or within such further time as may be consented to by the developer. Otherwise, the approving authority shall be deemed to have granted preliminary approval to the subdivision.

4. The approving authority shall grant or deny preliminary site plan approval within the following time periods unless some further time has been consented to by the developer:

a. A site plan which involves ten (10) acres or less and 10 dwelling units or less: within forty-five (45) days of the date the approving authority deems the submission to be complete.

b. A site plan which involves more than ten (10) acres or more than 10 dwelling units: within 95 days of the date the approving authority deems the submission to be complete.

5. If the approving authority required any substantial amendment in the layout of improvements in either a site plan or subdivision as proposed by the developer, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The approving authority shall, if the proposed development complies with this ordinance, grant preliminary approval.

6. The approving authority may approve, disapprove, or approve with conditions the application, including action on the Environmental Impact Report in Article 6. Such action shall not take place until after any required public hearing has been conducted. The decision shall be in writing and shall be sent to the applicant and the newspaper as required by the Section entitled "Public Hearings & Notices" in Article 4. If the approving authority grants preliminary approval, its chairman and secretary (or the vice chairman or assistant secretary in their absence, respectively) and Municipal Engineer shall sign each page of the plat indicating the approval. If the plat is conditionally approved, it shall not be signed until all conditions are complied with. In all conditions are not complied with within 180 days from the date of the meeting at which a plat was conditionally approved, the conditional approval shall lapse.

7. Preliminary approval shall, except as provided in paragraph d below, confer upon the applicant the following rights for a three (3) year period from the date of the preliminary approval; otherwise the approval shall be void.

a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to: use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; any requirements peculiar to site plan approval; except that nothing herein shall be construed to prevent the borough from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety;

b. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary plat; and

c. That the applicant may apply for and the approving authority may grant extensions on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance such revised standards may govern.

d. In the case of a development for an area of fifty (50) acres or more, the approving authority may grant the rights referred to in subsections a, b and c above for such period of time, longer than three (3) years, as shall be determined by the approving authority to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval, and (2) the potential number of dwelling units and nonresidential floor area of the section(s) awaiting final approval, (3) economic conditions and (4) the comprehensiveness of the development; provided that if the design standards have been revised such revised standards may govern.

C. Action by the Applicant

If an application is deemed incomplete by the approving authority as provided in subsection B(1) above, the applicant has forty-five days after the date of such incompleteness notification to correct the specified deficiencies to make the application complete. If the approving authority has not received the materials required to cure the deficiencies needed to make the application complete within 45 days of the date of incompleteness notification, said application shall be

deemed withdrawn without prejudice. The approving authority will memorialize its determination that the application is deemed withdrawn without prejudice by resolution and forward a copy of such resolution to the applicant by certified mail. **[Amended on 7/19/2010 by Ord. #3, 2010.]**

504 SUBMISSION OF FINAL PLATS FOR MAJOR SUBDIVISIONS AND SITE PLANS; ACTION THEREON

A. Filing Procedure

1. Prior to expiration of preliminary approval, the developer shall file with the administrative officer at least two (2) weeks prior to the meeting of the approving authority one (1) mylar, one duplicate in electronic form, and 15 black on white paper prints of the plat and supporting engineering data at the required scale, plus 15 copies of the plat reduced to either 8 1/2 x 11, 8 1/2 x 14, or 11 x 17 page size, 15 completed copies of the application form for final approval with supporting exhibits; 15 completed copies of the final subdivision check list, the performance guarantee approved by the governing body including off-tract improvements, if any, any maintenance guarantees, the applicable fee, certification by the tax collector that all taxes are paid to date, and certification by the Soil Conservation District pursuant to the Soil Erosion and Sediment Control Act, Chapter 251 of the Laws of 1975. **[Amended on 4/19/1999 by Ord. #3, 1999.]**

2. The final plat shall be accompanied by letters directed to the chairman of the approving authority and signed by a responsible officer of the water company, sewer authority, and utility which provides gas, telephone and electricity that has jurisdiction in the area. Such letters shall approve each proposed utility installation design and state who will construct the facility.

3. The final plat shall be accompanied by a statement by the Municipal Engineer that he is in receipt of a map showing all utilities and other improvements (both in the development and off-tract improvements) in exact location and elevation, that he has examined the drainage, erosion, storm water control, and excavation plans and found they are in conformance with the approved preliminary plat and conditions of preliminary approval and that the interests of the borough and of nearby properties are fully protected, and identifying those portions of any improvements already installed and that the developer has either:

a. Installed all improvements in accordance with the requirements of this ordinance and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or

b. Posted a performance guarantee in accordance with this ordinance and the preliminary plat approval for all partially completed improvements or improvements not yet initiated.

B. Action by the Approving Authority

1. The approving authority shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the approved preliminary plat, the conditions of preliminary approval, and standards prescribed by the "Map Filing Law," N.J.S.A. 46:23-9.9 et seq.; provided that in the case of a planned development, the approving authority may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for preliminary approval.

2. Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. An approved final plat shall be signed by the chairman and secretary of the approving authority (or the vice chairman or assistant secretary in their absence, respectively). Failure of the approving authority to act within the period prescribed shall constitute final approval and a certificate of the administrative officer as to the failure of the approving authority to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

3. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3 or 40:27-6.6, the approving authority shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

4. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The approving authority may for good cause shown extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat. No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the approving authority as indicated on the instrument

by the signature of the Chairman and Secretary of the approving authority (or the vice chairman or assistant secretary in their absence, respectively) or a certificate has been issued as to the failure of the approving authority to act within the required time. The signatures of the Chairman and Secretary shall not be affixed until the developer has posted the required guarantees. If the County Recording Officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the municipality, the plat shall be expunged from the official records. It shall be the duty of the County Recording Officer to notify the approving authority in writing within seven (7) days of the filing of any plat, identifying such instrument by its title, date of filing, and official number.

5. Provided the approved final plat has been filed with the County Recording Officer, the zoning requirements applicable to the preliminary approval first granted to a site plan or major subdivision and all other rights conferred upon the developer pursuant to the Municipal Land Use Law, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval. If the developer has followed the standards prescribed for final approval, the approving authority may extend such period of protection for extensions of one (1) year, but not to exceed three (3) extensions. Upon granting of final approval, the rights conferred upon the applicant by the granting of preliminary approval shall be terminated upon final approval.

6. In the case of a subdivision or site plan for a planned development of fifty (50) acres or conventional subdivision or site plan of one hundred fifty (150) acres or more, the approving authority may grant the right referred to in the above paragraph for such period of time, longer than two (2) years, shall be determined by the approving authority to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions and (3) the comprehensiveness of the development. The developer may apply for thereafter, and the approving authority may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the approving authority to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) the number of dwelling units and nonresidential floor area remaining to be developed, (3) economic conditions and (4) the comprehensiveness of the development.

7. The developer shall supply sufficient copies of the approved final plat so the administrative officer can distribute one copy to each of the following: Borough Clerk, Municipal Engineer, Tax Assessor and planning board and any other agency or person to whom it is directed by the approving authority.

8. The planning board may permit a deviation from the final plan if caused by change of conditions beyond the control of the developer since the date of final approval and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance. Such deviation may be approved only after submission of any application by the developer setting forth the nature of such proposed deviation and the grounds therefor. A public hearing thereon shall be held and notice thereof given in conformance with the requirement of Sections 420 and 421 hereof.

505 PLAT DESIGN STANDARDS FOR SUBDIVISIONS

[Amended on 4/19/1999 by Ord. #3, 1999.]

A. Plat Conformity

No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the requirements of subsections B-D hereof and such checklists as have been adopted by ordinance as to form, content and accompanying information. All plats must comply with the provisions of N.J.S.A. 46:23.1 et seq. (Map Filing Law), as amended, except for minor subdivisions to be confirmed by filing of deeds. All plats shall be drawn by a land surveyor as required by law, licensed to practice in the State of New Jersey, and shall bear the signature, seal, and license number and address of the land surveyor. All drawings or improvements shall be signed and sealed by a licensed Professional Engineer of the State of New Jersey.

B. Sketch Plat

1. Clearly and legibly drawn.
2. Graphic Scale at 1" = 100' or larger (e.g. 1" = 50').
3. Existing and proposed street and lot layout, with dimensions showing that portion proposed for development in relation to the entire tract.
4. Existing lot lines to be eliminated.
5. Area of original tract to nearest square foot.
6. Area of each proposed lot to nearest square foot and dimensions therefor.
7. Contours based on U.S.G.S. data.
8. Existing structures and uses.
9. Shortest distance between any existing building and a proposed or existing building and proposed or existing lot line.
10. All streams, and drainage rights-of-way including the direction of flow of all streams, brooks, and drainage rights-of-way; the

location of all drainage structures; and the approximate location of flood hazard areas and floodway lines, slopes greater than 15%, wetlands and wetland transition areas.

11. A letter of interpretation issued by N.J.D.E.P. confirming the delineation of any wetlands and wetland transition areas.
12. Existing and proposed rights-of-way and easements within and adjoining the tract with sight triangles shown.
13. The tax map sheet, block and lot number for the tract and all adjacent lots; a title including the words "Sketch Plat"; north arrow; space for the subdivision application number; the date of the original drawing and the date and substance of each revision.
14. Zoning district of subject property.
15. The name, address, signature and phone number of the owner, developer, and persons preparing the plat.
16. A key map at a scale of 1" = 2,000 feet or smaller (e.g., 1" = 2,500 feet) with north arrow showing the subject and surrounding properties and streets, zone boundaries, and the Airport Hazard Zone and Historic Preservation District if within 500 feet of subject property.
17. All proposed improvements.

C. Preliminary Subdivision Plat

1. Clearly and legibly drawn.
2. Graphic scale at 1" = 100' or larger (e.g., 1" = 50').
3. Based on certified boundary survey and drawn by a land surveyor licensed in New Jersey with design improvements drawn by a professional engineer licensed in New Jersey.
4. Sheet sizes of 30" x 42"; 24" x 36"; 15" x 21"; or 8-1/2" x 13". If more than one sheet is required to show the entire subdivision, a separate composite map at a reduced size shall be drawn on one sheet showing the entire subdivision and the sheets on which the various sections are shown.
5. Key map with north arrow showing the entire subdivision in relation to surrounding areas including the names of principal roads at a scale of 1" = 2,000' or smaller (e.g., 1" = 2,500 feet).
6. Title Block with the name of the subdivision; any development names previously associated with the application; the name of the municipality; tax map sheet, block and lot number; date of preparation and most recent revision; meridian; north arrow; graphic scale; the names, addresses, phone numbers, and signatures of the owner, subdivider, and person(s) who prepared the plat(s) including the seal of the latter; and space for the subdivision application number.

7. The names of all property owners within two hundred (200) feet of the extreme limits of the subdivision as disclosed on the most recent municipal tax records.
8. Tract acreage to nearest square foot; the number of new lots; each lot line dimension scaled to the nearest foot; and each lot area to the nearest square foot.
9. Existing and proposed contours at 2 foot intervals. All elevations shall be related to a bench mark noted on the plan and wherever possible be based on U.S. Geological Survey mean sea level datum.
10. Location of existing natural features such as soil types, wooded areas, views within the development and the location of individual trees outside wooded areas having a diameter of six (6) inches or more measured five (5) feet above ground level. Soil types shall be based on U.S. Soil Conservation Service categories from the Somerset County Soil Survey.
11. Existing and proposed streams, wetlands, and wetlands transition areas accompanied by the following data:

    a. When a running stream with a drainage area of one-half (1/2) square mile or greater is proposed for alteration, improvement, or relocation, or when a structure or fill is proposed over, under, in or along such a running stream, evidence of approval of such alteration improvement, or relocation or lack of jurisdiction by the New Jersey Department of Environmental Protection shall accompany the plat.

    b. Cross-sections of watercourses at appropriate scale showing the extent of the flood fringe area, top of bank, normal water level and bottom elevations at the following locations:

        (1) All water courses within or adjacent to the development and at any point where a watercourse crosses a boundary of the development (cross sections).

        (2) At fifty (50) foot intervals for a distance of three hundred (300) feet upstream and downstream of any existing or proposed culvert for bridge within the development (cross sections).

        (3) At a maximum of one hundred (100) foot intervals, but at no less than two locations, along each watercourse which runs through or adjacent to the development (cross sections).

        (4) When ditches, streams, brooks or watercourses are to be altered, improved or relocated, the method of stabilizing slopes and measures to control erosion and siltation during construction as well as typical ditch sections and profiles shall be shown on the plan or accompany it.

c. The total upstream acreage in the drainage basin of any watercourse running through or adjacent to a development. For flowing streams, small scale watershed maps developed from U.S.G.S. sheets shall be submitted.

d. The total acreage in the drainage basin to the nearest downstream drainage structure and the acreage in that portion of the development which drains to the structure.

e. The location and extent of all existing or proposed drainage and conservation easements and flood hazard area and floodway lines.

f. The location, extent and water level elevation of all existing or proposed lakes or ponds on or within 300 feet of the development.

g. Plans and computations for any storm drainage systems including the following:

(1) All existing or proposed storm sewer lines within or on lands or roads adjacent to the development and for all required offsite and off-tract drainage improvements showing size, profile and slope of the lines, directions of flow, and the location of each catch basin, inlet, manhole, culvert and headwall.

(2) The location and extent of any proposed dry wells, ground water recharge basins, detention basins, flood control devices, sedimentation basins or other water conservation devices.

h. A letter of interpretation issued by N.J.D.E.P. confirming the delineation of any wetlands and wetlands transition areas.

12. The names, locations and dimensions including cart way and right-of-way widths of all existing streets within a distance of two hundred (200) feet of the boundaries of the development; existing driveways and any connections from proposed streets, sidewalks, and bike routes in the development to any adjoining street(s), sidewalk(s), or bike route(s) and what offsite extensions, if any, will be made to nearby arterial and collector streets as those streets are shown on the adopted master plan.

13. Plans, cross-sections, center-line profiles, tentative grades and details of all proposed and existing streets in the tract and within

three hundred (300) feet of the subdivision based on the U.S.G.S. datum, together with full information as to the disposal of surface drainage, including plans, cross-sections and profiles of streets, storm drains and drainage structures. Typical street cross-sections shall indicate the type and width of pavement and the location of curbs, sidewalks, bike routes, typical underground utilities, and shade tree planting. At intersections, the sight triangles, radii of curb lines, crosswalks and street sign locations shall be shown. Final street naming may be deferred. For streets where curbs and/or sidewalks are to be provided, separate curb and sidewalk profiles shall be required at street intersections.

14. The names, locations, paved widths, right-of-way widths, and purpose(s) of existing and proposed easements, streets, and other rights-of-way in the subdivision. The text of any deed restriction shall be included.

15. The location and description of all monuments, existing and tentatively proposed.

16. All proposed lot lines, and all existing lot lines to remain and those to be eliminated. All setback lines required by the zoning ordinance with the dimensions thereof and any municipal boundary line where the boundary is within the tract or within two hundred (200) feet of the tract. Any lot(s) to be reserved or dedicated to public use shall be identified. Each block shall be numbered and the lots within each block shall be numbered consecutively beginning with one (1).

17. Locations of all existing structures and their use(s) in the tract and within two hundred (200) feet thereof, showing existing and proposed front, rear and side yard setback distance, structures of potential historic significance, and an indication of all existing structures and uses to be retained and those to be removed.

18. Plans and profiles of proposed improvements and utility layouts (sanitary sewers, storm sewers, erosion control, storm water control, excavation, etc.) showing location, size, slope, pumping stations, and other details as well as feasible connections to any existing or proposed utility systems. If service will be provided by an existing utility company, a letter from that company shall be submitted stating that service will be available before occupancy of any proposed structures.

19. Zoning district(s) and zoning district lines.

20. An itemization of all improvements to be made to the site as required in Article 6 and such other improvements onsite, offsite and off-tract as the public interest may require, together with a listing of the work and materials to be used in installing such improvements including estimated quantities of necessary materials, sufficient to enable the Municipal Engineer to formulate a performance guarantee estimate.

D. Final Subdivision Plat

1. Clearly and legibly drawn.

2. Graphic scale at 1” = 50’ or larger (e.g., 1” = 25’).

3. Drawn in compliance with Map Filing Law.

4. Sheet sizes of 30” x 42”; 24” x 36”; 15” x 21”; or 8 1/2" x 13”. If more than one sheet is required to show the entire subdivision, a separate composite map at a reduced size shall be drawn on one sheet showing the entire subdivision and the sheets on which the various sections are shown.

5. The submission for final plat approval shall show the same information required for preliminary approval in addition to the following; except that the plat to be filed with the County Recording Officer need only contain the data required for filing with the county and all other data may be submitted on separate sheets.

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

   b. Tract boundary lines; municipal boundary line if within 200 feet of the tract being subdivided; street names; all lot line and other site lines with accurate dimensions, bearing or deflection angles and radii, arcs and chord bearings and distances of all curves based on an actual survey by the Land Surveyor licensed to practice in the State of New Jersey with minimum building setback lines and the area of each lot shown to the nearest square foot. All dimensions, both linear and angular, of the exterior tract boundaries shall be based on and calculated from surveyed traversing which shall have an apparent error of field closure of 1:10,000 or better and shall be corrected by accepted balancing methods to final errorless closure; all final exterior and lot boundaries shall be similarly balanced to final errorless closures. All dimensions, angles, and bearings, given on the map must be referred to at least two (2) permanent monuments which shall be indicated on the map.

c. Block and lots numbers in accordance with established standards and in conformity with the borough tax map as approved by the Tax Assessor and all street numbers where appropriate shall be designated as specified by the approving authority.

d. Plans, cross-section, profiles and established grades of all streets and easements as approved by the Municipal Engineer.

e. Plans and centerline profiles of all storm and sanitary sewers and water mains as approved by the Municipal Engineer.

f. Locations and description of all monuments as required by this ordinance and the Map Filing Law with the subdivision tied into the New Jersey Plane Co-Ordinate System.

g. By separate exhibits, information regarding required improvements and detailing the stage of completion of installing the improvements including the following certifications:

(1) By a New Jersey licensed professional land surveyor as to the accuracy of the plat and of the surveyed dimensions.

(2) That the applicant is agent or owner of the land, or that the owner has given consent under an option agreement or contract of sale.

(3) Approval of Municipal Engineer.

(4) Appropriate local, county and state approvals.

(5) Other certifications that may be required by law.

506 PLAT DESIGN STANDARDS FOR SITE PLANS

[Amended on 4/19/1999 by Ord. #3, 1999.]

A. Plat Conformity

No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the following requirements and to such checklists as have been adopted by ordinance as to form, content and accompanying information. All plats shall be drawn by a land surveyor as required by law, licensed to practice in the State of New Jersey, and shall bear the signature, seal, license number and address of the land surveyor. All drawings of improvements shall be signed and sealed by a licensed Professional Engineer of the State of New Jersey.

B. Sketch plats shall include the same data as required in Section 505B. This submission shall also show to scale the lot lines, proposed building(s), proposed use(s), parking, loading, onsite circulation, driveways, wooded areas, approximate onsite or on-tract storm water detention facilities, and water and sewer service.

C. Preliminary Site Plan

1. Every preliminary site plan shall be at a minimum graphic scale of 1" = 10', 20', 30', 40' or 50'; certified by a New Jersey licensed architect or engineer, including accurate lot lines certified by a New Jersey licensed land surveyor, submitted on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42"). The following data shall be shown on the site plan or accompany it. (If one sheet is not sufficient to contain the entire territory, a separate composite map at a reduced size shall be drawn on one sheet showing the entire development and the sheets on which the various sections are shown.) All lots lines and the exterior boundaries of the tract; north arrow; zone district(s) in which the lot(s) is (are) located; date of original drawing and each subsequent amendment; existing and proposed street(s) and street name(s), existing and proposed contours at 2 foot intervals throughout the tract and within one hundred (100) feet of any building or paved area under review; title of the plan; streams and flood hazard areas; wetlands and wetland transition areas; total area to one square foot; total number of parking spaces and driveways; all dimensions, areas and distances needed to conform with the ordinance such as but not limited to building lengths, building coverage, lot lines, parking spaces and driveways, loading spaces, setbacks and yards; a small key map giving the general location of the parcel within the borough; a separate map showing the site in relation to all remaining lands in the present owner's ownership; and a letter of interpretation issued by N.J.D.E.P. confirming the delineation of any wetlands and wetlands transition areas.

2. Site Plan Information for Preliminary and Final Approval. Each site plan shall have the following information shown thereon or be annexed thereto and shall be designed to comply with the applicable Design Standards (Article 5), Design and Performance Standards (Article 6), and Zoning Regulations (Article 7) of this ordinance.

a. Building and Use Plan. Size, height, location, arrangement and use of all proposed buildings, structures and signs, including an architect's scaled elevations of the front, side and rear of any structure and sign to be erected or modified to the extent necessary to apprise the approving authority of the scope of the proposed work, shall be shown. Any existing structures shall be identified either to remain or to be removed. A written description of the proposed use(s) and operation(s) of non-residential building(s), including the number of employees or members; the proposed number of shifts to be worked and the maximum number of employees on each shift; expected truck and tractor trailer traffic, emission of noise, glare, vibration, heat, odor, air and water pollution; safety hazards; and anticipated expansion plans incorporated in the building design shall be provided. Floor plans shall be submitted. In

apartment and townhouse projects, the number of dwelling units, by type, shall be shown.

b. Circulation Plan.

This plan shall show access streets and street names, acceleration/deceleration lanes, curbs, aisles and lanes, access points to public streets, sight triangles, traffic channelization, easements, fire lanes, driveways, number and location of parking and loading spaces/loading berths and/or docks, pedestrian walks, bikeways and all related facilities for the movement and storage of goods, vehicles and persons on the site and including lights, lighting standards, signs and driveways within the tract and within 100 feet of the tract. Sidewalks shall be shown from each entrance/exit along expected paths of pedestrian travel such as, but not limited to, access to parking lots, driveways, other buildings on the site, and across common yard areas between buildings. Plans shall be accompanied by cross-sections of new streets, aisles, lanes, driveways, sidewalks, and bikeways. Any expansion plans for the proposed use shall show feasible parking and loading expansion plans to accompany building expansion.

c. Natural Resources Plan.

This plan shall show existing and proposed wooded areas, buffer areas including the intended screening devices and buffers, grading at 2 foot contour intervals inside the tract and within 50 feet of its boundaries, seeded and/or sodded areas, ground cover, retaining walls, fencing, signs, recreation areas, shrubbery, trees, and other landscaping features. These plans shall show the location and type of man-made improvements and the location, species and caliper of plant material and trees to be located on the tract. All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, contours, existing foliage, and the planting of coniferous and/or deciduous trees native to the area in order to main or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades and landscaping on any site shall be planned for aesthetic, drainage, and erosion control purposes. The grading plan, drainage facilities, and landscaping shall be coordinated to prevent erosion and siltation as outlined under the Soil Erosion and Sediment Control, the Soil Removal and Redistribution, Flood Plain Regulations and the Grading and Filling provisions of this ordinance in Article 6 as well as assuring that the capacity of any natural or manmade drainage system is sufficient to handle the water from the site and contributing upstream areas.

d. Facilities Plan.

This plan shall show the existing and proposed locations of all drainage and storm water run-off; open space; common property; fire, gas, electric, telephone, sewerage and water line locations; and solid waste collection and disposal methods including proposed grades, sizes, capacities, and materials to be used for facilities installed by the developer. Installations by utility companies need only show their locations on the plat. All easements acquired or required on the tract and across adjacent properties shall be shown and copies of legal documentation that supports the granting of an easement by an adjoining property owner shall be included. All proposed lighting shall be shown including the direction, angle, height, and reflection of each source of light. All utilities shall be installed underground. All required state and federal approvals for environmental considerations shall be submitted prior to preliminary approval or be a condition of approval. Drainage facilities shall include facilities to comply with the Storm Water Run-off provisions in Article 6. The method of sewage treatment and solid waste disposal shall be shown. All public services shall be connected to an approved public utilities system where one exists.

e. Flood Hazard Area Considerations.

Any proposal for a development on a tract where any part of the tract contains a flood hazard area shall comply with the Flood Plain Regulations of this ordinance in addition to the following standards. No building or structure shall be erected, moved, or enlarged, nor shall any material or equipment be stored, fill be placed, nor shall the elevation of any land be substantially changed in the flood hazard area except in accordance with a permit issued by the New Jersey Department of Environmental Protection, Division of Water Resources; provided, however, that lawns, gardens and recreational usage that do not include structures, are not included in the foregoing prohibitions. Primary consideration shall be given to preserving the floodway so as to assure maximum capacity of the passage of flood flows without aggravating flood conditions upstream and downstream. No building or structure shall be erected, moved, or enlarged in the flood fringe area if the elevation of any floor, including the cellar, shall be less than one foot above the flood hazard design elevation except in accordance with a permit issued by the New Jersey Department of Environmental Protection, Division of Water Resources. As to developments in the flood fringe area, primary consideration shall be given to the protection of persons and property involved in the development and such consideration shall not be avoided by a waiver from the applicant.

D. Final Site Plan Plat

The final plat shall include all data required on the preliminary site plan plat drawn to incorporate all changes required as a condition of preliminary approval and drawn by persons and to specifications as required for a preliminary plat.

507 SUBMISSION OF PRESERVATION PLAN FOR PRESERVATION PERMIT; ACTION THEREON

[Amended 11/18/2013 by Ord. #7, 2013]

A. Classification of Plans; Major and Minor Submission Requirements; Determination of Completeness; Referral to Board; Noticing Requirements.

1. Classification of Plans – Major or Minor

a. The administrative officer shall classify an application for preservation plan approval as either a major or a minor preservation plan in accordance with the definitions of major and minor preservation plans as articulated in Article 3, Section 302.

b. An applicant may contest the administrative officer's classification of the plans by making an application to the Planning Board in accordance with the same regulations for contesting a zoning interpretation, pursuant to N.J.S.A. 40:55D-70 as may be amended from time to time.

c. Preservation plans will be classified as major or minor within the time frame for determining whether such an application is complete as stipulated in N.J.S.A 40:55D-10.3 as may be amended from time to time.

2. Classification of Plans - Historic Structure Status

a. Coincident with classifying an application as major or minor, the administrative officer shall also classify the subject structure or property as pre-1930 or post-1929 for the purposes of identifying the appropriate criteria against which the application will be reviewed.

b. An applicant may contest the administrative officer's classification of the historic structure status by making an application to the Planning Board in accordance with the same regulations for contesting a zoning interpretation, pursuant to N.J.S.A. 40:55D-70 as may be amended from time to time.

3. Major Preservation Plan Submission Requirements

a. An applicant for a major preservation permit shall submit to the Administrative Officer a completed preservation plan application form, a major preservation plan, and supporting documentation, including color photographs of the property in question and surrounding properties;

product specifications; and, where appropriate, elevations, details such as information regarding fenestration, roofing materials, exterior siding and other finishing materials, and building material samples. The documentation must be sufficient to demonstrate how the proposed improvement will appear in context. Color photocopies of photographs in lieu of colored prints may be submitted.

b. The applicant shall provide fifteen (15) copies of the completed application form, major preservation plan and all supporting documentation at the time of filing, except that only one (1) sample of each building material need be submitted.

c. The applicant shall submit requisite fees and escrow payments in accordance with the Borough Development Fee and Escrow Ordinance.

4. Minor Preservation Plan Submission Requirements

a. An applicant for a minor preservation permit shall submit to the Administrative Officer a completed preservation plan application form, a minor preservation plan, and supporting documentation, which may include color photographs of the property in question and surrounding properties; product specifications; elevations, details, and building material samples. The documentation must be sufficient to demonstrate how the proposed improvement will appear in context. Color photocopies of photographs in lieu of colored prints may be submitted.

b. Five (5) copies of the completed application form, minor preservation plan and all supporting documentation submitted therewith shall be provided at the time of filing, and further provided that only one (1) sample of each building material need be submitted.

c. The applicant shall submit requisite fees and escrow payments in accordance with the Borough Development Fee and Escrow Ordinance.

5. Determination of Completeness

a. Major Preservation Plan Completeness. The Administrative Officer shall determine that the application is complete based on the information submitted.

Notification of application completeness shall be made within 45 calendar days of the date of filing. If the application is deemed incomplete, the Administrative Officer shall at the same time advise the applicant of the deficiencies in the submission. All re-filings shall be treated as initial filings for purposes of this section.

b. Minor Preservation Plan Completeness. The Administrative Officer shall determine application completeness based on the information

submitted. Notification of application completeness shall be made within 45 calendar days of the date of filing. If the application is deemed incomplete, the Administrative Officer shall at the same time advise the applicant of the deficiencies in the submission. All re-filings shall be treated as initial filings for purposes of this section.

6. Referral to Board; Noticing Requirements.

a. All preservation plans associated with a development application, whether major preservation plans or minor preservation plans, shall be referred to and reviewed by the Planning Board, which may be simultaneous with site plan/subdivision review.

b. All major preservation plans *not associated* with a development application shall be referred to and reviewed by the Planning Board. The Administrative Officer shall notify the applicant of the date set for the hearing.

c. All minor preservation plan applications shall be referred to and reviewed by the Historic Review Subcommittee. The Historic Review Subcommittee shall give the applicant an opportunity to be heard during the review of the minor preservation plan. The Historic Review Subcommittee shall approve or disapprove the minor preservation plan and memorialize its decision together with its findings and recommendations in writing. A minor preservation plan shall be approved only when the Historic Review Subcommittee is satisfied that the minor preservation plan conforms to the criteria articulated in Section 713B. If the Historic Review Subcommittee finds that the minor preservation plan does not conform to the provisions of Section 713B, the minor preservation plan shall be referred to the Planning Board for full Planning Board review.

d. Noticing requirements

(1). Any preservation plan application, major or minor, associated with a development application shall be noticed in conjunction with the development application notice.

(2). Any major preservation plan application not associated with a development application shall be noticed, at least ten (10) days prior to the hearing, by personal service or ordinary mail to all owners of property located within 200 feet of the lot which is the subject of the hearing on the application and of the date, time and place of the hearing with a brief description of the work for which approval is sought. No other notice requirements shall apply.

(3). Any minor preservation plan application not associated with a development application shall not be subject to notice requirements.

B. Major Preservation Plan Review.

1. All major preservation plans associated with a development application shall be reviewed in conjunction with the application for development with which they are associated.

2. A major preservation plan not associated with a development application will be reviewed by the Planning Board in accordance with the criteria articulated in Section 713B.

3. The decision of the Planning Board shall be conveyed to the administrative officer via resolution. The administrative officer will issue the preservation permit or deny it in accordance with the resolution.

C. Minor Preservation Plan Review.

1. All minor preservation plans associated with a development application shall be reviewed in conjunction with the application for development with which they are associated.

2. A minor preservation plan not associated with a development application will be reviewed by the Historic Review Subcommittee in accordance with the criteria articulated in Section 713B.

3. The decision of the Historic Review Subcommittee shall be conveyed to the administrative officer via memorandum, with copy to the Planning Board. The administrative officer will issue the preservation permit or deny it in accordance with the Subcommittee's memorandum.

D. Informal Concept Review

Applicants whose preservation plans have been classified as major plans are encouraged, but not required, to pursue informal concept review before the Planning Board for the proposed work. An informal concept review should occur as early in the design of the project as is possible. The purpose of such review is to facilitate discussion between the applicant and Planning Board at a public meeting about the applicant's proposed work, and to secure the Planning Board's comments early in the design process. The applicant may secure informal concept review by filing a request with the administrative officer at least 10 days before a regularly scheduled planning board meeting on such forms as shall be provided for this purpose, together with whatever documentation the applicant deems would best illustrate his concept of the proposed work.

ARTICLE 6: DESIGN AND PERFORMANCE STANDARDS

601 GENERAL

Any application for development shall demonstrate conformance to design standards that will encourage sound development patterns within the borough. Where either an Official Map or Master Plan have been adopted, the development shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, and flood control basins shown on the officially adopted Master Plan or Official Map shall be considered in the approval of plats. In accordance with good design practices, extreme deviations from rectangular lot shapes and straight lot lines shall not be allowed unless made necessary by special topographical conditions or other special conditions acceptable to the approving authority. All improvements shall be installed and connected with existing facilities, or installed in required locations to enable future connection with approved systems or contemplated systems, and shall be adequate to handle all present and probable future development.

602 ACCESSORY BUILDINGS

Accessory buildings are permitted in all zones provided all yard requirements (front, side and rear) are fully observed in locating said Accessory Buildings.

603 APARTMENTS AND TOWNHOUSES

No apartments or townhouses shall be erected unless public or private central water supply and a central sanitary sewer system are provided as approved by appropriate state, county and local regulatory agencies and until the site plan has been reviewed and approved by the approving authority.

A. Each overall development shall have a compatible architectural and landscaping theme with variations in design to provide attractiveness to the development. Each project shall specify how each of the following considerations has been incorporated in the overall plan: landscaping techniques; building orientation to the site and to other structures; topography; natural features such as wooded areas, drainage courses, soil conditions, and topographic relief; and building design features such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing roof lines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination.

B. The configuration of structures may be any alignment that meets the yard requirements and does not exceed the following overall or component building lengths; 1) 200 feet on one plane; 2) 340 feet on any angle; and 3) 500 feet along the centerline. Any passageway between two structures which has a roof attached

to both structures shall be included in calculating these lengths. Structures, as measured along the centerline, shall provide one opening at ground level at least every 200 feet. This opening shall be a minimum of 15 feet in clear width and a minimum of 10 feet in clear height and located so that the floor level is at an elevation not more than 8 inches above or below the finished grade of the adjoining ground. The configuration of townhouse structure may be any alignment that meets the yard requirements, but has not less than 4 nor more than 8 units in one overall structure.

C. No dwelling unit shall have a living area lower than the finished grade along the front of the structure.

D. All required open space shall be improved for the purposes intended as shown on the plan.

E. No development shall exceed the density specified in the zoning provisions.

F. Recreational facilities within an apartment or townhouse development may be located either in the designated open space or within the yard areas of each structure, notwithstanding the fact that the recreational facilities may overlap imaginary yard lines used to establish the minimum distance between structures under this ordinance. The specific location of any recreational facilities shall give consideration to the proximity of structures, type of recreational facility proposed, expected noise level and evening illumination which may create a possible nuisance for residents, and expected pedestrian and bicycle traffic across major interior roads or driveways.

604 BIKEWAYS

Bikeways shall be required at the approving authority's discretion depending on the probable volume of bicycle traffic, the development's location in relation to other populated areas, or its location with respect to any overall bike route plan adopted by the Planning Board. Bicycle traffic shall be separated from motor vehicle and pedestrian traffic as much as possible. Bikeways shall generally not exceed a grade of three (3) percent, except for short distances, and they shall be a minimum of five (5) feet wide for one-way and eight (8) feet wide for two-way travel. Bikeways shall have a minimum four (4) inch base of gravel, crushed stone or slag on the sub-grade and a two (2) inch FABC-2 surface course. Where separate bike paths intersect streets, the curbing shall be ramped for bicycle access to the street grade. Bikeways designated for one-way travel shall only be located along streets. Minimum width for bikeways built in locations other than along streets is eight (8) feet.

605 BLOCKS

A. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the zoning ordinance and to provide for convenient access, circulation control and safety of street traffic.

B. In blocks over 1000 feet long, pedestrian walks ten (10) feet wide and extending from street to street and suitably paved may be required in locations deemed necessary by the Planning Board.

C. Block lengths. The distance between intersecting streets shall not be in excess of 1200 feet unless the Planning Board, in its discretion, believes such requirement to be contrary to the best interests of the Borough.

D. For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.

606 BUFFERS

A. Buffer areas shall require site plan approval and are required along all lot lines and street lines which separate a non-residential use from either an existing residential use or residential zoning district. Buffer areas shall be developed in an aesthetic manner for the primary purpose of screening view and reducing noise perception beyond the lot. Buffer widths shall be measured horizontally and perpendicularly to lot and street lines. No structure, activity, storage of materials, or parking of vehicles shall be permitted in a buffer area. The standards for the location and design of buffer areas are intended to provide flexibility in order to provide effective buffers. The location and design of buffers shall consider the use of the portion of the property being screened, the distance between the use and the adjoining property line, differences in elevations, the type of buffer such as dense planting, existing woods, a wall or fence, buffer height, buffer width, and other combination of man-made and natural features. The buffer shall be designed, planted, graded, landscaped and developed with the general guideline that the closer a use or activity is to a property line, or the more intense the use, the more effective the buffer area must be in obscuring light and vision and reducing noise beyond the lot.

B. A minimum of one-half of the periphery that requires a buffer shall have a buffer at least 15 feet wide which shall be designed, planted, graded, landscaped, and developed to obscure the activities of the site from the view. In addition, not more than one-half of the periphery that requires a buffer shall consist of at least two of the following: 1) fencing or walls in a landscaped area not less than 10 feet wide; 2) a landscaped berm at least 5 feet high; 3) a building with a setback of at least 200 feet with a grade of less than 20 percent where groups of plantings and trees are located within this area to enhance some architectural feature(s) of the structure as well as offer a break to large open areas, but with no other use permitted in this yard area; and 4) a parking area setback of at least 100 feet that is landscaped as required under the off-street parking provisions of this ordinance.

If in the judgment of the approving authority any of these alternate provisions will not provide sufficient buffers for the portion of the site proposed, the approving authority may require the site plan to be modified to show the extension of the 15 foot buffer area outlined above, require that the proposed alternatives be landscaped differently, or be relocated until, in the approving authority's judgment, they provide the desired buffering effect.

C. All buffer areas shall be planted and maintained with either grass or ground cover together with a screen of live shrubs or scattered planting of live trees, shrubs, or other plant material meeting the following requirements: 1) the preservation of all natural wooded tracts shall be an integral part of all site plans and may be calculated as part of the required buffer area provided the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, said plantings may be required; 2) plant materials used in screen planting shall be at least 3 feet in height when planted and be of such density as well as obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises; 3) the screen planting shall be so placed that at maturity it will not be closer than three feet from any street or property line; 4) trees shall be at least 8 feet in height and 1-1/2inch in caliper when planted and be of a species common to the area, be of balled and burlapped nursery stock, and be free of insect and disease; 5) any plant material which does not live shall be replaced within one year or one growing season; 6) screen plantings and landscaping shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections.

607 BUILDING PERMITS, SITE PLAN APPROVALS AND ZONING VARIANCES OUTSTANDING

Nothing in this ordinance shall require any change in a building permit, site plan, or zoning variance which was approved before the enactment of this ordinance, but is in violation of this ordinance, provided that construction based on such a building permit shall have been started within the effective period of the permit but not to exceed one year from the effective date of this ordinance and, in the case of a site plan or variance, a building permit shall have been issued within ninety (90) days following the effective date of this ordinance. In all instances the project shall be continuously pursued to completion, otherwise said approvals and permits shall be void.

608 CLUSTER DEVELOPMENT

A. The purpose of this section is to provide a method of developing land to set aside desirable open spaces, common property, conservation areas, flood plains, school sites, recreation areas, and parks. The generation of these areas is brought about by permitting a reduction in lot sizes without increasing the number of lots.

B. Cluster developments may be approved in accordance with the following standards:

1. All dwelling units shall be connected to approved and functioning central water and off-tract sanitary sewage treatment systems.
2. The minimum size tract shall be 10 acres.
3. The maximum number of lots shall be expressed in lots per gross acre of land as set forth in Article 7.
4. A minimum percent of the total tract to be set aside for either open space, common property or public areas, excluding street rights-of way, shall be as set forth in Article 7.

C. Any lands offered to the borough shall meet the following requirements:

1. The minimum size of any parcel shall be 0.5 acre.
2. It shall be an integral part of the development and shall be located to best suit the purpose(s) for which it is intended.
3. Every parcel offered to and accepted by the borough shall be conveyed by deed at the time final plat approval is granted. Said deeds shall contain restrictions stating to what use(s) such land(s) shall be restricted.
4. Any lands offered to the borough shall be subject to approval by the governing body after review and recommendation by the approving authority. The approving authority shall be guided by the master plan, the ability to assemble and relate such lands to an overall plan, the accessibility and potential utility of such lands, and such existing features as topography, soils, wetlands, and tree cover as these features may enhance or detract from the intended use of the lands. The approving authority may request an opinion from the agencies or individuals as to the advisability of accepting any lands to be offered.

609 CORNER LOTS & THROUGH LOTS

Any principal or accessory building located on a lot bounded by more than one street shall have a minimum setback from each street equal to the required front yard.

610 CURBS AND GUTTER

In accordance with State policy regarding stormwater runoff and stormwater quality, the use of curb and gutter shall be kept to a minimum on all streets and parking lots. The Planning Board may require in lieu of full height curb the use of flush curbing to provide for a stabile edge for paved sections. Flush curbing shall be constructed using the same dimensions as a standard curb section except that it shall be fourteen (14”) inches in height, as opposed to twenty (20”) inches. In those areas where it is deemed necessary to install a standard curb section, it shall be not more than ten (10) feet in length, shall be set in accordance with

approved lines and grades, and radial curbs shall be formed in an arc segment, in a smooth curve. Chord segments are prohibited. Concrete curbs shall be nine (9) inches by twenty (20) inches (eights (8) inch exposed face), using Class B concrete having a twenty-eight (28) day compressive strength of four thousand five hundred (4,500) p.s.i. and shall be air entrained. At locations specified by the approving authority, the curbing shall be designed to provide a ramp for bicycles and/or wheelchairs. [**Amended on 12/18/06 by Ord. #11, 2006**]

611 DRAINAGE

All streets shall be designed to accommodate storm drainage along the streets, including the installation of catch basins and pipes where the same may be necessary for proper surface drainage. The requirements of this section shall not be satisfied by the construction of dry wells. The system shall be adequate to carry off or store the storm water and natural drainage water which originates within the development boundaries and that which originates beyond the development boundaries and passes through the development calculated on the basis of maximum potential development as permitted under this ordinance. No storm water run-off or natural drainage water shall be so diverted as to overload existing drainage systems or create flooding or the need for additional drainage structures on other lands without proper and approved provisions being made for taking care of these conditions.

A. A 15-year storm curve shall be used in computing storm water run-off from the drainage basin to determine the impact on the drainage system under consideration.

B. The pipe size determined to be adequate for the run-off computed shall be increased by at least one (1) standard pipe size for the type of pipe being used in order to provide adequate allowance for the normal accumulation of sediment and debris in the storm drainage system. In no case shall the pipe size in a surface water drainage system be less than fifteen (15) inches in diameter.

C. Catch basins shall be located at all intersections and located in streets with inlet on both sides of the street at intervals of not more than four hundred (400) feet or such shorter distances as required to prevent the flow of surface water from exceeding 6.0 cubic feet per second at the catch basin inlet. Access manholes shall be placed at maximum 500 foot intervals throughout the system and at pipe junctions where there are not catch basins.

D. Dished gutters shall be permitted only at intersections involving local streets. Dished gutters shall not be permitted on arterial or collector streets.

E. Storm drain pipes shall be of the size specified and laid to the exact lines and grades approved by the Municipal Engineer. Specifications for manholes,

inlets and storm drains shall follow the 1961 State Highway Specifications, as amended.

F. For both major and minor developments, blocks and lots shall be graded to secure proper drainage away from all buildings and to prevent the collection of storm water in pools and to avoid concentration of storm water from each lot to adjacent lots.

G. Land subject to periodic or occasional flooding shall not be designed for residential occupancy nor for any other purpose which may endanger life or property or aggravate the flood hazard. Such land within lot shall be considered for open spaces, yards, or other similar uses in accordance with flood plain regulations.

H. Where a minor or major development is traversed by a watercourse, surface or underground drainage way or drainage system, channel, or stream, there shall be provided and dedicated a drainage right-of-way easement to the township conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate to accommodate expected storm water run-off in the future based upon reasonable growth potential in the township and, in addition thereto, a minimum of fifteen (15) feet beyond the bank top on at least one side for access to the drainage right-of-way and, in any event, meeting any minimum widths and locations shown on any adopted official map, or master plan or as required under the section entitled "Easements" in Article 6.

I. Easement of rights-of-way shall be required in accordance with the Section entitled "Easements" in Article 6 where storm drains are installed outside streets.

612 EASEMENTS

Easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least twenty-five (25) feet wide for one utility and five (5) additional feet for each additional utility and be located in consultation with the companies or borough departments concerned and, to the fullest extent possible, be centered on or adjacent to rear or side lot lines. Floodplain and conservation easements shall be indicated on the preliminary and final plat and show in such a manner that their boundaries can be accurately determined. The removal of trees and ground cover shall be prohibited in a conservation easement or floodplain except for the following purposes: the removal of dead or diseased trees; limited thinning of trees and growth to encourage the most desirable growth; and the removal of trees to allow for structures designed to impound water or in areas to be flooded in the creation of ponds or lakes. The boundary line of any easement shall be monumented at its intersection with all existing or proposed street lines. Such easement dedication

shall be expressed on the plat as follows: "easement dedication granted to the Borough of Rocky Hill as provided for in the Development Regulations Ordinance of the Borough of Rocky Hill."

613 ENVIRONMENTAL IMPACT REPORT

Such report shall accompany all preliminary plat, shall provide the information needed to evaluate the effects of a proposed development upon the environment and shall include data, be distributed, reviewed and passed upon as follows and in accordance with the Design and Performance Standards (Article 6) of this ordinance.

A. A description of the development which shall specify what is to be done and how it is to be done, during construction and operation, as well as a recital of alternative plans deemed practicable to achieve the objective.

B. An inventory of the following existing environmental conditions at the project site and an assessment of the probable impact of the development upon them shall be submitted: water supply; sewerage systems; topography; noise characteristics and levels; land use; aesthetics and history. Air and water quality shall be described with reference to standards promulgated by the Department of Environmental Protection of the State of New Jersey.

C. A listing shall be provided of the licenses, permits and approvals needed to be furnished by federal, state or county law and the status of these permits and approvals. The report shall include the conclusions and comments of these governmental agencies.

D. An evaluation shall be included of any adverse environmental impacts which cannot be avoided. Particular emphasis shall be placed upon air or water pollution, increase in noise, increase in sedimentation and siltation, increase in borough services, and consequences to borough tax structure.

E. The report shall include a description of steps to be taken to avoid or minimize adverse environmental impacts during construction and operation, including necessary maps, schedules and other explanatory data to clarify and explain the steps to be taken.

F. Notwithstanding the foregoing, the approving authority may, at the request of an applicant, waive the requirement for all or part of an Environmental Impact Report if sufficient evidence is submitted that the proposed development will have a slight or negligible environmental impact or upon a finding that the complete report need not be prepared in order to evaluate the environmental impact of a particular project.

614 FENCES AND WALLS

Shall not be located in any required sight triangle. The finished side of all fences shall face outward. All support members shall be on the inside of the fence facing toward the subject property**. [Amended on 8/17/1998 by Ord. #4, 1998.]**

615 FIRE PROTECTION

Wherever a central water supply system services a development, provision shall be made for fire hydrants along streets and/or on the walls of non-residential structures as approved by the borough, fire department or Municipal Engineer and in accordance with Fire Insurance Rating Organization Standards. For fire safety purposes, no window sill shall be greater than 28 feet above finished grade measured ten feet from the foundation.

616 FLOOD PLAIN REGULATIONS

(Also See Sections entitled "Drainage" and "Easements" in Article 6)

A. The purposes are: 1) to implement the land use rules and regulations promulgated by the New Jersey Department of Environmental Protection for floodways and the flood fringe portion of a flood hazard area; 2) to discourage construction and re-grading in flood hazard areas; 3) to prevent encroachments into flood hazard areas which would obstruct or constrict the area through which water must pass; and 4) to prevent pollution of water courses during low or high water periods by preventing the placing or storing of unsanitary or dangerous substances in the flood hazard areas.

B. The flood hazard design elevation shall be determined on an individual basis based upon stream encroachment line data from the Division of Water Resources or, in the absence of that data, the flood elevation based on a 100-year storm frequency. One or the other shall be delineated on the plat. In addition, the Municipal Engineer may, upon receipt of the application and with the consent of the landowner, determine the precise location of a floodway and flood fringe area by close inspection, field survey or other appropriate method and cause the same to be marked on the ground and on the plat, and notifying the owner, the New Jersey Department of Environmental Protection, Division of Water Resources, and the approving authority. The assistance of the United State Department of Agriculture, Soil Conservation Service and the New Jersey Department of Environmental Protection, Division of Water Resources may be sought to aid in delineating the flood hazard design elevation except that where state or federal agencies have or will publish any reports which delineate the flood hazard design elevation or water course, said report shall be the officially delineated flood hazard area as if said report were published in this ordinance.

C. Any lot containing a floodway portion of a drainage course and on which it is proposed to regrade and/or construct an improvement shall not be permitted unless the proposed use is permitted by this ordinance, plat approval has been

granted, and a floodway permit has been issued by the New Jersey Department of Environmental Protection, Division of Water Resources where required by state regulations.

D. Any lot containing a flood fringe portion of the flood hazard area and on which it is proposed to regrade and/or construct an improvement shall not be permitted unless the proposed use is permitted by this ordnance and until plat approval has been granted.

E. The procedure for reviewing any proposed regrading and/or construction shall be the same as set forth for plat review. No application shall be approved and no permit granted until all zoning violations have either been corrected or a variance granted.

F. Permitted uses in a flood fringe portion of the flood hazard area shall be restricted to the following provided they are permitted uses in the district in which the flood fringe portion is located.

1. Agriculture: general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial/Commercial: yards, loading areas, and parking areas.
3. Recreation: golf courses, improved courts and playing fields, swimming areas, boat launching ramps, picnic and camping, and open space uses such as hiking trails.
4. Residential: lawns, gardens, parking areas, and play areas.

G. The applicant shall submit maps, reports, and other appropriate documents permitting the approving authority to evaluate whether the proposal has an inherent low flood damage potential; does not obstruct flood flows or increase flood heights and/or velocities; does not affect adversely the water carrying capacity of any delineated floodway and/or channel; does not increase local run-off and erosion; does not unduly stress the natural environment of the flood plain or degrade the quality of surface water or the quality and quantity of ground waters; does not require channel modification or relocation; does not require fill or the erection of structures; and does not include the storage of equipment and materials.

H. Prior to any action by the approving authority on a plat involving a floodway or flood fringe area, a public hearing shall be set and conducted by the approving authority. Notice of the hearing shall be as required under the Section entitled "Public Hearings" in Article 4.

I. Upon reviewing the application, hearing the applicant's representation, hearing comments from the general public and other agencies to which the application was forwarded for comment, the approving authority shall deny,

approve subject to conditions, or approve the application. Its conclusions shall be based on findings related to the above criteria.

617 GRADING AND FILLING

[Amended 12/18/06 by Ord. #11, 2006]

All lots where fill material is deposited shall have clean fill and/or topsoil deposited which shall be graded to allow complete surface draining of the lot into Best Management Practices devices, local storm sewers systems or natural drainage courses. No re-grading of a lot shall be permitted which would create or aggravate water stagnation or a drainage problem onsite or on adjacent properties, or which will violate the provisions of the Soil Erosion and Sediment Control, Soil Removal and Redistribution, and Flood Plain provisions of this ordinance except where such ponding is required as part of a State approved Best Management Practices device constructed to meet water quality or water quantity standards. Grading shall be limited to areas shown on an approved site plan or subdivision. Any topsoil disturbed during approved excavation and grading operations shall be redistributed throughout the site.

618 HOMEOWNERS' ASSOCIATION

A homeowners' association may be established for the purposes of owning and assuming maintenance responsibilities for the common open space and common property designed within a development provided the approving authority is satisfied that the organization will have a sufficient number of members to reasonably expect a perpetuation of the organization in a manner enabling it to meet its obligations and responsibilities in owning and maintaining any property for the benefit of owners or residents of the development. If established, the organization shall incorporate the following provisions:

A. Membership by all property owners, condominium owners, stockholders under a cooperative development and other owners of property or interest in the project shall be mandatory. Required membership and the responsibilities upon the members shall be in writing between the organization and each member in the form of a covenant with each agreeing to liability for his pro-rata share of the organization's costs.

B. The organization shall be responsible for liability insurance, taxes, maintenance and any other obligations assumed by the organization, and shall hold the municipality harmless from any liability. The organization shall not be dissolved and shall not dispose of any open space or property by sale or otherwise, except to an organization conceived and established to own and maintain the open space or property for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open

space or property without first offering to dedicate the same to the municipality(s) wherein the land is located.

C. The assessment levied by the organization upon each member may become lien on each member's property. The organization shall be allowed to adjust the assessment to meet changing needs.

D. The organization shall clearly describe in its by-laws all the rights and obligations of each tenant and owner, including a copy of the covenant, model deeds, and articles of incorporation of the organization and the fact that every tenant and property owner shall have the right to use all common properties. These shall be set forth as a condition of approval and shall be submitted prior to the granting of final approval.

E. The articles of incorporation, covenants, by-laws, master deeds, and other legal instruments shall insure that control of the organization shall be transferred to the members based on a percentage of the dwelling units sold and/or occupied and shall clearly indicate that in the event such organization shall fail to maintain the common open space or common property in reasonable order and condition, the borough may serve written notice upon such organization or upon the owner of the development setting forth the manner in which the organization has failed to maintain the common open space or common property in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured with 35 days thereof, and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice. At such hearing, the designated borough body or officer, as the case may be, may modify the term 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. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 35 days or any permitted extension thereof, the borough, in order to preserve the common open space and common property and maintain the same for a period of 1 year may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the common open space and common property except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the borough council shall upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space and common property call a public hearing upon 15 days written notice to such organization and to the owners of the development, to be held by the council at which hearing such organization and the owners of the development shall show cause why such maintenance by the borough shall not, at the election of the borough, continue for a succeeding year. If the borough council shall determine that such organization is ready and able to maintain said open space and property in reasonable condition, the borough shall cease to maintain said open space and property at the end of said year. If the council shall determine such organization is not ready and able to maintain said open space and property in a reasonable condition, the borough may, in its

discretion, continue to maintain said open space and property during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the council in any such case shall constitute a final administrative decision subject to judicial review.

F. The cost of such maintenance by the borough shall be assessed pro-rate against the properties within the development that have a right of enjoyment of the common open space and common property in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax on said properties and be added to and be apart 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.

619 LIGHTING

All area lighting shall provide translucent fixtures with shields around the light source. The light intensity provided at ground level shall average a maximum of five-tenths foot candle over the entire area. For each fixture and lighted sign, the total quantity of light radiated above a horizontal plane passing through the light source shall not exceed seven and one-half percent of the total quantity of light emitted from the light source. Any other outdoor lighting shall be shown on the site plan in sufficient detail to allow determination of the effects at the property line and on nearby streets, driveways, residences, and overhead sky glow. No lighting shall shine directly or reflect into windows, or onto streets and driveways in such a manner as to interfere with driver vision. No lighting shall be of yellow, red, green or blue beam nor be of a rotating, pulsating, beam, or other intermittent frequency. The intensity of such light sources, light shielding, the direction and reflection of the lighting, and similar characteristics shall be subject to site plan approval by the approving authority. The objective of these specifications is to minimize undesirable offsite effects.

620 LOTS

A. Lot dimensions and area shall not be less than the requirements of the Zoning Provisions.

B. Insofar as is practical, side lot lines shall be either at right angles or radial to street lines.

C. Each lot must front upon an approved, paved street with a right-of-way of at least fifty (50) feet.

D. Through lots with frontage on two streets will be permitted only under the following conditions; 1) where the length of the lot between both streets is such that future division of the lot into two lots is improbable; and 2) access shall be to the street with the lower traffic function and the portion of the lot abutting the

other street shall be clearly labeled on the plat, and in any deed, that street access is prohibited.

E. Where extra width has either been dedicated or anticipated for widening of existing streets, zoning considerations shall begin at such new street line and all setbacks shall be measured from such line.

F. Two or more contiguous lots under the same ownership, regardless of whether or not each may have been approved as portions of a subdivision acquired by separate conveyance, or by other operation of law, and one or more of said lots should not conform with the minimum area and/or dimension requirements for the zone in which it is located, the contiguous lots shall be considered as a single lot and the provisions of this ordinance shall hold.

G. Any nonconforming lot not meeting the definition of the previous paragraph may have a building permit issued for a permitted use without an appeal for variance provided the building coverage is not exceeded, parking requirements are met, and provided further that the nonconforming lot abuts lots on either side that are developed and the nonconforming lot is the largest possible assemblage of contiguous land under the preceding paragraph. Where the nonconforming lot abuts either a vacant lot or an oversized developed lot, the issuance of a building permit may be delayed until the approving authority determines the reasonableness of requiring the applicant to acquire additional land to reduce or eliminate the nonconformity. Where the resulting lot is still nonconforming, the yard and height provisions may be reduced to the same percentage the area of the undersized lot bears to the zone district requirements except that no side yard shall be less than half that required by the ordinance, or five feet, whichever is greater, and no building shall be required to have a height less than 12 feet.

H. 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 or similar circumstances, the Planning Board may, after adequate investigation withhold approval of such lots.

621 MONUMENTS

Monuments shall be the size and shape required by N.J.S.A. 46:23-9.12 of the Map Filing Law, as amended, and shall be place in accordance with said statute and indicated on the final plat. All lot corners shall be marked with a metal alloy pin of permanent character.

622 NATURE FEATURES

Natural features such as trees, brooks, swamps, hilltops and views, shall be preserved whenever possible. On individual lots, care shall be taken to preserve selected trees to enhance soil stability and the landscape treatment of the area.

623 NONCONFORMING USES, STRUCTURES, OR LOTS

The lawful use of land, buildings, or structure existing when this ordinance was adopted may be continued on the lot or in the structure although they may not conform to this ordinance and any such structure may be restored or repaired in the event of partial destruction thereof provided, however, that none shall be enlarged, extended, relocated, converted to another use, or altered, except in conformity with this ordinance, except as permitted below. Land on which a nonconforming use or structure is located and any nonconforming lot shall not be subdivided or re-subdivided so as to be made more nonconforming in any manner.

A. Abandonment

A nonconforming use shall be considered abandoned: 1) if it is terminated by the owner; 2) if a nonconforming use involving a structure is discontinued for twelve consecutive months; or 3) if a nonconforming use of land without structure(s) ceases for a period of six months. The subsequent use of the abandoned building, structure, and/or land shall be in conformity with this ordinance.

B. Conversion to Permitted Use

Any nonconforming building, structure, or use may be changed to conform to this ordinance, but shall not be changed back to a nonconforming status.

C. Maintenance may be made to a nonconforming use, structure, or lot provided the maintenance work does not change the use, expand the building or the functional use of the building, increase the area of a lot used for nonconforming purpose, or increase the nonconformity in any manner.

D. Nonconforming Lots and Structures (See Section entitled "Lots" in Article 6) **[Amended on 11/17/2003 by Ord. #5, 2003.]**

Any existing structure on a lot nonconforming as to area, frontage, width or depth, or an existing structure on a lot which violates any yard requirements, may have additions to the principal building, including porches and decks, and or construct an accessory building without an appeal for a variance, provided the total permitted building coverage is not exceeded and the accessory building and/or the addition to the principal building do not violate any other requirements of this ordinance.

E. Restoration and Repairs

1. Any nonconforming building, structure or use which has been condemned or damaged by fire, explosion, flood, windstorm, or act of God, shall be examined by the following three people: 1) the Building Inspector; 2) the owner or an architect or engineer selected by the owner; 3) a third person agreed to by the Building Inspector and the owner whose fee shall be agreed to and shall be paid in equal portions by the borough and the owner. If in the opinion of the majority of the above three people, the value of repairing the condition is greater than 50 percent of the value of replacing the entire structure, it shall be considered completely destroyed and may be rebuild to the original specifications only upon approval of a use variance as provided by state statues.

2. Where the value of repairing the condition is determined to be less than 50 percent of the value of replacing the entire structure, the nonconforming structure or use may be rebuilt and used for the same purpose as before, provided it does not exceed the height, area and bulk of the original structure.

3. The percent damaged or condemned shall be the current replacement costs of the portion damaged or condemned computed as a percentage of the current replacement cost of the entire structure neither to include the cost of the foundation unless the foundation is damaged or condemned.

F. Sale. Any nonconforming use, structure or lot may be sold and continue to function in the same nonconforming manner.

G. Existing Land Uses Not Conforming to the Standards pertaining to the Airport Hazard Area.

1. No provision of this ordinance pertaining to an Airport Hazard Area shall require the removal or lowering of, or other change or alteration of, any structure or tree not conforming to N.J.A.C. 16:62 et seq.

2. No person shall build, rebuild, create or cause to be built, rebuilt or created any object or structure, or plant, or cause to be planted or permit to grow any tree or vegetation which will interfere with, diminish, change or obstruct the airspace or landing and take-off area available for the landing and take-off of aircraft at Princeton Airport.

3. A preexisting land use not in conformance with the provisions pertaining to an Airport Hazard Area may at the discretion of the Borough be classified as either “nonconforming” or “conditional.”

624 OFFSITE AND OFF-TRACT IMPROVEMENTS

Before final approval of a subdivision or site plan the approving authority may require, in accordance with the standards of this ordinance and an adopted Circulation Plan and Utility Service Plan, the installation, or the furnishing of a performance guarantee in lieu thereof, or any or all of the following offsite and off-tract improvements which are necessary or appropriate for the protection of the public interest by reason of the development's effect on land other than the developer's property: street improvements, water system, sewerage, drainage facilities and easements therefor.

A. Essential Offsite and Off-tract Improvements.

1. Where a development has no direct access to a public street, improved and meeting the standards of N.J.S.A. 40:55D-34 and 40:55D-35, or where it has no direct access to a public or private central water supply or central sanitary sewer and does not qualify for individual sewage disposal systems, the Approving Authority may nevertheless grant final plat approval if the developer shall acquire, improve and dedicate to the borough such street between the development and an existing improved public street and, in the case of a water system and sanitary sewers, if the developer shall acquire, improve and dedicate such water and sanitary sewer facilities, all as approved by the Approving Authority, governing body and serving utility company.

2. Where a development creates a demand for water supply and/or sewage treatment beyond the capacity of the present facilities and causes the need for a new or expanded well, pump, or storage tank for water supply and/or a new or expanded sewage treatment plant and ancillary equipment, the Approving Authority may nevertheless grant final plat approval if the developer shall acquire land for improvement, and dedicate such water and sewer facilities all as approved by the Approving Authority, governing body and serving utility company or if the developer shall pay the municipality or serving utility for the costs of any such land, improvement and water and sewer facilities. Where such new or expanded facilities will have a capacity beyond the needs of the development, the costs to the developer shall be determined in accordance with the development's pro-rata share.

3. In cases where drainage waters are to be diverted from the proposed development into other drainage or stormwater systems or onto other lands or streets and it appears that such offsite and off-tract facilities are not adequate to accommodate the additional waters from the development or the diversion of surface waters due to re-grading within the development so that provision is required to extend, enlarge or create drainage facilities offsite or off-tract, and the need for such offsite and off-tract facilities is occasioned by the needs of the proposed development, and the costs of such facilities will not be an unreasonable

burden upon the applicant if borne solely by the applicant in the light of the relationship of such costs to the entire project of the applicant, the Approving Authority may nevertheless grant final approval if the developer shall acquire, improve and dedicate to the borough such enlarged, additional or new drainage facilities, as the case may be, as shall be approved by the Approving Authority and governing body or if the developer shall pay the Borough for the costs of any such enlarged, additional or new drainage facilities. Where such new or expanded facilities will have a capacity beyond the needs of the development, the costs to the developer shall be determined in accordance with the development's pro-rata share.

4. Such offsite and off-tract improvements shall be subject to the provisions of this Article as if they were required improvements within the development. The dedication thereof shall be subject to approval of the Borough Attorney as to form. In lieu of the developer's performing such offsite and off-tract work, the developer and the governing body may enter into an agreement for such work to be performed by the borough or its contractors at the cost of the developer.

5. Where the Approving Authority shall determine that offsite and off-tract improvements would be essential to the development, as set forth above, so that the development cannot proceed without such offsite and off-tract improvements being made as part of the development and the developer does not want to install or pay the cost of installing, such improvements, the application shall, on the developer's request, be denied, without prejudice, to a future application at such time as the conditions no longer apply which would make offsite and off-tract improvements essential.

B. Advisable Offsite and Off-tract Improvements.

Where the Approving Authority finds that offsite and off-tract improvements would be advisable, although not essential as set forth above, and that the improvements would promote the objectives of this ordinance and can be most appropriately in connection with the development, and particularly where the offsite and off-tract improvements would be required to be made as a local improvement by the borough with the costs thereof to be assessed against all properties specially benefited thereby (including the property of the developer), then the provisions of this Subsection B shall apply as follows:

1. During the processing of the application as the desirability of such offsite and off-tract improvements shall become apparent to the Approving Authority, but in no event beyond the time for the action on the preliminary plat, the Approving Authority shall refer its recommendations on the matter of offsite and off-tract improvements to the governing body.

2. If the governing body agrees that the matter should be considered, then the Municipal Engineer or other authority retained by the borough for such purpose

shall determine the nature of the offsite and off-tract improvements required or likely to be required in the area, including:

a. The needs created by the applicant's proposed development.
b. The then-existing needs in the area, notwithstanding any work of the applicant.
c. The reasonably anticipated improvements or foreseeable work on other lands in the area.

3. The Municipal Engineer or other authority shall estimate the costs of such work, including all costs which would be included in any local improvement ordinance which the borough would be authorized to adopt for said project, and including costs for construction, engineering, any easement or right-of-way acquisition, legal work, advertising, contingencies, bonding, and assessments.

4. The Municipal Engineer or other authority shall also determine the anticipated amount that the lands of the applicant would be expected to be assessed under local improvement procedures pursuant to N.J.S.A. 40:56-21 et seq., as amended.

5. The Municipal Engineer or other authority shall report to the governing body the scope of the recommended project with the estimated total costs and the estimated share of the developer.

6. Based upon the report of the Municipal Engineer or other authority and the recommendations of the Approving Authority, the governing body shall determine whether to undertake such offsite and off-tract improvements or portions thereof as a local improvement, the cost of which will be specially assessed against properties benefited thereby in proportion to, and not in excess of, the benefits received pursuant to Chapter 56 of Title 40 of the Revised Statutes of New Jersey.

7. If the determination of the governing body shall be that it will not adopt such ordinance for the making of such improvements as a local improvement, the final development layout shall be designed accordingly and the Approving Authority shall base its further proceedings upon such determination.

8. If the determination of the governing body shall be to proceed to adopt such local improvement ordinance, it shall proceed in the following manner:

a. If sufficient funds are available for the initial appropriation required for said ordinance, the governing body may appropriate such funds and adopt such ordinance. All subsequent proceedings for the making and assessment of the cost of the offsite and off-tract improvements shall be in accordance with such ordinance and the final development layout shall be compatible with the required offsite and off-tract improvements.

b. If sufficient funds are not available for the initial appropriation required for said ordinance, the governing body may determine the anticipated amount that the lands of the applicant would be expected to be assessed, accepting the recommendations of the Municipal Engineer or other authority or making its own determination.

i. The amount so determined by the governing body shall then be deposited by the applicant with the Borough Treasurer prior to final approval of the development and prior to introduction of such local improvement ordinance.

ii. Such deposit shall be made concurrent with an agreement between the applicant and the borough concerning the uses of the deposit which shall include the following stipulations: that said funds shall be used by the borough solely for the construction of such offsite and off-tract improvements as specified in said agreement and for the other expenses incidental thereto, as more particularly set forth in Subsection B(3) above, and the acquisition of any easements of rights-of-ways in connection therewith; that such deposit may be appropriated by the borough, with other funds of the borough, toward the accomplishment of such purposes, and in that connection may be commingled with such other appropriated funds and may be expended by the borough in connection with such purposes; that if such deposit is not used by the borough within a specified time agreed upon by the applicant, said funds shall be returned to the applicant; that upon completion of the work by the borough or its contractors, the properties specially benefited by such improvement shall be assessed as provided by law, including the property of applicant; that the applicant's deposit shall be credited against the easement made upon applicant's property (whether or not applicant is then the owner thereof), and that if such deposit shall have been less than the amount ultimately assessed and confirmed against such property, then the owner or owners of said property shall pay the difference between the deposit and such assessment, or if the deposit shall exceed the amount so assessed and confirmed, the excess shall be refunded to the applicant without interest.

iii. In any case where, although the offsite and off-tract improvements may not be found to be the type of essential offsite and off-tract improvements as defined in Subsection A(1) or (2) hereof, said offsite and off-tract improvements are found by the Approving Authority to be advisable and important to the sound development of the site, and the governing body has concurred in said findings and has determined to proceed in accordance with Subsection B(8) above, but the developer is unwilling to make such deposit as specified thereunder, then there shall be no final approval of the development until funds become available for the

initial appropriation required to adopt the local improvement ordinance.

9. The determination of the governing body as to whether to proceed toward the adoption of a local improvement ordinance shall be made as soon as practicable after referral by the Approving Authority, but in any case within 30 days after the referral and recommendation of the Approving Authority unless such time shall be extended by the consent of the applicant. If no such determination shall be made within such 30-day period or within such time as extended, the Approving Authority may proceed as if the governing body had determined that it would not adopt such local improvement ordinance.

625 OFF-STREET PARKING

A. General Provisions for Off-street Parking.

1. The use of pervious parking surfaces shall be encouraged for any expansion of an existing or creation of new parking surfaces where practical. Pervious pavement shall be as defined by the New Jersey Department of Environmental Protection. The new parking surface shall be graded and drained to dispose of all surface water as approved by the Municipal Engineer, and in accordance with the Borough stormwater ordinance. Off-street parking areas used for employee parking in the Industrial Zone may be surfaced with gravel or recycled product as approved by the Municipal Engineer. There shall be a five (5) foot wide sidewalk at least five (5) inches above the parking area pavement between any building and a parking area or drive of any retail sales or service establishment. **[Amended 12/18/06 by Ord. #11, 2006]**

2. All parking spaces within parking areas shall be clearly and legibly marked showing the parking arrangement within the parking area.

3. Any lighting in connection with off-street downward away from all adjoining street, residence zones or residential building.

B. Access to and From Lots. Drives shall be limited to a maximum of two to any street, and be at least 50 feet from any property line.

C. Access to Parking and Loading Spaces. Individual parking and loading spaces shall be served by onsite aisles designed to permit each motor vehicle to proceed to and from each parking and loading space without requiring the moving of any other motor vehicle. Where the angle of parking is different on both sides of the aisle, the larger aisle width shall prevail.

D. Buffers. Parking and loading areas for commercial and industrial uses shall be buffered from adjoining streets, existing residential use, or any residential

zoning district in a manner meeting the objectives of the buffer section of this ordinance.

E. Curbing. In an effort to reduce the concentration of stormwater runoff and promote sheet flow, the Borough will consider the elimination of curbing on the exterior of parking lots. However, curbing may be required around loading areas to separate them from major interior driveways and from parking. Curbing may also be installed within the parking or loading areas to define segments of the parking or loading areas and to create landscape areas. Curbing shall also be installed around buildings and to provide safe pedestrian access. Concrete wheel blocks may be located within designated parking or loading spaces. All curbing shall be located in conjunction with an overall drainage plan. Curbing installed at locations requiring pedestrian access over the curbing shall be designed to have ramps from the street grade to the sidewalk. The breaks shall be either opposite each aisle or no less frequent than one every sixty-five (65') feet along the curb. **[Amended 12/18/06 by Ord. # 11, 2006]**

F. Dimensions. Off-street parking spaces shall be nine (9') feet wide and a minimum of eighteen (18') feet in length in accordance with the following schedule. In any event, all parking lots shall provide handicapped parking in accordance with State law. These spaces shall be located so that access does not require wheeling or walking behind parked cars. **[Amended 12/18/06 by Ord. # 11, 2006]**

Angle of Parking Space	One-Way Aisle	Two-Way Aisle
90°	24'	24'
60°	18'	20'
45°	13'	18'
30°	12'	18'
parallel	12'	18'

Off-street loading spaces shall have 50 feet of vertical clearance and be designed in accordance with the following schedule:

Loading Space		Apron/ Aisle Length	
Length	Width	90 degrees	60 degrees
60’	10'	72'	66'
60'	12'	63'	57'
60'	14'	60'	54'

G. Drainage. All parking and loading areas shall have drainage facilities installed in accordance with good engineering practice as approved by the Municipal Engineer and in accordance with the "Drainage" provisions of Article 6 of this ordinance.

H. Landscaping in parking and loading areas shall be shown on the Natural Resources portion of the site plan. Trees shall be staggered and/or spaced so as not to interfere with driver vision, have branches no lower than 6 feet, and placed at the rate of at least one tree for every 20 parking spaces. All areas between the parking area and the building shall be landscaped with trees, shrubs and ground cover. Any plantings which do not live shall be replaced within one year or one season. A majority of the parking areas for more than 50 cars shall be obscured from streets by buildings, landscaped berms, natural ground elevation, or plantings, singularly or in combination.

I. Minimum Loading Requirements. In all districts for every building, or part thereof, hereafter erected, which is to be occupied by manufacturing, retail or wholesale store or warehouse, office or other use similarly requiring the receipt and distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building, off-street loading spaces in relation to floor area as follows:

1. One space for each ten thousand (10,000) square feet or part thereof. One additional space for each additional thirty thousand (30,000) square feet or part thereof, but in no case shall loading or unloading be conducted from public streets and provided further that:

J. Minimum Parking Requirements. The number of off-street parking spaces for each use shall be based on the schedule entitled "Minimum Off-Street Parking and Loading Requirements" in Article 7. Where a particular function contains more than one use, the total parking requirements shall be the sum of the component parts.

K. Joint Parking Facilities. Persons developing property in the Business, AERO or Industrial Zones may meet the required parking provisions of this Section by participation in a joint parking program of two (2) or more business uses, provided plans for such a joint program have been approved by the Planning

Board and further provided that the area of the parking facilities equals the sum of the parking area requirements of each use participating therein.

L. Under no circumstances shall the off-street parking facilities provided for in this section be used for the storage of vehicles for a period longer than thirty (30) days.

M. Location of Parking and Loading Areas

1. Loading spaces shall be located on the same lot as the use being served, may abut the building being served rather than requiring a setback from the building, and shall be located to directly serve the building for which the space is being provided. Parking spaces shall be located at least 20 feet from any building being served. No off-street parking or loading space shall have direct access from a street.
2. Off-street parking facilities may be placed in any required yard in the AERO, Business and Industrial Zones provided said parking area, placed in the front yard, at no point occupies more than one-half the setback required. No parking in the side or rear yard shall occupy more than one-half of the side or rear yard requirement to the side or rear property line or ten (10) feet, whichever is greater.
3. No loading and parking spaces shall be located in any required buffer area.
4. Parking spaces located to serve residential uses shall be within 150 feet of the entrance of the building and within 300 feet of commercial/industrial uses.
5. No parking shall be permitted in fire lanes, streets, driveways, aisles, sidewalks, or turning areas.

N. No sign other than entrance, exit and condition of use signs, shall be maintained, provided, however, said sign shall not be larger than two (2) square feet in area for parking areas up to one hundred (100) parking spaces and not larger than four (4) square feet in area for parking areas containing more than one hundred (100) parking spaces.

626 PERFORMANCE STANDARDS FOR THE BUSINESS, VILLAGE OFFICE AND INDUSTRIAL ZONES

[Amended on 3/1/2004 by Ordinance 5, 2004]

Before the issuance of any building or occupancy permit for any uses in the Business, Village Office or Industrial District, all of the following regulations must be complied with:

A. Fire and Explosion Hazards. All activities shall be carried on only in structures which conform to the standards of the National Board of Fire Underwriters or the Borough Building Code or Fire Ordinance, whichever is more

restrictive. All operations shall be carried on and all combustible raw materials, fuels, liquids and finished products shall be stored in accordance with the standards of said Board of Fire Underwriters.

B. Radioactivity. Any Business, Village Office or Industrial activity which emits dangerous radioactivity at any point is prohibited.

C. Smoke. There shall be no emission at any point, from any chimney or otherwise, of visible grey smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines, (Powers Micro-Ringlemann Chart, McGraw Hill Publishing Co., 1954 may be used) except that visible grey smoke of a shade no darker than No. 2 on said chart may be emitted for not more than four minutes in any 30 minutes. These provisions, applicable to visible grey smoke shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

D. Fly Ash, Dust, Fumes, Vapors, Gases. There shall be no emission which can cause any damage to health, to animals or vegetation, or other forms of property, or which can cause any excessive soiling at any point. Emission from any chimney or otherwise of any solid or liquid particles in concentrations exceeding 0.2 grains per cubic foot of the conveying gas or air at point is prohibited. For measurement of the amount of particles in gases resulting from combustion, correction shall be applied to a standard stack temperature of 500 degrees Fahrenheit and 50 percent excess air.

E. Liquid or Solid Wastes. No Business, Village Office or Industrial operation shall discharge wastes of any kind into any reservoir, pond or lake. The discharge of untreated wastes into a stream shall be prohibited. All methods of sewage and waste treatment and disposal shall be approved by the Borough and New Jersey State Department of Environmental Protection. Effluent from a treatment plant shall at all times comply with the following standards.

Maximum 5 day biochemical oxygen demand - 5 parts per million.

Maximum quantity of effluent - 10 percent of minimum daily stream flow.

Maximum 5 day biochemical oxygen demand after dilution (B.O.D. of effluent multiplied by quantity of effluent divided by quantity of stream flow) - 0.25 parts per million.

Maximum total solids - 5,000 parts per million.

Maximum phenol - 0.1 parts per million.

No effluent shall contain any other acids, oils, dust, toxic metals, corrosive or other toxic substance in solution or suspension which would create odors, discolor, poison or otherwise pollute the stream in any way.

F. Noise. There shall be no noise defined as follows: The sound pressure level radiated continuously from a facility between the hours of 10:00 P.M. and 7:00 A.M. shall not exceed the following in any octave band of frequency:

Frequency Band Cycles Per Second	Sound Pressure Level In Decibels*
20-75	69
75-150	54
150-300	47
300-600	41
600-1200	37
1200-2400	34
2400-4800	31
4800-9600	28

*According to the following formula - Sound pressure level in decibels equals 20 log P/P-2 where P-2 equals 0.0002 dynes per square centimeter.

If the noise is not smooth and continuous and is not radiated at night, one or more of the following corrections shall be added to or subtracted from each of the decibel levels given.

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

*Apply one of these corrections only.

The foregoing measurements shall be made at a point twenty-five (25) feet distant from the building wherein the noise originates or at the nearest boundary line of the property, whichever is further away, and shall be measured with a Sound Level Meter and an Octave Band analyzer that conforms to the specifications published by the American Standards Association, Incorporated, New York, N.Y.

G. Vibration. There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.

H. Odors. There shall be no emission of odorous gases or other odorous matter in such use.

I. Glare. There shall be no direct or sky-reflected glare exceeding 0.5 foot candles measurable beyond the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrance or exits of service drives.

J. Appearance. Every building shall be faced on all exterior walls with a veneer material as approved by the Planning Board.

627 PLANNED DEVELOPMENTS

Any project proposed under a permitted form of planned development shall follow the appropriate zoning criteria of this ordinance and the applicable subdivision and site plan criteria. Prior to approval of any planned development, the approving authority shall find the following facts and conclusions:

A. All planned developments shall be designed to the specific planned development provisions of the zoning section of this ordinance. The planned development provisions shall supersede any conflicting portions of this ordinance to the extent of such inconsistencies.

B. Proposals for maintenance and conservation of the common open space shall be reliable and, if proposed to be handled by a private agency, shall be established in accordance with the "Homeowners Association" provisions of Article 6 of this ordinance. Also, the amount, location, and purpose of the common open space shall be adequate for the use intended.

C. The physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment shall be adequate and comply with appropriate portions of the Master Plan.

D. The proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.

E. In the case of a proposed development which contemplates construction over a period of years, the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development shall be adequate.

628 PRINCIPAL USE

No lot shall have erected upon it more than one principal permitted use. No more than one principal building shall be permitted on one lot except that shopping centers, apartment and condominium projects, and industrial complexes, all receiving site plan approval, may be permitted to have more than one building on a lot in accordance with standards of the zoning district in which it is located.

629 PUBLIC UTILITIES

All public services shall be connected to an approved public utilities system where one exists.

A. The developer shall arrange with the servicing utility for the underground installation of the utilities distribution supply lines and service connections in accordance with the provisions of the applicable Standard Terms and Conditions incorporated as a part of its tariff as the same are then on file with the State of New Jersey Board of Public Utility Commissioners.

B. The developer shall submit to the approving authority, prior to the granting of final approval, a written instrument from each serving utility which

shall evidence full compliance or intended full compliance with the provisions of this section; provided, however, lots which abut existing streets where overhead electric or telephone distribution supply lines and service connections have heretofore been installed may be supplied with electric and telephone service from those overhead lines, but the service connections from the utilities overhead lines shall be installed underground. In the case of existing overhead utilities, should a road widening, or an extension of service, or other such condition occur as a result of the development and necessitate the replacement, relocation or extension of such utilities, such replacement, relocation or extension shall be underground.

C. Where natural foliage is not sufficient to provide year-round screening of any utility apparatus appearing above the surface of the ground, other than utility poles, the applicant shall provide sufficient live screening to conceal such apparatus year-round.

D. On any lot where by reason of soil conditions, rock formations, wooded area, or other special condition of land, the applicant deems it a hardship to comply with the provisions of this section, the developer may apply to the approving authority for an exception from the terms of this section in accordance with the procedure and provisions of the section entitled "Exceptions" in Article 4. Where overhead lines are permitted as an exception, the alignments and pole locations shall be carefully routed to avoid locations along horizons, avoid the clearing of swaths through treed areas by selective cutting and a staggered alignment, by planting trees in open areas at key locations to minimize the views of the poles and alignments, by following rear lot lines and other interior locations, and similar design and location considerations to lessen the visual impact of overhead lines.

E. Any installation under this section to be performed by a servicing utility shall be exempt from requiring performance guarantees, but shall be subject to inspection and certification by the Municipal Engineer.

630 SANITARY SEWERS

A. The developer shall construct facilities in such a manner as to provide adequate sewerage within the development to transport all sewage from each lot and the total development to the existing collection and treatment system.

B. Any sanitary sewer collection system shall be adequate to handle all present and probable future development. Alignments outside streets shall require easements or rights-of-way in accordance with the section entitled "Easements" in Article 6.

631 SHADE TREES

All shade trees shall have a minimum diameter of two and one-half (2 1/2) inches measured three (3) feet above the ground and be of a species approved by the approving authority. Trees shall be planted forty (40) to sixty (60) feet apart and parallel to but no more than twenty (20) feet from the curb line and shall be balled and burlapped, nursery grown, free from insects and disease, and true to species and variety. Stripping trees from a lot or filling around trees on a lot shall not be permitted unless it can be shown that grading requirements necessitate removal of trees, in which case those lots shall be replanted with trees to re-establish the tone of the area and to conform with adjacent lots. Dead or dying trees shall be replaced by the developer during the next recommended planting season. Parking lots shall be planted as required in the section entitled "Off-Street Parking and Loading" in Article 6.

632 SIDEWALKS

[Amended 12/18/06 by Ord. #11, 2006.]
Sidewalks shall be required along at least one (1) side of every street where it is necessary for pedestrian safety. Sidewalks shall be at least four (4) feet wide and located as approved by the approving authority. Sidewalks shall be at least four (4) inches thick, except at points of vehicular crossing where they shall be at least six (6) inches thick, of Class C concrete having a twenty-eight (28) day compressive strength of four thousand (4,000) p.s.i., and shall be air-entrained.

633 SIGHT TRIANGLES

Sight triangles shall be required at each quadrant of an intersection of streets and of streets and driveways. The area within sight triangles shall be either dedicated as part of the street right-of-way or maintained as part of the lot adjoining the street and set aside on any subdivision or site plan as a sight triangle easement. Within a sight triangle, no grading, planting or structure shall be erected or maintained more than 30 inches above the centerline grade of either intersecting street or driveway or lower than 8 feet above their centerlines including utility poles but excluding street name signs and official traffic regulation signs. Where any street or driveway intersection involves earth banks or vegetation, including trees, the developer shall trim such vegetation and trees as well as establish proper excavation and grading to provide the sight triangle. The sight triangle is that area bounded by the intersecting street lines and a straight line which connects "sight points" located on each of the two intersecting street lines the following distances away from the intersecting street lines: arterial street at 130 feet; collector streets at 60 feet; and primary and secondary local streets at 35 feet. Where the intersecting streets are both arterial, both collectors, or one arterial and one collector, two overlapping sight triangles shall be required formed by connecting the sight points noted above with sight point 35 feet on the intersecting street. Any proposed development requiring site plan approval shall

provide sight triangle easements at each driveway with the driveway classified as a local street for purposes of establishing distances. The classification of existing and proposed streets shall be those shown on the adopted master plan or as designated by the planning board at the time of the application for approval for a new street not included on the master plan. A sight triangle easement dedication shall be expressed on the plat as follows: "Sight triangle easement subject to grading, planting and construction restrictions as provided for in the Rocky Hill Development Regulations Ordinance". Portions of a lot set aside for the sight triangle may be calculated in determining the lot area and may be included in establishing the minimum setbacks required by the zoning provisions.

634 SIGNS

A. Definitions

ATTACHED SIGN. A sign which is affixed parallel to the wall to which it is attached.

CHURCH SIGN. A sign setting forth the name of a church or other place of worship on the premises, its pastor, and its coming activities.

CONSTRUCTION SIGN. A sign which displays any of the following: the name of the building under construction, the owner, the general contractor, sub-contractors, the financing institution, any public agencies or officials, and the professional personnel who worked on the project.

DIRECTIONAL SIGN. A sign setting forth directions to users, exits, and other points in a development.

DIRECTORY SIGN. A sign which lists the users in a development.

FACILITY IDENTIFICATION SIGN. A sign which lists the name of the overall facility or development, but not the names of the individual users.

FREESTANDING SIGN. A sign which is supported from the ground rather than affixed to a structure.

POLITICAL CAMPAIGN SIGN. A sign identifying a candidate or setting forth other information as to a person or issue being voted on in a primary, special, or general election.

REAL ESTATE SIGN. A sign advertising the sale or rental of real estate.

WINDOW SIGN. A sign attached to a window.

B. Signs Permitted by District: Regulations Therefore

1. Residential Districts. One sign containing the name of the resident or property and measuring not more than 2 square foot in area shall be permitted in all residential zoning districts. In addition, numbering indicating the address of the premises may be placed thereon, and there shall be no regulation thereof.

2. Business District.

(a) Attached signs and freestanding signs accessory to the business conducted on the property and window signs shall be permitted in the Business District. The total sign area for all signs permitted, including both attached and freestanding signs, shall not exceed 5% of the area of the face of the building wall, including windows, upon which said signs are attached, in the case of attached signs, or in front of which a freestanding sign is located, in the case of freestanding signs. There may be no more than one freestanding sign in front of each of the faces of the building on or in front of which signage is allowed, and there may be an attached sign or signs on a building face even if a freestanding sign is located in front of such face. There shall not be more than one sign, whether attached or freestanding, for each separate tenant of the premises; provided, however, that where a building is served with a rear entrance opening onto a parking area as approved by the Planning Board, each tenant in the building is permitted a second sign for the rear of the building as well. A corner building may have a sign attached to or in front of the second street side of the building in addition to other signs permitted. Freestanding signs shall be set back at least three feet from the public right-of-way.

(b) Window signs. Signs advertising sales, promotions, community events, and employment opportunities and signs coming within subsection B5(b)(2) hereof shall be permitted in or on the window of a structure. The total square footage of all such signs shall not exceed 40% of the glass window area of the floor of the facade on which the sign is located, except that a user with window sign square frontage in excess of the maximum permitted hereby at the date of adoption of this ordinance may continue to use window signs up to such square footage. Window signs must be attached to the window.

3. Industrial District. In the Industrial District, attached, freestanding, and window signs meeting the following standards are permitted:

a. Attached and freestanding signs.

(1) Permitted signs.

[a] One sign identifying the overall facility and one directory sign, both of which may be attached or freestanding, are permitted. Both signs shall be easy to read at the vehicular access point to the facility.

[b] One attached sign accessory to the operation conducted on each of the premises within the facility is permitted.

[c] Such supplementary signs directing traffic to each of the premises as are necessary are permitted, provided that each such sign is not greater than 4 square feet.

(2) The total area of all attached signs on the face of a building wall, including windows, shall be no greater in area than 5% of the area of the face upon which said signs are attached.

(3) Freestanding signs are permitted only in the rear half of the required front yard setback and only if the premises being identified has a minimum lot width at the required front yard setback of four hundred (400) feet and no building is less than one hundred (100) feet from the front street property line, except that directory signs may be placed anywhere within the front yard. Both signs shall be no closer to a side lot line than the minimum side yard for the principal building.

(4) The dimensions of freestanding signs shall be as follows:

[a] Where a freestanding sign is parallel to the front property line, the width of the sign shall not be more than 5% of the width of the building in front of which the sign is placed, but in no case shall the width of the sign exceed 10 feet.

[b] Where a freestanding sign is not parallel to the front property line, the width of the sign shall not be more than 3% of the width of the building in front of which the sign is placed, but in no case shall the width of the sign exceed 10 feet.

[c] The height of any freestanding sign as permitted by this Section, including any support or frame, shall not be more than 6 feet above the ground measured at finished grade, except that directory signs shall not be more than 8 feet above finished grade.

(5) Notwithstanding the foregoing, freestanding signs necessary for directional or safety purposes, in either case not more than 4 square feet in area, may be placed anywhere in the front yard.

b. Window signs of the kind set forth in and subject to the regulations set forth in subsection B2(b) hereof, except that they shall be permitted on the first floor only.

4. VO District. **[Amended on 3/1/2004 by Ord. #5, 2004]**

In the VO district, attached and freestanding signs meeting the standards of the Industrial District shall be permitted except as modified by and in accordance with the following:

a. Not more than one ground-mounted double-faced freestanding sign shall be permitted at the Washington Street entrance to a development in the VO District. Such sign shall be for purposes of identifying the overall facility only and shall not exceed 6 square feet per face or have a maximum height from ground level in excess of 5 feet. If illuminated, any such freestanding sign shall be indirectly illuminated in such a manner that no glare is projected onto adjacent properties or causes a hazard to motorists. The provisions of Section 634B3a(3) and (4) shall not apply to this sign. No directory sign shall be permitted at such location.

b. The use of window signs is prohibited.

5. CL District. **[Amended 3/1/2004 by Ordinance #1, 2004.]**

In the CL district, signs for permitted uses shall be permitted if deemed necessary by the Borough Council, subject to site plan review by the Planning Board. No more than one sign shall be permitted for each conditional use. Each sign shall measure no more than 32 inches by 48 inches and shall be placed in a suitable location on the site.

6. All Districts. The following signs shall be permitted in all districts:

a. Church signs, provided that they do not exceed 12 square feet if attached and each side of which does not exceed 8 square feet if freestanding. One such sign shall be permitted for each church.

b. Temporary signs coming within the categories set forth in subparagraphs (1)-(3) below, provided that, unless otherwise specified, no more than one sign in each category may be placed on each lot or group of lots serving the same use and that each sign be set back at least 10 feet from the sidewalk and cartway, unless vegetation or other unusual conditions would obscure it, but in no event less than 6 feet.

(1) Construction signs, provided that:

[a] no more than one sign is permitted on a construction site beginning with the commencement of work and terminating within one week after the issuance of a temporary or final certificate of occupancy;

[b] such signs not exceed 32 square feet in the PD-1 zoning district and in residential clusters outside of the PD-1 zoning district and 8 square feet in all other areas; and

[c] they are located as close as is practicable to the driveway serving as construction access.

(2) Political campaign signs and signs used for religious and charitable purposes and other signs containing noncommercial messages, provided that:

[a] a sign other than a political campaign sign advertising a scheduled event may be erected two months prior to the event scheduled and shall be removed within five days after the occurrence of the event;

[b] a political campaign sign shall be removed within five days after the election to which the campaign pertains;

[c] such sign does not exceed 16 square feet, and no side of any sign may be greater than 6 feet in any linear dimension; and

[d] there shall be no limit on the number of political campaign signs and temporary signs used for religious and charitable purposes placed on any one lot, but no more than one sign containing other noncommercial messages may be placed on any one lot.

(3) Real estate signs, provided that:

[a] only one such sign may be placed on a lot, except that one sign on each frontage of a corner lot is permitted;

[b] they are non-illuminated;

[c] they pertain only to the lease or sale of the property upon which they are placed;

[d] they do not exceed 6 square feet in area in residential zoning districts and 8 square feet in area in nonresidential zoning districts;

[e] they are removed within 7 days after the consummation of a lease or sale transaction; and

[f] they are attached to a building or are set back at least 2 feet from the cartway and 2 feet from the sidewalk, unless vegetation or other unusual conditions would obscure them, in which case they may be placed closer to the sidewalk and cartway, but no more than necessary to be visible. In any case, sidewalks and cartways shall not be obstructed, nor shall signs be erected on or over them.

c. Street number designations, postal boxes, onsite traffic directional and parking signs, signs posting property as "private property," "no hunting," or similar purposes, and "danger" signs around utility and other danger areas.

C. Prohibited Signs. No signs other than those set forth in subsection B are permitted in the Borough of Rocky Hill. In addition, the following signs are specifically prohibited except as otherwise permitted herein:

1. Billboards and other signs advertising goods or services not sold on the premises, including signs providing information about or directions to off-site residential development; except that real estate open house signs shall be permitted on the day or days on which the open house occurs and that, if a lot straddles residential and nonresidential zoning districts, a sign advertising goods and services sold in the nonresidential portion may be located in the residential portion.

2. Signs which obstruct driving vision, traffic signals, and traffic direction and identification signs or which are located in sight triangles.

3. Signs using mechanical or electrical devices to revolve, flash, or display movement or the illusion of movement.

4. Signs affixed to fences, walls, or other structures other than the walls of a building, except that permitted residential signs may be so affixed.

D. Additional Standards Governing Signs.

1. Attached signs.

a. Attached signs shall be affixed parallel to the wall to which they are attached, and the face of the sign shall project no more than 6 inches from the surface of the wall, except that (1) a lamp illuminating the sign may project not more than 18 inches from the wall; and (2) where a building has a permanent canopy or marquee constructed as an integral part of the building, a sign may be placed on the front of the marquee if no part of said sign extends above or below the front edge of the canopy or marquee. The permitted area of the sign on the canopy or marquee shall be determined by the area of the wall from which said canopy or marquee extends.

b. The uppermost part of an attached sign shall not be higher than the base of the second floor window sill in a two or more story structure, or the eave line or twenty-five (25) feet, whichever is lower, in either a one story structure or a structure without windows. Height shall be measured from grade at the building.

c. The lowest portion of any sign which projects above an area traversed either by motor vehicles or pedestrians shall be at least 15 feet and 10 feet respectively.

2. Illumination.

a. Illuminated signs shall be arranged to reflect the light and glare away from adjoining lots and streets. All signs lighted from their exterior shall have the light source shielded from adjoining lots, streets, and interior drives.

b. All lights shall either be shielded or shall have translucent fixtures to reduce offsite effects.
c. No sign shall have a beacon or flashing illumination.
d. Lighting color shall conform to the requirements of section 619 of the Development Regulations Ordinance, except that taverns and other establishments primarily in the business of dispensing alcoholic beverages may have colored signs inside the building, in which case they may be visible from the exterior.
e. Internally illuminated signs are prohibited except that taverns and other establishments primarily in the business of dispensing alcoholic beverages may have such signs inside the building, in which case they may be visible from the exterior.
f. Illuminated signs shall be no greater in area than one-half the area otherwise permitted under this section 634.

3. General Provisions.
a. Signs shall not obstruct vision or conflict with any height or other regulations of this ordinance.
b. Except for banners for community events and signage dealing with public safety, both of which shall be subject to Borough Council approval, signs shall not be placed in a public right-of-way or other public property.
c. Signs shall be constructed of durable materials and maintained in good condition.
d. Sign area shall include all lettering, wording, coloring and accompanying designs and symbols, together with the background, whether open or enclosed, but not including any supporting framework and bracing incidental to the display itself.
e. The maximum dimension in any direction along the surface of a sign shall be ten (10) feet except when a lesser dimension is provided for in this section.

E. Administration. No sign shall be constructed or displayed unless a building permit shall have first been obtained from the Construction Official, except that building permits shall not be required for temporary signs. No freestanding sign other than a temporary sign shall be permitted until a site plan showing the location and size of the proposed freestanding sign is approved.

635 SOIL EROSION AND SEDIMENT CONTROL

All site plans and major subdivisions shall incorporate soil erosion and sediment control programs phased according to the scheduled progress of the development including anticipated starting and completion dates. The purpose is to control soil erosion and sediment damages and related environmental damage by requiring adequate provisions for surface water retention and drainage and for this protection of exposed soil surfaces in order to promote the safety, public health, convenience and general welfare of the community. See sections in Article 6

entitled "Grading and Filling", "Soil Removal and Redistribution", and "Storm Water Runoff".

A. Regulation. No building permit shall be issued for any application requiring either site plan or major subdivision approval until such approval has been given by the approving authority, including review and approval of the Soil Erosion and Sediment Control plan.

B. Data Required.

1. The applicant shall submit a Natural Resources Plan as outlined under the site plan provisions of this ordinance which shall clearly establish the means for controlling soil erosion and sedimentation for each site, or portion of a site when developed in stages.

2. The soil erosion and sediment control measures shall be certified by the Municipal Engineer and approved by the approving authority. The applicant may consult with the County Soil Conservation District in the development of the plan and the selection of appropriate erosion and sediment control measures. The applicant shall bear the final responsibility for the installation and construction of all required soil erosion and sediment control measures according to the provisions of this ordinance.

3. The applicant shall submit to the approving authority a separate soil erosion and sediment control plan for each subdivision, site plan review, zoning variance, or any application for construction for which the Standard Building Code of the State of New Jersey would require a building permit. Such plan shall be prepared by a professional engineer licensed in the State of New Jersey, except in instances where the preparation of a plan does not include or require the practice of engineering as defined in the Revised Statutes - Title 45:8, and shall contain:

a. Location and description of existing natural and man-made features on and surrounding the site including general topography and soil characteristics and a copy of the soil conservation district soil survey (where available).

b. Location and description of proposed changes to the site, including contours and spot elevations showing existing and post-construction conditions.

c. Measures for soil erosion and sediment control.

d. A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project including anticipated starting and completion dates.

e. All proposed revisions of data required shall be submitted for approval.

f. Description of means for maintenance of erosion and sediment control measures and facilities during and after construction.

C. Review and Approval. Erosion and sediment control plans shall be reviewed by the Municipal Engineer and the approving authority and certified and approved as part of subdivision, site plan, or variance approvals when in conformance with the Standards for Soil Erosion and Sediment Control. The approving authority

may seek the assistance of the County Soil Conservation District in the review of such plans.

D. General Design Principles. Control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the disturbance activity. The following principles shall apply to the soil erosion and sediment control plan: 1) stripping of vegetation, grading or other soil disturbance shall be done in a manner which will minimize soil erosion; 2) whenever feasible, natural vegetation shall be retained and protected; 3) the extent of the disturbed area and the duration of its exposure shall be kept within practical limits; 4) either temporary seeding, mulching or other suitable stabilization measures shall be used to protect exposed critical areas during construction or other land disturbances; 5) drainage provisions shall accommodate increased run-off resulting from modified soil and surface conditions during and after development or land disturbance; 6) water run-off shall be minimized and retained on site wherever possible to facilitate ground water recharge; 7) sediment shall be retained on site; and 8) diversions, sediment basins, and similar required structures shall be installed prior to any on-site grading or land disturbance.

E. Maintenance. All necessary erosion and sediment control measures installed under this section shall be adequately maintained for one year after completion of the approved plan or until such measures are permanently stabilized as determined by the Municipal Engineer, whichever is larger. The Municipal Engineer shall give the applicant, upon the applicant's request, certification of this determination.

F. Exemptions. The following activities are specifically exempt from the Soil Erosion and Sediment Control provisions:

1. Land disturbance associated with the construction of a single family dwelling unit unless such unit is a part of a proposed subdivision, site plan, zoning variance, or building permit application involving two or more such single family dwelling units.
2. Land disturbance of 5,000 square feet or less of the surface area of land for the accommodation of construction for which the Standard Building Code of the State of New Jersey would require a building permit.
3. Agricultural use of lands when operated in accordance with a farm conservation plan approved by the local soil conservation district or when it is determined by the local soil conservation district that such use will not cause excessive erosion and sedimentation.
4. Use of land for gardening primarily for home consumption.
5. Percolation tests and/or soil borings.

636 SOIL REMOVAL AND REDISTRIBUTION

The excavation and grading for completion of a development shall be done in accordance with the approved plat which contains soil erosion and sediment

control provisions. Excavation of soil, other than required for the construction of approved structures and supporting facilities such as but not limited to streets, driveways and parking areas, shall be prohibited. Regrading of property so as to redistribute top soil throughout the site from areas excavated for such approved structures and supporting facilities shall be permitted, but shall be done in the following manner to minimize or eliminate the erosion of soil. Any application proposing the disturbance of more than 5,000 square feet of surface area of land as defined in the Soil Erosion and Sediment Control Act (Ch. 251, P.L. 1975) shall include on its plan the following: the means to control or prevent erosion, provide for sedimentation basin(s) for soil that does erode due to water, and control drainage, dust, and mud on the premises as well as abutting lands; the preservation of soil fertility and the resulting ability of area affected to support plant and tree growth by maintenance of adequate top soil consisting of at least six inches of the original layer; maintenance of necessary lateral support and grades of abutting lands, structures and other improvements; prevention of pits and declivities which are hazardous or which provide insect breeding locations; the physical limitations and characteristics of the soil shall not be altered to prevent the use to which the land may lawfully be put; and such other factors as may reasonably bear upon or relate to the public health, safety and general welfare.

637 STORM WATER RUN-OFF

A. All development shall incorporate onsite, storm water facilities that will encourage the recharging of underground aquifers and/or the allowing down of the rate storm water leaves the site. All measures used to control the rate of storm water run-off shall comply with the Grading and Filling, Soil Erosion and Sediment Control, Soil Removal and Redistribution provisions in Article 6 of this ordinance and the provisions of the State Best Management Practices Manual. **[Amended on 12/18/06 by Ord. #11, 2006.]**

B. Where the amount of the run-off from the proposed development is sufficient to justify detention basin(s), one or more detention basins shall be required. The determination of the amount of storm water run-off and whether the amount of run-off is sufficient for detention basin(s) shall be made by the approving authority upon the advice of the Municipal Engineer, Environmental Commission, and Soil Conservation District. Each detention basin shall contain a primary water depth capacity which will accept all surface water directed to it from a 4 inch rain in 24 hours. The detention basin shall have a secondary water depth capacity, which together with the primary water depth capacity, will accept all surface water directed to it from a 6 inch rain in 24 hours. All storm water run-off from the property shall be directed through one or more detention basins. The primary water depth capacity shall have one or more outlets permitting complete draining of the maximum capacity of the detention basin at the primary water depth in not less than 36 hours. The same outlet(s) shall provide for

draining the detention basin capacity of the primary and the secondary water depth capacity in not less than 48 hours.

C. Vertical holes, filled with coarse rock, may be provided within the detention basin for percolation into the soil.

D. All developments may incorporate onsite storm water detention or impoundment facilities in the following manner:

1. Swales may be constructed in which there need be no outlet facilities and which will impound water draining only from other landscaped areas. The water impounded in these areas will be left to evaporate and percolate and the swales shall otherwise be seeded and maintained in lawn area.
2. Impoundment/detention basins along any stream that maintains a steady flow of water throughout the year may be constructed provided any improvements designed to provide such impoundment/detention facilities shall be designed to meet the standards of, and have the approval of, the New Jersey Department of Environmental Protection, and shall have the proper amount of sustained water flow downstream, proper depth of water to control vegetation, and a proper design to prevent water stagnation in any part of the pond.
3. Detention of storm water on roof surfaces may be designed by means of essentially flat, but slightly pitched roofs to the edges. Facilities for control of the water runoff from the roof shall be provided in the form of vertical leaders with detention rings around the intake to provide the control of water flow. The spacing and capacity of the vertical leaders and detention of rings shall be approved by the Municipal Engineer and Building Inspector depending on the area to be drained, the pitch of the roof, the capacity of the impoundment/detention facilities to which the water will eventually drain, and the structural strength of the roof. It is recommended that the intakes be protected by a device that will accept the full amount of water passed on to it from the detention rings, but which will act as a strainer for any foreign matter such as leaves, twigs, and seedlings. The leaders from the roof with water detention design shall direct the storm water into a detention basin constructed in a manner outlined above.

E. Where storm drains are installed outside streets, easements or rights-of-way shall be required in accordance with the section entitled "Easements" in Article 6.

638 STREET LIGHTING

Street lighting standards of a type and number approved by the approving authority and Municipal Engineer shall be installed at street intersections and elsewhere as deemed necessary by the approving authority. The developer shall provide for the installation of underground service for street lighting.

639 STREETS

A. All development shall be served by paved streets with an all weather base and pavement with an adequate crown. 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, conform with the topography as far as practicable, and allow for continued extension into adjoining undeveloped tracts.

B. Minor streets shall be so designed as to discourage through traffic.

C. The right-of-way width shall be measured from lot line to lot line and shall be not less than fifty (50) feet.

D. No street grade shall be less than one percent. No street grade shall be greater than 10 percent except where the topography of the land to be subdivided is such as to make it impossible; otherwise, to develop such land the Planning Board may, in its discretion, approve grades in excess of 10 percent but in no case shall any grade exceed a grade of 15 percent.

E. The entire street right-of-way of all new streets shall be graded and in addition in those areas where the right-of-way is on fill, the grading shall be extended 2 feet beyond the right-of-way on either side as necessary; and, a slope with a ratio of 1-1/2:1 shall be established except where it is in rock in which case the slope can be graded according to standard practice. These determinations shall be made in accordance with the recommendations of the Borough Engineer.

F. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than sixty (60) degrees. The block corners at intersections shall be rounded at the property line with a curve having a radius of not less than 25 feet.

G. Street jogs with centerline offsets of less than 125 feet shall be prohibited.

H. When connecting street lines deflect from each other at any one point by more than 10 degrees and not more than 45 degrees, they shall be connected by a curve with a radius of not less than 100 feet, in accordance with recommendations of the Borough Engineer.

I. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.

J. Dead-end streets shall not be permitted unless given special permission by the Board and, if so permitted, shall provide a turn-around at the closed end with a radius of not less than 50 feet.

K. No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.

L. Sidewalks shall be located no closer than six inches from the property line so as to allow sufficient space for the installation of monuments as required.

M. The base course and wearing course of all new streets included in the subdivision or that portion on which final approval is being requested shall be installed in accordance with the current road specifications of the Borough of Rocky Hill. The width of all streets shall be in accordance with the Residential Site Improvement Standards. **[Amended on 12/18/06 by Ord. #11, 2006]**

640 STREET SIGNS

Street signs conforming to the standards of the Borough of Rocky Hill shall be placed at each intersection and shall be adequate to provide directions for emergency vehicles.

641 TOPSOIL REDISTRIBUTION

Topsoil available at the site and moved during the course of construction shall be redistributed to all areas uncovered in the course of construction. Whenever sufficient topsoil is not available at the site, additional topsoil shall be obtained and redistributed in such a manner as to provide a cover of at least six (6) inches of topsoil on the areas uncovered during the course of construction or excavation. No topsoil shall be removed from the site of the subdivision or used as spoil.

642 YARDS

No open space provided around any principal building for the purpose of complying with front, side, or rear yard provisions shall be considered as providing the yard provisions of another principal building. On a lot which extends through a block in a manner resulting in frontage on two or more streets, including corner lots, the building setback from each street shall not be less than the required front

ARTICLE 7: ZONING DISTRICTS & STANDARDS

701 ZONING DISTRICTS

For the purpose of this ordinance the Borough of Rocky Hill is hereby divided into use districts as follows: **[Amended 12/20/2004 by Ord. #17, 2004]**

R-1	Single Family Residential
R-1A	Planned Residential A
R-1B	Planned Residential B
R-1C	Age Restricted/Traditional Neighborhood Development
R-2	Village Residential
R-3	Residential-Cluster
B	Business
VO	Village Office
IND	Industrial
CL	Community Land
HP	Historic Preservation
AH	Airport Hazard

The Historic Preservation District shall be an overlay district, and for any land located within it the regulations set forth in section 714 shall be in addition to the regulations of the other zoning district or districts within which such land is located. **[Amended 3/1/2004 by Ord. #5, 2004]**

702 ZONING MAP

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the Borough of Rocky Hill, Somerset County, NJ" bearing the Revision Date of December, 2004, which is hereby made a part of this Ordinance. **[Amended 12/20/2004 by Ord. #17, 2004]**

703 R-1 SINGLE FAMILY RESIDENTIAL

A. Purpose. It is the purpose of this district to recognize the existing residential development pattern outside the historic district and provide zoning regulations consistent with that development.

B. Principal Permitted Uses on Land and in Buildings

1. Single family residences.
2. General farming, including the raising and breeding of horses, but excluding all other forms of animal husbandry.

C. Accessory Uses Permitted

1. Garages and off-street parking.
2. Fences and walls.
3. Swimming pools and tennis courts on the same lot with single family residences.
4. General farming, including the raising and breeding of horses, but excluding all other forms of animal husbandry.
5. Uses naturally and normally incident to principal permitted uses or other permitted accessory uses.

D. Conditional Uses

1. Schools, churches, and parish houses meeting the following standards:
   a. The minimum lot size shall be two (2) acres.
   b. The facility shall be connected to public water and sewer.
   c. No building shall be located within fifty (50) feet of any lot line.
   d. No accessory use shall be located within twenty-five (25) feet of any lot line.
   e. A planted buffer with a minimum depth of 15 feet or fencing or both, all at the Planning Board's option, shall be provided between all parking areas, outdoor facilities, and adjacent lot lines. This provision may be waived if natural topography or other natural or man made features adequately separate parking areas from adjoining residentially zoned land.
   f. Off-street parking. There shall be provided a minimum of 1 space per 3 seats for churches or other house of worship. For schools, a minimum of 2 spaces per classroom, but not less than 1 space per teacher and staff.
   g. Compliance with all other bulk and yard regulations for single-family residences in the district in which the use is proposed not inconsistent herewith.

2. Home occupations meeting the following standards:

   a. The use may be located in a residential unit or in a secondary building which is located on the same lot therewith and which was in existence as of January 1, 1993, except that a home occupation which uses toxic, hazardous, or inflammable materials or generates noise or odors different in kind or greater in magnitude than those generated by ordinary residential living shall be permitted only in a single-family detached residence or a secondary building.
   b. The use shall be limited to 400 square feet.
   c. The occupation must be conducted by a resident, and no non-residents may work on the premises on other than an occasional basis and no more than one at a time.
   d. No manufacturing, retail or wholesale sales to persons coming to the premises, or warehousing of products is permitted, except that

making crafts and other homemade products and storage of such crafts and products shall be permitted.

e. No signage is permitted.

f. The residential character of the building shall not be altered, and there may not be any external display of products or other evidence of the home occupation. Secondary buildings containing a home occupation shall maintain the character of an outbuilding.

g. The use shall not generate any noise or odors exterior to the structure in which it is located, may not generate interference with radio and television reception, and may not produce toxic or hazardous wastes. All federal, state, and local restrictions on toxic and hazardous materials shall apply to home occupations.

h. No parking space shall be installed for a home occupation, except that the planning board may require additional parking if it deems same necessary, in which case site plan approval shall be required.

i. No more than one home occupation shall be permitted on each lot.

j. Access to and the location of the home occupation within the structure shall be designated to minimize the impact on neighboring residential units.

k. Hours of operation shall be established so as to minimize the number of visitors to the home occupation after normal business hours and to minimize the impact on the neighborhood.

l. The home occupation shall not use more than one vehicle on a regular basis, and such vehicle shall be parked on the premises and limited to an automobile, pick-up truck weighing no more than three-quarters of a ton, or van with a capacity for no more than seven passengers. If the applicant proposes to park such a vehicle on the premises, he shall submit a site plan showing the parking location and screening therefore.

3. Affordable Accessory Apartments in accordance with and subject to the following conditions:

a. An affordable accessory apartment meeting the definition contained in Article 3 of this ordinance may be established on the same lot as a principal single family residential dwelling, and shall be deemed to be an accessory use thereto, provided that the apartment is or will be occupied by and rented at a rate that is affordable to a low or moderate income household, as defined in Article 8 of this ordinance, and further provided that all of the requirements of this section and Article 8 are satisfied.

b. Affordable accessory apartments shall be subject to affordability controls for a period of not less than 10 years. A deed restriction shall be recorded in accordance with the requirements of Article 8 and the applicable regulations of the New Jersey Uniform Housing Affordability Controls N.J.A.C. 5:80-26.1 et seq. The deed restriction shall be in a form satisfactory to the Borough Attorney. Evidence of

recording shall be provided to the Borough Attorney and Municipal Housing Liaison.

c. During the period of affordability controls, affordable accessory apartments shall only be rented to eligible low or moderate income households throughout the ten-year period of controls, commencing on the date of first occupancy after the issuance of a certificate of occupancy.

d. Minor site plan approval shall be required prior to the issuance of a building permit.

e. The affordable accessory apartment may be established within or constructed as an addition to an existing dwelling, or may be established within or constructed as an addition to an accessory building, or may constructed as a new accessory building on the same lot as a principal single family residential dwelling. An existing unoccupied dwelling, which is subordinate to a principal single family dwelling located on the same premises, may be converted to an affordable accessory apartment provided that all of the requirements of this ordinance and Article 8 are met.

f. This ordinance shall not limit the number of bedrooms contained in an affordable accessory apartment. However, no newly created apartment shall exceed a maximum of 1,200 square feet of habitable space. An existing unoccupied dwelling proposed for conversion to an affordable accessory apartment shall not be subject to this square footage limitation, provided that the Planning Board determines that the dwelling is subordinate to the principal single family dwelling located on the lot.

e. Adequate off-street parking shall be provided in accordance with the NJ Residential Site Improvement Standards.

f. Adequate connections for potable water and sewage disposal shall be provided to serve the accessory apartment.

g. In addition to the residential identification sign permitted pursuant to section 634B of this ordinance, one identification sign shall be permitted on the lot to identify the address and/or occupant of the accessory apartment. The sign shall not to exceed one square foot in size. The property owner shall arrange for the address for the apartment with the US Postal Service. **[Subsection 3 added on 6/15/2009 by Ord. # 8, 2009]**

E. Density, Bulk and Yard Regulations
[Amended on 11/17/2003 by Ord. # 5, 2003.]

1. Min. Lot Area:	One Acre
2. Min. Lot Depth:	200 ft.
3. Min. Lot Width:	150 ft.
4. Min. Front Yard	75 ft.
Principal Structure:	50 ft.
Accessory Building:	80 ft.

5. Min. Side Yard
Principal Structure: 25 ft.
Accessory Building: 15 ft.
6. Min. Rear Yard
Principal Structure: 50 ft.
Accessory Building: 10 ft.
7. Max. Building Height
Principal Structure: 35 ft.
Accessory Building: 18 ft.
8. Max. Lot Coverage: 20%

F. Buffers
No requirement.

G. Minimum Off-Street Parking
2 spaces per dwelling unit.

H. Regulations for the Raising and Breeding of Horses

1. Minimum lot area: 3 acres.
2. Number of horses permitted: no more than one/acre. 3. Setbacks: all structures and areas for the feeding and boarding of horses and all manure piles shall be set back at least 100 feet from all property lines.
4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

I. Circulation

Undeveloped lots within the R-1 district which front on Princeton Avenue shall have their frontage on such avenue and shall not be built as reversed frontage lots with access to interior streets. Such lots shall have turn-around driveways.

704 AGE RESTRICTED/TRADITIONAL NEIGHBORHOOD DEVELOP-MENT R-1C

[Amended 12/20/2004 by Ord. #17, 2004]

A. Purpose

It is the purpose of this district to meet a need in the Borough of Rocky Hill and County of Somerset for senior housing by providing for an age restricted neighborhood adjacent to the Village Center. Development of this neighborhood should employ Traditional Neighborhood Development techniques to ensure that it is compatible with the Village Center and consistent with the New Jersey State Development and Redevelopment Plan's policies for new development in areas adjacent to designated Village Centers. The visual corridor along Princeton

Avenue shall be continued in a form of a greenbelt, consistent with the Land Use Plan element of the Master Plan.

B. Principal Permitted Uses on Land and in Building

1. A planned unit residential development consisting of two family side by side units meeting the standards as set forth in this Section 704 and age restricted to households where at least one (1) individual is fifty-five (55) years of age. Such a household shall not include any resident person who is below eighteen (18) years of age.

2. General Farming.

C. Accessory Uses Permitted

1. Fences and walls, subject to Planning Board approval as part of a comprehensive plan for the entire tract.

D. Conditional Uses

1. Home occupations meeting the standards set forth in Section 703D(3).

E. Comprehensive Development, Density, Bulk, Yard, and Parking Regulations

1. Min Tract Size:	The entirety of the district, which shall be designed in a comprehensive manner.
2. Number of Dwelling	Units Permitted: The maximum number of dwelling units permitted in the district shall be 34 units in 17 two family side by side units.

3. Bulk Standards for the R-1C District:

a.	Min. Lot Area per unit	7,000 sq. ft.
b.	Min Lot Frontage at street line	10 ft.
c.	Min. Distance Between Buildings, excluding open porches	25 ft.
d.	Min. Front Yard	15 ft.

e.	Min Rear Yard	10 ft.
f.	Min. Side Yard	0 ft. on one (1) side and 10 ft. on other side
g.	Max. Building Height of Dwelling **[Amended 4/18/05 by Ord. #03, 2005]**	2 ½ stories, but not to exceed 35 ft. measured from the average elevation of the finished grade five feet from the foundation to the highest point of the building.
h.	Max Building Coverage	45%
i.	Max. Lot Coverage	70%

j. Max. Sq. Ft. per Dwelling Unit

- 18 units not to exceed

3,000 square feet of habitable space each, plus a garage with a maximum of 500 square feet and a height limit of 1 story.

- 16 units not to exceed

3,500 square feet of habitable space each plus a garage with a maximum of 500 square feet and a height limit of 1 story.

k. Shared driveways are permitted.

l. Parking shall be permitted on one (1) side of the interior street to the development.

m. Open porches may encroach into the front, side and rear yards, but by not more than fifty (50%) percent of the minimum applicable setback requirement.

F. Design Standards for the R-1C District:

1. The lots, road configuration, building placement, and unit types set forth on the Illustrative Figure for the R-1C district attached to this Ordinance are for illustrative purposes only and to demonstrate a plan complying with the intent and purposes of the R-1C district.

2. All buildings lots shall be at least 150 feet from the Princeton Avenue Right-of-Way before any dedication.

3. Public pedestrian and bicycle access to the abutting park shall be provided from within the development via the internal street. As part of the development, the existing sidewalk at Princeton and Crescent Avenues shall be extended to the pedestrian entrance of the abutting park. The sidewalk shall be along the northwesterly side of Princeton Avenue to the extent that Right-of-Way exists or is made available by the Borough of Rocky Hill to the developer.

4. A village green shall be provided in the center of the development.

5. A landscape buffer in accordance with Section 606 shall be provided along the perimeter property lines adjacent to the residential districts.

6. The R-1C District shall be designed in a manner that:

i. Clusters development close to the Village Center.
ii. Is compatible with the street grid and block arrangement of the Village Center and Historic Preservation District.
iii. Encourages the use of shared driveways and rear lanes to reduce the number of curb cuts and the visibility of driveways and garages.
iv. Provides adequate green open space along Princeton Avenue as a viewshed corridor.
v. Features a village green, which shall be designed and spatially defined by the architectural streetscape.
vi. Provides pedestrian and/or bicycle connections to the Borough's sidewalk and open space network.

7. The district architectural design standards contained in Section 704F (8) are intended to ensure that proposed buildings are compatible with the existing structures of the Historic Preservation District. Buildings to be constructed in the R-1C district shall have architectural elements such as open porches, building offsets, and changes in roof forms to be sensitive to massing and scale. The buildings shall incorporate a variety of porch configurations, changes in fenestration and/or other exterior elements and color variation for diversity in the streetscape.

8. Within the development variations in architectural style are encouraged. Buildings and fences shall be designed to be compatible with the architecture and landscape within the Historic Preservation District. A development meeting the following standards and the standards set forth in Section 704F (6) and (7) shall be deemed to comply with the Historic Preservation District requirements set forth in Section 713:

i. All massing, building and roof forms respect the general scale and proportions of the historic homes of the Borough of Rocky Hill.
ii. Buildings shall be composed of a primary form or mass with secondary wings of similar character.
iii. Garages and parking are, to the extent practicable, located in the rear of the lot and do not visually overpower the façade of the building.
iv. Buildings that are located on street corners or have multiple facades along public areas have the same architectural quality and detail on each of those facades.

v. Materials, textures and colors are compatible with the homes in the historic district of the Borough of Rocky Hill.
vi. Any change in building material occurs at a logical place, such as a change in building mass, roof or an inside corner.
vii. All visible facades have a defined "base" (foundation wall, water table, etc.) and "cap" (fascia/frieze, cornices, rakes, etc.)
viii. The entry to a building is easily identifiable from the street and/or public spaces.
ix. Windows are vertically proportioned and appropriate for the style of the architecture.
x. Shutters match the window opening and single shutters are not used on multiple or ganged windows.
xi. Cornices utilize properly sized fascia and frieze boards and supporting moldings and shall be properly returned.
xii. Columns are properly aligned with the shaft of the column to be in the same plane as the beam or frieze board above.
xiii. Landscaping plantings and fencing which are consistent with the existing pattern of the Village Center, compliment the architecture and do not obscure the buildings.
xiv. Garages, breezeways and secondary wings are sited to create privacy yards and outdoor living spaces.
xv. Utility meters, air conditioner condensers, vents, trash, and recyclables are located away from the visible portions of the buildings and screened with fencing and/or landscaping.
xvi. Entrance and porch projections shall relate to the street and be visually compatible with related structures and spaces.

G. Standards for Streets

1. There shall be no more than one (1) access road from Princeton Avenue, and the access point therefore shall be located in a manner so as to minimize the disruption of the open space along the Princeton Avenue corridor, subject to a determination by the Professional Engineer and Traffic Engineer of the Planning Board that such point will provide safe ingress and egress for the development.
2. The streets interior to the development will be constructed consistent with the Residential Site Improvement Standards and the applicable Borough of Rocky Hill Ordinances.
3. All streets interior to the development will be owned, repaired and maintained by the developer of the Property or its successor or assigns or a homeowners association established for that purpose, with the documents forming the homeowners association approved by the Planning Board attorney.
4. The type of homeowners association will be at the discretion of the developer, and, if necessary, the developer will provide the Planning

Board attorney with proof of registration with the Department of Community Affairs

5. No interior street in the development will be accepted by the Borough of Rocky Hill.

H. Required Deed Restrictions

1. Deed restrictions approved by the Planning Board attorney shall be recorded for that portion of the common open space within 150 feet of the Princeton Avenue Right-of-Way so as to ensure that it is maintained as an open field without formal landscaping or in farming operations, and that no buildings shall be constructed thereon. Other improvements, such as pedestrian and bicycle paths, fences, storm water management facilities, sewer, water, and underground utilities, such as gas, electric, telephone and cable, may be located within this area. The area subject to deed restrictions shall be maintained in accordance with a plan approved as part of the development application.

2. Deed restrictions approved by the Planning Board Attorney shall be recorded providing that the maximum number of dwelling units shall be 34 age restricted units.

I. Regulations for the Raising and Breeding of Horses

Until such time as the R-1C district is developed in accordance with this Ordinance, the following shall apply whenever property in the R-1C district is used for the raising and breeding of horses:

1. Minimum area: three (3) acres, including the lot plus land on adjoining lots dedicated by easement for such purposes.

2. Number of horses permitted: no more than one (1) per acre.

3. Setbacks: all structures and area for feeding and boarding of horses and all manure piles shall be set back at least 100 feet from all property lines.

4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

705 R-1A PLANNED RESIDENTIAL A

[Amended 3/1/2004 by Ord. #3, 2004]

A. Purpose

The purpose of this district is to provide that the existing dwellings be preserved in their setting and that new dwellings be located in compact development node with access therefore and circulation designed so that the undeveloped open field between Washington Street and the existing residences be preserved to maintain the historic envelope of the residences and integrity of the streetscape.

B. Principal Permitted Uses on Land and in Buildings

1. Single family residences.
2. Two family residences.
3. Townhouses, except that, with respect to the definition of townhouse, three dwelling units may be permitted in a line.
4. A planned unit residential development in which the following uses are permitted:
   a. Single family residences.
   b. Two family residences.
   c. Row houses.
5. General Farming.

C. Accessory Uses Permitted

The same as the R-1 District.

D. Conditional Uses

Home occupations meeting the standards set fourth in Section 703D2.

E. Comprehensive Development, Density, Bulk and Yard Regulations for All Principal Permitted Uses

1. Min. tract size:	The entirety of the district, which shall be designed in a comprehensive manner, whether a planned unit residential development or building lots only are proposed, and any development application that includes a dwelling unit shall show all proposed development for the entire district.
2. Number of Dwelling Units Permitted:	The maximum number of dwelling units permitted in the district (whether single family residences, two family residences, or row houses) shall be calculated by submitting a test plat of lots conforming to the R-1 district standards. The plat shall include the three residences in existence as of January 1, 2004. With respect to such residences, the test plat shall meet the R-1 minimum lot area standards, but need not meet other bulk standards.

3. Once the number of new dwelling units is established pursuant to subsection 2 above, the layout of existing and proposed dwellings may include a variety of lot sizes and building setbacks, provided the provisions of this section are otherwise met and that each lot has safe and sufficient access.

4.	Max. Building Height	Principal Structure: 2 ½ stories, but not to exceed 35 ft, except that the existing structures may remain or be rebuilt at their existing height.
	Accessory Building:	18 ft.
5.	Max. Lot Coverage:	50%
6.	Building Setback from Adjacent Residential Districts	
	Principal Structure:	25 ft.
	Accessory Building:	10 ft.

F. Design Standards

1. The lots, building placement, and unit types set forth on the Illustrative Figures for R-1A Zone attached to the Land Use Plan element of the Master Plan of the Borough of Rocky Hill are for illustrative purposes and show plans satisfying the goals of the R-1A District regulations

2. No buildings or other structures except for fences, walls, and drives shall be located in front of a line extending the front plane of the primary residence, and such land shall either be preserved as common open space or incorporated into a building lot or lots. In either case, such land shall be maintained as an open or farmed area. If incorporated into a building lot or lots, an improvement area beyond which there shall be no disturbance shall be established and memorialized in the property deed restrictions or other mechanism satisfactory to the Planning Board attorney, to govern use and maintenance of the open or farmed area and landscaping and limit the placement of any structures consistent with the intent of this section and provide for Planning Board review of any landscaping plan. If common open space is located in such area, a deed restriction with such restrictions and satisfactory to the Planning Board attorney shall be recorded. Nothing herein shall preclude the property owners from farming the property in accordance with the Farmland Assessment Act and Right to Farm Act.

3. One additional shared driveway shall be permitted, but only if the applicant demonstrates that it is necessary for safe ingress and egress and

that the existing drive is insufficient for such purposes. It shall be located so as to minimize its impact upon the open field and the streetscape, and the cartway therefore shall be no greater than 15 feet wide, except as otherwise required by law.

4. Buildings shall be designed in a style and scale compatible with the architecture within the Historic Preservation District and buildings in the R-1A district and meeting all historic preservation standards.

G. Regulations for the Raising and Breeding of Horses

Until such time as a subdivision for building lots is constructed in accordance with the above, the following shall apply whenever a lot is used for the raising and breeding of horses:

1. Minimum area: 3 acres, including the lot plus land on adjoining lots dedicated by easement for such purposes.

2. Number of horses permitted: no more than one/acre.

3. Setbacks: all structures and areas for the feeding and boarding of horses and all manure piles shall be set back at least 100 feet from all property lines.

4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

706 R-1B PLANNED RESIDENTIAL B

[Amended 3/1/2004 by Ord. #4, 2004.]

A. Purpose

It is the purpose of this district to provide for low density development consistent with the environs of the Village Center, to preserve the existing main residence in its setting, and to preserve the open area along Princeton Avenue because of its close relation to the main residence's viewscape and the greenbelt surrounding much of the Village Center and extending along Princeton Avenue. The district is also intended to provide that additional development be undertaken in a manner compatible with the traditional scale and architecture of the adjacent Village Center.

B. Principal Permitted Uses on Land and in Buildings

1. Single family residences.
2. Two family residences.

C. Accessory Uses Permitted

The same as the R-1 District

D. Conditional Uses

Home occupations meeting the standards set forth in Section 703D2.

E. Density, Bulk and Yard Regulations for All Principal Permitted Uses

1.	Number of Dwelling Units Permitted:	The maximum number of dwelling units permitted in the district (whether single family residence or two family residences) shall be calculated by submitting a test plat of lots conforming to the R-1 district standards. The plat shall include the main residence in existence as of January 1, 2004.
2.	Min. Lot Area:	5,000 sq. ft.
3.	Max. Lot Area:	12,000 sq. ft., except for the lot with the homestead, for which a deed restriction prohibiting further subdivision shall be recorded as a condition of any development approval granted pursuant to these regulations.
4.	Min. Lot Depth:	100 ft.
5.	Min. Lot Width:	50 ft.
6.	Min. Front Yard	
	Principal Structure:	15 ft.
	Accessory Building:	40 ft.
7.	Min. Side Yard	
	Principal Structure:	5 ft.
	Accessory Building:	5 ft.
8.	Min. Rear Yard	
	Principal Structure:	20 ft.
	Accessory Building:	5 ft.
9.	Max. Building Height	
	Principal Structure:	2 ½ stories, but not to exceed 35 ft.
	Accessory Building:	18 ft.
10.	Max. Lot Coverage:	50%
11.	Building Setback from Adjacent Residential Districts	
	Principal Structure:	25 ft.

	Accessory Structure:	10 ft.
12.	Max. Sq. Ft. per Dwelling Unit:	3,000 sq. ft. of habitable space, except that such limitation shall not apply to the homestead.

F. Design Standards

1. The lots, building placement, and unit types set forth in the Illustrative Figures for R-1B Zone attached to the Land Use Plan element of the Master Plan of the Borough of Rocky Hill are for illustrative purposes and show plans satisfying the goals of the R-1B District regulations.

2. Except as shown in Illustrative Figures for R-1B Zone 1 of 3 and 2 of 3, no buildings or other structures except for fences, walls, and drives shall be located in front of a line extending the front plane of the primary residence, nor shall any lot be located within 50 feet of such residence. Such land shall be incorporated into the primary residence's building lot and shall be maintained as an open area. An improvement area beyond which there shall be no disturbance shall be established and memorialized in the property deed restrictions or other mechanism satisfactory to the Planning Board attorney as a condition of any development approval granted pursuant to these regulations. Such restrictions or other mechanisms shall govern use and maintenance of the open area and landscaping and limit the placement of any structures consistent with the intent of this section and provide for Planning Board review of any landscaping plan.

3. To the extent practicable, the driveway existing at the time this ordinance is adopted shall be used for access to the new lots, and to the extent feasible there shall be no change in configuration of such driveway.

4. Buildings shall be designed in a style and scale compatible with the architecture within the Historic Preservation District and principal building in the R-1B district and meeting all historic preservation standards.

G. Regulations for the Raising and Breeding of Horses

Until such time as a subdivision for building lots is constructed in accordance with the above, the following shall apply whenever a lot is used for the raising and breeding of horses:

1. Minimum area: 3 acres, including the lot plus land on adjoining lots dedicated by easement for such purposes.
2. Number of horses permitted: no more than one/acre.

3. Setbacks: all structures and areas for the feeding and boarding of horses and all manure piles shall be set back at least 100 feet from all property lines.

4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

707 R-2 VILLAGE RESIDENTIAL

A. Purpose

The purpose of this district is to recognize the existing pattern of residential use in the older, village section of the borough and to provide for smaller lot sizes and shorter yard requirements in conformity therewith.

B. Principal Permitted Uses on Land and in Building

The same as the R-1 District.

C. Accessory Uses Permitted

The same as the R-1 District.

D. Conditional Uses

The same as the R-1 District.

E. Density, Bulk and Yard Regulations for Single-Family Residences

1.	Min. Lot Area:	12,000 sq. ft.
2.	Min. Lot Depth:	150 ft.
3.	Min. Lot Width:	80 ft.
4.	Min. Front Yard	
	Principal Structure:	15 ft.
	Accessory Building:	40 ft.
5.	Min. Side Yard	
	Principal Structure:	5 ft.
	Accessory Building:	5 ft.
6.	Min. Rear Yard	
	Principal Structure:	20 ft.
	Accessory Building:	5 ft.
7.	Max. Building Height	
	Principal Structure:	35 ft.
	Accessory Building:	18 ft.
8.	Max. Lot Coverage:	50 %

F. Buffers

No requirement.

G. Minimum Off-Street Parking

2 spaces per dwelling unit.

H. Regulations for the Raising and Breeding of Horses

1. Minimum lot area: 3 acres.

2. Number of horses permitted: no more than one/acre. 3. Setbacks: all structures and areas for the feeding and boarding of horses and all manure piles shall be set back at least 100 feet from all property lines.

4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

708 R-3 RESIDENTIAL CLUSTER

A. Purpose.

The purpose of this district is to provide for clustering as a form of planned development. Development shall be in accordance with the provisions of Article 6 in order to provide flexibility in site design by creating smaller lots while generating open-space areas for parks and recreation use to be compatible with the historic district as well as larger lot subdivisions.

B. Principal Permitted Uses on Land and in Buildings.

1. Single family residences.

2. Townhouses.

C. Accessory Uses Permitted.

The same as uses set forth in section 703C1-3 and 5.

D. Conditional Uses.

Home occupations meeting the standards set forth in Section 703D3.

E. Density, Bulk and Yard Regulations.

			Townhouses	
		Single Family	Individual Units	Overall Structure
1.	Max. Density:	1.5 Units/ gross acre	N/A	2 Units/ gross acre
2.	Max Density per net acre:	N/A	N/A	6 Units/acre
3.	Min. Lot Area:	7,500 sq. ft.	1,400 sq. ft.	40,000 sq. ft.
4.	Max. Lot Area:	10,000 sq. ft.	1,800 sq. ft.	N/A
5.	Min. Lot Depth:	100 ft.	80 ft.	150 ft.
6.	Min. Lot Width:	75 ft.	16 ft.	150 ft.
7.	Min. Front Yard:	40 ft.	20 ft.	20 ft.
8.	Min. Side Yard (each):	40 ft.	-0-	20 ft.
9.	Min. Rear Yard:	20 ft.	20 ft.	85 ft.

10.	Max. Building Height:	35 ft.	35 ft.	35 ft.
11.	Max. Lot Coverage	20%	50%	20%
12.	Min. Public open space and/or common property	30% of the overall tract of a single family development	40% of the overall tract of a townhouse project	
13.	Min. Tract Size	10 ac.	10ac.	10ac.

F. Min. Off-Street Parking.

Two (2) spaces per dwelling unit. Within townhouse complexes there shall be no curb-side parking. Where townhouse parking spaces are in garages or other assigned spaces, there shall be additional parking spaces in parking lots at the rate of 0.5 space per garaged or assigned space. Individual garages served by a driveway shall count as one (1) space.

G. Arrangement of Townhouse Structures

1. Distances between buildings. Principal buildings shall be no closer to each other than 40 feet on the plane which describes the buildings as being next to each other and 70 feet on the plane which describes the buildings as backing or fronting each other.

An accessory structure related to a townhouse structure shall be no closer than 10 feet to an accessory structure related to another townhouse structure. Garages for adjacent townhouse units may be attached to each other.

2. Sitting of buildings.

a. Structures shall be located on the least environmentally sensitive land on the tract and shall be sited in one or more clusters in a manner most appropriate to the natural features of the tract.

b. Each dwelling unit shall be located so that it is accessible by police, fire fighting and emergency vehicles.

c. Each dwelling unit location shall be reasonably related to its appurtenant parking area.

d. Each dwelling unit shall have at least two exposures. All buildings shall be designed and sited in an energy-efficient manner.

e. Each dwelling unit shall be provided reasonable visual and acoustical privacy.

709 B BUSINESS

A. Purpose. The purpose of this district is to provide an area for small retail sales and service type uses in locations where such uses currently exist.

B. Principal Permitted Uses on Land and in Buildings.

1. Retail sales.
2. Service uses.
3. Restaurants and bar.
4. Offices and bank.
5. For purposes of this Ordinance, laundries, bakeries, printing shops, dry cleaning establishments and other businesses in which a product is produced shall be deemed to be industries where they employ more than eight persons or use process machinery of more than ten horsepower, but it is not intended that a retail store or bank shall be limited in the number of its employees.
6. Single family residences in accordance with all requirements of the R-2 District.
7. General farming, including the raising and breeding of horses, but excluding all other forms of animal husbandry.

C. Accessory Uses Permitted.
1. Off-street parking.

D. Conditional Uses.
None

E. Density, Bulk and Yard Regulations.

1. Min. lot area:	10,000 sq. ft.
2. Min. lot depth:	100 ft.
3. Min. lot width:	50 ft.
4. Min. front yard:	15 ft.
5. Min. rear yard:	25 ft.
6. Max. building height:	35 ft.
7. Max. lot coverage:	40%
8. Max. floor area ratio:	0.4
9. Min. business floor area:	800 sq. ft.

10. Min. side yard: All business buildings may be built without side yards except that where a side yard in the business zone adjoins the side yard in a residential zone there shall be a minimum side yard in the business zone of 10 feet. Where a business and residential use is combined in the same building there shall be two side yards and each side yard shall be not less than ten feet.

F. Minimum Off-Street Parking.

G. Regulations for the Raising and Breeding of Horses
1. Minimum lot area: 3 acres.
2. Number of horses permitted: no more than one/acre.
3. Setbacks: all structures and areas for the feeding and boarding of horses and all manure piles shall be set back at least 100 feet from all property lines.

4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

710 VO VILLAGE OFFICE
[Amended on 3/1/2004 by Ord. #5, 2004.]

A. Purpose

It is the purpose of this district to provide for comprehensively planned office development designed in a compact manner consistent with the scale of a traditional village. It is the intent of the district to thus provide for development compatible with the historic development pattern of the Village Center.

B. Principal Permitted Uses on Land and in Buildings.

1. A planned commercial development in which the following uses are permitted: offices, including corporate, professional, medical and dental, financial services (including brokerage, banking, and mortgage companies), educational facilities, and studios.
2. General farming.

C. Accessory Uses Permitted.

1. Off-street parking.
2. Fences and walls.
3. Uses naturally and normally incidental to principal permitted uses or other permitted accessory uses, including a cafeteria operated for the exclusive use of employees and their guests during normal business hours only.

D. Conditional Uses. None

E. Comprehensive Development, Density, Bulk and Yard Regulations

1.	Min. Tract Size:	The entirety of the district, which shall be designed in a comprehensive manner, and any development application shall show all proposed development for the entire tract.
2.	Max. Building Heights:	2 ½ stories, but not to exceed 35 ft.
3.	Max. Coverage of Tract with Impervious Cover:	30%
4.	Max. Floor Area Ratio:	0.08
5.	Max. Building Size of	

	Individual Buildings:	2400 sq. ft. of habitable space, and no more than 3 buildings may be connected.
6.	Building Setback to Residential District Boundary Line:	100 ft. to R-1 District line in existence as of January 1, 2004.
7.	Building Setback to Nonresidential District Boundary Line:	50 ft.

F. Buffers

A landscaped buffer of at least 50 feet shall be provided along all residential district boundary lines. The buffers shall conform to the requirements outlined in Article VI.

G. Minimum Off-Street Parking

One space for every 300 sq. ft. of habitable space finished and used for office purposes or office space, but not including space devoted and dedicated to storage and utility purposes only (such as HVAC rooms, records retention space, or areas devoted to the permanent installation of equipment not associated with space used routinely by office staff, such as computer hardware rooms). All required parking shall be improved, provided that the Planning Board may permit a portion of said required parking to be reserved for future parking, and the land may remain unimproved until such time as deemed necessary by the zoning officer or, with the approval of the Board, the property owner. Parking shall only be permitted in areas improved for such purpose as part of the site plan review process.

H. Design Standards

1. The district shall be designed in a manner depicting full build out consistent with the Illustrative Figures for VO Zone attached to the Land Use Plan element of the Master Plan of the Borough of Rocky Hill.

2. Buildings shall be oriented in a village pattern around a central landscaped area, with water or other architectural features, and parking shall be located predominantly within the area enclosed by the buildings.

3. Buildings shall be designed in a style and scale compatible with the architecture within the Historic Preservation District and meeting all historic preservation standards. Gabled rooflines and traditional window fenestration, among other things, shall be used to achieve such traditional village architecture and scale.

4. All areas that are not proposed for impervious cover shall be planted with trees, shrubs, and grass lawns.

5. All materials and equipment shall be stored in completely enclosed buildings or shall otherwise be screened by such walls, fences, and landscaping as may be determined by the Planning Board to be adequate to appropriately screen such materials and equipment form direct view from adjacent properties and the public right-of-way of Washington Street.

6. Public pedestrian and bicycle access to the abutting park shall be provided.

I. Regulations for the Raising and Breeding of Horses

Until such time as a plan for development is constructed in accordance with the above, the following shall apply whenever a lot is used for the raising and breeding of horses:

1. Minimum area: 3 acres, including the lot plus land on adjoining lots dedicated by easement for such purposes.
2. Number of horses permitted: no more than one/acre.
3. Setbacks: all structures and areas for the feeding and boarding of horses and all manure piles shall be set back at least 100 feet from all property lines.
4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

711 IND – INDUSTRIAL

A. Purpose. The purpose of this district is to provide for the existing industry in the borough.

B. Principal Permitted Uses on Land and in Buildings.

1. Offices for executive or administrative purposes.
2. Scientific or research laboratories, including incidental pilot plants in connection therewith.
3. Fabrication and assembly of products.
4. General farming, including the raising and breeding of horses, but excluding all other forms of animal husbandry.

C. Accessory Uses Permitted.

The same as the AERO District.

D. Conditional Uses.

None.

E. Density, Bulk and Yard Regulations.

1.	Min. lot area:	10 ac.
2.	Min. lot depth:	600 ft.
3.	Min. lot width:	250 ft.

4.	Min. front yard:	200 ft.
5.	Min. side yard (each):	200 ft.
6.	Min. rear yard:	200 ft.
7.	Max. building height:	35 ft.
8.	Max. lot coverage:	40%
9.	Min. ground floor area:	20,000 sq. ft.
10.	Max. floor area ratio:	0.5

F. Buffers.
Same as the AERO District

G. Minimum Off-Street Parking.
One space for every 250 square feet of gross floor area for the uses set forth in Section 711B1 and 2 hereof and 300 square feet of gross floor area for the uses set forth in Section 711B3 hereof.

H. Regulations for the Raising and Breeding of Horses
1. Minimum lot area: 3 acres.
2. Number of horses permitted: no more than one/acre.
3. Setbacks: all structures and areas for the feeding and boarding of horses and all manure piles shall be set back at least feet from all property lines.
4. Fencing: lots upon which horses are raised and bred shall be suitably fenced, but electric fences are prohibited.

I. Other Provisions.
The same as the AERO District.

712 CL COMMUNITY LAND
[Amended on 6/21/2004 by Ord. #11, 2004]

A. Purpose

It is the purpose of this district to recognize land that is owned by governmental units and civic organizations and that is devoted to public and quasi-public uses.

B. Principal Permitted Uses on Land and in Buildings.

1. Public parks, play fields, and playgrounds.
2. Municipal offices of the Borough of Rocky Hill
3. Facilities, including storage sheds and garages, for municipal functions and equipment.
4. Public utilities.

C. Accessory Uses Permitted.

1. Off-street parking.
2. Fences and walls.
3. Uses naturally and normally incident to principal uses or other permitted accessory uses.

D. Conditional Uses.

1. Public libraries, facilities for community and civic groups, cemeteries, facilities for fire and rescue emergency services owned and operating by nonprofit organizations, public and private nursery schools, and group homes serving low – and moderate income households and in compliance with all regulations of the Council on Affordable Housing, subject to the following conditions:
   a. The minimum lot size and setbacks shall be the same as in the R-2 district.
   b. Maximum building height
      Principal building: 2 1/2 stories, but not to exceed 35 ft.
      Accessory building: 18 ft.
   c. Parking: Sufficient parking shall be provided to meet the needs of the proposed use.
   d. In the case of nursery schools, sufficient stacking shall be provided so as not to create a traffic hazard.
   e. Buffer requirement: A planted buffer comprised of a minimum depth of fifteen feet or fencing, or both, all at the Planning Board's option, shall be provided between all parking areas or other outdoor facilities and adjacent residential lots. This provision may

be satisfied if the natural topography or other natural or man-made features adequately separate parking areas from adjoining land used for residential purposes.

E. Density Bulk and Yard Regulations. For municipally owned lots and for any use owned and operated by the Borough of Rocky Hill, there shall be no minimum lot size, setback requirement, or other bulk limitation.

713 HISTORIC PRESERVATION – HP

[AMENDED 11/18/13 by Ord. #7, 2013]

A. Purpose

The purpose of this district is to regulate development within the Borough's historic district.

B. Criteria Governing Issuance of Preservation Permits

1. General Criteria. A preservation permit shall be granted only if the covered acts set forth in Section 4l9 A1, as proposed or as modified by conditions imposed by the planning board:

a. are compatible with the existing structures of the Historic Preservation District;

b. would not adversely affect the ambiance, character, and appearance of the Historic Preservation District and the relationships among structures and between structures and public or private streets in the district;

c. would not adversely affect the visual exterior architectural features and setting of the structure and its historical and architectural interest;

d. are not out of scale with the other structural elements in the Historic Preservation District; and

e. are consistent with the additional criteria of this section and with the purposes of this Ordinance.

2. Additional Criteria For Proposed New Construction or Additions to Existing Structures, Moving of Structures into or within the Historic Preservation District, Existing Structures Erected after January 1, 1930.

A preservation permit to construct new structures or additions to existing structures, or to move structures into or within the Historic Preservation District, or involving covered acts to structures erected after January 1, 1930 shall be granted only if the work as proposed or as modified by conditions imposed by the planning board:

a. is not incongruous with the existing structures and streetscapes of the Historic Preservation District; and

b. is visually compatible with the structures and places to which it is visually related, as judged by the following standards:

(1) The height of the proposed structure shall be visually compatible with structures within the Historic Preservation District.

(2) The relationship of the width of the structure to the height of the front elevation shall be visually compatible with structures and places to which it is visually related within the Historic Preservation District.

(3) The relationship of the width of windows to the height of windows in a structure shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(4) The relationship of solids to voids in the front facade of a structure shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(5) The relationship of the structure to the open space between it and adjoining structures shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(6) The relationship of entrance and porch projections to the street shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(7) The relationship of materials and texture of the facade and roof of a structure shall be visually compatible with the predominant materials used in the structures to which it is visually related within the Historic Preservation District.

(8) The roof shape of a structure shall be visually compatible with structures to which it is visually related within the Historic Preservation District.

(9) If proposed, appurtenances such as walls and open-type fencing shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the main structure with the structures and places to which it is visually related within the Historic Preservation District.

(10) The size of the structure, the mass of the structure in relation to open spaces, and the windows, door openings, porches and balconies shall be visually compatible with the structures and places to which it is visually related within the Historic Preservation District.

(11) A structure shall be visually compatible with structures and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non-directional character within the Historic Preservation District.

It is not the intent of this Ordinance to discourage contemporary architectural expression or to encourage new construction which emulates existing buildings of historic architectural interest of a certain period or architectural style, but to preserve the integrity and authenticity of the Historic Preservation District and to insure the compatibility of new structures therein. If past architectural styles are to be used, a copy of a specific structure is preferable to an amalgam of building types, forms, and styles.

3. Additional Criteria for Structures Erected Before January 1, 1930 that does not include their Demolition or Removal from the Historic Preservation District.

A preservation permit for covered acts on structures erected before January 1, 1930 when such covered act is the construction of an addition or alteration to a structure or the alteration of an outbuilding other than the demolition or removal of such structures from the Historic Preservation District shall be granted only if the work as proposed or as modified by conditions imposed by the planning board:

a. preserves or enhances the historical or architectural value of and character of the structure; and

b. seeks to return the structure, or the part covered by the application, to the known or reasonably conceived appearance (including design elements, architectural details, and textures) it had when it was first constructed or when it was remodeled, if the remodeling occurred before January 1, 1930. Modifications necessary or beneficial to contemporary living consistent with the architectural design and character of the structure or modifications which improve structures lacking architectural merit and not in character with the Historic District may be considered. In determining whether the applicant is proposing work which will restore the authenticity of the structure, as hereby required, the following principles, among other appropriate factors, shall when feasible be followed:

(1) Existing materials, if viable, if they are the original materials of the original structure or remodeling which is being restored, should be maintained and repaired rather than replaced. Modern low maintenance or energy efficient visually compatible materials may be substituted.

(2) Architectural details of the original construction or remodeling which is being restored or altered should be retained. This includes, but is not limited to, cornices and their brackets, window trims such as molded lintels, porch elements such as posts, balustrades, and spindles, and windows, particularly the number and size of the individual panes.

(3) If an element must be replaced rather than repaired, a visual facsimile of the original is preferable to a similar or conjectural piece.

(4) If a visual facsimile of a missing piece cannot be obtained, similar or conjectural items are preferable to none at all.

(5) The original roofing material should be maintained or repaired, and, if replacement is needed, it should be of the same material and size. If the same material is not available, a substitute material should be of the same shape, texture, and size. A visually compatible modern low maintenance or energy efficient building material may be considered.

(6) Storm windows and doors are not prohibited, but should be as unobtrusive as possible.

(7) Period trim that defines the character of a building should be retained.

(8) Synthetic siding is acceptable, but the width of the siding shall be visually appropriate for the period of the building's construction.

(9) Windows should be divided into the number of lights appropriate to the style of the building. True divided lights are preferred, but snap-in muntins are acceptable.

(10) Shutters should be of a height and width so that they appear capable of being closed. They are not appropriate on double, bay, or picture windows.

(11) Doors should have the number and type of panels suitable to the style of the building.

4. Additional Criteria for Demolition or Removal from the Historic Preservation District of Structures.

(a) Structures Built Before January 1, 1930

(1) A preservation permit for demolition or removal from the Historic Preservation District of structures built before January 1, 1930 shall not be granted unless the applicant establishes to the satisfaction of the Planning Board, that the condition of the structure is such that the cost of necessary restoration or repairs would preclude the owner from making any reasonable economically viable use of the property.

(2) A preservation permit for the partial demolition of structures built before January 1, 1930 may be granted only if the applicant provides sufficient documentation (including photographs and/or accurate drawings) of the portion of the existing exterior structure to be demolished so that any future restoration will be able to replicate appropriately the architectural details of the original structure.

(3) If a partial or total demolition of the structure built before 1930 is required to improve or modernize mechanical systems or improve energy efficiency, then such permit may be granted only if the applicant provides sufficient documentation (including photographs and/or accurate drawings) of the existing exterior structure, or portion thereof, to be demolished

to enable a visually identical exterior reconstruction of the original structure. Further, to the extent possible, the applicant should salvage as many original exterior architectural components and use same in the reconstruction of the structure.

(b) Structures Built after January 1, 1930

A preservation permit for the partial or total demolition of structures built after January 1, 1930 shall be granted only if the applicant provides sufficient documentation (including photographs and/or accurate drawings) of the existing structure, or portion thereof, to be demolished so that any future restoration will be able to replicate the architectural details of the original structure. Further, the permit will also be predicated on establishing that the site improvements being requested will contribute visually to Historic District at least as much as the structure being demolished.

5. Additional Criteria for Site Plans, Subdivisions, and other Development Applications. Site plan, subdivision, and other development applications which propose improvements shall respect the historic pattern of use of the historic property; respect the interrelationship of historic features of the property; and provide for an adequate visual buffer for the principal structure or structures and, where appropriate, for an adequate visual buffer for the other historic features of the site by use of open areas and appropriate plantings and, in implementation of these standards, create an historic protection area around the historic features on the property. The historic protection area shall include the principal structure and all of the other historic features on the property. The area shall also be of a size and configuration sufficient to maintain the historic setting and historic character of the property. All other dwelling units and other structures which the applicant proposes to build on the site may be clustered on the remainder of the tract outside the historic protection area and may be located on smaller lots than are otherwise permitted in the zone, provided that the lots may not be of such a size which the Planning Board deems inappropriately small given the configuration of the design of the subdivision and the size of the units to be constructed thereon and further provided that the number of dwelling units, including the principal structure in the historic preservation area if such structure is a residential unit, is no greater than the number the applicant could achieve on the site were it to be developed on the basis of a conventional subdivision complying with all provisions of this Ordinance. Historic protection areas shown on the approved plans shall be included in one lot which does not include any proposed improvements on vacant land other than those accessory to the principal use or uses in the historical protection area. Such lot shall:

a. not be further subdivided so as to create additional building lots; and

b. be deed restricted in a manner acceptable to the planning board attorney so as to prohibit further development on vacant land within such lot except for uses accessory to the principal uses within the lot. The planning board may require such additional deed restrictions as it deems desirable to protect the historic features of the property. All development applications within the district shall show all proposed improvements and shall be developed in accordance with a comprehensive plan.

6. Phasing of Stabilization Plans and Exterior Renovation of and Landscaping for Historic Structures. The planning board when approving a development application in the historic preservation zoning district may require that:

(1) any historic structure on the property be made secure against theft and vandalism;

(2) inflammable materials not be stored therein except in a manner approved by the fire marshall;

(3) interior features of historic significance such as moldings, fireplace mantels, doors, and fixtures not be removed except for preservation purposes and that any such features which are removed be put back in place;

(4) the interior not be damaged and any damage be repaired;

(5) emergency repairs sufficient to protect against deterioration of the structure be undertaken and proof of inspection for insect and vermin infestations and of appropriate remedial work be submitted;

(6) the structure be made structurally sound and its electrical, plumbing, and heating systems be in adequate working order and free of hazards; and

(7) the exterior of the structure be restored in a manner consistent with the criteria set forth herein and landscaped with historic plantings as found and with other appropriate plantings.

The planning board may condition the filing of a subdivision plat upon the above obligations being met; may establish a phasing plan setting forth when any repair work shall be completed and the other obligations set

forth herein are to be met; and may require that the repair and restoration work be subject to the approval of the Borough's zoning officer.

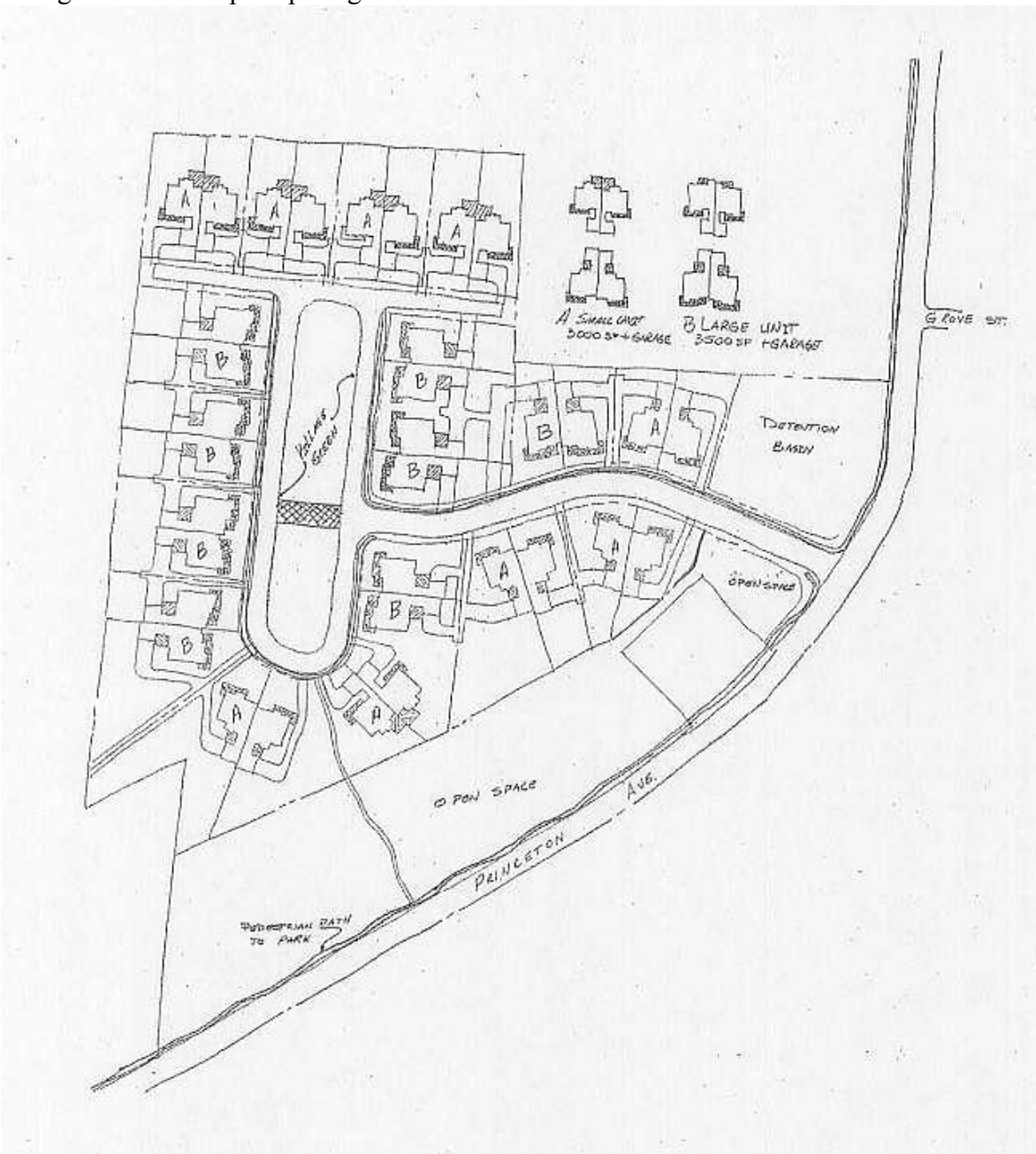
7. Work Under Pre-existing Permits. The provisions of this Ordinance shall not apply to any work performed pursuant to a valid and existing development approval or building permit issued prior to the effective date of the ordinance.

714 AH AIRPORT HAZARD

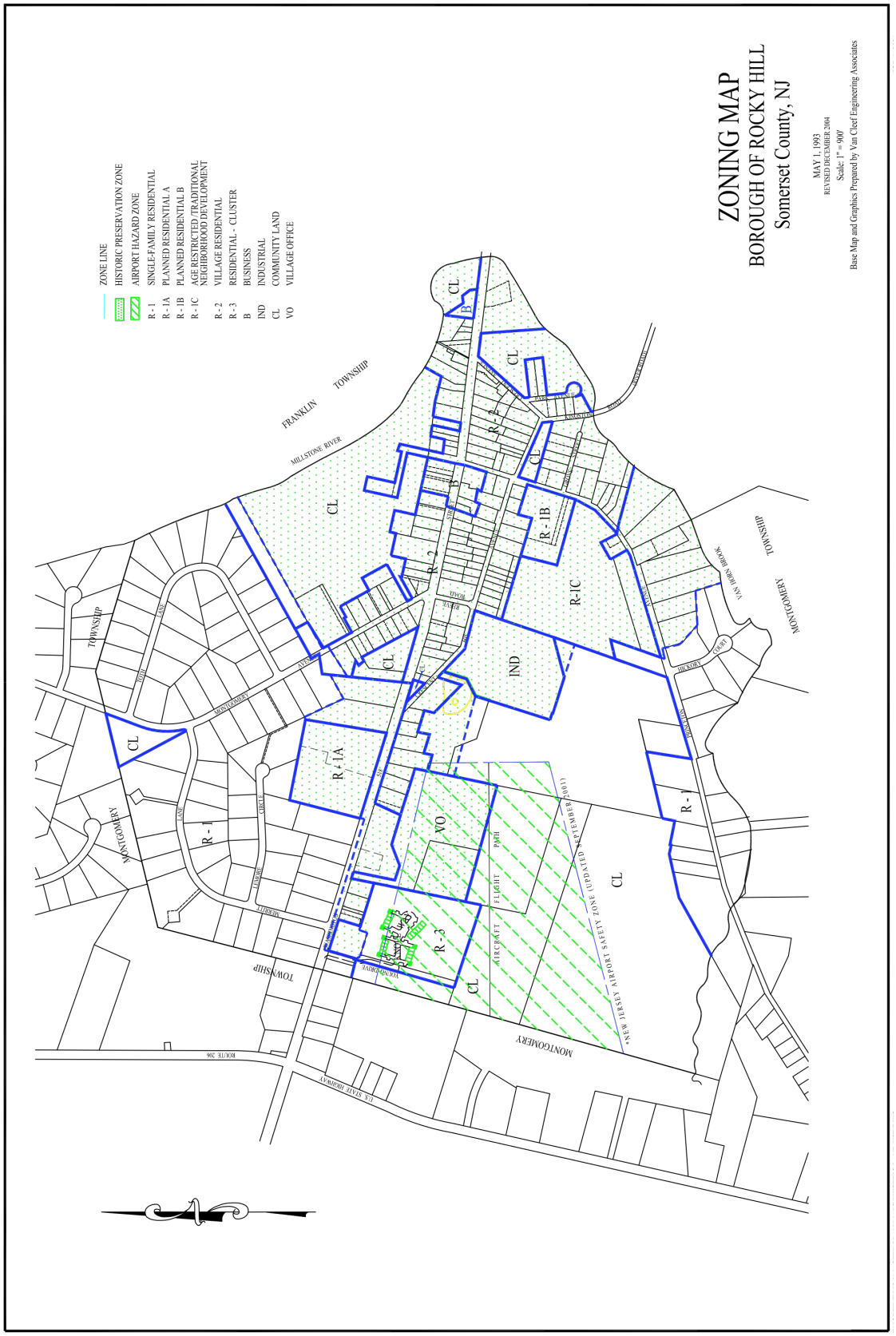
All lands that lie within the boundaries of the an Airport Hazard Area shall comply not only with the regulations and standards set forth in this Ordinance and all other ordinances of this Borough but also with the minimum obstruction standards established in N.J.A.C. 16:62-4.1 and the minimum land use standards established in N.J.A.C. 16:62-5.1.

R-1C Zone: Illustrative Layout

(Layout #1 of 1)
17 Two-family buildings
34 Dwellings
Village Green and open space greenbelt



T & M Associates
December 2004


ZONING MAP
BOROUGH OF ROCKY HILL
Somerset County, NJ
MAY 1, 1993
REVISED DECEMBER 2004
Scale: 1" = 900'
Base Map and Graphics Prepared by Van Cleef Engineering Associates
ZONE LINE
HISTORIC PRESERVATION ZONE
AIRPORT HAZARD ZONE
R - 1 SINGLE-FAMILY RESIDENTIAL
R - 1A PLANNED RESIDENTIAL A
R - 1B PLANNED RESIDENTIAL B
R - 1C AGE RESTRICTED /TRADITIONAL NEIGHBORHOOD DEVELOPMENT
R - 2 VILLAGE RESIDENTIAL
R - 3 RESIDENTIAL - CLUSTER
B BUSINESS
IND INDUSTRIAL
CL COMMUNITY LAND
VO VILLAGE OFFICE
FRANKLIN TOWNSHIP
MILLSTONE RIVER
MONTGOMERY TOWNSHIP
VAN DORN BROOK
MONTGOMERY
ROUTE 206
U.S. ROUTE HIGHWAY
NEW JERSEY AIRPORT SAFETY ZONE (UPDATED SEPTEMBER 2001)
AIRCRAFT FLIGHT PATH

ARTICLE 8: AFFORDABLE HOUSING

[History: Adopted by the Borough of Rocky Hill on 6/15/09 by Ord. #7, 2009.]

800 PURPOSE AND APPLICABILITY

These regulations are enacted pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the implementing rules of the New Jersey Council on Affordable Housing (COAH).

A. Prior Round Fair Share Plan. COAH granted substantive certification to the Borough's second round Housing Element & Fair Share Plan in fulfillment of its 1987-1999 fair share obligation on January 3, 2001. Credits were granted for two group homes (one existing and one proposed) for low and moderate income individuals. The terms of said substantive certification and COAH's second round rules shall continue to govern the units certified and constructed in satisfaction of the 1987-1999 fair share obligation.

B. Third Round Fair Share Plan. COAH granted substantive certification of the Borough's third round Housing Element & Fair Share Plan in fulfillment of its 2004-2018 fair share obligation and the continuing prior round obligation on May 14, 2009. In accordance with the terms of substantive certification and the certified Housing Element & Fair Share Plan, the Borough shall implement an accessory apartment program consistent with COAH rules.

C. Except as specifically stipulated in this Article, all affordable housing hereafter developed, marketed and occupied by low and moderate income households within the Borough of Rocky Hill shall conform to and be governed by the applicable requirements and standards of the New Jersey Council on Affordable Housing and the New Jersey Uniform Housing Affordability Controls N.J.A.C. 5:80-26.1 et seq. ("UHAC regulations"). The definitions set forth in COAH and UHAC regulations are hereby adopted by reference.

801 REHABILATION PROGRAM

The Borough shall continue its participation in Somerset County's housing rehabilitation program at least through 2009 to enable owners of deficient housing occupied by low or moderate income households, and located within the Borough of Rocky Hill, to obtain funding provided by Somerset County for home improvements.

802 ACCESSORY APARTMENT PROGRAM

A. Accessory Apartments Permitted as a Conditional Use. Accessory apartments intended for occupancy by low and moderate income households are permitted as a conditional use in the R-1 and R-2 zoning districts as provided in Article 7 of this

ordinance. All accessory apartments shall comply with the provisions of this ordinance, applicable COAH and UHAC regulations, and any conditions imposed by the Planning Board in approving same.

B. Administration. The Accessory Apartment Program shall be administered by a qualified Administrative Agent designated by the Borough Council and approved by COAH, undertaking all of the delegated functions described in section 808 below.

C. Municipal Subsidy. The Borough of Rocky Hill shall provide subsidies deemed necessary by COAH as an incentive to property owners desirous of establishing accessory apartments for low and moderate income households consistent with this ordinance, applicable COAH and UHAC regulations. For each accessory apartment created in accordance with the standards contained in Article 7, and subject to the affordability controls described in this Article 8, the Borough will provide a municipal subsidy in the amount of $20,000 for not more than five moderate income units and $25,000 for not more than five low income units. The subsidy shall be paid to the property owner when satisfactory evidence is provided to the Borough Attorney of the recording of the deed restriction required by UHAC regulations and a certificate of occupancy has been issued for the apartment. No municipal subsidy shall be provided for more than a total of ten accessory apartments established pursuant to this ordinance.

803 BEDROOM DISTRIBUTION, PHASING AND OTHER REQUIREMENTS

A. Bedroom Distribution. Except as indicated below, the bedroom distribution of affordable housing units constructed in the Borough of Rocky Hill shall comply with UHAC regulations.

1. Accessory apartments intended for occupancy by income-eligible households pursuant to this ordinance shall not be required to comply with UHAC bedroom distribution requirements and the Borough shall not regulate, nor shall the Planning Board impose any restriction, on the number of bedrooms contained in any accessory apartment established for COAH credit in compliance with this ordinance.

2. Group homes for COAH credit shall contain separate bedrooms for eligible residents. No change shall be made to diminish the number of bedrooms in any group home for which the Borough has received COAH credit without the approval of the Borough Council and Planning Board.

3. Age-restricted housing designed for occupancy by low and moderate income households may be designed with a bedroom distribution different from that required by UHAC regulations provided all of the following requirements are met:

a. At a minimum, the number of bedrooms proposed shall equal the number of age-restricted low and moderate income units within the development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.
b. The units are governed by a recorded deed restriction with an age limit restriction for occupancy.
c. The bedroom distribution proposed is generally consistent with that proposed for age-restricted market-rate units.

B. Low and Moderate Income Occupancy Requirements. At least 50% of the affordable units in any inclusionary development or a group home shall be reserved for occupancy by low income households earning 50% or less of the area's median income, adjusted for household size, as determined by COAH. Of the housing reserved for low income households, a percentage of units, in accordance with COAH rules, shall be reserved for very low income households earning less than 30% of the area's median income, adjusted for household size, as determined by COAH. The remainder of the affordable units may be reserved for occupancy by moderate income households earning more than 50% but less than 80% of the area's median income, adjusted for household size, as determined by COAH. Accessory apartments shall be rented to income eligible households as stipulated below.

1. <u>5 Low Income Units:</u> Five accessory apartments shall be reserved and designated for occupancy by low income households earning 50% or less of the area's median income, as determined by COAH, adjusted for household size.
2. <u>5 Moderate Income Units:</u> Five accessory apartments shall be reserved and designated for households earning more than 50% but less than 80% of the area's median income, as determined by COAH, adjusted for household size.

C. Heating Source for Affordable Units. Affordable housing units constructed within an inclusionary development shall be provided with the same source for heating (i.e. oil, gas, etc.) as market-rate units. This requirement shall also apply to accessory apartments created within or built as an addition to the principal dwelling on the same lot, unless the owner can demonstrate to the satisfaction of the Planning Board that the heating source for the apartment will be more efficient than that serving the principal dwelling. No accessory apartment intended for occupancy by an income-eligible household pursuant to this ordinance shall be served solely by electric heat.

D. Phasing. Affordable units constructed in an inclusionary development shall be phased in accordance with the following schedule:

% of market-rate units completed	Minimum % of affordable units completed
25	0
25+1	10
50	50
75	75
90	100

804 Affordability Controls

A. Deed Restrictions.

1. All accessory apartments intended for COAH credit shall be subject to recorded deed restrictions in the form, and shall be governed by the affordability controls required by, UHAC regulations, including the calculation of rental rates, rent increases, occupancy standards, income eligibility requirements and other applicable limitations for a period of not less than ten years. The control period shall commence on the first date that a certified household occupies the unit and shall remain in effect for a period of not less than ten years.
2. Any group home established after the effective date of this ordinance shall comply with COAH's third round rules (N.J.A.C. 5:97-6.10) with respect to deed restrictions, marketing requirements, occupancy requirements and affordability controls.
3. Any other affordable housing developed within the Borough of Rocky Hill after the effective date of this ordinance shall comply with COAH and UHAC regulations with respect to deed restrictions, marketing requirements, rental rate or sales price calculations, including re-rentals and resales, and the length of affordability controls.

B. Establishing Initial Rents and Sales Prices. The initial rents or sales prices of affordable units developed as part of inclusionary developments shall comply with UHAC regulations. The maximum initial rent of an accessory apartment intended for COAH credit shall be calculated utilizing COAH approved income limits and UHAC occupancy standards for the size of the unit, including an allowance for any tenant-paid utilities in accordance with the following limitations:

1. The maximum rent for five low income accessory apartments shall be established so as to be affordable to households earning no more than 44% of median income, adjusted by household size for the number of bedrooms in the unit.

2. The maximum rent for five moderate income accessory apartments shall be established so as to be affordable to households earning no more than 60% of median income, adjusted by household size for the number of bedrooms in the unit.
3. The calculation of the initial rent for each unit type (low or moderate) above is based on the number of bedrooms in the unit and income for a hypothetical household size equal to 1.5 persons per bedroom. In referring actual households to units for occupancy, no adjustment of the rental rate shall be required based upon the actual household size of the prospective tenant.

C. Increasing Rents and Sales Prices. Rental rates and sales prices may be increased annually upon the renewal of a lease or upon the sale of a unit, as the case may be. The increase shall be calculated in accordance with COAH-approved limits and UHAC regulations and shall be approved by the Administrative Agent prior to taking effect.

D. Average Affordability Requirements. The average affordability requirements of UHAC regulations, N.J.A.C. 5:80-26.3(d) do not apply to accessory apartments intended for COAH credit, which must be affordable to the household types indicated in section B above. All other affordable housing shall comply with UHAC average affordability requirements, price and/or rent restrictions.

805 Affirmative Marketing

A. Marketing. All affordable housing units established hereafter in the Borough, including accessory apartments intended for COAH credit and the re-rental of renter-occupied rehabilitated housing, if any, shall be marketed in accordance with UHAC regulations. There shall be no residency or other occupancy preference in connection with the occupancy of any affordable housing unit in the Borough. Affordable housing units shall be marketed to households within the region of which the Borough is a part, which includes Somerset, Hunterdon, and Middlesex counties. Occupancy restrictions and marketing for group homes shall comply with the requirements of any state agency providing funding therefor or as approved by COAH.

B. Affirmative Marketing Plan. An affirmative marketing plan, in compliance with UHAC regulations, shall be prepared by the designated Administrative Agent for each housing program or project utilizing the sample form supplied by COAH. The plan shall be maintained on file at the Rocky Hill Borough Hall and the offices of the Municipal Housing Liaison. The marketing plan shall include all of the information required by UHAC regulations as well as sample media advertisements, a list of contacts for outreach to organizations within the COAH-designated housing region of which the Borough is a part, and a description of the random selection method to be employed in selecting prospective occupants for affordable units.

C. Commencement of Marketing. The marketing program shall commence no less than 120 days prior to the anticipated date of issuance of a certificate of occupancy.

806 Administration of Affordable Housing

The Borough of Rocky Hill is responsible for ensuring the proper administration of all affordable housing for COAH credit.

A. Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of Rocky Hill. The Borough Council shall designate the Municipal Housing Liaison by resolution, which shall be filed with COAH. The Municipal Housing Liaison shall undertake the duties and responsibilities outlined in section 807.

B. Administrative Agent for Accessory Apartment Program. Subject to COAH approval, the Borough shall designate and contract with one or more experienced Administrative Agents to undertake the duties listed in section 808 in connection with the Borough's Accessory Apartment Program. The Administrative Agent shall be appointed by resolution of the Borough Council and shall enter into a contract for services consistent with the duties and responsibilities outlined in section 808.

C. Administrative Agents for Group Homes. The individual owners of group homes for the developmentally disabled, which have been certified by COAH in satisfaction of the Borough's second round Fair Share Plan, are hereby designated to act as the Administrative Agent for their respective properties as described below. Each owner shall be responsible for providing the Borough with appropriate documentation for monitoring the status of the home so as to maintain COAH credit for the applicable term of affordability controls.

1. EDEN A.C.R.E.s, Inc. (4 bedrooms occupied by low/moderate individuals)

Owner Address:	Property Address:
1 Eden Way	94 Princeton Avenue
Princeton NJ 08540	Rocky Hill NJ 08553

2. ARC of Somerset County (6 bedrooms occupied by low/moderate individuals)

Owner Address:	Property Address:
141 South Main Street	7 Young Drive
Manville, NJ 08835	Rocky Hill NJ 08553

807 DUTIES AND RESPONSIBILITIES of the Municipal Housing Liaison

A. Duties. The Municipal Housing Liaison shall be responsible for general oversight of the affordable housing program for the Borough and shall have the following responsibilities, which may not be contracted out:

1. Serve as the Borough's primary point of contact for all inquiries about affordable housing from state agencies, affordable housing providers, administrative agents, and interested households.
2. Monitor the status of all restricted units included in the Borough's Fair Share Plan.
3. Compile and/or verify, and submit annual reports as required by COAH.
4. Coordinate meetings with affordable housing providers and Administrative Agents, as applicable.
5. Attend continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH.

B. Supervision of Administrative Agent. If the Borough contracts with an entity to serve as an Administrative Agent to administer all or any part of the Borough's affordable housing program, the Municipal Housing Liaison shall supervise the Administrative Agent, or if applicable, the Municipal Housing Liaison may serve as the Administrative Agent for some or all of the restricted units and perform any or all of the duties described in section 808. If the Municipal Housing Liaison performs any of the duties normally performed by an administrative agent, such responsibilities shall be set forth in the resolution appointing the Municipal Housing Liaison.

808 ADMINISTRATIVE AGENT FOR THE REHABILITATION AND ACCESSORY APARTMENT PROGRAMS

A. Contracting with Administrative Agent for the Accessory Apartment Program. Subject to COAH approval, the Borough of Rocky Hill shall contract with or authorize one or more consultants, authorities, government agencies or any other entity to serve as the Administrative Agent as defined in N.J.A.C. 5:80-26.1 et seq. for the Borough's Accessory Apartment Program in fulfillment of the Borough's COAH-certified Third Round Fair Share Plan. The Administrative Agent shall be assigned specific responsibilities in connection with implementing the program and administering the affirmative marketing and affordability controls for each unit to ensure that all restricted units are occupied by income eligible households.

B. Administrative Agent's Fees. The Borough of Rocky Hill shall pay the fees charged by the Administrative Agent in accordance with a valid contract between the agent and the Borough Council in connection with the implementation and administration of the Accessory Apartment Program and the rental of units to qualified tenants. The landlord shall reimburse the Borough for any fee associated with the re-rental of an accessory apartment or rental unit rehabilitated pursuant to section 801 of this ordinance. A fee schedule associated with the Administrative Agent's services to certify a qualified tenant in connection with the re-rental of a unit shall be approved by the Borough Council annually.

C. Responsibilities. The duties assigned to the Administrative Agent shall implement the provisions of N.J.A.C. 5:80-26.1 et seq. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out the duties and responsibilities listed hereunder that are delegated to the entity by contract:

1. Affirmative Marketing
   a. Prepare an Affirmative Marketing Plan consistent with N.J.A.C. 5:80-26.15.
   b. No less than 120 days prior to the anticipated issuance of a certificate of occupancy for any affordable housing unit(s), the Administrative Agent shall conduct an outreach process to ensure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan and the provisions of N.J.A.C. 5:80-26.15; and
   c. Provide counseling, as needed, to low and moderate income applicants on subjects such as budgeting, credit issues, rental lease requirements, and shall distribute information available from the state about landlord/tenant law.
2. Household Certification
   a. Solicit, schedule, conduct and follow up on interviews with interested households.
   b. Conduct interviews and obtain sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit in accordance with N.J.A.C. 5:80-26.1 et seq.
   c. Provide written notification to each applicant as to the determination of eligibility or non-eligibility.
   d. Require that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
   e. Create and maintain a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located.
   f. Employ the random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
3. Affordability Controls
   a. Furnish to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit.
   b. Create and maintain a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate.
   c. Ensure that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit.
   d. Communicate with lenders regarding foreclosures.
   e. Ensure the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Communication with Owners and Tenants
   a. Institute and maintain an effective means of communicating information between property owners and the Administrative Agent regarding the accessory apartment program, municipal subsidies and program requirements.
   b. Institute and maintain an effective means of communicating information to low-income households regarding the availability of restricted units for rent.
5. Process Requests from Landlords
   a. Process requests from landlords for qualified tenants in connection with the re-rental of a unit.
   b. Review and approve requests to increase rents provided the increase is consistent with UHAC regulations.
6. Enforcement
   a. Secure from all owners of restricted units, at the earliest point of contact in the processing of an application for approval of an accessory apartment, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent.
   b. Post annually, in all accessory apartments, a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made.
   c. Send annual mailings to all owners of affordable dwelling units, reminding them of the applicable notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4.
   d. Establish a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the New Jersey Department of Community Affairs.
   e. Create and publish a written operating manual, to be approved by COAH, setting forth procedures for administering such affordability controls.
   f. Provide annual reports to the Borough Council, the Municipal Housing Liaison and COAH, including the preparation of the annual COAH monitoring report for the Municipal Housing Liaison to review and submit to COAH.

ARTICLE 9: AFFORDABLE HOUSING DEVELOPMENT FEES

[History: Adopted by the Borough of Rocky Hill on 6/15/09 by Ord. #6, 2009.]

901 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 ("Act"), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

B. Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is 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 are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

C. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

902 Basic Requirements

A. This Ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.

B. The Borough of Rocky Hill shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

903 Definitions

A. The following terms, as used in this Ordinance, shall have the following meanings:

1. "**Affordable housing development**" means 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 percent affordable development.

2. **"COAH"** or the **"Council"** means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

3. "**Development fee**" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

4. "**Developer**" means 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.

5. "**Equalized assessed value**" means 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 (C. 54:1-35a through C. 54:1-35c).

6. "**Green building strategies**" means 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.

904. Residential Development Fees

A. Imposed fees

1. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1.5%) percent of the equalized assessed value of land and improvement for new residential construction on an unimproved lot or lots provided no increased density is permitted.

2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that

may be realized. However, if the zoning on a site has changed during the two (2) 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 (2) year period preceding the filing of the variance application.

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees could equal one and one-half (1½%) percent of the equalized assessed value on the first two (2) units; and the specified higher percentage up to six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two (2) year period preceding the filing of such a variance application.

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

1. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

2. Developments that have received preliminary or final site plan approval prior to the adoption of the original Borough of Rocky Hill Development Fees Ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

4. Development fees shall be imposed where a Certificate of Occupancy is issued for an owner-occupied residential structure that has been issued a demolition permit provided the unit for which the demolition permit was issued was occupied by its current owner for at least one (1) year prior to the demolition and no change in use has occurred. In that event, the Borough shall subtract these units from actual growth share and impose a

development fee based on the increase in equalized assessed value that results from reconstruction. However, residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying development fees. The purpose of this Section is to be consistent with N.J.A.C. 5:97-2.5(1)(v).

5. Additions or improvements to existing dwellings by an owner who has lived in the dwelling for the prior twelve (12) months, including the construction of additions to or replacement of accessory buildings or other structures on the same lot as the principal dwelling shall be exempt from paying development fees. Also exempt from paying development fees are decks, garages and patios.

6. Houses of worship shall be exempt from paying development fees.

7. Other exemptions may be established by amendment to this Ordinance.

905 Non-residential Development Fees

A. Imposed fees

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development

1. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.

2. The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change of use within existing footprint, reconstruction, renovations and repairs.

3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

4. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

5. If a property which was exempted from the collection of a non-residential 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 forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Rocky Hill as a lien against the real property of the owner.

906 Collection Procedures

A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall notify the construction official responsible for the issuance of a building permit.

B. For non-residential developments only, the construction official shall provide the Developer with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." The Developer shall complete Form N-RDF. The construction official shall verify the

information submitted by the non-residential developer as provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as provided in Form N-RDF.

C. The construction official responsible for the issuance of a building permit shall notify the Tax Assessor of the application for a building permit for a development which is subject to a development fee.

D. Within ninety (90) business days of receipt of notice from the construction official, the Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

E. Fifty (50%) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

F. The construction official shall notify the Tax Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

G. Within ten (10) business days of a request for the scheduling of a final inspection, the Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the final amount of the fee.

H. Should the Borough of Rocky Hill fail to determine or notify the developer of the amount of the development fee within ten (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 (C.40:55D-8.6).

I. Appeal of development fees

1. 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 Borough of Rocky Hill. 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, R.S. 54:48-1 et seq., within ninety (90) days after the date of such determination. Interest

earned on amounts escrowed shall be credited to the prevailing party.

2. A developer may challenge non-residential 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 forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Rocky Hill. 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 ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

907 Affordable Housing Trust Fund

A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

B. The following additional funds, if applicable, 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 affordable units;

2. developer contributed funds to make ten (10%) percent of the adaptable entrances in a townhouse or other multistory attached development accessible;

3. rental income from municipally operated units;

4. repayments from affordable housing program or rehabilitation loans;

5. recapture funds;

6. proceeds from the sale of affordable units; and

7. any other funds collected in connection with the Borough of Rocky Hill's affordable housing program.

C. If applicable, within seven (7) days from the opening of the trust fund account, the Borough of Rocky Hill shall provide COAH with written authorization, in the form of a three (3) party escrow agreement between

the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

908 Use of Funds

A. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Rocky Hill'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, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential 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, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

B. Funds shall not be expended to reimburse the Borough of Rocky Hill for past housing activities.

C. At least thirty (30%) percent of all development fees collected and interest earned 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 (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of median income by region.

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.

2. Affordability assistance to households earning thirty (30%) percent or less of median income may include reducing the cost of low or moderate income units in the municipal Fair Share Plan to make

them affordable to households earning thirty (30%) percent or less of median income.

3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of Rocky Hill may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.

E. No more than twenty (20%) percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. 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 objecting to COAH's regulations and/or action are not eligible uses of the affordable housing trust fund.

909 Monitoring

The Borough of Rocky Hill shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Rocky Hill's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

910 Ongoing Collection of Fees

The ability for the Borough of Rocky Hill to impose, collect and expend development fees shall cease with the expiration of its substantive certification unless the Borough of Rocky Hill has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Rocky Hill fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal 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 (C.52:27D-320). In the event that the Borough of Rocky Hill's substantive certification has expired and the Borough has not petitioned COAH for a new substantive certification, the Borough of Rocky Hill shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification, nor shall the Borough of Rocky Hill retroactively impose a development fee on such a development. The Borough of Rocky Hill shall not expend development fees after the expiration of its substantive certification unless the Borough has petitioned COAH for new substantive certification.

ARTICLE 10: STORMWATER CONTROL

[History: Adopted by the Borough of Rocky Hill on 11/21/05 by Ord. No. 05-05. Amendments noted where applicable.]

1000 SCOPE AND PURPOSE

A. Policy Statement

Flood control, groundwater, recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose

It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for "major development," as defined in Section 1002.

C. Applicability

1. This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

   a. Non-residential major developments; and
   b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This ordinance shall also be applicable to all major developments undertaken by Borough of Rocky Hill.

D. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not

relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

1001 [Reserved]

1002 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

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

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

"Compaction" means the increase in soil bulk density.

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

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

A county planning agency; or

A county water resource association created under N.J.S.A. 58:l6A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"Department" means the New Jersey Department of Environmental Protection.

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

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

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

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

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

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

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

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

"Infiltration" is the process by which water seeps into the soil from precipitation.

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

"Municipality" means any city, borough, town, township, or village.

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

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

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

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

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

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

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

"Soil" means all unconsolidated mineral and organic material of any origin.

"State Development and Redevelopment Plan Metropolitan Planning Area (PA2)" means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

"State Plan Policy Map" is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

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

"Stormwater runoff" means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

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

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce storm-water runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of storm-water or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

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

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

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

"Urban Redevelopment Area" is defined as previously developed portions of areas:

(1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PAl), Designated Centers, Cores or Nodes;
(2) Designated as CAFRA Centers, Cores or Nodes;
(3) Designated as Urban Enterprise Zones; and
(4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

"Waters of the State" means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

"Wetlands" or **"wetland"** means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

1003 General Standards

A. Design and Performance Standards for Stormwater Management Measures

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and storm-water runoff quality standards in Section 1004. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

1004 Stormwater Management Requirements for Major Development

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 1010.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:lB-15.l47 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle)

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 1004.F and 1004.G:

1. The construction of an underground utility line provided that the disturbed areas are re-vegetated upon completion;

2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and

3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access if made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 1004.F and 1004.G may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections l004.F and l004.G to the maximum extent practicable;

3. The applicant demonstrates that, in order to meet the requirements of Sections 1004.F and 1004.G, existing structures currently in use, such as homes and buildings, would need to be condemned; and

4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands nor falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 1004.F and 1004.G that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies

1. To the maximum extent practicable, the standards in Sections l004.F and 1004.G shall be met by incorporating non-structural stormwater management strategies set forth at Section 1004.E into the design. The applicant shall identify the nonstructural measures incorporated into the

design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:

a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;

b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;

c. Maximize the protection of natural drainage features and vegetation;

d. Minimize the decrease in the "time of concentration" from pre-construction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most point of the watershed to the point of interest within a watershed.

e. Minimize land disturbance including clearing and grading;

f. Minimize soil compaction;

g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;

h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;

i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:

(l) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 1004.E.3. below;

(2) Site design features that help to prevent discharge of trash and debris from drainage systems;

(3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and

(4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

3. Site design features identified under Section 1004.E.2.i.(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section l004.E.3.c below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate;

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard does not apply:

(1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that met these standards.

(2) Where flows from the water quality design storm as specified in Section 1004.G.1 are conveyed through any device (e.g., end of

pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for out-fall netting facilities); or

(b) A bar screen having a bar spacing of 0.5 inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section l004.G.l; or

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural. stormwater management measure to meet the performance standards in Sections 1004..F and 1004.G shall be dedicated to a government agency,, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure of an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural. stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 1007, or found on the Department's website at http://www.njstormwater.org.

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b. The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 1005, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.

(3) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial development where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any

industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other Industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.

c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 1005, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood

hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

(4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and. (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

2. Any application for a new agricultural development that meets the definition of major development at Section 1002 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater Runoff Quality Standards.

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:l4A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution			
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presume removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website http://www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 1007. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, New Jersey 08625-0418.

3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

R = A+B-(AXB)/100
Where
R = total TSS percent load removal from application of both BMPs, and
A = the TSS percent removal rate applicable to the first BMP
B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs	
Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See Section 1006.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the sub-areas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 1004.F and 1004.G.

6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 7.

7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-l.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

(1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

(2) Encroachment within the designated special water resource protection area under Section 1004.G8a(1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

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

(1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;

(2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;

(3) Temperature shall be addressed to ensure no impact on the receiving waterway;

(4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

(5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

(6) All encroachments proposed under this section shall be subject to review and approval by the Department.

d. A stream corridor protection plan may be developed by a regional stormwater management committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 1004.G.8 has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to l004.G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in l004.G.8.a.(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water

Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

e. Paragraph 1004.G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

1005 Calculation of Stormwater Runoff and Groundwater Recharge

A. Stormwater runoff shall be calculated with the following:

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

a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds; or

b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Section l005.A.l.a and the Rational and Modified Rational Methods at Section l005.A.l.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation)

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds,

wetlands, depressions, hedgerows, or culverts, that may reduce pre--construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watershed and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at http://www.state.nj.us/dep/njgs/ or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427; (609) 984-6587.

1006 Standards for Structural Stormwater Management Measures

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the

width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 1008.D.

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 1008.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 1004 of this ordinance.

C. Manufactured treatment devices may be used to meet the requirements of Section 1004 of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

1007 Sources for Technical Guidance

A. Technical guidance for stormwater management measures can be found in the documents listed at Section 1007.A.l and Section 1007.A.2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-l.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540.

2. The Rutgers Cooperative Extension Service, 732-932-9306; and

3. The Soil Conservation Districts listed in the N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

1008 Safety Standards for Stormwater Management Basins

A. This section sets forth requirements to protect public safety through the proper design and operation of storm-water management basins. This section applies to any new stormwater Management basin.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions.

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.

b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.

2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

b. The overflow grate spacing shall be no less than two inches across the smallest dimension.

c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.

3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section l008.C a freestanding outlet structure may be exempted from this requirement.

b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 1008.D for an illustration of safety ledges in a stormwater management basin.

c. In new stormwater management basins, the maximum interior slope for an earthen darn, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the Borough of Rocky Hill that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin.

Depicted is an elevational view.

4' TO 6' WIDE, SLOPE
GENTLY TOWARD THE
POOL, FOR DRAINAGE

12" TO 18" ABOVE
WATER SURFACE

PERMANENT
WATER LEVEL

30" BELOW
WATER SURFACE

SLOPE TO BE
STABLE

4' TO 6' WIDE, SLOPE
GENTLY FOR DRAINAGE

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

1009 Requirements for a Site Development Stormwater Plan

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 1009.C below as part of the submission of the applicant's application for subdivision or site plan approval.

2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.

3. The applicant shall submit three (3) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 1009.C of this ordinance.

B. Site Development Stormwater Plan Approval

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

C. Checklist Requirements

The following information shall be required:

1. Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of l"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and man-made features not otherwise shown.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s)

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Sections 1003 through 1006 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 1004 of this ordinance.

b. When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 1010.

8. Waiver from Submission Requirements

The municipal official or Board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 1009.C.1 through 1009.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

1010 Maintenance and Repair

A. Applicability

1. Projects subject to review as in Section 1001.C of this ordinance shall Comply with the requirements of Sections 1010.B and 1010.C.

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of

the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.

4. If the person responsible for maintenance identified under Section 1010.B.2 above is not a public agency, the maintenance plan and any future revisions based on Section 1010.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.

6. The person responsible for maintenance identified. under Section 1010.B.2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.

7. The person responsible for maintenance identified under Section 1010.B.2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.

8. The person responsible for maintenance identified under Section 1010.B.2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 1010.B.6 and 10l0.B.7 above.

9. The requirements of Sections 1010.B.3 and 1010.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

C. Maintenance Bond Required.

1. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

2. The person responsible for construction of any stormwater management facilities constructed pursuant to this chapter shall post with the Borough of Rocky Hill a maintenance bond which shall begin at the point in time that the Borough of Rocky Hill deems the facilities fully constructed and run for a period of two (2) years from that date.

1011 Penalties

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the following penalties: Imprisonment in the County jail or any place provided by the Borough of Rocky Hill for the detention of prisoners for a term not to exceed ninety (90) days; or by a fine not to exceed One Thousand Two Hundred Fifty Dollars ($1,250.00); or by a period of community service not exceeding ninety (90) days.

ARTICLE 11: WELL HEAD PROTECTION

[History: Adopted by the Borough of Rocky Hill on 12/18/06 by Ord. No. 06-06. Amendments noted where applicable.]

1100 Well Head Protection

A. **Statement of Findings.**

The Borough Council finds that:

(1) The ground water underlying the Borough is a major source of existing and future water supplies, including drinking water. The ground water underlying the Borough lies within the Northwest New Jersey 15 Basin Aquifer Systems, designated as a "sole source" aquifer under Section 1424(e) of the federal Safe Drinking Water Act of 1974.

(2) The ground water aquifers are integrally connected with, are recharged by, and flow into the surface waters, lakes and streams, which also constitute a major source of water for drinking, commercial and industrial needs.

(3) Accidental spills and discharges of toxic and hazardous materials may threaten the quality of these ground water supplies and related water sources.

(4) Contaminated water from any source is a detriment to the health, welfare and safety of the residents of the Borough, and other users of these water resources.

(5) Spills or discharges of hazardous substances or hazardous wastes may contaminate or pollute water. As a preventive measure, the proximity of stored materials to sources of water supplies, such as all public community wells and non-community wells that serve schools, should be restricted so that there will be sufficient time to find and clean up such spills or discharges before water supplies become contaminated.

B. **Purpose.** The purpose of this Article 11 is to protect the public health, safety and welfare through the protection of the ground water resources underlying the Borough to ensure a supply of safe and healthful drinking water for present and future generations of local residents, employees and the general public in the Borough, as well as users of these water supplies outside the Borough. Areas of land surrounding each public community well, known as Well Head Protection Areas (WHPAs), from which contaminants may move through the ground to be withdrawn in water

taken from the well, have been delineated. Through regulation of land use, physical facilities and other activities within these areas, the potential for ground water contamination can be reduced. The purpose of the regulations contained in this Article 11 is to prevent the migration of potential pollutants from areas within a WHPA into groundwater that is withdrawn from a public community well.

C. **Definitions.** Certain words, phrases, and terms in this Section are defined for the purpose thereof as follows:

ADMINISTRATIVE AUTHORITY: The Planning Board (which is a joint Planning and Zoning Board pursuant to N.J.S.A. 40:55D-25c, hereinafter referred to as "Planning Board") and the Board of Health, acting jointly and in consultation, with all of the powers delegated, assigned, or assumed by them according to statute or ordinance.

APPLICANT: Person applying to the Board of Health, Planning Board, or the Construction Office proposing to engage in an activity that is regulated by the provisions of this Article 11, and that would be located within a regulated Well Head Protection Area.

AQUIFER: Any subsurface water-saturated zone which is significantly permeable so that it may yield sufficient quantities of water from wells or springs in order to serve as a practical source of potable water supply.

BEST MANAGEMENT PRACTICES (BMP): These are performance or design standards established to minimize the risk of contaminating ground water or surface waters while managing the use, manufacture, handling or storage of hazardous substances or hazardous wastes.

CONTAMINATION: Sewage, industrial wastes, organisms of the coliform group, water-borne pathogens, or harmful or objectionable material in potable water. The term "contaminated" shall be used accordingly.

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 of any mine, 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 pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-l et seq.

DISCHARGE: Any intentional or unintentional action or omission, unless pursuant to and in compliance with the conditions of a valid and effective Federal or State Permit, resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance into the waters or lands of the

State or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State.

GROUND WATER: The portion of water beneath the land surface that is within the saturated zone, in which all the subsurface voids in the rock and soil are filled with water.

HAZARDOUS SUBSTANCE: Any solid waste that is defined or identified as a hazardous waste pursuant to the Solid Waste Management Act, N.J.S.A. 13:lE et seq., N.J.A.C. 7:26-8, or 40 CFR Part 261.

MAXIMUM CONTAMINANT LEVEL: The maximum permissible level of a contaminant in water measured at the point of entry to the distribution system or at the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water regulations apply. Any contaminant added to the water under circumstances controlled by the user, except a contaminant resulting from corrosion of piping and plumbing caused by water quality, is excluded from this definition.

NJDEP: New Jersey Department of Environmental Protection.

PERSON: Any individual, corporation, company, firm, association, joint stock company, partnership, consortium, joint venture, commercial or any other legal entity, municipality, State agency or Federal agency.

POLLUTED WATER: In the content of drinking water, water is polluted when a pollutant is present in excess of a maximum contaminant level or bacteriological limit established by law or regulation.

POLLUTANT SOURCE (PS): Activity or land use which may be a source of a pollutant that has the potential to move into ground water withdrawn from a well. For the purposes of this ordinance, Pollutant Sources are defined in Section F.

PS: Pollutant Source.

PUBLIC COMMUNITY WATER SYSTEM: A public water supply well which serves at least 15 serve connections used by year-round residents or regularly serves at least 25 year-round residents.

PUBLIC NON-COMMUNITY WATER SYSTEM: A public water system that is not a public community water system and is either a "public nontransient non-community water system" or a "public transient non-community water system" as defined in this section.

PUBLIC TRANSIENT NON-COMMUNITY WATER SYSTEM: A public water system that is not a public community or public nontransient non-

community water system and that serves at least 25 transient individuals for at least 60 days in any given calendar year.

SOLE SOURCE AQUIFER: An aquifer that contributes to more than 50% of the drinking water to a specific area and the water would be impossible to replace if the aquifer were contaminated. Sole source aquifers are defined with guidelines set forth by the U.S. Environmental Protection Agency (EPA) as authorized in Section 1424(e) of the Safe Drinking Water Act of 1974.

TIME OF TRAVEL (TOT): An assessment of the speed with which water moves from the land surface to a pumping well.

TIER 1 WELL HEAD PROTECTION AREA: That area of land within a WHPA from which ground water may enter the well within 2 years. (See maps referenced under Section D.)

TIER 2 WELL HEAD PROTECTION AREA: That area of land within a WHPA from which ground water may enter the well within 5 years. (See maps referenced under Section D.)

TIER 3 WELL HEAD PROTECTION AREA: That area of land within a WHPA from which ground water may enter the well within 12 years. (See maps referenced under Section D.)

WELL HEAD: The well borehole and appurtenant equipment.

WELL HEAD PROTECTION AREA (WHPA): A delineation described in plan view of the horizontal extent of ground water captured by a well pumping at a specific rate which flows to the well within a certain time period. Each groundwater WHPA in Rocky Hill Borough contains three tiers, labeled Tier 1, Tier 2, and Tier 3. Tier 1 is a two year time of travel; Tier 2 is a five year time of travel; and Tier 3 is a twelve year time of travel.

WHPA: Well Head Protection Area.

D. Establishment of Well Head Protection Areas and Maps.

(1) Well Head Protection Area Maps:

(a) The delineations of Well Head Protection Areas for public community wells, which were published by the New Jersey Geological Survey of the New Jersey Department of Environmental Protection, are incorporated herein and made a part of this Article 11. They are designated as follows: New Jersey Well Head Protection Areas, Edition 2, Geospatial Data Presentation, New Jersey Digital Data Series, DGSO2-2, dated 18 June 2002. A description of these data and the terms and

conditions of the use of these data may be found at http://www.state.nj.us/dep/njgs/whpaguide.pdf and http://www.state.nj.us/dep/njgs/geodata/dgs97-1.htm. A map of the Well Head Protection Areas located within the Borough of Rocky Hill is included as part of this Article 11. Maps of the municipality on which these delineations have been overlain shall be on file and maintained by the offices of the Borough Clerk of the Board of Health of the Borough of Rocky Hill.

(b) Well Head Protection Areas, as shown on the maps described in Section D, shall be considered to be superimposed over any other established zoning district. Land in a Well Head Protection Area may be used for any purpose permitted in the underlying district, subject to additional restriction set forth in this Article 11.

(2) **Assignment of Restriction within Well Head Protection Areas.** Properties located wholly or partially within a Well Head Protection Area shall be governed by the restrictions applicable to the Well Head Protection Area.

E. Regulation of Well Head Protection Areas for public community wells and public non-community wells serving schools.

(1) The Administrative Authority for administering the provisions of this Article 11 shall be the Planning Board or the Board of Health of the Borough of Rocky Hill.

(2) Any applicant for a permit requesting a change in land use or activity, which is subject to review under the provisions of the Municipal Land Use Law and other pertinent regulations of the Borough of Rocky Hill, and which is located within a delineated WHPA, as defined in Section D, that involves a Pollutant Source (PS), as defined in Section F, shall comply with the requirements of this Article 11.

(3) Any applicant for a permit requesting a change in land use or activity, which is subject to the requirements of this Article 11, shall file an Operations and Contingency Plan, as required by Section H, with the Administrative Authority. No permit that allows a change in land use or activity, which is subject to the requirements of this Article 11, shall be granted unless an Operations and Contingency Plan for the proposed change has been approved by the Administrative Authority. Any plan approved by the Administrative Authority shall be kept on file in the office of the Borough Clerk, and shall be available to the public for inspection.

(4) Any change in land use or activity that introduces a Major or Minor Pollutant Source (PS), as defined in Section F, shall be prohibited within a Tier 1 WHPA.

(5) Any change in land use or activity that introduces a Major PS, as defined in Section F, shall be prohibited within a Tier 2 WHPA.

(6) Any change in land use or activity that involves any PS, as defined in Section F, within any WHPA, that is not prohibited pursuant to Section E(4) or E(5), shall comply with the Best Management Practice Standards, as defined in Section G.

(7) This Article 11 is supplementary to other laws and ordinances in the Borough. Where this Article 11 or any portion thereof imposes a greater restriction than is imposed by other regulations, the provisions of this Article 11 shall supersede. These Rules and Regulations shall in no way affect the limitations or requirement applicable in the underlying zoning districts of the Borough of Rocky Hill.

(8) Ground water sources of supply shall further be protected as follows:

(a) Sanitary sewer lines, industrial waste lines and storm water lines may be located no closer than 50 feet to a regulated well. Any such line within 100 feet of a regulated well shall be of completely watertight construction (i.e., steel, reinforced concrete, cast iron, PVC or other suitable material).

(b) Manholes and/or connections to a sanitary sewer system are prohibited within 100 feet of a regulated well.

(9) **Exemptions.** Land uses or activities in existence on or before the effective date of this ordinance shall not be subject to any regulations of Article 11. This exemption shall not apply to any applicant for a change of land use or activity pursuant to Article 11.

F. **Pollutant Sources Listed.** The following are Major and Minor Pollutant Sources (PS) subject to the requirements of this Article 11. The listing of Major and Minor PS is consistent with the New Jersey Safe Drinking Water Act Regulations, N.J.A.C. 7:10 et seq.

(1) Major Pollutant Source means any wastewater treatment plant discharge, any documented ground water contamination, any liquid chemical or fuel storage facility with capacity greater than 2,000 gallons, any industrial treatment lagoon, any automotive service station, any land fill (open, closed or inactive), any industrial facility (including dry cleaning facilities), any salt storage facility with storage of more than

twelve (12) cubic yards of salt, any highway maintenance yard, any truck and/or bus maintenance yard, any underground fuel and chemical storage tank with a capacity of 2,000 gallons or more, any body of surface water containing salt or brackish water, any quarrying and/or mining facility, any asphalt and concrete manufacturing facility.

(2) Minor Pollutant Source means any liquid chemical or fuel storage tank with capacity less than 2,000 gallons, any stormwater detention or retention basin, any sanitary sewer line, any sanitary sewer manhole, any sanitary sewer pump station, any sewage treatment facility, and any facility to which NJDEP has issued a discharge permit pursuant to N.J.A.C. 7:14A, New Jersey Pollutant Discharge Elimination System rules.

(3) A Minor Pollutant Source shall not include any of the following provided secondary containment of sufficient volume to prevent a spill or leak from escaping the containment is provided for any storage tank:

(a) Above ground farm or residential tanks of 600 gallons or less capacity used for storing motor fuel for non-commercial purposes;
(b) Above ground farm tanks of 600 gallons or less capacity used for storing motor fuel for commercial purposes;
(c) Above ground tanks used to store heating oil for on-site consumption in a non-residential building with a capacity of 600 gallons or less;
(d) Above ground tanks with a capacity of 600 gallons or less used to store heating oil for on-site consumption in a residential building;
(e) Septic tanks installed in compliance with regulations adopted by the department pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L. 1954, c. 199 (C.58:11-23 et seq.);
(f) Pipelines, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968," Pub.L. 90-481 (49 U.S.C. §1671 et seq.), the "Hazardous Liquid Pipeline Safety Act of 1979," Pub.L. 96-129 (49 U.S.C. §2001 et seq.), or intrastate pipelines regulated under State law;
(g) Surface impoundments, pits, ponds, or lagoons, operated in compliance with regulations adopted by the department pursuant to the "Water Pollution Control Act," P.L. 1977, c. 74 (C.58:10A-l et seq.);

(h) Storm water or wastewater collection systems operated in compliance with regulations adopted by the department pursuant to the "Water Pollution Control Act";

(i) Tanks situated in an underground area, including, but not limited to, basements and cellars, if the storage tank is situated upon or above the surface of the floor; and

(j) Any pipes, lines, fixtures, or other equipment connected to any tank exempted from the provisions of this act pursuant to paragraphs (a) through (i) of this subsection.

G. **Best Management Practice Performance Standard.** Any applicant proposing any change in land use or activity that involves any PS, as defined in Section F, that would be located either wholly or partially within any WHPA shall comply with and operate in a manner consistent with the following Best Management Practices:

(1) All portions or areas of a facility in which hazardous substances or hazardous wastes are stored, processed, manufactured or transferred outdoors, shall be designed so that the discharges of hazardous substances will be prevented from overflowing, draining, or leaching into the ground water or surface waters.

(2) Outdoor storage, dispensing, loading, manufacturing or processing areas of hazardous substances or hazardous wastes must be protected from precipitation, stormwater flows or flooding.

(3) Wherever hazardous substances are stored, processed, manufactured or transferred outdoors, the design features shall include secondary containment and/or diversionary structures which may include, but not be limited to:

(a) Containers, dikes, berms or retaining walls sufficiently impermeable to contain spilled hazardous substances, for the duration of a spill event.

(b) Curbing.

(c) Gutter, culverts and other drainage systems.

(d) Weirs, booms and other barriers.

(e) Lined diversion ponds, lined lagoons and lined retention basins, holding tanks, sumps, slop tanks and other collecting systems.

(f) Drip pans.

(4) Secondary containment and/or diversionary systems, structure or equipment for regulated underground storage tanks must be consistent with N.J.A.C. 7:l4B and must meet the following standards:

(a) The system must block all routes by which spilled hazardous substances could be expected to flow, migrate, or escape into the ground water or surface waters.

(b) The system must have sufficient capacity to contain or divert the largest probable single discharge that could occur within the containment area, plus an additional capacity to compensate for any anticipated normal accumulation of rainwater.

(c) In order to prevent the discharge of hazardous substances into ground water, all components of the system shall be made of or lined with impermeable materials sufficient to contain the substance of the duration of a spill event. Such material or liner must be maintained in an impermeable condition.

(d) No manufacturing area, processing area, transfer area, dike storage area, or other storage area, or secondary containment/diversion system appurtenant thereto shall drain into a watercourse, or into a ditch, sewer pipe or storm drain that leads directly or indirectly into a surface or subsurface disposal area, unless provision has been made to intercept and treat any spilled hazardous substances in an NJDEP approved industrial wastewater treatment or pretreatment facility, or other NJDEP approved facility.

(e) Catchment basins, lagoons and other containment areas that may contain hazardous substances should not be located in a manner that would subject them to flooding by natural waterways.

(5) Stormwater shall be managed so as to prevent contamination of ground water, and so as to be in accordance with applicable laws and regulations of the State of New Jersey, and the Borough of Rocky Hill.

H. Operations and Contingency Plan

(1) Any applicant proposing any change in land use or activity that involves any PS, as defined in Section F, that would be located either wholly or partially within any WHPA shall submit an Operations and Contingency Plan to the Administrative Authority. This Operations and Contingency Plan shall inform the Administrative Authority about the following aspects of the proposal:

(a) Types of PS proposed for the site.

(b) Types and quantities of hazardous substances or hazardous wastes that may be used or stored on site, other than those volumes and types associated with normal household uses.

(c) Means to be employed to contain or restrict the spillage or migration of hazardous substances or hazardous waste from the site into the ground water.

(d) Means to be used to contain or remediate accidental spillage of such materials.

(e) Means to notify administrative authority about any accidental spillage of such materials.

(f) Demonstration that the proposed use and/or activity would employ, to the maximum extent possible, best management practices as set forth in Section G, to protect ground water quality in the WHPA and minimize the risk of potential ground water contamination.

(g) Description of proposed use: type of use or activity; commercial (trades and services); industrial (manufacturing and processing); product produced, Standard Industrial Code (S.I.C.) if applicable.

(h) Description of the types of wastes generated and method of disposal, including solid wastes, hazardous wastes, sewage and non-sewage wastewater discharges.

(i) Location of all regulated wells within 200 feet of the property line.

(j) Description of the risks associated with the use, handling, and/or disposal of hazardous wastes.

(k) Description of plans to detect and control hazardous material leaks and spills and plans for inspections and monitoring, emergency notification and emergency containment and cleanup procedures.

(1) Description of best available technologies to safely store and handle any hazardous wastes and to detect releases of any hazardous materials.

(2) The Administrative Authority shall review, and shall approve or reject any Operations and Contingency Plan prior to approving or denying the application for a land use change or activity.

(3) Any Operations and Contingency Plan submitted shall be available for public review and comment.

(4) Nothing in this subsection shall relieve an applicant from the requirements of Article 11 Environmental Impact Statement where applicable. Any waiver that may be granted by the approving authority from the requirements of Article 11 shall not include any waiver of the requirements of Article 11.

I. **Exemptions.** The following uses or activities are exempted from the requirements of Article 11:

(1) Retail sales establishments that store and handle hazardous materials for resale in their original unopened containers.

(2) County and state government facilities.

(3) The use of any hazardous materials solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.

(4) The transportation of a hazardous material through any part of a delineated WHPA, provided that the transporting vehicle is in transit and meets all State and federal requirements for the transportation of such hazardous material.

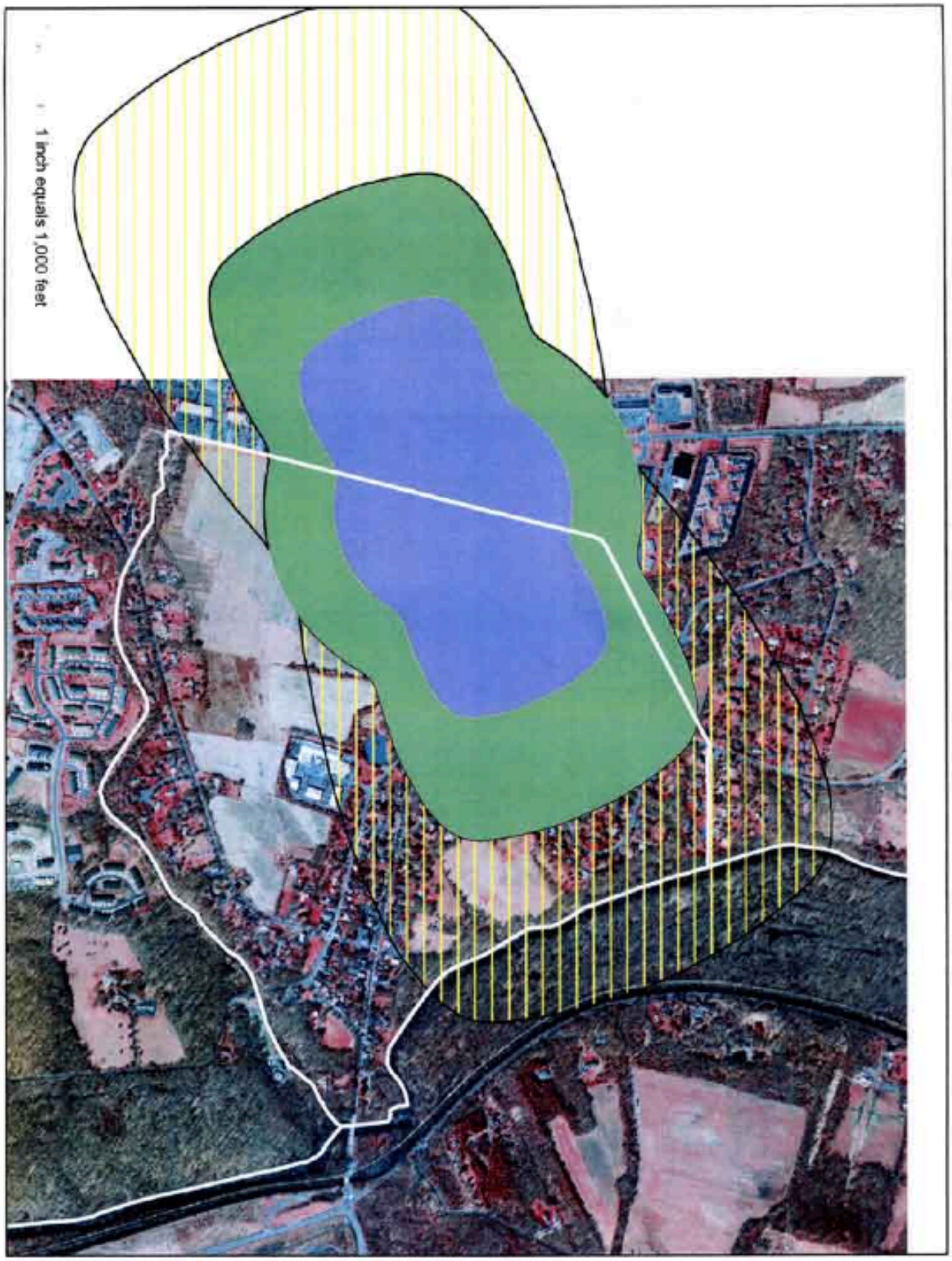
J. **Enforcement.** A prompt investigation shall be made by the appropriate personnel of the Borough of Rocky Hill of any person or entity believed to be in violation of this Article 11. If, upon inspection, a condition which is in violation of this Article 11 is discovered, a civil action may be commenced in a court of competent jurisdiction seeking the recovery of penalties or injunctive relief, or both, by the filing and serving of appropriate process. Nothing in this Article 11 shall be construed to preclude the Borough's right, pursuant to any applicable statute, to initiate legal proceedings under this Article 11 in Municipal Court. The violation of any section or subsection of this Article 11 shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Article 11. Each day a violation continues shall be considered a separate offense. Appropriate personnel of the Borough of Rocky Hill shall ensure that the provisions of Article 11 are carried out in a manner which is not inconsistent with N.J.A.C. 7:14B.

K. Any person or entity who or which violates any provision of this chapter shall, upon conviction thereof, be punishable by one or more of the following: (a) a fine of not less than one hundred dollars ($100.00) and not more than one thousand two hundred fifty dollars ($1,250.00); (b) imprisonment for a period of not more than ninety (90) days; and (c) a period of community service not to exceed ninety (90) days.

L. **Restoration.** In case of an accidental spill or discharge in violation of this Article 11, the person or entity responsible for the remediation and/or removal of such condition shall, at its own cost and expense, and in a manner consistent with all applicable State, County, Municipal or Federal laws, restore the quality of the affected ground water to meet all Safe Drinking Water standards.

M. **Severability.** If any section, sentence or part of this Article 11 is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Section.

N. Nothing contained in Article 11 shall prohibit any applicant for a permit requesting a change in land use or activity, which is subject to review under the provisions of the Municipal Land Use Law N.J.S.A. 40:55D-1 et seq. (MLUL) from requesting a variance for any regulation contained in . (MLUL) from requesting a variance for any regulation contained in Article 11 pursuant to MLUL N.J.S.A. 40:55D-70c or d.



Well Head Protection Areas Borough of Rocky Hill

ARTICLE 12: FLOOD DAMAGE PREVENTION

[History: Adopted by the Borough of Rocky Hill on 9/17/07 by Ord. #8, 2007.]

1201 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1201.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the governing body of Borough of Rocky Hill, of New Jersey does ordain as follows:

1201.2 FINDINGS OF FACT

[1] The flood hazard areas of Borough of Rocky Hill are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1201.3 STATEMENT OF PURPOSE

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

[1] To protect human life and health;

[2] To minimize expenditure of public money for costly flood control projects;

[3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

[4] To minimize prolonged business interruptions;

[5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;

[6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

[7] To ensure that potential buyers are notified that property is in an area of special flood hazard; and

[8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1201.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

[1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

[2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;

[3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

[4] Controlling filling, grading, dredging, and other development which may increase flood damage; and

[5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

1202 DEFINITIONS

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

"**Appeal**" means a request for a review of the Engineer's interpretation of any provision of this ordinance or a request for a variance.

"**Area of shallow flooding**" means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"**Area of special flood hazard**" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"**Base flood**" means the flood having a one percent chance of being equaled or exceeded in any given year.

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

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

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

"**Elevated building**" means a non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

"**Flood or flooding**" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

"**Flood Insurance Study**" **(FIS)** means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

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

"**Floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

"**Highest adjacent grade**" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"**Historic Structure**" means any structure that is:

[a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in States without approved programs.

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

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

"**Manufactured home park or manufactured home subdivision**" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

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

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

"**Start of Construction**" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"**Structure**" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"**Substantial Damage**" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"**Substantial Improvement**" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

[1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

[2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

1203 General Provisions

1203.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Rocky Hill, Somerset County, New Jersey.

1203.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Rocky Hill, Community No. 340443, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

a) A scientific and engineering report "Flood Insurance Study, Somerset County, New Jersey (All Jurisdictions)" dated September 28, 2007.

b) Flood insurance Rate Map for Somerset County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 0242, 0244; whose effective date is September 28, 2007.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at Borough Hall, 15 Montgomery Avenue, Rocky Hill, NJ 08553.

1203.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $1250.00 or imprisoned for not more than five (5) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Rocky Hill from taking such other lawful action as is necessary to prevent or remedy any violation.

1203.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

1203.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

[1] Considered as minimum requirements;
[2] Liberally construed in favor of the governing body; and
[3] Deemed neither to limit nor repeal any other powers granted under State statutes.

1203.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood Heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

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

1204 DEVELOPMENT PERMIT

1204.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 1203.2. Application for a Development Permit shall be made on forms furnished by the Engineer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

[1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

[2] Elevation in relation to mean sea level to which any structure has been floodproofed;

[3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and

[4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

1204.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Engineer is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provision.

1204.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Engineer shall include, but not be limited to:

1204.3-1 PERMIT REVIEW

[1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

[2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

[3] Review all development permits to determine if the proposed development is located in the floodway, assure that the encroachment provisions of Section 1205.3[1] are met.

1204.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with **Section 1203.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD,** Engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer the Specific Standards of Section 1205.2-1, Residential Construction, and 1205.2-2, Nonresidential Construction.

1204.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

[1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation (in relation to mean sea level); and
[ii] maintain the floodproofing certifications required in Section 1204.1 [3].

[3] Maintain for public inspection all records pertaining to the provisions of this ordinance.

1204.3-4 ALTERATION OF WATERCOURSES

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

1204.3-5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in SECTION 1204.4.

1204.4 VARIANCE PROCEDURE

1204.4-1 APPEAL BOARD

[1] The Planning Board as established by the Borough of Rocky Hill shall hear and decide appeals and requests for variances from the requirements of this ordinance.

[2] The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the Engineer in the enforcement or administration of this ordinance.

[3] Any interested party may appeal the decision of the Planning Board to the Superior Court of New Jersey pursuant to R.4:69.

[4] In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and;

[i] the danger that materials may be swept onto other lands to the injury of others;
[ii] the danger to life and property due to flooding or erosion damage;
[iii] the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
[iv] the importance of the services provided by the proposed facility to the community;
[v] the necessity to the facility of waterfront location, where applicable;
[vi] the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
[vii] the compatibility of the proposed use with existing and anticipated development;
[viii] the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
[ix] the safety of access to the property in times of flood for ordinary and emergency vehicles;
[x] the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

[xi] the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of Section 1204.4-1(4) and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

[6] The Engineer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

1204.4-2 CONDITIONS FOR VARIANCES

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 1204.4-1[4] have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

[i] a showing of good and sufficient cause;

[ii] a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

[iii] a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in SECTION 1204.4-1[4], or conflict with existing local laws or ordinances.

[6] Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

1205 PROVISIONS FOR FLOOD HAZARD REDUCTION

1205.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

1205.1-1 ANCHORING

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

1205.1-2 CONSTRUCTION MATERIALS AND METHODS

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

1205.1-3 UTILITIES

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flood.

1205.1-4 SUBDIVISION PROPOSALS

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

1205.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of flood waters.

1205.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 1204.3-2, Use of Other Base Flood and Flood Way Data, the following standards are required:

1205.2-1 RESIDENTIAL CONSTRUCTION

[1] New construction and substantial improvement of any residential structure shall have the lowest flood, including basement, elevated to or above base flood elevation;

[2] require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specific in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

1205.2-2 NONRESIDENTIAL CONSTRUCTION

[1] New Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or

[2] require within any AO zone on the municipality's FIRM that all new Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as
the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or together with the attendant utilities and sanitary facilities; shall:

[3] be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

[4] have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

[5] be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 1204.3-3[2].

1205.2-3 MANUFACTURED HOMES

[1] Manufactured homes shall be anchored in accordance with Section 1205.1-1[2].

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

1205.3 FLOODWAYS

Located within areas of special flood hazard established in SECTION 1203.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

[1] Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates

that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

[2] If SECTION 1205.3[1] is satisfied, all new construction and substantial improvements will comply with SECTION 1205.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.

[3] In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

DISPOSITION LIST

The following is a chronological listing of all land use ordinances of the Borough of Rocky Hill indicating in each case the Articles established or amended.

Ord. No.	Adoption Date	Subject	Disposition
	12-20-1976	Land Use Ordinances	Articles 1 through 7
	3-7-1977	Offsite Improvements & Parking	Amended §624, §625A & §706A
10, 1979	12-17-1979	Planning Board Membership	Amended §404A
11, 1979	12-17-1979	Home Occupations	Amended §703D
13, 1980	6-16-1980	Applications	Amended Articles 3, 4, 5, & 7
19, 1981	6-1-1981	Fees and Deposits	Amended Article 4
5, 1985	6-17-1985	Historic Preservation District	Repealed by Ord. #2, 1993
6. 1985	7-1-1985	Accessory Buildings	Amended §302 & §423
3, 1987	3-2-1987	Fees and Deposits	Amended §412
6, 1987	5-4-1987	Horses and Farming	Amended §703 to §709
6, 1988	10-3-1988	Zoning Map	Amended §702
7, 1988	11-7-1988	AH Zone	Superseded by Ord. #1, 1990
10, 1988	12-5-1988	Flood Damage Prevention	Superseded by Ord. #8, 2007
7, 1989	9-18-89	Zoning Districts	Amended §302, §615 & Article 7
1, 1990	3-5-1990	AH Zone	Amended Articles §302, §403, §404C, §623, §701 & §710
7, 1990	11-5-1990	Amended Ord. #7. 1989	
8, 1991		Historic Preservation District	Repealed by Ord.#2, 1993
2, 1993	3-16-1993	Historic Preservation District	Amended Articles 2, 3, 4, 5 & 7 and repealed Ord. #5, 1985
7, 1993	11-15-1993	Home Occupation	Amended §301, Article 4, §703, & §707D
8, 1993	11-1-1993	Zoning Map	Amended §702

Ord. No.	Adoption Date	Subject	Disposition
5, 1996	6-17-1996	Signs	Replaced §634
6, 1996	6-17-1996	Escrow Deposits & Public Documents	Amended § 404 & §413
9, 1996	10-7-1996	Eliminated PD-1 District	Amended Article 7
4, 1998	8-17-1998	Fences	Amended §614
5, 1998	8-17-1998	Affordable Housing	Amended §708
6, 1998	9-21-1998	Affordable Housing	Amended §302 & added Articles 8 & 9
3, 1999	4-19-1999	Submission Checklists & Requirements	Amended Article 5
6, 1999	8-16-1999	Preservation Permits	Amended §304 §419A, §507 & §712B3
5, 2003	11-17-2003	Lot Sizes	Amended §623D and §703E1
1, 2004	3-1-2004	Adds CL District	Amended §302 & Article 7
3, 2004	3-1-2004	Adds R-1A District	Amended Article 7
4, 2004	3-1-2004	Adds R-1B District	Amended Article 7
5, 2004	3-1-2004	Adds VO District Eliminated R-M & AERO	Amended Articles 6 & 7
11, 2004	6-21-2004	Permitted Uses	Amended §712
15, 2004	12-20-2004	Escrow Fees	Amended §404
17, 2004	12-20-2004	Added R-1C District Deleted R-1A and Renamed R-1/A	Amended Article 7
3, 2005	4-18-2005	Building Height R-1C	Amend §704E.3.g
5, 2005	11-21-2005	Stormwater Control	Added Article 10
6, 2005	10-17-2005	Wellhead Protection	Added Article 11
4, 2006	7-17-2006	Development Fees	Amends §902 & §903
6, 2006	12-18-2006	Wellhead Protection	Replaces Article 11
10, 2006	12-18-2006	Definitions & Development Fees	Amends §302 and § 902, §904, §905, §907, and §909
11, 2006	12-18-2006	Design & Performance Standards	Amends §610, §617, §625, §632, §637, & §639

Ord. No.	Adoption Date	Subject	Disposition
5, 2007	7-16-2007	Copies of Subdivision	Amended §502.1(A) and §507(A)(1)
8, 2007	9-17-2007	Flood Damage Prevention	Added Article 12
10, 2007	10-15-2007	Affordable Housing	Replaced Article 8
6, 2009	6-15-2009	Affordable Housing Development Fees	Replaced Article 9
7, 2009	6-15-2009	Affordable Housing	Replaced Article 8
8, 2009	6-15-2009	Accessory Apartments	Amended §302, §407A and §703D
3, 2010	7-19-2010	Fees, Escrows, Applications	§404 (F), §502.1, §503
7,2013	11-18-2013	Historic Preservation	Amended §301, §409, §419, §507, §713