LAND DEVELOPMENT ORDINANCE

BOROUGH OF FLEMINGTON

Hunterdon County, New Jersey

September 9, 1999, as amended

Revised to February 2007

LAND DEVELOPMENT ORDINANCE

BOROUGH OF FLEMINGTON

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CHAPTER XII

DEFINITIONS

§ 1200 INTENT

For the purpose of this Ordinance, the terms and words listed in this section shall have the meanings herein given. Terms and words not defined herein but defined in other articles of the Code of the shall have, for the purposes of this Ordinance, the meanings given them in the respective chapters as the same now reads or may be amended. Terms and words not defined herein, nor defined in any other chapter of this Ordinance, but defined in the Municipal Land Use Law shall have, for the purposes of this Ordinance, the meanings given them in the Municipal Land Use Law, its amendments or supplements thereto. Terms and words not defined in any of the foregoing sources shall have the meanings established by common usage of the words unless the context herein clearly indicates the contrary.

In the interpretation of this Ordinance, the provisions and rules set forth below shall be observed and applied, except when the context or the Municipal Land Use Law, *N.J.S.A.* 40:55D-1 et seq., clearly requires otherwise.

A. Words used or defined in one tense or form shall include other tenses and derivative forms.

B. Words in the singular shall include the plural, and words in the plural shall include the singular.

C. The masculine gender shall include the feminine and the feminine gender shall include the masculine.

D. The word "shall" is mandatory.

E. The word "may" is permissive.

F. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.

§1201 WORDS AND TERMS DEFINED

For purposes of this Ordinance, phrases and words are defined as follows:

Access
A way or means of approach to provide vehicular entrance to a property.

Accessory Building, Structure or Use
A building, structure or use which:

A. Is subordinate to and serves a principal building or a principal use.

B. Is subordinate in area, extent and purpose to the principal building or a principal use.

C. Is ordinarily and customarily associated within the principal use and contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal building or principal use served.

D. Is located on the same lot as the building or principal use served, except as otherwise expressly authorized by the provisions of this Ordinance.

Addition
The construction of a new improvement as part of an existing improvement when such new improvement changes the exterior appearance of the improvement.

Administrative Officer

A. For the purpose of the determination of completeness of development applications, it shall be the Borough Engineer.

B. For the purpose of certification of conformity of a lot to development regulations, it shall be the Zoning Officer.

C. For the purpose of maintaining maps and documents for public inspection, it shall be the Planning Board.

D. For the Historic Preservation Commission, it shall be the Planning Board Secretary.

E. For all other purposes it shall be the Borough Clerk.

AADT
(Average annualized daily traffic): the total yearly traffic volume in both directions of travel divided by 365.

Affordable Rental Residence
A dwelling in a building containing one, or more, dwelling units, to be available for rent at prices affordable to low and moderate income households under Council on Affordable Housing (COAH) regulations.

Alley
An alley shall mean any public or private way less than 40 feet in width unless such way was dedicated or ordained prior to October 16, 1972, in which case any public or private way which is less than 30 feet in width.

Alteration, Non-Structural
Any work done on any existing improvement which is not an addition to that improvement, or which changes the appearance of the exterior surface of any improvement (other than for repainting or other work which restores the original exterior surface).

Alterations or Additions, Structural
Any change in supporting members of the structure or additions to a structure requiring walls, foundations, columns, beams, girders, posts or piers, or the moving of a structure.

Animal Hospital
A place where one or more animals or pets are given medical or surgical treatment including an accessory use as an animal kennel limited to short-term boarding (see definition of "Kennel").

Animal Pen
A structure and/or fenced area designed to contain or provide shelter for domestic pets which are the property of the resident.

Apartment
(See definition for "Dwelling, Accessory Apartment".)

Applicant
A developer submitting an application for development.

Application for Development
An application 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, subdivision plat, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to *N.J.S.A.* 40:55D-34 or 40:55D-36.

Approving Authority
The Planning Board unless a different agency is designated in this Ordinance pursuant to the Municipal Land Use Law *N.J.S.A.* 40:55D-1 et seq.

Assistant Administrative Officer
The Borough Engineer or the Planning Board Attorney, who may act in conjunction with the Administrative Officer in determining the completeness of an application.

Attic
An uninhabited area directly below the roof of a house.

Automatic Timing Device
A switching device which includes a clock that controls the time period of illumination.

Automobile
(See definition of "Motor Vehicle".)

Automobile Service Station
Land and building providing for the sale of fuel, lubricants and automotive accessories and for maintenance and minor repairs for motor vehicles, excluding body repairs or the storage of inoperable or wrecked vehicles.

Bank and Financial Institutions
A financial institution as defined by Division H, subsections 60 and 61 within the Standard Industrial Classification system (SIC) .

Barn
Any building, accessory to an agricultural use, and used for the housing, storage or preparation for marketing of plants or animals, storage of agricultural equipment, machinery, vehicles and tools.

Basement
That portion of a building partly below and partly above finished grade, where the ceiling averages 4' or more above the finished grade where such grade meets the outside walls of the building. A basement shall be considered a "story" above grade when the distance from grade to the finished surface of the floor above the basement is more than six feet for more than 50% of the total perimeter or more than 12' at any point.

Bed and Breakfast
A single dwelling structure licensed by the State of New Jersey occupied by the resident owner and family or occupied by a resident manager in which bedrooms are rented to transient and temporary lodgers on a daily basis.

Berm
A mound of soil, either natural or man-made.

Billboard
A sign or advertising structure which directs attention to a business, commodity, product, service or entertainment conducted, sold or offered elsewhere other than on the premises where the sign is located.

Boundary Line Adjustment
A subdivision where the lot line between lots is moved, but no new lot is created.

Buffer
A transitional portion of a lot devoted to lessening adverse impacts such as visual and noise conditions from one area to another usually by providing a strip of land maintained with a combination of trees or other natural woodland growth, and/or graded, and/or planted with trees, evergreens, hedges, or shrubbery of sufficient height to protect an area from noise, dust, glare, or other possible nuisances generated by nearby activities.

Building
A combination of materials to form a structure adapted to permanent, temporary, or continuous occupancy and having a roof.

Building, Community
A public building for one or more of the following uses: social, educational, cultural or recreational activities of a neighborhood or community.

Building, Principal
The primary or main building on a lot as contrasted to an accessory building which is of secondary importance.

Building Coverage
The portion of a lot which is covered by principal and accessory buildings.

Building Envelope
The three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations and minimum yard setbacks.

Building Height
(See definition for "Height, Building".)

Building Inspector
The Building Sub-Code Official of the Borough of Flemington.

Building Line
The line beyond which neither a principal building nor accessory building extends, except that coves, cornices, gutters, chimneys, steps or other minor projections from a building wall may extend over the building line for a distance of no more than two feet.

Building Permit
A certificate issued by the Construction Code Official authorizing the construction, reconstruction, remodeling, alteration or repair of a building or other structure upon approval of the submitted application and plans, and as required pursuant to the Uniform State Construction Code Act.

Business Services
Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising, credit reporting, collection of claims, mailing, reproduction, stenographic, news syndicates, computer programing, photo copying, duplicating, data processing, services to buildings, and help supply services.

Bus Shelter
A small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

Bus Stop
Any premises for the loading and unloading of passengers for a public or private bus company. A bus shelter may be constructed in a bus stop.

Cable Television Company
A cable television company as defined pursuant to Section 3 of P.L. 1972, c. 186 (C. 48:5A-3).

Capital Improvement
A governmental acquisition of real property or major construction project.

Capital Improvement Program
A proposed schedule of all future capital improvements listed in order of construction priority including cost estimates and the anticipated means of financing each project.

Car
(See definition of "Motor Vehicle".)

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

Cellar
The portion of a building partly or wholly below grade, where the ceiling averages less than 4' above the finished grade where such grade meets the outside walls of the building.

Cemetery
Land for the burial and internment of the dead.

Certificate of Occupancy
A certificate issued by the Construction Code Official upon completion of construction, alteration or change in occupancy or use of a building certifying that all requirements of the Uniform Construction Code and all requirements of the zoning ordinance, except as modified by the approving authority, have been satisfied and that the approval of the building is in conformance with the permitted uses in the zone in which it is located.

COAH
The New Jersey Council on Affordable Housing.

Commercial Vehicles
Vehicles used in the conduct of business, retail, service or industrial purposes. Such vehicles are more than twenty-two (22) feet long, greater than eight (8) feet in height, wider than seven (7) feet long, greater than eight (8) feet in height, wider than seven (7) feet and have any advertising on the vehicle.

Common Open Space
An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures

and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

Communications Tower
An antenna and any supporting structure, together with any accessory facilities, which is intended to provide point to point or broadcast communications, including cellular telephone cells, paging systems, fleet dispatch, aircraft communication, radio or TV broadcasting facilities, microwave transmitters, and other similar facilities.

Complete Application
Submission of an application 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, the payment of required fees, escrow fees, taxes, and including requests for waivers from one or more of the application requirements.

Conditional Use
A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this Ordinance, and upon the issuance of an authorization therefore by the approving authority.

Contiguous Land
Land which is physically connected to other land so as to permit the land to be developed and used as a functional unit; provided that separation by lot lines, streams, dedicated municipal roads, rights-of-way, and easements shall not affect the contiguity of land unless such condition(s) prevents the land from being developed and used as a functional unit.

Convenience Store
A retail store which sells a limited variety of prepackaged sundries, dry goods and food, with hours of operation generally from 7:00 a.m. to 11:00 p.m. or longer and usually not larger than 4,000 square feet.

Conventional Development
Development other than planned development.

County Master Plan
A composite of the master plan for the physical development of Hunterdon County, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the Hunterdon County Planning Board pursuant to R.S. 40:27-2 and R.S. 40:27-4.

County Planning Board
The Hunterdon County Planning Board as defined in section 1 of P.L. 1968, c. 285 (C. 40:27-6.1).

Cul-de-sac
A dead-end street, with a turn-around area at the end.

Days
Calendar days.

Day Care or Child Care Center
A commercial facility duly licensed by the State of New Jersey for the accommodation of children.

Demolition
The full or partial razing of any building or improvement to land.

Density
The permitted number of dwelling units per gross acre of land to be developed.

Detention Basin
A man-made or natural water collection facility, designed to collect surface and sub-surface water in order to impede its flow into natural or man-made outlets.

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

Development Regulation
A zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to *N.J.S.A.* 40:55D-1 et seq.

Diameter at Breast Height (DBH)
The diameter of a tree trunk measured approximately 4 feet above the average ground level at the base of the tree.

District
An area located within the municipal boundaries of the Borough, which is designated on the accompanying zoning map and to which certain uniform regulations and requirements of the chapter apply (see Zoning District).

Drainage
The removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

Dwelling, Accessory Apartment
A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters, and a private entrance, which is created to be occupied by a low or moderate income household pursuant to the criteria of COAH. The accessory apartment shall be created within an existing home, or through the conversion of an existing attached accessory structure on the same site.

Dwelling, Multi-Family
A building or portion thereof used or designed as a residence for three or more apartment houses, apartment hotels, and flats, but not including automobile courts, or former single family dwellings converted for occupancy by not more than three families as permitted herein.

Dwelling, Single-Family
A detached building containing one (1) dwelling unit.

Dwelling, Three Family
A building containing three (3) dwelling units.

Dwelling, Two Family
A detached or semi-detached building where not more than two (2) individual dwelling units are entirely separated by vertical walls or horizontal floors, unpierced, unconnected by common halls or stairways, with each having access to the outside or to a common cellar.

Dwelling Unit or Dwelling
A room or series of connected rooms containing living, cooking, sleeping and sanitary facilities for one (l) family. The dwelling unit shall be self-contained and shall not require the use of outside stairs, common hallways, passing through another dwelling unit or other indirect route(s) to get to any portion of the dwelling unit, nor shall there be shared facilities with another housekeeping unit.

Echo (Elder Cottage Housing Opportunities) Housing
A small, removable modular cottage placed on a concrete slab or treated wood foundation in the rear yard of a single family detached house lot specifically designed to meet the needs of older of disabled people, connected to the utilities of the primary dwelling, and designed to be removed when it is vacated by the approved occupant. The approved occupants shall be restricted t one or two persons who are relatives (by blood, marriage or legal adoption) of the owner/occupant of the primary dwelling on the lot and at least one shall be either a senior citizen (60 years of age or older) or a disabled person.

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

Excavation
The result of any act by which soil or rock is cut into, excavated, dug, quarried, uncovered, removed, displaced or relocated.

Exempt Subdivision
(See definition of "Subdivision".)

Existing Grade
The vertical location of the existing ground surface prior to cutting or filling.

Family
One (1) or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit.

Family Child Care Center
A child care facility provided by a homeowner for 6 to 15 children, exclusive of family members, within the homeowner's residence and licensed by the State Department of Human Services, Division of Youth and Family Services.

Fences
Artificially constructed barriers of wood, masonry, stone, wire metal or any other natural or synthetic combination of materials erected for the enclosure or screening of land or structures.

Final Approval
The official action of the approving authority taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have

been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

Finished Grade
The final grade or elevation of the ground surface conforming to the proposed design.

Floor Area Ratio (FAR)
The sum of the area of all floors of buildings or structures compared to the total area of the site. The gross floor area as defined below shall be used in the calculation of the floor area ratio.

Foot Candle
The illuminance on a surface of one foot in area in which there is uniformly distributed a light flux of one lumen.

Garage, Private
A building for the storage of not more than three (3) motor vehicles, with no provision for repairing, servicing, or storing such vehicles for profit. A private garage is also called a residential garage.

Garage, Public
Any garage not included within the definition of a private garage.

Garage Sale
Any casual sale of tangible personal property, including a "garage sale", "lawn sale", "attic sale", "rummage sale", or "flea market sale" which is advertised by any means whereby the public at large is or can be made aware of the sale, or at which the public may purchase tangible personal property.

Gazebo
An accessory structure detached from the principal building used for outdoor leisure activities or a landscape element.

Geographic Information System (GIS)
A computer-generated mapping system including environmental maps and other municipal resource information.

Glare
The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and acuity.

Governing Body
The Borough Council of the Borough of Flemington.

Governmental Use
A use undertaken by any municipal, county, state or federal agency.

Greenhouse
A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Gross Floor Area
The sum of the area of full stories of a building or structure measured by using the outside dimension of the structure at each story. The gross floor area of units sharing a common wall shall be measured from the center of interior walls and the outside of exterior walls. In non-residential uses, the gross floor area shall exclude areas used for utility and heating, cooling and other mechanical equipment, non-enclosed but covered exterior walkways, garages and parking decks including the pedestrian entrance areas associated with underbuilding parking garages, but shall include all other areas regardless of ceiling height, including, but not limited to, cellar, warehouse and storage areas.

Ground Cover
Low-growing (18 inches in height or less) woody plants.

Height, Building
The vertical distance measured between the highest point of the building and the mean elevation of the finished grade as measured around the foundation. The finished grade of berms and other mounding techniques that might be added around building foundations to increase the height of the finished grade, and hence increase the allowable height of the building, shall not be used for measuring building height. Penthouses or roof structures for the housing of stairways, elevators, tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building, may be erected above the height limit onto all buildings, except detached dwellings (where these exceptions shall not apply), provided that none of the same exceed the maximum applicable building height limitation by more than 25%. Furthermore, any of the foregoing which are located on a roof and project above it shall not cover more than 5% of the roof area and shall be located as far from the perimeter of the roof as practicable to minimize visibility.

Historic District
One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of a historic site or sites.

Historic Site
Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archaeological, cultural, scenic or architectural significance.

Historic Structure
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 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.

Home Occupation
An activity engaged in by a resident for financial, conducted entirely within a dwelling unit.

Homeowners Association
A non-profit corporation established in accordance with standards contained in the Municipal Land Use Law *N.J.S.A.* 40:55D-43 et.seq. for the control and maintenance of common areas and open space in conjunction with a development.

Horticulture
The growing or raising of nursery plants for sale for landscape purposes.

Hotel
An establishment providing lodging and usually meals for the general public, especially transient guests. It may include such uses incidental to the operation as follows: rest rooms, offices, meeting rooms, restaurants, cocktail lounges, beauty parlors, barbershops, apparel stores, confectionery shops and the like. Such incidental uses shall be conducted solely within the primary building.

House of Worship
A building or group of buildings, including customary accessory buildings, designed or intended for public worship or religious education.

Housekeeping Unit
One or more persons living together in one dwelling unit on a stable, rather than transient basis, where the occupants share the ordinary tasks of living in a dwelling unit such as, but not limited to, cooking and eating together, sharing inside and outside chores, and performing other functional duties and otherwise exhibiting a kind of stability, permanency and functional lifestyle which is equivalent to that of the traditional family unit.

Impervious Surface
A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including, but not limited to, such paved surface improvements as parking and loading areas, driveways, sidewalks, decks, patios, brick walks, and compacted stone.

Impervious Surface Ratio
A measure of the coverage of a piece of land measured by dividing the total area of all impervious surfaces within the site by the total lot area.

Indoor Recreation
Any use such as movie theaters, music halls, bowling alleys, ice skating or roller skating rinks.

Infill Development
The construction of new buildings on scattered vacant sites in a built-up area.

Junk
Means and includes rags, scrap iron, shavings, borings, old rope, old iron, brass, copper, tin, lead and other used materials, more than one automobile which is unfit for reconditioning for sale for highway transportation, used parts of motor vehicles, old bottles, glass, lumber, paper, discarded machinery, or parts thereof, and any other secondhand articles or used materials and merchandise and such other articles or things as commonly come within the classification of junk.

Junk Yard
Any lot with or without buildings used for the outside dismantling, deposit, collection or storage of waste, construction material, used or discarded things or materials, whether or not such use is in connection with a dismantling process, salvage or sale of structures, automobiles or other vehicles, equipment appliances and machinery and or parts thereof and similar products.

Kennel
Any building, structure or premises in which one or more animals are kept, boarded, bred or trained for commercial purposes. Medical and surgical services, if any, shall be limited to incidental services provided solely for animals being boarded, bred or trained on the premises. Animal kennel does not include animal hospitals. (See definition for "Animal Hospital".)

Kiosk
A freestanding structure upon which temporary information, such as retail sales, and/or posters, notices, and announcements are posted.

Land, Contiguous
(See definition for "Contiguous Land".)

Landlocked
A lot or parcel of land without direct access to a public road.

Landmark
A building, structure, site, or man-made object which possesses integrity of location, design, setting, materials, workmanship, or association, and which is either located within a Historic District or has been specifically identified as a historic site within the historic preservation plan element of the Master Plan of the Borough pursuant to *N.J.S.A.* 40:55D-28b.(6), and has been determined, pursuant to the terms of this Appendix, to be:

A. of particular historic, cultural, scenic, or architectural significance to the Borough and in which the broad cultural, political, economic or social history of the nation, state, or community is reflected or exemplified; or

B. it is identified with historic personages or with important events in the main current of national, state or local history; or

C. shows evidence of habitation, activity or the culture of prehistoric man; or

D. embodies a distinguishing characteristic or an architectural type valuable as representative of a period, style or method of construction; or

E. represents a work of a builder, designer, artist, or architect whose individual style significantly influenced the architectural history of the Borough.

Light Emission, Direct
Direct light emissions visible at a height of three (3) feet or higher at the property line. A bulb, reflective device, refractive lens device, globe, or diffuse panels, shall be considered a direct light emission source.

Light Trespass
Any form of artificial illumination emanating from a light fixture or illuminated sign that penetrates other property.

Loading Space
An off-street berth within a structure or in the open, but on the same lot with a building or a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading between the vehicle and the building.

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

Lot Area
An area of land, which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way or the access or "flagstaff" of a flag lot, shall not be included in calculating the minimum required "lot area".

Lot, Corner
A lot having at least two (2) adjacent sides fronting on intersecting roads. A lot with frontage on two (2) or more streets, including corner lots, shall have building setback from each street not less than the required front yard.

Lot Coverage
The area of a lot covered by impervious surfaces.

Lot Depth
The shortest horizontal distance between the front and rear lot lines measured from the midpoint of the front line to the midpoint of the rear lot line.

Lot Frontage
The horizontal distance between the side lot lines measured along a street line in a continuous unbroken line.

Lot, Internal
Any lot other than a corner lot.

Lot Line
Any line forming a portion of the exterior boundary of a lot and is the same line as the street line for that portion of a lot abutting a street. Lot lines extend vertically in both directions from ground level. On existing streets whose widths are proposed to be increased, the lot line shall be such as to provide for the widened street as shown on the Master Plan, Official Map or Road Ordinance.

Lot Line Adjustment
(See definition of "Boundary Line Adjustment".)

Lot Width
The distance between side lot lines measured at the minimum required building setback from the street line.

Low Income Housing
Housing affordable according to federal Department of Housing and Urban Development or the standards adopted by New Jersey Council on Affordable Housing (see N.J.A.C. 5:93-1.3) for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income of the same size within the housing regions in which the housing is located, and which is subject to affordability controls promulgated by the Council.

Lumen
A unit of measure of the quantity of light which falls on an area of one square foot every point of which is one foot from the source of one candela (candle). A light source of one candela emits a total of 12.57 lumens.

Maintenance Guarantee
Any security which may be accepted by the Borough of Flemington for the maintenance of any improvements required under *N.J.S.A.* 40:55D-1 et seq., including but not limited to surety bonds, letters of credit under the circumstances specified in *N.J.S.A*. 40:55D-53.5 and cash.

Major Development
Development requiring major subdivision or major site plan approval.

Major Site Plan
All site plans not defined as minor or exempt.

Manufacturing
The production of articles or finished products from previously refined raw materials by giving them new forms or qualities.

Master Plan
A composite of one or more written or graphic proposals for the development of the Borough of Flemington as set forth in and adopted pursuant to *N.J.S.A*. 40:55D-28.

Mausoleum
A stone building for entombment of the dead above ground.

Mayor
The chief executive of the governing body of the Borough of Flemington.

Merger
The consolidation of two or more lots into a single lot by the removal of the lot lines.

Mini-Mart
See Convenience Store.

Minor Site Plan
The development plan of one or more lots which does not involve planned development, any new street or extension of any off-tract improvement and is one of the following:

A. A change in use involving no building construction, other than interior modifications or interior structural alterations, and no need for additional off-street parking, road or drainage improvements, or;

B. Minor structural changes, such as entry enclosures, porticos and other structural appurtenances, including roof appurtenances, or;

C. Building additions not exceeding one hundred (100) square feet in ground coverage and accessory buildings and structures not exceeding five hundred (500) square feet in ground coverage, provided that the same do not invade upon any required parking area, setback area or otherwise violate any requirements of the Borough Development Regulations, or;

D. All signs in the Downtown Business (DB), Downtown Business II (DB II) and Transitional Commercial (TC) zones. Section 1401I (Sign Review Committee) shall apply.

E. Any application for a sign variance, regardless of zone. Section 1401I (Sign Review Committee) shall apply.

Minor Subdivision
Any division of land meeting all of the following criteria:

A. Contains an aggregate of not more than three (3) lots (2 new lots and the remaining parcel);

B. Does not involve a planned development.

C. Does not involve any new street.

D. Does not require the extension of any off-tract improvement, the cost of which is to be prorated pursuant to *N.J.S.A.* 40:55D-42.

If the lot to be subdivided has been part of a minor subdivision under this Ordinance or any ordinance repealed hereby, a further division of the lot shall not be classified as a minor subdivision if it would result in three or more lots being created within a 3-year period, including the remainder of the original lot.

Minor Subdivision and Site Plan Committee
A committee of the Planning Board established to review minor subdivision and site plan applications and make recommendations for approval with any conditions, or denial, with reasons, to the Planning Board for action. The committee may utilize professionals of the Board to assist in the reviews.

Mixed Use
A development which includes residential, public, quasi-public, commercial, office and open space uses, and which has significant functional and physical integration

of project components, including uninterrupted pedestrian connections, and which is in conformance with a comprehensive design plan.

Moderate Income Housing
Housing affordable according to federal Department of Housing and Urban Development or the standards adopted by New Jersey Council on Affordable Housing (see N.J.A.C. 5:93-1.3) for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income in excess of 50 percent but less than 80 percent of the median gross household income of the same size within the housing regions in which the housing is located, and which is subject to affordability controls promulgated by the Council.

Motion Sensor Device
A device that senses motion and will switch on lighting for a brief duration.

Motorcycle
(See definition of "Motor Vehicle".)

Motor Vehicle
Any automotive vehicle, including automobiles, buses, cars, motorcycles, mopeds, tractors, self-propelled lawnmowers, and trucks.

Motor Vehicle Service Station
Any building, place or location, whether in or upon any street or public place or on private property designed to supply motor vehicles with gasoline, oils, greases, automotive accessories or for the inspection, testing and examination of said motor vehicles, or for the repair of said motor vehicles or replacement of parts thereof.

Municipal Agency
The Planning Board, Board of Adjustment or Borough Council of the Borough of Flemington when acting pursuant to *N.J.S.A.* 40:55D-1 et seq.

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

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

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

Nursery
Land or greenhouses used to raise flowers, shrubs and plants for sale.

Office, Business or Professional
A building or portion thereof used as the place of business of a person, corporation, firm or public agency for professional services and administrative and executive purposes, but where retail sales are permitted only if they are an accessory to the principal office use.

Official County Map
The map, with changes and additions thereto, adopted and established, from time to time, by resolution of the Board of Chosen Freeholders of Hunterdon County pursuant to R.S. 40:27-5.

Official Map
A map adopted by ordinance pursuant to *N.J.S.A*. 40:55D-32.

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

Off-Site Improvements
Improvements to accommodate conditions generated by a proposed development, including, but not limited to, new improvements and/or extensions and modifications of existing improvements. "Off-site" means located outside the lot lines of the lot in question, but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way.

Off-Tract Improvements
Improvements to accommodate conditions generated by a proposed development, including, but not limited to, new improvements and/or extensions and modifications of existing improvements. "Off-tract" means not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

On-Site
Located on the lot in question.

On-Tract
Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

Open Space
Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

Open Space Ratio
The area of the property that is landscaped or left in a natural state after development expressed as a ratio of the total site area.

Outdoor Dining
The serving of food or drink outside a building to patrons as an accessory use.

Outdoor Light Fixture
An illuminating device which is permanently installed outdoors, including but not limited to, devices used to illuminate any site, structure or sign.

Parking Area, Public
A paved open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

Parking Space
An area for the parking of a motor vehicle that is located on the same lot as the use it is serving. The area of a parking space is intended to be sufficient to accommodate the exterior extremities of the vehicle whether, in addition thereto, wheel blocks are installed within this area to prevent the bumper from overhanging one end of the parking space. The width and length of each space shall be as required by this Ordinance and shall be measured perpendicularly to each other regardless of the angle of the parking space to the access aisle or driveway. In order for a parking space to qualify as meeting the minimum parking requirements of this Ordinance, there must be unobstructed access to the parking space. No parking space may block another.

Party Immediately Concerned
For purposes of notice, any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice under *N.J.S.A.* 40:55D-12.

Performance Guarantee
Security accepted by the Borough under this Ordinance, at least 10 percent of the total of which shall be cash or certified check and the balance either cash, certified check, or bond in which the developer shall be principal and an acceptable surety company licensed to do business in the State of New Jersey shall be surety.

Permitted Use
Any use of land, building, or structure as permitted by this Ordinance.

Planned Commercial Development
An area of a minimum contiguous size as specified by ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses or both and any residential and other uses incidental to the predominant use as may be permitted by ordinance.

Planned Development
Unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development.

Planning Board
The Planning Board of the Borough of Flemington, Hunterdon County, New Jersey established pursuant to *N.J.S.A*. 40:55D.

Plants, Indigenous
Plants that are native to the Eastern United States and not imported stock from other areas of North America or other continents.

Plat
A map or maps of a subdivision or site plan.

Plat, Final
The plat of all or a portion of the development submitted for final approval prepared in accordance with the Map Filing Law R.S. 46:23-9.9.

Plat, Informal or Sketch
The plat submitted for purposes of discussion.

Plat, Preliminary
The plat submitted as a part of the application for preliminary approval.

Porch
A roofed open structure projecting from the front, side and/or rear wall of a building and having no enclosed features of glass, wood or other material except screening and the necessary columns to support the roof.

Preliminary Approval
The conferral of certain rights pursuant to sections 34, 36, and 37 of P.L. 1975, c. 291 (C. 40:55D-46; C. 40:55D-48; and C. 40:55D-49) prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

Preliminary Floor Plans and Elevations
Architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form, its scope, scale and relationship to its site and immediate environs.

Principal Building or Structure
A building or structure within which is conducted the main or principal use of the lot on which said building is situated.

Principal Use
The main purpose for which any lot is used.

Private Recreation
A recreation facility operated by an organization (for profit or non-profit), and open only to bona fide members and guests of such organization.

Prohibited Use
Any use not specifically defined as a permitted accessory or conditional use in a zone.

Public Areas

A. Public parks, playgrounds, trails, paths and other recreational areas;

B. Other public open spaces;

C. Public scenic and historic sites; and

D. Sites for schools and other public buildings and structures.

Public Drainage Way
The land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or water course for preserving the biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

Public Open Space
An open space area conveyed or otherwise dedicated to the Borough, Borough agency, Borough Board of Education, State or County agency, or other public body for recreational or conservational uses.

Public Utility
Any public utility regulated by the Board of Public Utilities and defined pursuant to C. 48:2-13.

Quorum
The majority of the full authorized membership of a municipal agency.

Recreational Vehicle
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 another vehicle; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repair
Work done on any improvement which is not an addition to the improvement, and does not change the appearance of the exterior surface of the improvement (other than for repainting or other work which restores the original exterior surface).

Replacement
Repair which requires a building permit.

Research Facilities
Buildings or structures for experimentation in pure or applied research design, development and production of prototype machines or devices or of new products and uses accessory thereto, wherein products are not manufactured primarily for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed and wherein there is no display of any materials or products.

Reservation

A. A provision in a deed or other real estate conveyance that retains a right for the existing owner even if other property rights are transferred;

B. A method of holding land for future public use in a deed or by designating public areas on a plat, map, or site plan as a condition of approval.

Residential Density
The number of dwelling units per gross acre of residential land area including streets, easements and open space portions of a development.

Restaurant
A public eating facility where patrons are first seated at tables, booths or counters, after which food ordered by them is served to the patrons by waiters or waitresses at such tables, booths or counters. The term "restaurant" does not include drive-in restaurants or fast-food restaurants as otherwise defined in this section.

Restaurant, Drive-in
An establishment where patrons are served soft drinks, ice cream and other food products for consumption outside the confines of the principal building or in automobiles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons.

Restaurant, Fast-Food
Any restaurant, including drive-in restaurants, which may or may not have tables, which is essentially designed to dispense quick, ready-made food of limited variety and at which the patron obtains food directly from the dispensing counter for consumption on or off such premises.

Retail Use
A commercial use as defined by Division G within the Standard Industrial Classification system (SIC).

Retaining Wall
A structure erected between lands of different elevation to protect structures and/or to prevent the washing down or erosion of earth from the upper slope level.

Retention Basin
A pond, pool or basin used for the storage of water runoff, whether natural or man-made, designed to contain water permanently .

Reverse Frontage Lots
Lots abutting a major street, with no access to the major street, but having driveway access to a side street or to a minor street running parallel to the major street.

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.

Schools
Any use devoted to the instruction of students in grades K-12 and either operated by a local or regional school board as established by law or operated by private individuals or entities in accordance with *N.J.S.A.* 18A:1.1 et seq.

Schools, Other
Any use devoted to the instruction of students not in accordance with the provision of *N.J.S.A.* 18A:1.1 et seq. are deemed commercial enterprises.

Schools, Private Non-Profit
An institution of education whose general course work is comparable to the public school system, and operated by a not-for-profit religious or charitable institution.

Schools, Public
Schools whose curriculum is approved by the N.J. Department of Education or the N.J. Department of Higher Education as a unit receiving state financing and administration.

Sediment
Solid material, both mineral and 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.

Sediment Basin
A barrier, dam, excavated pit, or dugout constructed across a waterway or at other suitable locations to intercept and retain sediment.

Sedimentation
The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

Senior Citizen Housing
A residential development including accessory buildings and required or permitted social, cultural, medical and recreational facilities limited to certain age groups conforming to 24 CFR Part 100 Subpart E, *Housing for Older Persons*, of the Federal Fair Housing Amendments Act of 1988, as it may be amended or superseded.

Service Station
Lands and buildings providing for the sale of fuel, lubricants and automotive accessories; maintenance and minor repairs for motor vehicles may be provided, but not to include auto body work, automobile painting, automobile wrecking, the sale or rental of passenger vehicles and trucks, the long-term storage of inoperable vehicles, parking for fee, or car wash facilities.

- **Fueling Island**
  A raised concrete island in a service station which contains one or more fueling pumps to service one or more vehicles.

- **Fueling Pump**
  A machine pump for dispensing of motor fuel, whether gasoline or diesel. Each fueling pump can only dispense fuel to one vehicle at a time, however, there may be more than one fueling pump operated from one fueling island.

- **Fueling Station**
  The building, premises, and land in which, or upon which, automobile and truck fuels are dispensed, stored and sold.

Service Use
A commercial use as defined by Division I within the Standard Industrial Classification system (SIC).

Setback
The minimum distance between a street line and a lot line, said space to be unobstructed except by fences or by shrubbery or other planting.

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 streets shall be measured from the proposed right-of-way width as shown on the adopted Master Plan, Official Map, or Road Ordinance, except that on flag lots the minimum setback shall exclude the access strip.

Shed, Storage
An accessory structure which is used for storage purposes and which does not maintain any heating or plumbing service. Any structure which is large enough to store road licensed or farm vehicles, and not housing animals, shall be considered a garage.

Shielded Light Fixture
A light fixture with a focused lens that allows no direct light emissions above a vertical cutoff angle of eighty (80) degrees through the light fixture's lowest light emitting part as certified by a photometric test. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

Shopping Center
A group of four or more commercial establishments built on one tract that is planned and developed as an operating unit; providing on-site parking in a definitive relationship to the type and total size of the stores. The commercial establishments may be located in one or several buildings, attached or separated.

SIC Code
Standard Industrial Classification Code as published by the U.S. Office of Management and Budget, 1987.

Sidewalk (Area)
A paved path provided for pedestrian use and usually located at the side of a road within the right-of-way.

Sight Triangle
A triangular area at each corner of intersecting streets, or of streets and driveways, where the grading and landscaping is maintained and structures are restricted so as to allow drivers an unobstructed view along the intersecting street and driveway.

Sign
Any object, device, display, mural, obstruction, announcement, declaration, demonstration, billboard, illustration or insignia, or a part thereof, used to promote or advertise the interests of any person, group of persons, company, corporation, service or product when the same is placed, erected, attached, painted or printed, situated indoors or outdoors the building where it may be viewed from the outside of any structure on the premises where placed.

Sign Area
The area of any sign as calculated in this ordinance shall be computed as the product of the largest horizontal width and the largest vertical height of the lettering, illustration, display or background. This shall not be construed to include

the supporting members of any sign which are used solely for such purpose. If the lettering, illustration, display or background is attached directly to the face of a building, the height or width of the sign shall be the height or width of the largest letter, illustration, display or background, which ever is the greater.

Sign Canopy
A sign that is mounted or painted on, or attached to, an awning, canopy or marquee.

Sign Committee
A committee of the Planning Board established to review applications for signs. The committee shall be empowered to meet with applicants and make recommendations for approval with any conditions, or denial, with reasons, to the Planning Board for action. The committee may utilize professionals of the Board to assist in the review of sign applications. The committee will report annually to the Board regarding the number of applications, their disposal and any recommendations for amending the sign ordinance.

Sign Demising Wall
The leased facade area of a business or commercial which constitutes the storefront, and is measured from between the leased separating wall to the other leased separating wall.

Sign, Erection of
The erection of a sign shall mean to build, construct, attach, place, suspend or affix a sign, including the painting of wall or window signs and the painting of signs or displays on the exterior surface of a building or structure. Any other material change in any existing sign shall be considered as the erection of a new sign.

Sign, Facade
Any sign erected, constructed or maintained on a building with the principal support of said sign being the building, including specifically the painting of signs or displays on the exterior surface of a building.

Sign, Freestanding
Any sign, not attached to a building, which is erected, constructed, supported or maintained on a post or pole or other bracing or supporting device.

Sign, Ground-Mounted (Monument Sign)
Any freestanding sign which is flush to or rests upon the ground rather than erected on a post or pole.

Sign, Directional
Any sign which is designed and erected solely for the purpose of traffic or pedestrian direction which is placed on the property to which or on which the public is directed.

Sign Height
In the case of a freestanding sign, the height will be computed from grade level to the greatest height at any one point in the sign.

Sign, Identification
Any sign which shall be used to advertise and identify the business conducted on the premises where the sign is located.

Sign, Projecting
A sign perpendicular to a wall or facade which is attached to and extends more than 12 inches from the surface of a building.

Sign, Public Business
A sign erected by the municipality to direct the public to local merchants, retailers, business services and offices.

Sign, Wall
(See definition of "Sign, Facade".)

Siltation Basin
A facility through which stormwater is directed and which is designed to collect eroded soil from a designated area.

Site Plan
A development plan of one or more lots on which is shown

A. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways,

B. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and

C. Any other information that may be reasonably required in order to make an informed determination pursuant to this Ordinance which requires review and approval of site plans by the Planning Board adopted pursuant to C. 40:55D-37 et seq.

Slope
The degree of deviation of a surface from the horizontal, usually expressed as a percent or ratio of horizontal to vertical.

Soil
All unconsolidated mineral or organic material, of whatever origin, that overlies bedrock and which can be readily excavated.

Soil Erosion and Sedimentation Control Plan
The map indicating the proposed scheduling and construction details for soil erosion and sediment control.

Specimen Tree
A particularly impressive or unusual example of a species due to its size, shape, age, historic significance or any other trait that epitomizes the character of the species.

Store, Retail
A building or part thereof in which retail uses are conducted.

Stormwater Detention
A provision for stormwater quality enhancement and for storage of stormwater runoff and the controlled release of such runoff during and after a flood or storm.

Story

A. That portion of a building included between the surface of any floor and the surface of the next floor above it or, if there be no floor above it, then the surface between the floor and the ceiling over that floor.

B. The interior of the roof shall not be considered a ceiling; rather, the underside of the highest horizontal surface separating the area above from the remainder of the structure below shall be considered the ceiling.

C. Cellars and basements ordinarily shall not be considered stories when considering the height of a building; provided, however, that finished basements in non-residential buildings shall be considered a story for the purposes of height, floor area and parking computations in accordance with the requirements of this Ordinance.

D. A half-story is the area under a pitched roof at the top of a building, the floor of which is at least 4' but no more than 6' below the plate; and such half-story shall not be used for nonresidential uses.

Street
Any street, avenue, boulevard, road, parkway, viaduct, drive or other way meeting any of the following:

A. Is an existing state, county or municipal roadway;

B. Is shown upon a plat heretofore approved pursuant to law;

C. Is approved pursuant to this ordinance.

D. Is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street line.

Street, Arterial
A higher-order, interregional road in the street hierarchy; conveys traffic between centers; should be excluded from residential areas. (See definition of "Street Hierarchy".)

Street, Collector
A street that distributes traffic between residential access and subcollector streets, and, arterial order streets in residential subdivision design and between non-residential uses and arterial roads. Such streets are intended to carry up to 3,000 vehicles per day (AADT).

Street, Cul-de-sac
A street with a single means of ingress and egress and having a turnaround, the design of which may vary. (See definition of "Street Hierarchy".)

Street, Divided
A street having an island or other barrier separating moving lanes of traffic.

Street Furniture
Man-made, above ground items that are usually found in street rights-of-way, including benches, kiosks, bicycle racks, canopies, decorative traffic control fixtures, shelters and phone booths.

Street Hardware
The mechanical and utility systems within a street right-of-way such as hydrants, manhole covers, traffic lights and signs, utility poles and lines, parking meters, and the like.

Street Hierarchy
The conceptual arrangement of streets based upon function. A hierarchical approach to street design classifies streets according to function, from high-traffic arterial roads to streets whose function is residential access.

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 the adopted master plan or official map, forming the dividing line between the street and a lot.

Street, Loop
A street that has its only ingress and egress at two (2) points on the same subcollector or collector street.

Street, Major Arterial
A street designed to move traffic from municipality to municipality within a region and to provide connections between higher and lower orders of streets, with an AADT between 10,000 and 25,000 vehicles typically, though not exclusively, under county jurisdiction.

Street, Marginal Access
A service street that runs parallel to a higher-order street which provides access to abutting properties and separation from through traffic. It may be designed as a residential access street or minor collector as anticipated daily traffic dictates.

Street, Minor Arterial
A street which provides connections between major arterials and residential or non-residential collector streets, and also functions as an intra-municipal travel path, typically under county jurisdiction. Such streets are intended to handle an AADT between 3,000 and 10,000 vehicles.

Street, Principal Arterial
A street intended to handle large volumes of regional and through traffic, typically under the jurisdiction of the State or Federal Government such as the Interstate Highway System, with an AADT exceeding 25,000 vehicles.

Street, Residential Access
The lowest order, other than rural street type, of residential street (see definition of "Street Hierarchy"). Provides frontage for access to private lots and carries traffic having destination or origin on the street itself. Designed to carry traffic at slowest speed.

Street, Residential Major Collector
The highest order of residential street (see definition of "Street Hierarchy"). Conducts and distributes traffic between lower-order residential streets and higher-order streets (arterials and expressways).

Street, Residential Minor Collector
Middle order of residential streets (see definition of "Street Hierarchy"). Provides frontage for access to lots, and carries traffic to and from adjoining residential access streets.

Street, Residential Neighborhood
A type of residential access street conforming to traditional subdivision street design, which provides access to building lots fronting on a street and provides parking on both sides of street (see definition of "Street Hierarchy").

Street, Rural
As it pertains to streets, when density is one dwelling unit per acre or lower, a road primarily serving as access to abutting building lots, which has no on-street parking, and lot-to-street access is designed so vehicles do not back out of lots onto the street (see definition of "Street Hierarchy").

Streetscape
All of the elements that constitute the physical makeup of a street and that, as a group, define its character, including building frontage, street paving, street furniture, landscaping, including trees and other plantings, awnings and marques, signs, and lighting.

Street, Stub
A street which is to be extended when the adjacent property is developed.

Street Tree
A tree in a public place, street, special easement or right-of-way adjoining a street typically large in size when mature.

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

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

A. Divisions of land found by the Planning Board to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size;

B. Divisions of property by testamentary or intestate provisions;

C. Divisions of property upon court order, including but not limited to judgments of foreclosure;

D. Consolidation of existing lots by deed or other recorded instrument; and

E. 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 of the municipality.

Swimming Pool
A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches, designed, used and maintained for swimming and bathing.

Townhouse
One dwelling unit in a building of 3 or more attached dwelling units connected by common vertical walls from the ground to the roof so that no unit shall be above or under another.

Tract
An area of land composed of one or more lots which are the subject of the development application, as well as all contiguous property in the same ownership of which such lot(s) are a part, plus all portions of a street or right-of-way contiguous to such lot(s) or other property.

Trailer
A structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying animals and goods or objects.

Trailers, Temporary Construction
A trailer for office or storage for the period of construction beginning with the issuance of a construction permit and concluding with the issuance of the final certificate of occupancy.

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

Useable Yard Area
The portion of a yard surrounding a structure which is viable for any use permitted by this Ordinance.

Use
The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

Utility
Services limited to sewage treatment, water supply, gas, electric, telephone and cable television.

Variance
Permission to depart from the literal requirements of a zoning ordinance pursuant to the Municipal Land Use Law.

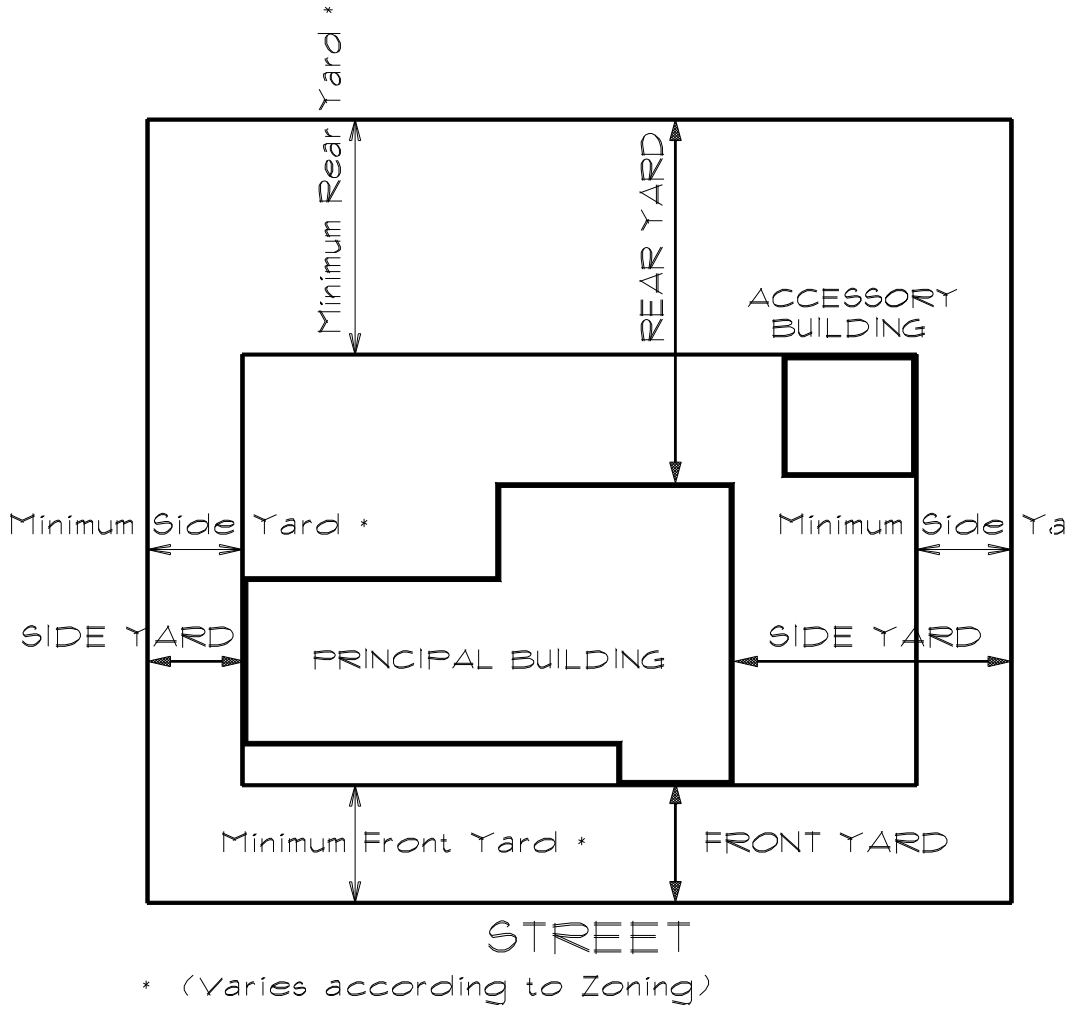
Waiver
The granting of relief from one or more submission requirements for an application or relief from design requirements as set forth in this Ordinance.

Wetlands
A freshwater wetland as defined in the New Jersey Freshwater Wetlands Protection Act *N.J.S.A.* 13:9B-1 et seq.

Wetland Buffer Area
A transition area as defined in the Freshwater Wetlands Protection Act (*N.J.S.A.* 13:9B-1, et seq.). The buffer or transition area shall have a width approved by the NJDEP (N.J. Dept. of Environmental Protection) under such Act. It is an area where the permitted uses shall be restricted to those approved under such Act and this Ordinance.

Yard, Front

An open space extending across the full width of the lot and lying between the street line and the closest point of the principal building on the lot. The depth of the front yard shall be measured horizontally and at right angles to either a straight street line or the tangent lines of curved street lines. The minimum required front yard shall be the same as the required setback. *See exhibit below.*



Yard, Rear

An open space extending across the full width of the lot and lying between the rear lot line and the closest point of the principal building on the lot. The depth of the rear yard shall be measured horizontally and at right angles to either a straight rear lot line or the tangent of curved rear lot lines. *See exhibit above.*

Yard, Side
An open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the principal building on the lot. The width of the required side yard shall be measured horizontally and at right angles to either a straight side line or the tangent lines of curved side lot lines. *See exhibit above.*

Zero Lot Line Detached Residence
A single-family detached unit which is located in such a manner that one of the building's sides rests directly on a lot line.

Zoning Officer
The individual appointed by the Borough Governing Body to enforce the Land Development Ordinance herein.

Zoning Permit
A certificate issued by the Zoning Officer:

A. Which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and

B. Which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance there from duly authorized by a municipal agency.

DEFINITIONS – FLOOD CONTROL

Area of Shallow Flooding
A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual 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
The land in the flood plain within the Borough subject to a one percent or greater chance of flooding in any given year.

Base Flood
The flood having a one percent chance of being equaled or exceeded in any given year.

Breakaway Wall
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
For the purposes of flood damage prevention, 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. For all other purposes, 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 mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this Ordinance.

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

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

A. The overflow of inland or tidal waters; and/or
B. The unusual and rapid accumulation or runoff of surface waters from any source.

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 area can be expected to be inundated by rising waters at least once in 100 years.

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

Flood Insurance Study (FIS)
The official report provided in which the National Flood Insurance Program has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

Flood Plain
The same as the Flood Hazard Area.

Floodway
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 feet.

Improvement
A structure or part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than 60 continuous days.

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

New Construction
For purposes of flood damage prevention, structures for which the start of construction commenced on or after the effective date of a flood plain regulation adopted by a community and includes any subsequent improvements to such structures.

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 a slab or footings, 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 effects the external dimensions of the building.

Stream Corridor
The stream channel and all of the land on either side of the stream channel which is within the 100-year floodplain as delineated by the Federal Emergency Management Agency or the Flood Hazard Area as delineated by the New Jersey Department of Environmental Protection, or is a sloping area of fifteen (15%) percent or greater that is contiguous to the stream channel or 100-year floodplain/Flood Hazard Area. Stream channels include permanent or intermittent watercourses shown on U.S.G.S. quadrangle maps, and/or the Hunterdon County Soil Survey.

Structure
Anything constructed, assembled or erected which requires location on the ground or attachment to something having such location on or in the ground, including buildings, fences, lights, tennis courts, tanks, towers, signs, advertising devices and swimming pools. For flood emergency management purposes, a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

Substantial Damage
Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement (Flood)

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

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of an "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".

CHAPTER XIV

PLANNING BOARD AND HISTORIC PRESERVATION COMMISSION

§1400 ESTABLISHMENT OF THE PLANNING BOARD

A. A Planning Board is hereby re-established consisting of nine regular and four alternate members of the following four classes:

1. Class I - The mayor or the mayor's designee in the absence of the mayor.

2. 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 any 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 regular or alternate members.

3. Class III - A member of the governing body to be appointed by it.

4. Class IV - Regular Members. Six other resident citizens of the Borough to be appointed by the mayor. The members of Class IV shall hold no other municipal office, position, or employment except that one such member may be a member of the Historic Preservation Commission. No member of the Board of Education may be a Class IV member of the Planning Board, except that in the case of a nine member board, one Class IV member may be a member of the Board of Education. If there be 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 a Class IV Planning Board member, unless there be among the Class IV or alternate members of the Planning Board both a member of the Historic Preservation Commission and a member of the Board of Education, in which case the member common to the Planning Board and Environmental Commission shall be deemed a Class II member of the Planning Board. For the purpose of this section, membership on a municipal board or committee whose function is advisory in nature,

and the establishment of which is discretionary and not required by statute, shall not be considered the holding of a municipal office.

5. Class IV - Alternate Members. Four other resident citizens of the Borough to be appointed by the mayor. Alternate members shall meet the qualifications of Class IV regular members and shall be designated by the governing body at the time of their appointment as "Alternate No. 1", "Alternate No. 2", "Alternate No. 3", and "Alternate No. 4".

6. The adoption of this Ordinance shall not be construed to affect any standing member of the Planning Board.

B. Terms of Membership.

1. The term of the member composing Class I shall correspond with his or her official tenure.

2. The terms of the members composing Class II and Class III shall be for one year or shall 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 term of office as a member of the Environmental Commission, whichever comes first.

3. The term of Class IV member who is also a member of the Board of Education shall terminate whenever he or she is no longer a member of such other body or at the completion of his or her Class IV term, whichever comes first.

4. The term of each Class IV regular member shall be four years.

5. The terms of the Class IV alternate members shall be two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire any one year.

C. Role of Alternate Members. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any Class. A vote shall not be delayed in order that a regular member may vote instead of an alternate

member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.

D. Vacancies. If a vacancy of any Class shall occur otherwise than by expiration of term, it shall be filled for the unexpired term, only.

E. Compensation. Members of the Planning Board shall serve without compensation except that reimbursement of reasonable expenses in the execution of official duties may be made by the municipality.

F. Removal. Any member other than a Class I member may be removed by the governing body for cause but only after public hearing and other due process proceedings.

G. Conflict. No member or alternate member of the Planning Board shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. No member who is so disqualified may act on that particular matter, shall not continue to sit with the Board on the hearing of such matter, nor shall participate in any discussion or decision.

H. Reorganization. Yearly, the Planning Board shall organize by selecting from among its Class IV regular members a chairman and a vice chairman. The Board shall also select a secretary who may or may not be a member of the Board or a municipal employee.

I. Funding. The governing body shall make provisions in its budget and appropriate funds for the expenses of the Planning Board.

J. Board Attorney. The position of Planning Board Attorney is hereby created. The Planning Board may annually appoint to such office and fix compensation or rate of compensation of an attorney-at-law of New Jersey other than the municipal attorney. The adoption of this Ordinance shall not be construed to affect any existing appointment.

K. Staff. The Planning Board may also employ or contract for and fix compensation of such experts and other staff and services as it may deem necessary. The Board, however, shall not authorize expenditures which exceed, exclusive of gifts or grants, the amounts appropriated by the Borough Council for its use.

§1401 POWERS AND JURISDICTION OF THE PLANNING BOARD

The Planning Board shall have the powers listed below as well as any other powers established by law:

A. Make, adopt, and from time to time after public hearing, amend a master plan for the physical development of the municipality, including any areas outside its boundaries which, in the board's judgment, bear essential relation to the planning of the municipality;

B. Participate in the preparation and review of programs or plans required by state or federal law or regulation;

C. Assemble data on a continuing basis as part of a continuous planning process;

D. Annually, prepare a program of municipal capital improvements projects projected over a term of 6 years and amendments thereto and recommend same to the Borough Council;

E. Consider and make report to the Borough Council within 35 days after referral as to any proposed development regulation revision, or amendment thereto, submitted to it and also pass upon other matters specifically referred to the Planning Board by the Borough Council;

F. Prepare, at least every 6 years, a periodic reexamination of the Master Plan;

G. The Planning Board shall have such other powers as prescribed by law, including, but not limited to those in Chapter XIV.

H. Technical Review Committee

1. The Chairman of the Planning Board may appoint a Technical Review Committee (TRC) which shall be advisory in nature.

a. Only the Administrative Officer shall make a determination of completeness of an application, pursuant to the provisions of *N.J.S.A.* 40:55D-10.3.

b. The TRC shall advise and assist the Planning Board in reviewing site plans, subdivision applications and variance applications as to the following:
   (1) The sketch plan/subdivision classification.
   (2) Proposed meeting dates for processing each application.
   (3) The appropriateness of simultaneous review of the preliminary and final subdivision and site plan.
   (4) Potential ordinance violations, necessary variances and specific site plan and subdivision considerations.
   (5) The technical aspect of the proposed plan, including but not limited to parking and circulation, lighting, signs, landscaping, drainage, building location and design.

c. An applicant for development shall have the option of appearing before the TRC in order to hear comments regarding the application or to discuss the technical aspects of the application. The applicant may elect, if it so chooses, to bring its professional consultants to the TRC meeting at which its application is agendized for discussion. The TRC, in its exclusive discretion, may allot specific time allocations to the discussion of any application.

d. The TRC may promulgate such rules and regulations as it may deem necessary for proper internal administration. A copy of such rules and regulations, when adopted, shall be kept on file with the Borough Clerk.

e. The TRC shall consist of four members of the Planning Board; any three of the four Board members are selected to act as regular Committee members when Review Committee meetings are convened. Committee members are appointed on an application basis. TRC maybe assisted by the Planning Board's professionals in the review of applications.

   All professional fees for TRC members shall be paid from the applicant's escrow account which shall be established prior to an application being placed on an agenda for discussion.

I. Sign Review Committee

1. The Chairman of the Planning Board may appoint a Sign Review Committee (SRC) which shall be advisory in nature.

a. Only the Administrative Officer shall make a determination of completeness of an application, pursuant to the provisions of *N.J.S.A.* 40:55D-10.3.

b. The SRC shall advise and assist the Planning Board in reviewing all applications for signs in the Downtown Business, Downtown Business II and Transition Commercial zones, as well as all sign applications that are a component of an application for site plan approval, as follows:

(1) Signs will be reviewed for size, setback, content, graphics, colors, type of construction, illumination and height.
(2) The SRC shall meet every two (2) weeks, unless there are no sign applications to be reviewed.

c. An applicant for development shall have the option of appearing before the SRC in order to hear comments regarding the application or to discuss the technical aspects of the application. The applicant may elect, if it so chooses, to bring its professional consultants to the SRC meeting at which its application is agendized for discussion. The SRC, in its exclusive discretion, may allot specific time allocations to the discussion of any application.

d. The SRC may promulgate such rules and regulations as it may deem necessary for proper internal administration. A copy of such rules and regulations, when adopted, shall be kept on file with the Borough Clerk.

e. The members of the SRC shall be five, including the Chair of the Planning Board (or his/her designee), two members of the Planning Board appointed by the Chair, the Chair of the Economic Development Commission or his/her designee and one property owner or tenant from the Downtown Business Zone or the Transition Commercial Zone. The SRC may be

assisted by the Planning Board's professionals in the review of applications.

f. Any professional fees if required shall be paid from the applicant's escrow account which shall be established prior to an application being placed on an agenda for discussion.

§1402 ADDITIONAL POWERS AND AUTHORITY OF THE PLANNING BOARD

A. The powers and authority formerly exercised by the Borough of Flemington Zoning Board of Adjustment shall hereafter be exercised by the Borough of Flemington Planning Board pursuant to N.J.S.A. 40:55d-25.

B. The Class I and Class III members of said Planning Board will not participate in this consideration of applications for development which involve relief pursuant to Subsection (d) of Section 57 of the Public Laws 1975, c. 291 N.J.S.A. 40:55d-70d.

§1403 ADDITIONAL POWERS OF THE PLANNING BOARD

The Planning Board shall have the power to:

A. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by the Administrative Officer based on or made in enforcement of this Ordinance.

B. Hear and decide requests for interpretation of the Zoning Map or Land Development Ordinance or for decisions upon other special questions upon which the Zoning Board is authorized to pass on any Zoning Ordinance;

C. Grant a variance from the strict application of a regulation, upon an application or an appeal, so as to relieve difficulties or hardships:

1. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property; or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any zoning

regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property; or

2. Where in an application or appeal relating to a specific piece of property the purposes of this Ordinance set forth in §2601 would be advanced by deviation from these Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow the departure from zoning regulations; provided, however, that no variance from those departures enumerated in §2601 shall be granted under this section; and provided, further, that the proposed development does not require approval by the Planning Board of a subdivision, site plan, or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to 40:55D-70.

D. Grant a variance to allow a deviation from the requirements of this ordinance, in particular cases and for special reasons 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;

5. An increase in the permitted density 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; or

6. A height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.

7. No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will

not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

A variance under this Sub-section D. shall be granted only by the affirmative vote of at least five members.

E. Report on Variances. The Planning Board shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on the provisions of this Ordinance which were the subject of variance requests and its recommendations for Land Development Ordinance amendment or revision, if any. The Planning Board shall send copies of the report and resolution to the Borough Council.

§1404 ESTABLISHMENT OF THE HISTORIC PRESERVATION COMMISSION

A. A Historic Preservation Commission (HPC) is hereby established consisting of five regular members and two alternate members, each of whom shall be appointed by the mayor, of the following three classes:

1. Class A - Persons who are knowledgeable in building design and construction or in architectural history;

2. Class B - Persons who are knowledgeable or have a demonstrated interest in local history;

3. Class C - Persons who are residents of the municipality and who hold no other municipal office, position or employment except for membership on the Planning Board.

4. There shall be at least one regular member from each class.

5. Alternate members shall meet the qualifications of Class C members and shall be designated "Alternate No. 1" and "Alternate No. 2" at the time of appointment.

B. Terms of Membership.

1. The term of each regular member shall be four years and the term of each alternate member shall be two years.

2. Alternate members. Alternate members shall be designated at the time of their appointment as "Alternate No. 1" and "Alternate No. 2."

3. The term of any member in common with the Planning Board shall be for the term of membership on such Board.

C. Role of Alternate Members. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any Class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.

D. Vacancies. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term, only.

E. Compensation. Members of the HPC shall serve without compensation except that reimbursement of reasonable expenses in the execution of official duties may be made by the municipality.

F. Removal. Any member may be removed by the governing body for cause but only after public hearing and other due process proceedings.

G. Conflict. No member or alternate member of the HPC shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. No member who is so disqualified may act on that particular matter, shall not continue to sit with the Commission on the hearing of such matter, nor shall participate in any discussion or decision.

H. Organization. The HPC shall elect from its members a chairman and vice-chairman and select a secretary who may or may not be a member of the HPC or a municipal employee.

I. Funding. The governing body shall make provisions in its budget and appropriate funds for the expenses of the Historic Preservation Commission.

J. Rules and Procedures. The HPC shall adopt and may amend internal rules and procedures for the transaction of its business subject to the following:

1. A quorum for any action by the HPC shall be 3 members.

2. All HPC minutes and records shall be public records.

3. All HPC meetings shall comply with the Open Public Meetings Act (*N.J.S.A.* 10:47 et seq.).

4. HPC meetings shall be scheduled at least once every month or as often as required to fulfill its obligations to advise the Planning Board, governing body, or construction official.

K. Role of the HPC. The Planning Board is empowered to oversee the system of preservation regulations to complement existing land use regulation and shall review and grant final approval for the HPC's designation of buildings, structures, sites, objects and districts having historic significance. Based on the advice and recommendation of the HPC, the Planning Board shall make the final determination on the approval of development applications.

For applications that would otherwise not require Planning Board review, the Zoning Officer shall refer the application to the HPC for a written report on the application. This report shall be submitted to the Planning Board which shall make a final decision on the matter and report to Administrative Officer. The report of HPC and Final Report of Planning Board shall be sent to Administrative Officer within 45 days of the referral to the HPC. The Administrative Office shall follow any recommendations of the Planning Board with respect to denial of a permit or inclusion of conditions of a permit. Failure of Planning Board to report within the 45 day period shall constitute a determination that the application is consistent with the Historic District regulations and that no condition on the issuance of the permit shall be imposed.

L. The HPC shall advise the Planning Board from time to time through the process of amending the Historic Preservation Element of the Master Plan.

M. The HPC shall recommend to the Planning Board guidelines for review to be utilized in determinations of historic landmark status and for review of development applications or permits affecting historic landmarks or improvements within historic districts. The Planning Board may recommend modifications of the guidelines.

§1405 POWERS AND RESPONSIBILITIES OF THE HISTORIC PRESERVATION COMMISSION

The Historic Preservation Commission shall have the following duties and responsibilities:

A. To prepare a survey or surveys of historic sites and districts pursuant to criteria established in such survey;

B. To make recommendations to the Planning Board on the Historic Preservation Element of the Master Plan and on the implications of any other Element on the preservation of historic sites and districts;

C. To advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;

D. To advise the Planning Board on applications for development;

E. Provide written reports on the application of the zoning provisions of this Ordinance or other land development regulations on historic sites and districts;

F. Provide technical assistance upon request to property owners on the preservation, restoration, and rehabilitation of historic structures;

G. To carry out such other advisory, educational, and informational functions as will promote historic preservation in the municipality.

§1406 DIVISION OF JURISDICTION IN DEVELOPMENT APPLICATIONS

A. Planning Board. The following provisions set forth the jurisdiction of the Planning Board in the review of development applications:

1. The Planning Board shall have the power to grant subdivision or conditional use approval simultaneously with site plan approval.

§1407 PROVISIONS APPLICABLE TO THE PLANNING BOARD

A. Meetings.

1. Meetings of the Planning Board shall be scheduled at least once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.

2. Special meetings may be scheduled for at the call of the chairman or on the request of any two board members, which shall be held on notice to its members and the public in accordance with the Open Public Meetings Act.

3. Actions at meetings; quorum. All agenda items requiring action by the Board, except adjournments, shall be taken with a quorum present.

4. All actions shall be taken by a majority vote of the members present at such meeting, except as otherwise provided in this Article or 40:55D. Failure of a motion to receive the number of votes required to approve an application for development pursuant to the exceptional vote requirements of §1400 shall be deemed an action denying the application. A member of the Board who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his or her absence from one (1) or more of the meetings: provided, however, that such a Board member has available to him or her the transcript or recording of all the hearings from which he or she was absent, and certifies in writing to the Board that he or she has read such transcript or listened to such recording.

5. All 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 Act. An executive session for the purpose of discussing and studying any matters to come before the agency shall not be deemed a regular meeting within the meaning of this Ordinance.

B. Records of the Board.

1. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the

Planning Board, and of the persons appearing by attorney, the action taken by the Planning Board, the findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection during the normal business hours at the office of the Administrative Officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes, as indicated in §2800 of this Ordinance.

2. A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made by either stenographer, mechanical or electronic means. The municipality shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense, provided that the charge for a transcript shall not exceed the maximum amount permitted in *N.J.S.A.* 2A:11-15 as indicated in §2800 of this Ordinance. Each transcript shall be certified in writing by the transcriber to be accurate.

§1408 PUBLIC HEARINGS

A. The Planning Board shall hold a public hearing on each application for development, except for application where no public hearing is required. The Board shall make the rules governing such hearings. Public hearings shall be scheduled by the Board or its designee.

B. Any maps and documents for which approval is sought at a hearing shall be on file in the office of the Administrative Officer and available for public inspection during normal business hours at least 10 days before the date of the hearing. If maps or related material are to be revised as a result of any approving authority, the applicant shall file copies of all revised maps and related material as required in Chapter XV, with revision date noted on same, at least 10 days prior to the meeting of the approving authority at which discussion and/or hearing is scheduled to take place.

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

D. The public hearing shall be held in accordance with N.J.S.A. 40:55D-10. The officer presiding at the hearing, or his or her designee, shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law," *N.J.S.A.* 2A:67A-1 et seq. shall apply.

E. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

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

G. If the approving authority requires, or the applicant proposes, in the event any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application.

§1409 DECISIONS

A. The municipal agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:

1. A resolution adopted at a meeting held within the time period provided in this section for action by the municipal agency 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 municipal agency voted to grant or deny approval. Only the members of the Planning Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be

sufficient to adopt the resolution. An action 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 municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for the purposes of the mailings, filings, and publications required by §1413.

§1410 PUBLIC NOTICE OF A HEARING

The following public notice requirements shall apply to all hearings of the Planning Board (except for notice regarding a minor subdivision or site plan application, where required pursuant to §1506 shall apply).

A. Public notice of a hearing shall be given by the applicant for the following applications for development:

1. Any request for a variance;

2. Any request for conditional use approval;

3. Any request for the issuance of a permit to build within the bed of a mapped street or public drainage way or on a lot not abutting a street;

4. Any request for general development plan approval;

5. Any request for preliminary major subdivision approval;

6. Any request for interpretation of this Ordinance or Zoning Map;

7. Any request for preliminary major site plan; and

8. Any request for major site plan approval involving subsections 1 through 3.

9. Appeals pursuant to N.J.S.A. 40:44D-70a or b.

B. Public notice shall not be required for the following applications.

1. Concept or informal plan review.

2. Final subdivision plan.

3. Final site plan.

4. Any other type of application or action by the Board not specifically enumerated in §1401.

C. The secretary of the Planning Board shall notify the applicant at least two weeks prior to the public hearing for the subject application. Notice of a hearing requiring public notice shall be given by the applicant at least 10 days prior to the date of the hearing in the following manner:

1. By publication in the official newspaper of the Borough.

2. To all owners of 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 the hearing; provided that this requirement shall be deemed satisfied by notice to a condominium association, in the case of any unit owner whose unit has a unit above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by serving a copy on the property owner, as shown on the current tax duplicate, or his or her agent in charge of the property; or by mailing a copy thereof by certified mail to the property owner at his or her address as shown on the current tax duplicate. It is not required that a return receipt be obtained. Notice shall be deemed complete upon mailing.

3. Notice to a partnership owner may be made by service upon any partner; notice to a corporate owner may be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowner's 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. To the clerk of any adjoining municipality or municipalities when the property involved is located within 200 feet of said adjoining municipality or municipalities, which notice shall be given by personal service or certified mail.

5. To the Hunterdon County Planning Board by personal service or certified mail when the application for development involves property adjacent to an existing county road or proposed road shown on the county official map or the county master plan or adjoins other county land, or is situated within 200 feet of a municipal boundary.

6. To the Commissioner of Transportation of the State of New Jersey by personal service or certified mail when the property abuts a State highway.

7. To the State Planning Commission, by personal service or certified mail when the hearing involves an application for development of property which exceeds 150 acres or 500 dwelling units, in which case the notice shall include a copy of any maps or documents required to be on file with the Administrative Officer.

8. Additionally, the applicant shall be responsible for giving proper notice to all property owners who do not reside within the municipality.

D. Property List. Under the written request of an applicant, the Tax Assessor shall, within 7 days, make and certify a list from current tax duplicates of names and addresses of owners within the municipality to whom the applicant shall be charged ten dollars and shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding.

E. Proof of Service. The applicant shall file an affidavit or proof of service with the approving authority at least 3 days prior to the opening of the public hearing.

F. Contents of Notice. The notice shall state the date, time and place of the hearing and the nature of the matters to be considered, and an identification

of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's office, and the location and times at which any maps or documents for which approval is sought are available for inspection.

G. In case of a discrepancy between the foregoing provisions of this §1410 and the requirements of the Municipal Land Use Law, the requirements of the Municipal Land Use Law shall apply.

§1411 STANDARDS FOR GRANT OF VARIANCE

A. No variance or other relief may be granted under the terms of this Article 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 this Ordinance.

B. Any variance from the terms of this Article hereafter granted by the Planning Board permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises, shall if no other period of duration is established by the Board granting the variance, expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within 12 months from the date of entry of the judgment or determination of the approving authority; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing and appeal from the decision of the approving authority to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

§1412 APPEALS AND APPLICATIONS TO THE PLANNING BOARD

A. Appeals to the Planning Board may be taken by an interested party affected by any decision of the Administrative Officer of the municipality based on or made in the enforcement of the zoning provisions of this Ordinance or a duly adopted official map. Such appeal shall be taken within 20 days by filing a notice of appeal with the official from whom the appeal was taken, specifying the grounds of such appeal. The official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

B. A developer may file an application for development with the Planning Board for action under any of its powers without prior application to the Administrative Officer.

§1413 NOTICE OF DECISIONS

Any decision of the Planning Board when acting upon an application for development shall be given notice in the following manner:

A. Mailing of Decision. A copy of the decision shall be mailed to the applicant and to the appellant, if the appellant is a differing interested party, or, if either or both is represented, then to the respective attorney(s) without charge, and for a reasonable charge to any other interested person who has requested it, not later than 10 days after the date of the decision.

B. Newspaper Notice of Decision. A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publications shall be arranged by the Board Secretary without separate charge to the applicant or to the appellant, if the appellant is a differing interested party. The notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

C. Filing of Decision. A copy of the decision and all submitted documents of record shall be filed with the Administrative Officer.

§1414 EXCEPTIONS, WAIVERS, AND SPECIAL AREA STANDARDS FOR THE RESIDENTIAL SITE IMPROVEMENT STANDARDS (*N.J.A.C.* 5:21-3)

D. Exceptions (*N.J.A.C.* 5:21-3.1).

1. The approving authority may grant such *de minimis* exceptions from the requirements of the site improvement standards as may be reasonable and within the general purpose and intent of the Residential Site Improvement Standards (RSIS) if the literal enforcement of one or more provisions of the standards is impracticable or will exact undue hardship because of peculiar conditions pertaining to the development in question.

2. An application for an exception pursuant to this section shall be filed in writing with the approving authority and shall include:

   a. A statement of the requirements of the standards from which an exception is sought;
   b. A statement of the manner by which strict compliance with said provisions would result in practical difficulties; and
   c. A statement of the nature and extent of such practical difficulties.

3. Exceptions shall become a part of the construction documents and shall be retained by the Board of Jurisdiction.

4. Within 30 days of granting a *de minimis* exception request, a municipal approving authority agreeing to an exception pursuant to this section shall send a copy of the document(s) constituting the *de minimis* exception resolution and/or document to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, NJ 08625-0802. Such notice shall be clearly marked "Site Improvement Exception(s)."

5. An application for an exception may also be made by an officer or agency of the municipality.

6. Examples of *de minimis* exceptions include, but are not limited to, the following:
   a. Reducing the minimum number of parking spaces and the minimum size of parking stalls;
   b. Reducing the minimum geometrics of street design, such as curb radii, horizontal and vertical curves, intersection angles, centerline radii, and others;
   c. Reducing cartway width; and
   d. Any changes in standards necessary to implement traffic calming devices.

7. The approving authority's granting of a request for a *de minimis* exception shall be based on a finding that the requested exception meets the following criteria:
   a. It is consistent with the intent of the Site Improvement Act;
   b. It is reasonable, limited, and not unduly burdensome;
   c. It meets the needs of public health and safety; and

d. It takes into account existing infrastructure and possible surrounding future development.

E. Waiver Request (*N.J.A.C.* 5:21-3.2).

1. The Borough or developer may, in connection with a specific development, request a waiver of any site improvement standard adopted under this section in accordance with *N.J.S.A.* 40:55D-40.4(c). A waiver request may also be made jointly by a municipality and a developer.

2. The Site Improvement Advisory Board may approve a request for a waiver based on any danger to public health and safety that would be caused by adherence to a standard specified in this section.

3. A waiver may be requested by the Borough or a developer, or the request may be made jointly. The waiver request shall consist of the following:
   a. A copy of the development application as submitted to the municipal approving authority; and
   b. A brief memorandum to the Commissioner of the Department of Community Affairs containing sufficient information upon which to base a determination, including:

      (1) A short description of the project in narrative form;
      (2) A citation to the particular site improvement standard from which waiver is requested;
      (3) A clear description of the condition(s) giving rise to the request;
      (4) A clear description of the anticipated result if the standard were to be followed;
      (5) The name, address, and telephone number of a contact person for the developer; and
      (6) The name, address, and telephone number of a contact person for the municipal approving authority.
   c. The party requesting the waiver shall send the request to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, NJ 08625-0802.
   d. Where a waiver is requested by the developer, the developer shall send a copy of the request to the administrative officer of

the municipality concerned. Where a waiver is requested by the Borough, the Borough shall send a copy of the request to the developer.

e. A waiver may be requested by the developer or the Borough approving authority at any time during the pendency of a development application. The Site Improvement Advisory Board recommends submission of a waiver request early in the application process or prior to the submission of a formal development application. If the applicant or the approving authority determines during the approving authority review process that a waiver request is appropriate, the approving authority shall give consideration whenever possible to the granting of an extension for the purpose of pursuing a waiver. In some cases it may be impracticable for the party requesting or appealing a waiver to complete the waiver process within the time guidelines of the Municipal Land Use Law (*N.J.S.A.* 40:55D-1 et seq.; see, for example, *N.J.S.A.* 40:55D-45.3, 46(c), 46.1, 47, 48, and 50). In such cases, the municipal approving authority may provide for the disposition of the waiver as a condition of its approval.

f. There is no fee for requesting a waiver.

CHAPTER XV

DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS

§1500 COMPLETE APPLICATION AND COMMENCING APPLICABLE TIME PERIODS

A. An application for development or a variance shall be complete for purposes of commencing the applicable time period for action when the application is certified complete by the Administrative Officer. In the event the application is not certified to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the 45-day period for purposes of commencing the applicable time period, unless:

1. The application lacks information indicated on a checklist adopted by ordinance and provided to the applicant; and

2. The Administrative Officer has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.

B. The applicant may request that one or more of the submission requirements be waived, in which event the Administrative Officer shall grant or deny the request within 45 days.

C. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the application is entitled to approval.

D. The approving authority may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application have been met. The application shall not be deemed incomplete for lack of any such additional information or revisions in the accompanying documents so required by the approving authority.

E. Attached to and made part of this Ordinance is an Appendix of Checklists, which contains checklists for various types of applications for development and variances. There shall be submitted to the approving authority with every application for development a properly completed checklist, or checklists, appropriate for each application for development for which approval is sought or required. No application for development or variance shall be complete unless and until such properly completed checklist(s) has been so submitted.

§1501 PROVISIONS REQUIRED FOR ALL SUBMISSIONS

All applications for development or variance shall submit the following information in addition to any other information specific to the type of submission:

A. A completed and signed application form, containing the following information:

1. Applicant's name, address, telephone and facsimile number (if any);

2. Owner's name, address, telephone and facsimile number (if any);

3. Interest of applicant in property;

4. Name, address, telephone number, facsimile number (if any), e-mail address (if applicable) of applicant's attorney (if represented) and professional representatives;

5. Street address of property;

6. Tax Block and Lot number(s) of property;

7. Zoning district in which the property is situated;

8. Description of property;

9. Description of proposed development;

10. Type of application and submission level.

B. The application fee and applicable escrow fee in accordance with Chapter XXVIII.

C. A list of all variances or waivers requested, with reasons for such requests, citing the applicable section of the ordinance, excepting concept plans.

D. A certification from the Tax Collector's office that no taxes or assessments are due or delinquent on the subject property.

E. Proof of submission of application to the County Planning Board.

F. Affidavit of ownership and the consent of the owner for the filing of an application for development.

G. A certification of corporation or partnership interest pursuant to *N.J.S.A.* 40:55D-48.1 et seq., if applicable, excepting concept plans.

H. A copy of any existing protective covenants, easements or deed restrictions applying to or to be applied to the subject land, excepting concept plans.

I. The plat shall indicate the location and nature of any proposed easement and/or land dedicated or reserved for public use.

J. A list of all required regulatory approvals at the municipal, county, state, and federal level of government and their status, excepting concept plans.

K. Plans legibly drawn at a scale no less than 1"=100', except as otherwise permitted, with the tract oriented such that the north arrow points to the top of the sheet. All boundary distances shall be in feet and tenths of a foot. All bearings shall be given to the nearest 10 seconds. In the event that the entire tract cannot be contained on one sheet, multiple sheets may be submitted provided that each sheet contains reference to adjacent sheets and the sheets are the same size. Details and profiles may be drawn on originals at a different size than the plat provided that all prints submitted shall be of the same size.

L. Details to be placed on plans.

1. The name and address of the owner and applicant.

2. The name, signature, license or certification number, seal, and address

of architect, engineer, planner, land surveyor or landscape architect, as applicable, involved in the preparation of the plat or plan.

3. Title block denoting the type and level of submission, tax map sheet, block and lot number(s), name of county and municipality, and street location.

4. A key map drawn at a scale no less than 1"=2,000' showing the location of the tract with reference to the surrounding properties, streets, municipal boundaries, and water courses within 500 feet of the subject parcel.

5. A listing of property owners, addresses and block/lot numbers within 200 feet of the subject property.

6. A schedule of the required and proposed zoning district regulations including, but not limited to the lot size, lot width, street frontage, yard setbacks, open space requirements, parking requirements, and lot coverages.

7. Lot numbers as assigned by the Tax Assessor.

8. A north arrow, scale and graphic scale (key map and plans shall both be oriented the same direction).

9. A copy of the current zoning map depicting the subject tract and the surrounding properties within five hundred (500) feet of said parcel.

10. Date of plan and/or survey and any revision date.

11. A computer disk of the proposed subdivision (or site) plan compatible with GIS Arc/View.

M. Conformity Required

Whenever an application for development to the approving authority is permitted or required by this Article, it shall be in such form, and accompanied by such maps, documents, and materials as are prescribed by this Article, and shall be submitted to the Administrative Officer in such numbers as is prescribed herein. No development or variance application shall be deemed complete for submittal unless it conforms to the form,

content, and data requirements of this Article and any other applicable provisions of this Ordinance. No application shall be accepted unless it is filed on the official application forms of the Borough. The standards for submission contained in this Article shall be considered the minimum requirements for the promotion of the public health, safety, and general welfare.

§1502 PERMISSIBLE DIVISION OF RESPONSIBILITY FOR PLAN PREPARATION

All plans and documents submitted shall be signed and sealed by the appropriate licensed or certified professional.

§1503 CORPORATE OWNERS AND PARTNERSHIP DISCLOSURES

A corporation, limited liability corporation or partnership applying for permission to subdivide a parcel of land into 6 or more lots, or for a variance to construct a multiple dwelling of 25 or more family units, or for approval of a site to be used for commercial purposes 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, limited liability corporation or partnership owns 10% or more of the stock of a corporation, or 10% or greater interest in the partnership, subject to the above disclosure, that corporation, limited liability corporation or partnership shall list the names and addresses 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 non-corporate stockholders and individual partners exceeding the 10% ownership criterion described herein have been listed. Neither the approving authority, nor the governing body shall approve the application of any corporation, limited liability corporation or partnership which does not comply with this requirement pursuant to N.J.S.A. 40:55D-48.1 and 48.2, as amended.

§1504 STANDARDS FOR REVIEW OF APPLICATIONS

Development plans shall be so designed as to enhance the general appearance of the Borough and to promote the harmonious use of land; to lessen congestion in the streets; to secure safety from fire, panic, or other dangers; to promote the general

health, safety, and welfare; to provide adequate light and air; to prevent the overcrowding of land and buildings by an undue concentration of population; to encourage creative development and design consistent with the policies of the Master Plan of the Borough of Flemington, and the regulations promulgated herein. Applications for development shall be reviewed and approvals given or withheld based on whether the development meets the standards for development contained within this Ordinance as interpreted to advance the specific objectives set forth below:

A. Character of the Land. All development shall respect the natural character of the land, the drainage system, soil capabilities, groundwater and aquifer recharge quality.

B. Relationship to Flemington Master Plan. All developments shall be planned and designed to achieve the goals and objectives for land development as are or may be set forth in the Flemington Borough Master Plan duly adopted by the approving authority with regard to conservation, historic preservation, community facilities, recreation, open space, recycling, affordable housing, utility distribution, circulation, land use, fiscal impact, economic development, and the goals for development of adjacent municipalities, Hunterdon County and the State.

C. Relationship to Borough Development Patterns. All development shall be planned and designed to achieve the Borough goals of permitting and encouraging a population density and a development pattern in the municipality that facilitates the provision of public utilities and services, including public water and public sewerage, storm drainage systems, recreation areas, public schools, state, county, and local roads, in an orderly, functional and economical manner.

D. Conservation of Open Space. Common open space and adequate recreation areas shall be set aside in suitable locations to provide for the recreation needs of the residents and the owners of the development and those portions of the project that, because of their natural features, constitute important visual amenities and environmental resources. Development is intended to create after completion a continuity of open space resulting from the integration of upland, wetland, floodplain and surface water areas in accordance with the goals and objectives of the Master Plan.

E. Appearance and Aesthetic Control. All development shall be planned and designed to promote and achieve aesthetically pleasing views from and to

various land uses. The creation and promotion of such aesthetic conditions shall strengthen and preserve the municipality's unique environmental heritage and promote the civic pride, prosperity, and general welfare of the residents of the development, the municipality, and visitors thereto.

F. Review Guidelines. The following guidelines shall be used in the review of any application for development or conditional use:

1. Regard for Natural Features. All residential and non-residential uses shall be designed with regard to the topography and natural features of the site. The effects of prevailing winds, seasonal temperatures and hours of sunlight on the physical layout and form of the proposed buildings shall be taken into account. Special consideration shall be given to the preservation of natural features, including large trees, stands of specimen vegetation, groves, waterways, aquifer recharge areas, scenic, paleontological, steep slopes, ridge tops, scenic roads, archaeological, cultural, and historic sites and other community assets within site area, and the reduction of impacts on wildlife. The development shall be designed and programmed so as to minimize tree clearance and the destruction of natural amenities associated with the same.

2. Siting of Buildings. All housing and supporting uses shall be sited so as to enhance privacy for residential uses, ensure natural light for all principal residential rooms, and to the greatest extent possible be designed to promote passive solar energy technology. Buildings layout shall be reviewed for arrangement, efficiency and aesthetic quality.

3. Relationship to Community Facilities. Housing shall be conveniently served by community facilities and open space.

4. Circulation. The pedestrian and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, the movement of people, goods and vehicles from access roads within the site, between buildings and between buildings and vehicles. In particular the approving authority shall ensure compliance in site design with the Americans with Disabilities Act, as it may be amended or superseded. The approving authority shall ensure that all parking spaces are usable and are safely and conveniently

arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site. The circulation shall be consistent with Borough, county, and state requirements.

5. Open Space. Open space within all planned unit developments shall be planned and designed to achieve the Borough goal of ensuring that adequate recreation areas are set aside in suitable locations to provide for the recreation needs of the residents and owners of the planned unit development; and that those portions of the Borough that, because of their natural features, constitute important visual amenities and environmental resources are maintained in accordance with sound conservation practice.

6. Landscaping. Landscaping shall be reviewed for the ability to integrate the site elements of topography, water, buildings, parking and loading areas, and the buffering of incompatible uses. Landscaping shall be reviewed for diversity, including species, function, sculpture, fencing, walls, and other landscaping elements.

7. Lighting. Adequate lighting for the function of the site shall be reviewed for the safe movement and security of persons and vehicles. Particular attention shall be made to the minimization of glare and impact upon adjacent property.

8. Signs. Signs shall be evaluated for the aesthetics of their design and their harmony with other signs on- and off-site. The location of signs shall be reviewed for the purpose of removing any hazard to pedestrians or vehicles.

9. Utilities, Solid Waste Management and Recycling. Storm drainage, sanitary and solid waste disposal including recycling, water supply, electricity supply, telephone and cable television service shall be reviewed and considered. Emphasis shall be given on the adequacy of existing systems and the need for improvements, both on- and off-site to adequately provide for the development's needs.

10. Compatibility of Residential and Non-Residential Development. Applications for development and conditional uses shall be designed to assure the compatibility of residential and non-residential uses by:

a. Providing commercial uses with appropriate space and, in particular, sufficient depth from a street to satisfy the needs of contemporary uses including the provision of adequately landscaped off-street parking, buffer areas between commercial and residential use areas, pedestrian and bicycle circulation systems connecting the commercial uses to office, residential and open space uses;

b. Protecting non-residential development and nearby residences against fire, explosions, toxic and noxious matter, radiation and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare and other objectionable influences;

c. Protect residential and non-residential development from the noise, exhaust emissions, and other negative aspects of congestion of vehicular traffic.

§1505 INFORMAL REVIEW/CONCEPT PLAN

A. An informal submission is optional and may be held at a meeting of the Planning Board with reference to any informally prepared plat of sufficient accuracy to be used for the purpose of discussion. The purpose of such a discussion is to review development concepts in order to assist the applicant in the preparation of subsequent plans. No decisions will be made and no formal action taken on an informal discussion. Discussion and recommendations shall be informal and shall not be binding on the approving authority or the applicant. The approving authority shall have the right to limit and control the extent, length, and scope of such informal discussion, to regulate when it may occur, to require prior notice of a request for it, and to conclude it in the interests of expediting other business or if the matters being presented, in the judgment of the approving authority, should be presented formally.

B. The data included on an informal submission of a site plan shall include sufficient basic data 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 applicant's basic intent for water,

sewage treatment, and storm drainage facilities. Informal submissions should be sketches to scale of possible plan(s) for development. They are not binding on the municipality or upon the developer. Precise engineered drawings are not necessary.

§1506 MINOR SUBDIVISION AND MINOR SITE PLAN APPROVAL

A. Criteria. Applications shall be classified either as minor subdivisions or minor site plans only upon meeting the definitional requirements in Chapter XII, Definitions.

B. Submission Requirements. In addition to the requirements set forth on the submission checklist, see §1516, the applicant shall file:

1. Proof of submission to the County Planning Board.

2. The required application and escrow fees.

3. Certification from the Borough Tax Collector that no real estate taxes or assessments for local improvements are delinquent.

C. If the application is complete, the approving authority shall approve or deny the application, or approve it conditionally on terms insuring the provision of improvements under this Ordinance.

D. Approval of a minor subdivision shall be considered final approval which shall expire 190 days from the date of approval as determined by the date on which the resolution granting approval was adopted unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law", 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 Borough Engineer, and the Borough Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the approving authority (or the vice chairman or assistant secretary, respectively, in their absence). All conditions upon which approval is granted shall be adequately noted on the plat or described in the deed prior to signing by such approving authority officials. 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 Law", provided that, if the developer chooses to file the minor

subdivision plat rather than record a deed therefore, such plat shall conform with the provisions of the "Map Filing Law".

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

F. The approving authority may extend the 190-day period for filing minor subdivision plat or deed pursuant to subsection D of this section if the applicant proves to the reasonable satisfaction of the approving authority, 1), that the applicant was barred or prevented, directly, or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities; and 2), that the applicant applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the approving authority. The applicant may apply for the extension either before or after what would otherwise be the expiration date.

G. The approving authority shall grant an extension of minor subdivision approval for a period determined by the approving authority but not exceeding one year from what would otherwise be the expiration date, if the applicant proves to the reasonable satisfaction of the approving authority that the applicant was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the applicant applied promptly for and diligently pursued the required approvals. An applicant shall apply for the extension before, 1), what would otherwise be the expiration date of minor subdivision approval; or 2), the 91st day after the applicant receives the last legally required approval from other governmental entities, whichever occurs later.

§1507 PRELIMINARY MAJOR SUBDIVISION PLATS AND PRELIMINARY MAJOR SITE PLANS

A. The recommendations, if available, of the County Planning Board and those of all other agencies and officials to whom the preliminary plat or plan was submitted shall be given careful consideration in the final decision on the

development application. If the approving authority acts favorably on the preliminary plat or plan, the chairman and secretary of the approving authority (or the acting chairman or secretary, where either both may be absent), and the municipal engineer shall affix their signatures to at least ten (10) copies of the plat or plan with the notation that it has been approved.

1. Should minor revisions or additions to the plat or plan be deemed necessary, the approving authority may grant preliminary approval subject to specified conditions and receipt of revised plat or plan. Should major revisions be deemed necessary, the approving authority shall require that an amended plat or plan be submitted and acted upon as in the case of the original application for preliminary approval.

2. If the approving authority, after consideration and discussion of the preliminary plat or plan, determines that it is unacceptable, a notation shall be made by the chairman of the approving authority to that effect on the plat or plan and a resolution adopted setting forth the reasons for such rejection. One (1) copy of the plat or plan and said resolution shall be returned to the applicant within ten (10) days of such determination.

B. The approving authority shall give priority to and expedite development applications which include dwelling units set aside for low and moderate income households.

§1508 PRELIMINARY APPROVAL: MAJOR SITE PLANS AND MAJOR SUBDIVISIONS

A. Preliminary site plan approval and/or preliminary major subdivision approval shall be obtained at, or prior to, the time final approval as determined by the date on which the resolution granting approval was adopted, is obtained.

1. The applicant shall provide:

a. The required application and escrow fee.

b. Certification from the Borough Tax Collector that no real estate taxes or assessments for local improvements are delinquent.

c. 3 copies of any additional documents required in connection with the application.

2. Following any required hearing, the approving authority may approve, disapprove, or approve with conditions the application for preliminary approval. If the approving authority grants preliminary approval, its chairman, secretary and Borough Engineer shall sign the plat indicating the approval.

B. Preliminary Approval Rights

Preliminary approval shall, except as provided in Paragraph 4 below, confer upon the applicant the following rights for a 3-year period from the date of the preliminary approval.

1. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to: use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and 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;

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

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

4. In the case of a subdivision or site plan for an area of 50 acres or more, the approving authority may grant the rights referred to in Paragraphs 1, 2, and 3 above for such period of time longer than 3 years as shall be determined by the approving authority to be reasonable, taking into consideration (a) the number of dwelling units and non-residential floor area permissible under preliminary approval, (b) economic conditions, and (c) the comprehensiveness of

the development. The applicant may apply for and the approving authority may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the approving authority to be reasonable, taking into consideration (a) the number of dwelling units and non-residential floor area permissible under preliminary approval, (b) the potential number of dwelling units and non-residential floor area of the section or sections awaiting final approval, (c) economic conditions, and (d) the comprehensiveness of the development; provided that if the design standards have been revised, such revised standards may govern.

5. Whenever the approving authority grants an extension of preliminary approval pursuant to paragraphs 3 and 4 above in this section and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The applicant may apply for the extension either before or after what would otherwise be the expiration date.

6. The approving authority shall grant an extension of preliminary approval for a period determined by the approving authority but not exceeding one year from what would otherwise be the expiration date, if the applicant proves to the reasonable satisfaction of the approving authority that the applicant was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the applicant applied promptly for and diligently pursued the required approvals. An applicant shall apply for the extension before, 1), what would otherwise be the expiration date of preliminary subdivision approval; or 2), the 91st day after the applicant receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the approving authority from granting an extension pursuant to subparagraphs 3 and 4 of this section.

§1509 FINAL MAJOR SUBDIVISION PLATS AND FINAL MAJOR SITE PLANS

A. Procedure for Submitting Final Plats and Final Plans.

1. A final plat or plan shall be submitted to the Administrative Officer within three (3) years after the date of preliminary approval or any authorized extension thereof.

   The applicant shall submit a complete application to the Administrative Officer at least ten (10) days, but no more than fourteen (14) days, prior to the next regularly scheduled meeting of the approving authority. The approving authority will schedule the matter for consideration after the application has been declared complete.

   a. Required copies for Planning Board. Twenty (20) copies each of the final major subdivision plat and the application, and twenty (20) each of the final major site plan and the application; and a fee in accordance with § 2800 of this Ordinance.

2. The Administrative Officer shall retain one (1) copy each of the final major subdivision plat or final major site plan and the completed application and shall distribute the remaining as indicated in §2800 of this Ordinance.

3. The final plat shall be accompanied by letters directed to the chairman of the approving authority and signed by responsible officer of the water, sewer, gas, telephone, and electric company that has jurisdiction in the area. Such letters shall indicate the general approval of the applicant's design, the proposed construction entity responsible for each proposed utility installation, and eventual ownership (if applicable).

4. The final plat shall be accompanied by a statement by the Borough 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 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 and posted a maintenance guarantee with the final plat in accordance with this Ordinance; 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 and either posted a maintenance guarantee for the completed improvements in accordance with § 2800, or agreed to post a maintenance guarantee in accordance with § 2800 at such time as the improvements requiring such maintenance guarantee are completed.

c. A statement from the municipal engineer that all improvements installed prior to application have been inspected as provided in § 2800 of this Ordinance, and that such improvements meet the requirements of the municipality. Any improvements installed prior to application for final approval that do not meet or exceed municipal standards shall be factored into the required performance guarantee. An "As-built" plan, showing the exact location of all improvements, including utilities and their elevations, shall be required.

B. Details Required for Final Subdivision Plats

1. All details stipulated in accordance with the checklist of this Ordinance.

2. All additional details required at the time of preliminary approval shall be submitted.

3. Detailed engineering data including:

a. Cross sections, profiles and established grades of all streets, aisles, lanes and driveways, as approved by the municipal engineer.

b. Plans and profiles of all storm and sanitary sewers and water mains, as approved by the municipal engineer.

c. All dimensions of the exterior boundaries of any subdivision shall be balanced and closed with an error closure of one (1) to ten thousand (10,000), and the dimensions of all lot lines to within one (1) to twenty thousand (20,000). All dimensions, angles and bearings must be tied to at least two (2) permanent monuments not less than three hundred (300) feet apart and all information shall be indicated on the plat or plan. At least one (1) corner of the subdivision shall be tied to U.S.G.S. benchmarks with data on the plat or plan as to how the bearings were determined.

C. Details Required for Final Site Plans.

1. All details stipulated in accordance with the checklist of this Ordinance.

2. All additional details required at the time of preliminary approval shall be submitted.

3. Detailed engineering data.

4. Architect's renderings of each building or a typical building and design showing front, side and rear elevations.

D. Action by the Municipality

1. Should either the Administrative Officer or the approving authority determine that the application is incomplete, the Administrative Officer, within 45 days from the date of submission of the application, shall notify the applicant in writing of the reasons for such a determination and the applicant may thereafter submit an appropriately revised application to the Administrative Officer as in the first instance. If the Administrative Officer neither certifies to the applicant that the application is complete nor notifies the applicant in writing that the application has been determined incomplete, then the applicant shall be considered certified complete and the time period for action by the approving authority shall commence.

2. If the approving authority acts favorably on the final submission, the chairman and the secretary of the approving authority (or the acting chairman and secretary where either both may be absent), shall affix their signatures with a notation that it has been approved. The applicant shall furnish such copies to the approving authority for signing. In the case of final subdivisions only, the applicant shall include at least two (2) mylar copies of the approved plat or plan. 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 this Ordinance for final approval, the conditions of preliminary approval and, in the case of a major subdivision, the standards prescribed by the "Map Filing Law", N.J.S.A. 46:23-9.9 et seq.

3. After approval of the final plat or plan by the approving authority, nine (9) copies of the signed plat or plan shall be furnished by the secretary of the approving authority to the appropriate agencies. 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).

4. Within 95 days of signing of a final subdivision plat, the subdivider shall file a copy of same with the county clerk. In the event of failure to file within said 95 days, the approval of the major subdivision shall expire and any further proceedings shall require the filing of a new final plat as in the first instance. The approving authority for good cause shown, may extend the time for filing for an additional 95 days. Any further extensions shall be granted in accordance to 40:55D-54(1) and (2).

5. If the approving authority, after consideration and discussion of the final submission, determines that it is unacceptable, a notation shall be made by the Administrative Officer to that effect on the plat or plan and a resolution adopted setting forth the reason for such rejection. One copy of the plat or plan and the resolution shall be returned to the applicant within 10 days of such determination.

E. Effect of Final Approval. Final approval of a subdivision or site plan shall confer upon the applicant the following rights for a two year period from the date of final approval from the date final resolution of approval was adopted:

1. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed.

2. If the developer has followed the standards prescribed for final approval, the approving authority may extend the period of protection for extensions of one year each, not exceeding three such extensions.

3. Whenever the approving authority grants an extension of final approval pursuant to paragraphs 1 and 2 above in this section and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The applicant may apply for the extension either before or after what would otherwise be the expiration date.

4. Staging Plan. For any area that will be developed in stages, the approving authority may require the developer to submit a total development plan in such detail as required by the approving authority. Developers of large uses may request, and the approving authority may approve, the construction of such uses in stages provided that the plan is accompanied by a staging plan showing the following:

   a. The anticipated date for commencing construction of each stage. The staging of development on the tract shall be such that if development of the tract were discontinued after the completion of any stage, the developed portion of the tract would comply in all respects to the requirements of this Ordinance and be provided with adequate drainage, street, and utility systems.

   b. Those improvements that will be completed in each stage prior to application for Certificate of Occupancy. The plan should demonstrate that the staging of construction will minimize adverse effects upon occupied building on the tract and adjoining properties.

   c. Written descriptions of the proposed operation in sufficient detail to indicate the effects of the proposed use in producing traffic congestion, noise, glare, air pollution, fire hazards, or

safety hazards. For non-residential uses, the written description shall also include the hours of operation of the use, the number of shifts to be worked, the number of employees in each shift, the number of vehicles to be stored or parked on the site, and provisions to be made for site maintenance.

§1510 CONDITIONAL USES, VARIANCES, AND OTHER DEVELOPMENT REGULATION APPROVAL

A. Conditional use approval, variances, and directions for issuance of a permit for a building or structure in the bed of a mapped street, public drainage way, flood control basin or reserved public area, shall be obtained under the provisions of the Municipal Land Use Law and this Ordinance, and as provided by any rules and regulations adopted by the approving authority which are consistent with this Ordinance and the Municipal Land Use Law.

B. All applications shall be accompanied by plat(s). If subdivision and/or site plan approval are also being requested, the plats shall be accompanied by all supporting documents as required for subdivision/site plan approval.

§1511 TIME FOR DECISION

A. An approving authority shall grant or deny an application for development within the number of days described below after a determination of completeness (*see* §1500) unless the applicant has consented, in writing, to an extension of time.

1. Time periods are as follows:

a. Minor subdivision, 45 days.

b. Preliminary major subdivision for 10 or fewer lots, 45 days.

c. Preliminary major subdivision for more than 10 lots, 95 days.

d. Preliminary site plan for 10 acres of land or less and 10 dwelling units or less, 45 days.

e. Preliminary site plan for more than 10 acres or more than 10 dwelling units, 95 days.

f. Application for final major subdivision or final site plan approval, 45 days.

g. Conditional use permit, 95 days.

h. As to combined applications:

(1) Conditional use permit and site plan approval, 95 days.
(2) Subdivision approval and/or conditional use permit, and/or site plan approval, 95 days.
(3) Subdivision, site plan or conditional use approval and zoning variance(s) or direction pursuant to N.J.S.A. 40:55D-60b or c, 120 days.

i. In the event the developer elects to submit separate consecutive applications, as permitted by the Municipal Land Use Law, the 120 day provision, if applicable, shall apply to the application for approval of the variance or direction for issuance of a permit under N.J.S.A. 40:55D-60b or c and the time period for the subsequent approval shall be as otherwise provided for the subdivision, site plan, or conditional use, as the case may be.

2. Where the application involves an appeal from the decision of an administrative officer, a conditional use permit, or variance, or for direction pursuant to N.J.S.A. 40:55D-76a, or a combination of these: 120 days.

B. Failure of the approving authority to act within the required time period shall constitute a decision favorable to the applicant. A certificate of the secretary of the approving authority as to the failure of the approving authority to act shall be sufficient in lieu of the written endorsement or other evidence of approval required by the Municipal Land Use Law and shall be so accepted by the County Recording Officer for purpose of filing subdivision plats

§1512 PLAT DESIGN STANDARDS AND ACCOMPANYING INFORMATION

A. Subdivision Plats

1. Minor Subdivision Plat. The plat for a proposed subdivision shall be based on an actual survey prepared by a land surveyor licensed in the State of New Jersey, shall have his seal affixed thereto, shall be drawn at a scale of not less than 50 feet to the inch, and shall be of such size as to comply with the Map Filing Law, N.J.S.A. 46:23-9.9 et seq. All minor subdivision plans shall show or include the following information.

   a. The location of that portion which is to be subdivided in relation to the entire tract.

   b. All existing structures and wooded areas within the portion to be subdivided and within 200 feet thereof, showing the distance of any structure from any new lot line established by the subdivision.

   c. The name of the owner and of all adjoining property owners as disclosed by the most recent Borough tax records.

   d. The tax map sheet, block, and lot numbers identifying any lot which, at this stage, is intended to be restricted to low and moderate income housing.

   e. Area of each lot in acres to the nearest one-hundredths of an acre, and in square feet.

   f. If more than one lot is proposed, or if lots have been subdivided previously on the same property, each lot shall be shown and designated by number, letter, or other identification.

   g. The bearings and distances of all lot lines.

      (1) Metes and bounds description showing dimensions, bearings, curve data, radii, arcs, chords and central angles for all centerlines and rights-of-way, lines.

h. Street frontage in feet.

i. All streets and roads within 500 feet of the subdivision.

j. Official name of street on which the property is situated.

k. Proposed future streets and sight triangle easements.

l. The location, width and direction of flow of all streams, brooks, drainage ditches and culverts in the tract to be subdivided and within 200 feet of the tract to be subdivided.

m. Zoning district in which the property is situated. If the proposed subdivision is within more than one district, the zoning district line shall be shown and the most accurate information available as to the measurements within each district shall be included on the plat.

n. When the subdivision is submitted for approval as a minor subdivision, information on soil testing needs to accompany the plan. No such data are required when the sewage is to be discharged into an existing central sewage treatment system. All plats shall show the location of any existing potable water supplies and existing or proposed septic systems now on the tract.

o. All floodway or flood hazard areas and wetlands shall be shown and designated.

p. The location and width of all existing and proposed utility easements in the area to be subdivided.

q. Where appropriate, New Jersey plane coordinate system. Otherwise submit deed book and page of reference meridian.

r. Graphic and numeric scale of plat

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s. Observations by a professional engineer regarding drainage conditions related to the proposed subdivision which may affect municipal facilities and neighboring properties.

t. Contours as shown on U.S.G.S. topographic maps

u. Slopes between 15% and 25% and slopes 25% or greater.

v. Existing well and septic locations.

2. Preliminary Subdivision Plat

a. The preliminary plat shall be designed, drawn, and signed by a professional person who is duly licensed by the State Board of Professional Engineers and Land Surveyors in accordance with N.J.S.A. 45:8. The preliminary plat and any engineering documents to be submitted may be in tentative form for discussion purposes.

b. The preliminary plat shall be clearly and legibly drawn at a scale of not less than one inch equals 100 feet and shall be shown or be accompanied by the following information:

(1) A key map showing the entire subdivision and its relation to the surrounding areas: a scale of 1 inch equals 400 feet is recommended. If available, submission of computer disk of CAD release 13 or higher, of the key map.

(2) Name of the subdivision, reference meridian, graphic scale, and names and addresses of:

(a) Owner(s) of record;

(b) Owners of adjoining land;

(c) Subdivider or his agent; and

(d) Professional person(s) who prepared the plat.

(3) Date of original submission and of each subsequent revised submission.

(4) Subdivision boundary line in heavy solid line and acreage of tract to be subdivided to the nearest one tenth of an acre.

(5) Zoning district(s) in which the subdivision is situated. If the proposed subdivision is within more than one district, the zoning district line shall be shown and the most accurate information available as to the measurements within each district shall be included on the plat.

(6) Total number of proposed lots.

(7) Prior to submission of a preliminary plat the applicant shall furnish the Borough Assessor with two blackline or blueline on white prints of the plat upon which the Assessor will designate the appropriate block and lot numbers. The applicant shall then prepare the plans showing these block and lot numbers.

(8) Location of existing and proposed lot lines, buildings, and other structures located on the tract and within 200 feet of its boundaries, including the location of lot(s) on which low and moderate income housing units are proposed to be constructed, streets, high tension power lines, gas, petroleum and other transmission lines, bridges, culverts, and any natural features such as wooded areas to the proper scale, width and direction of all streams, brooks, drainage structures, and drainage ditches on the tract and within 200 feet of its boundaries.

(9) Lot layout showing the lot lines and dimensions to the nearest foot, the street frontage of each lot in feet, and dashed or dotted lines showing the front, side and rear setbacks.

(10) All streets and cul-de-sacs to be constructed on the tract, including locations, proposed street names, right-of-way widths, paving widths, tentative centerline elevations at intersections and other critical points, and

centerline gradient shown in percent of slope. Cross sections at 50 foot intervals and centerline profiles for all proposed new streets.

(11) All proposed street names shall be forwarded to the Borough Council for approval.

(12) A detailed intersection plan shall be drawn at a scale of 1 inch equals 30 feet showing existing conditions and the design, grade and location of the items required for drainage, curbs and streets. The profile of the intersecting streets shall be shown for a distance of 300 feet on either side of the intersection.

(13) Each plat shall delineate those areas having steep slopes and those areas having critical slopes. Existing and proposed contours at 2 foot intervals shall be shown for areas with less than 15% slope and 5 foot intervals for areas with 15% or greater slopes. For tracts containing slopes in both categories, the developer shall show every 10 foot contour with a wider line. In instances where there is more than one slope category, the approving authority may allow some other satisfactory contour intervals and topographic data to meet the objectives of this section. All elevations shall be related to a bench mark noted on the plan and wherever possible be based on U.S. Geological Survey mean sea level datum. The approving authority may waive contour requirements on portions of lots greater than 1 acre in areas where the topographic data, because of the terrain or the absence of any proposed improvements or other conditions, would not contribute to the approving authority's determination.

(14) Location of wetlands, ponds, streams, and land subject to periodic or occasional flooding or similar conditions on the tract and within 200 feet of its boundaries; floodways or flood hazard areas as defined herein.

(15) Storm water drainage system plan showing: location of inlets and manholes; invert elevations and gradients; and sizes, types and materials of pipes to installed.

(16) All required design data supporting the adequacy of existing and proposed facilities, including a copy of drainage computations, together with a marked up plan showing the associated and contributing watersheds.

(17) Location of any recorded right-of-way or easement on the subdivision or within 200 feet of its boundaries, with identification of such easement.

(18) Septic and well locations on the subdivision or within 200 feet of its boundaries. Soil borings and permeability test results shall be shown on the plan.

§1513 ADDITIONAL REQUIREMENTS

A. Dedication of Right-of-Way. No subdivision or site plan involving any street(s) requiring additional right-of-way width as specified in the Master Plan and the street requirements of this Ordinance shall be approved unless such additional right-of-way, either along one or both sides of said street(s), as applicable, shall be deeded by easement to the municipality or other appropriate governmental agency.

B. Additional Information. The approving authority reserves the right to require additional information before granting preliminary approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and surrounding area. Such information may include, but not be limited to, drainage calculations and traffic analysis.

§1514 ENVIRONMENTAL IMPACT STATEMENT

Environmental Impact Statements, when required, shall include the following information:

A. General Provisions. The impact of the environment generated by land development projects necessitate a comprehensive analysis of the variety of problems that may result and the actions that can be taken to minimize these problems. It is further recognized that the level of detail required for various types of applications will vary depending on the size of the project, the nature of the site and the location of the project. Therefore, having determined that flexibility is needed in preparing the environment impact statement, the requirements for such a document pertaining to different types of development applications are listed below:

1. All agricultural operations conducted in accordance with a plan approved by the soil conservation district and all silviculture operations conducted in accordance with a plan prepared by a professional forester are specifically exempt from the environmental impact statement requirements.

2. A variance application not involving a site plan or subdivision application shall not require an environmental impact statements unless specifically requested by the approving authority. The approving authority shall inform the applicant regarding any additional information that may be required.

3. Any minor subdivision and/or minor site plan applications to the approving authority shall not require an environmental impact statement unless specifically requested by the approving authority. The approving authority shall inform the applicant regarding any information that may be required.

4. All preliminary major subdivision and/or preliminary major site plan applications shall be accompanied by an environmental impact statement.

B. Submission Format. When an environmental impact statement is required, the applicant shall retain qualified professionals to perform the necessary work. The qualifications of the individual(s) preparing the report shall be submitted. The applicant shall use the Borough's Geographic Information System (GIS) containing the inventory of environmental factors to present an overview of the natural limitations of the site and to guide the layout of the proposed development. All environmental impact statements shall consist of written and graphic materials which clearly present the required information addressing the following areas and utilizing the following format:

1. Project Description. Indicate the purpose and scope of the proposed project. Enumerate the benefits to the public which will result from the proposed project and describe the suitability of the site for the intended use. A description of the proposed project shall be presented to indicate the extent to which the site must be altered, the kinds of facilities to be constructed, how they are to be considered and the uses intended. The resident population, working population, and visitor population shall be estimated. The compatibility or incompatibility of the proposed project shall be described in relation to the following:

   a. Municipal master plan, especially the land use and open space elements;

   b. Master plan of adjacent municipalities, if applicable;

   c. Hunterdon County Master Plan;

   d. Regional and State planning guides, including the State Development and Redevelopment Plan;

   e. Other pertinent planning documents.

2. Site Description and Inventory. Provide a description of environmental conditions on the site which shall include, but not be limited to, the following items:

   a. Types of Soils. List and describe each soil type located on the site. If applicable, provide percolation data. Where the proposed area of land disturbance will involve soils with moderate or severe limitations (as per the Soil Survey of Hunterdon County - Soil Conservation Service) relative to the type of project proposed, a complete mapping of all soil types on the site shall be required indicating where those moderate and severe limitations exist. Use of the Borough's GIS is appropriate.

   b. Topography. Describe the topographic conditions of the site, with specific delineation of any lands with slopes between fifteen (15) percent to twenty-four (24) percent and those exceeding twenty-five (25) percent.

c. Geology. Describe the geologic formations and features associated with the site as well as depth to bedrock conditions. Delineate those areas where bedrock is in close proximity to the surface (within two (2) feet of the surface as well as major rock outcroppings).

d. Vegetation. Describe the existing vegetation on the site. When required, prepare a map showing the location of major vegetative groupings such as meadows, farm fields, bogs, swamp or floodplain, upland forest or successional forest, indicating the type of plant species found in these distinct areas.

e. Wildlife. Identify any nesting areas, feeding areas or habitats for threatened or endangered species. Where applicable, other data assembled regarding wildlife activity on the site shall also be mapped and/or described.

f. Surface Water. Describe existing watercourses and water bodies that are partially or totally on the site and their relationship to the area of land disturbance. Calculate existing surface runoff from the site. When the natural drainage pattern will be significantly altered, an analysis shall be conducted which will investigate flow, depth, capacity and water quality of the receiving waters. When required, floodplain and wetland areas will be mapped in consultation with the New Jersey Department of Environmental Protection. Existing drainage structures shall be mapped and the capacity of the drainage network shall be determined. Additionally, wetland areas shall be delineated.

g. Subsurface Water. Describe the subsurface water conditions on the site both in terms of depth to ground water and water supply capabilities of the site. Where existing conditions warrant, provide detailed information regarding existing wells within five hundred (500) feet of the site relative to depth, capacity and water quality. Discuss the water supply capabilities of the adjacent areas and the recharge capabilities of the site.

h. Unique, Scenic, Historic Features and Archaelogical Sites. Describe and map those portions of the site that can be considered to have unique, scenic, historic and archaeological qualities.

i. Existing Development Features. Describe any existing features on the site that are not considered to be part of the natural environment. This may include, but not necessarily be limited to roads, housing units, accessory structures, utility lines, etc.

j. Miscellaneous. When warranted, an analysis shall be conducted of existing air quality and noise levels as prescribed by the New Jersey Department of Environmental Protection.

3. Area and Regional Description. Provide a description of the surrounding environs. Describe the existing land use pattern. When required, describe in detail the existing infrastructure with respect to the drainage and transportation network as well as any central sewerage and water supply facilities. Include an appropriate regional analysis relative to the proposed project.

4. Environmental Performance Controls. Describe in detail what measures will be employed during the planning, construction and operation phases which will minimize or eliminate negative impacts on and off site that could result from the proposed project. Of specific interest are:

a. Drainage plans which shall include but not be limited to soil erosion and sedimentation controls. Every effort should be made to limit off-site surface runoff to pre-development levels.

b. Sewage disposal techniques.

c. Water supply and water conservation proposals.

d. Site design techniques sensitive to the natural environment which should include innovative landscape, building and circulation design.

e. Energy conservation measures.

f. Noise reduction techniques.

g. Miscellaneous on-site and off-site public improvements.

5. Impact. Discuss both the negative and positive and off-tract impacts. Indicate those negative impacts that are unavoidable. The specific concerns that shall be considered include, but are not limited to, the following:

a. Soil erosion and sedimentation resulting from surface runoff.

b. Flooding and floodplain disruption.

c. Degradation of surface water quality.

d. Groundwater pollution.

e. Reduction of groundwater capabilities.

f. Sewage disposal.

g. Solid waste disposal.

h. Vegetation destruction.

i. Disruption of wildlife habitats.

j. Destruction of scenic and historic features.

k. Impact on ridge lines.

l. Air quality degradation.

m. Noise levels.

n. Energy utilization.

o. Neighborhood deterioration.

p. Effect on public services (i.e., schools, fire, police, etc.)

q. Traffic congestion.

r. Health, safety and welfare of existing residents.

s. Regional development policies.

6. Alternatives. Discuss what alternatives were considered both in terms of site design and project location. Indicate why an alternative was rejected if it would have resulted in less of a negative impact than the subject proposal.

7. Licenses, Permits and Other Approvals Required by Law. The applicant shall list all known licenses, permits and other forms of approval required by law for the construction and operation of the proposed project. This list shall include, but will not be limited to, approvals required by the municipality, as well as agencies of the county, State and Federal governments. Where approvals have been granted, copies of said approvals shall be attached. Where approvals are pending, a note shall be made to that effect.

8. Documentation. All publications, file reports, manuscripts or other written sources of information related to the project, the project site and the municipality which were consulted and employed in compilation of the environmental impact statement shall be listed. A list of all agencies and individuals from whom pertinent information was obtained orally or by letter shall be listed separately. Dates and locations of all meetings shall be specified.

§1515 TRAFFIC IMPACT STATEMENT

Traffic Impact Statements, when required, shall conform to the following provisions:

A. When Required. All applications for preliminary major subdivision approval where more than 10 lots are proposed and all applications for preliminary major site plan approval shall be accompanied by a traffic impact statement analyzing the proposed development and its expected impacts upon existing municipal facilities and services, and shall include:

1. Traffic Impact. An analysis of the existing road network available to serve the proposed development as well as the proposed road

network within the development itself and the surrounding road network which will be affected by the proposed development, including the capacity of the existing and proposed roadways; the anticipated traffic volumes as a result of the proposed development as well as the increase in traffic volumes expected from other developments within the area; and any problem spots in the overall road network including unsafe intersections, turns or grades. This information may be submitted in a separate document.

§1516 SUBMISSION CHECKLIST (X = Required)

Submission Item No. and Description	Informal Review/ Concept Plan	Minor Application			Major Application				
		Single Site Plan	Sub-division	Site Plan	Plat	Subdivision		Site Plan	
						Preliminary	Final	Preliminary	Final
1. Submission of completed application forms. Quantity as specified. A. Planning Board	17	17	23	23	25	25	14	25	14
2. Folded plot/plan submission. Quantity as specified. A. Planning Board	17	17	18	18	25	25	14	25	14
3. Protective covenants/deed restrictions. Quantity as specified. A. Planning Board						5		5	
4. Name, signature, license number, seal, address & telephone, number of plans, preparer, as applicable, involved in preparation of plat.	X	X	X	X	X	X	X	X	X

5. Name, address and telephone number of owner and/or applicant and any stockholders as required by N.J.S.A. 40:55D-48.1.		X		X	X	X	X	X	X
6. Title block denoting type of application, tax map sheet number, county, name of municipality, block and lot, and street location.	X	X	X	X	X	X	X	X	X
7. A key map not smaller than 1"=2,000 feet showing location of tract with reference to surrounding properties, streets, municipal boundaries, zoning, etc., within 500'.	X		X	X	X	X	X	X	X
8. A schedule of required and provided zone district(s) requirements including bulk requirements such as lot area, width, depth, yard setbacks, building coverage, open space, parking, etc.	X		X	X	X	X	X	X	X
9. Tract boundary - a heavy solid line.	X	X	X	X	X	X	X	X	X
10. North arrow, graphic scale and written scale.	X		X	X	X	X	X	X	X
11. Proof that taxes are current.	X	X	X	X	X	X	X	X	X

12. Signature blocks for Chairman, Secretary, Clerk & Municipal Engineer.		X	X	X	X	X	X	X	X
13. Appropriate certification blocks as required by Map Filing Law.							X		
14. Monuments as specified by Map Filing Law or Borough Ordinance.			X				X		
15. Date of current property survey.	X		X	X	X	X	X	X	X
16. One (1) of three (3) standardized sheets: 30" x 42" - 24" x 36" - 15" x 21"	X		X	X	X	X	X	X	X
17. Subdivisions: A. Less than .75 acre lots; scale no smaller than 1"=50', by 1"-10' increments B. .75 or greater 1"=100' NOTE: If more than one sheet is needed for development design, an overall subdivision tract map will be provided on one sheet.	X X X		X X X		 X	X X X	X X X		
18. Site Plans: A. less than 1 acre; scale no smaller than 1"=30', by 1"=10' increments B. 1 acre and large, scale 1"=50' NOTE: If more than one sheet is needed for development design, an overall site plan map will be provided on one sheet.	X X			X X	 X			X X	X X

19. Metes and bounds description showing dimensions, bearings, curve data, radii, arcs, chords and central angles for all centerlines and rights-of-way lines.			X	X		X	X	X	X
20. Affidavit of ownership and owner's certification noted on plans.	X	X	X	X	X	X	X	X	X
21. Acreage of tract to the nearest tenth of an acre (for informal review/concept plan to nearest acre). Final plans to nearest hundredth of an acre	X		X	X	X	X	X	X	X
22. Computation of area to be disturbed.				X	X	X		X	X
23. Date of original and all revisions.	X	X	X	X	X	X	X	X	X
24. Size and location of any existing or pro- posed structures with all setbacks dimensioned (informal review/concept plan).	X	X	X	X	X	X	X	X	X
25. Location and dimensions of any existing or proposed streets (general location for informal review/concept	X		X	X	X	X	X	X	X

plan).									
26. All proposed lot lines and area of lots in square feet (informal review/concept plan).	X		X	X	X	X	X	X	X
27. Copy of and delineation of any existing or proposed deed restrictions or covenants.	X existing		X	X	X existing	X	X	X	X
28. Any existing or proposed easement or land reserved for or dedicated to public or private use.	X	X	X	X	X	X	X	X	X
29. Development stages or staging plans.	X				X (general)	X	X	X	X
30. List of required regulatory approval or permits.			X	X	X	X	X	X	X
31. List of variances required or requested.		X	X	X		X	X	X	X
32. Requested or obtained design waivers or exceptions.			X	X		X	X	X	X
33. Payment of application/escrow fees.	X	X	X	X	X	X	X	X	X
34. Property owners and property lines of all parcels within 200' identified on most recent tax map sheet.			X	X	X	X	X	X	X

35. Indicate existing land uses within 200 feet.		X	X	X	X	X	X	X	X
36. All existing streets, water courses, floodways or flood hazard areas, depth to seasonal high water table 0-1', soils, wooded areas with trees measuring 8" or greater caliper (4' above ground), wetlands or other environmentally sensitive areas on and within 200' of site.	X (general)		X	X	X (general)	X	X	X	X
37. Copy of Letter of Exemption from the Bureau of Flood Plain Management, NJDEP, and documents sent with application for Letter from NJDEP, if issued.			X	X	X	X	X	X	X
38. Stream Encroachment Permit from the Bureau of Flood Plain Management, NJDEP, if issued.			X	X	X	X	X	X	X
39. Map showing the Stream Encroachment area at a scale being used by the applicant for his submission.			X	X	X	X	X	X	X
40. Copy of Letter of Interpretation for Wetlands from the Land Use Regulations, NJDEP, and documents sent with application for Letter from NJDEP, if issued.			X	X	X	X	X	X	X

41. Map showing wetlands delineation at the same scale as the development plan, if applicable.			X	X	X	X	X	X	X
42. Existing rights-of-way and/or easements on and within 200' of tract.	X		X	X	X	X	X	X	X
43. Topographical features of subject property from U.S.G.S. map.	X		X	X	X				
44. Existing and proposed contour intervals based on U.S.C. and G.S. datum. Contours to extend at least 200' beyond subject property as follows: up to 15% grade=2', over 15%=5%. Proposed grading shall overlay existing vegetation.						X		X	X
45. Boundary, limits, nature and extent of wooded areas, specimen trees, and other significant physical features (detail may vary).	X (general)		X	X	X (general)	X		X	X
46. Existing system of drainage of subject site and of any larger tract or basin of which it is a part.						X		X	X
47. Drainage area map.						X		X	X
48. Drainage calculations (for minor subdivision it is the Board's option).			X	X		X		X	X
49. Percolation tests (if applicable).			X	X		X		X	X

50. Proposed utility infrastructure plans and profiles and supplier of resources, including sanitary sewer, water, storm water manage- ment, telephone, electric and cable TV.			X	X	X (general avail- ability)	X		X	X
51. Soil Erosion and Sediment Control Plan (if applicable). (to be submitted as a separate package)			X	X		X		X	X
52. Environmental Impact Statement					X (general)	X		X	
53. Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations and general location of buildings.	X			X	X	X		X	X
54. Construction details as required by ordinance.		X				X		X	X
55. Road and paving cross-sections and profiles.						X		X	X
56. Proposed street names.						X	X	X	X
57. New block and lot numbers as assigned by local assessor.			X			X	X		
58. Lighting plan & details.		X		X		X		X	

59. Landscape plan overlaid on grading plan, with a corresponding plant list, planting details and tree protection details. Plant list should include: botanical name, common name, quantity, size at time of planting, root condition, and spacing.		X		X		X		X	X
60. Solid waste management plan.				X				X	X
61. Site identification signs, traffic control signs, and directional signs. Submit elevations and details including method of illumination.		X		X		X		X	X
62. Sight triangles		X	X	X		X	X	X	X
63. Vehicular and pedestrian circulation patterns including handicap access (less detail necessary for informal review/concept plan.)	X (general)			X	X	X (general)		X	X
64. Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.			X	X		X		X	X
65. Mounted renderings of site plan/subdivision layout.	X			X	X	X	X	X	X

66. Preliminary architectural plans, front, rear, and side building elevations.				X				X	X
67. Building isometrics.				X				X	X
68. Traffic Impact Statement.					X (general)	X		X	

CHAPTER XVI

DESIGN AND PERFORMANCE STANDARDS

§1600 SCOPE AND APPLICABILITY

A. The Residential Site Improvement Standards (NJ AC 5:21) shall govern any site improvements carried out or intended to be carried out or required to be carried out in connection with any application for any subdivision, site plan approval, or variance before any Planning Board created pursuant to the Municipal Land Use Law (*N.J.S.A.* 40:55D-1 et seq.) to the extent as provided in Chapter XXVI Parking, Table 26.2.

B. Except as is otherwise specifically provided, these rules shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, maintenance, and use of any site improvements constructed by a developer. The rules are to be interpreted as the minimum required to ensure public health and safety, and the maximum that may be required in connection with development.

C. These rules shall apply to all site improvement work and appurtenant construction including streets, roads, parking facilities, sidewalks, drainage structures, grading, and utilities which are undertaken by a developer.

1. These rules shall apply to all utilities created by or deriving their authority from municipal ordinance to operate within a given jurisdiction.
2. Choice among options contained in these rules shall be the applicant's unless otherwise specified in these rules.

§1601-1630 Reserved [See NJ Residential Site Improvements – NJAC 5:21]

§1631 HISTORIC DISTRICT AND LANDMARK REVIEW

A. The provisions of this section apply to all real property, existing or proposed man-made structures, natural objects or configurations or any portion or group of the foregoing which are located in an Historic District, or

specifically identified as historic sites within the Historic Preservation Plan of the Master Plan pursuant to *N.J.S.A.* 40:55D-28b(10). All of the foregoing items are collectively referred to herein as Landmarks.

B. All applications for development, building permits, demolition permits, or other municipal permits shall be consistent with the standards set forth herein to the extent such application relates to Landmarks.

C. Standards

1. Demolitions. No application to demolish a Landmark shall be approved unless the following matters have been adequately considered:

   a. its historic, architectural and aesthetic significance;
   b. its use;
   c. its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;
   d. the extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;
   e. the extent to which its retention would promote the general welfare;
   f. the extent to which its retention would encourage study and interest in American history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live; and
   g. if it is within an Historic District, the probable impact of its removal upon the ambience of the historic district.

2. Relocation Out of Flemington Borough. No application to move a Landmark to a location outside the municipality shall be approved unless the following matters shall have been adequately considered along with any other factors the approving authority considers relevant:

   a. the possible historic loss to the site of original location;
   b. the reasons for not retaining the Landmark or structure at its present site;

c. the proximity of the proposed new location to Flemington Borough, including the accessibility by the residents of Flemington Borough and other citizens;
d. the probability of significant damage to the Landmark during the relocation; and
e. the applicable matters listed in Section C.1.

3. Relocation within Flemington Borough. No application to move a Landmark to a new location within Flemington Borough shall be approved unless the following matters shall have been adequately considered an addition to the matters listed in Section C.2:

   a. the compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this Ordinance; and
   b. if the proposed new location is within an Historic District, the visual compatibility factors as set forth in Section C.4. hereof.

4. Visual Compatibility Considered for Landmarks. No application to construct a new structure or an addition to an existing structure, or to move, destroy, or alter the exterior of any Landmark shall be approved unless the visual compatibility of the proposal with the structures and surroundings to which it would be visually related shall have been adequately considered in terms of the visual compatibility factors as set forth in Section C.6.

5. Additional Matters Considered. In regard to all applications, additional pertinent matters may be considered, but in no instance shall interior arrangement be considered except as it may result in exterior changes important to the integrity of the Landmark, such as chimneys, roof design, blocking of windows, or similar changes. These additional pertinent matters may include the following standards and objectives:

   a. every reasonable effort should be made to provide a compatible use for buildings which will require minimum alterations to the building and its environment;
   b. exterior alterations should not destroy the distinguishing qualities or character of the property and its environment, and the removal or alteration of any historical material or

architectural features should be held to a minimum consistent with the proposed use;

c. deteriorated architectural features should be repaired rather that replaced wherever possible, and in the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities;

d. repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs, or the availability of different architectural features from other buildings;

e. distinctive stylistic features or examples of craftsmanship which characterize older buildings should be treated with sensitivity;

f. it should be recognized that many changes to buildings and environments are evidence of the history of the building and the neighborhood, and that these changes may have developed significance in their own right;

g. all buildings should be recognized as products of their own time, and alterations which may be inconsistent with the actual character of the building should be discouraged;

h. contemporary designs for new buildings in old neighborhoods and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the character of the neighborhood, building or its environment;

i. wherever possible, new additions or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired; and

j. wherever possible, there should be compliance with the standards set forth in "Secretary of Interior of Standards for Historic Preservation Projects", as amended from time to time, prepared by the Office of Archaeology and Historic Preservation, Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C.

6. <u>Visual Compatibility Factors</u>

a. Height. The height of any structure and landscaping shall be visually compatible with adjacent Landmarks.

b. Proportion of Building's Front Facade. The relationship of the width of any building to the height of the front elevation shall be visually compatible with buildings and things to which it is visually related.

c. Proportion of Openings Within the Facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and things to which it is visually related.

d. Rhythm of Solids to Voids on Facades Fronting on Public Places. The relationship of solids to voids in facades of buildings shall be visually compatible with the buildings and things to which they are visually related.

e. Rhythm of Spacing of Structures on Streets. The relationship of any structure to the open space between it and adjoining structures shall be visually compatible with the buildings and things to which it is visually related.

f. Rhythm of Entrance and/or Porch Projection. The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and things to which it is visually related.

g. Relationship of Materials, Texture and Color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related, especially those immediately adjacent.

h. Roof Shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.

i. Walls of Continuity. Appurtenances of a building such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of any structure with the buildings and things to which it is visually related.

j. Scale of Building. The size of a building, the mass of a building in relation to open spaces, the windows, door opening, porches and balconies shall be visually compatible with the buildings and things to which it is visually related.

k. Directional Expression of Front Elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

§1632 LANDSCAPE STANDARDS

A. Every applicant for subdivision or site plan approval shall comply with the following minimum standards, except that, with respect to the alternative design concepts set forth below, the applicant may choose between the concepts or present an alternate design equal or superior to the design concepts in terms of quantity of landscaping materials and suitability to the site and to the proposed development. The approving Board may require additional landscaping, if necessary, to create an appropriate landscaping scheme for the site, given the nature of the site and the proposed development thereof. Where subdivisions only are applied for, the minimum standards shall apply only to street trees and to common open space and areas proposed to be dedicated to the public.

1. General. Landscape plans shall conform to the following general design principles:

   a. Use landscaping to accent and complement building, eg., groupings of tall trees to break up long, low buildings and lower plantings for taller buildings.
   b. Locate landscaping to provide for climate control, eg., shade trees on the south to shield the hot summer sun and evergreens on the north side for windbreaks.
   c. Provide for a variety and mixture of landscaping. The variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage.
   d. Local soil conditions and water availability shall be considered in the choice of landscaping.

   e. Consider the impact of any proposed landscaping plan at various time intervals so that, eg., shrubs do not grow and eventually block sight distances or encroach upon road or sidewalks.
   f. All landscape plants shall be typical full specimens conforming to the American Association of Nurserymen Standards and/or Landscape Plans and Specifications for quality and installation.
   g. Assure that no aspect of the landscape design inhibits access to a development by emergency vehicles.

2. Street Trees. Street trees shall be provided for all streets.

   a. Spacing between trees shall be 40 feet on center.
   b. The use of more than one (1) variety of street tree along a roadway shall be provided in order to avoid problems to be associated with monoculture.
   c. Trees shall be planted in groupings of similar varieties. Use trees of similar form, height and character along a roadway to promote uniformity and allow for smooth visual transition between species.
   d. Tree variety selection shall be based upon on-site conditions and tree suitability to these conditions. The Street Tree Selection Guide with the approved street tree list shall be followed

STREET TREE SELECTION GUIDE

Shade Trees for Street Planting

Species		Mature Height Tall (more than 40') Medium (30-40') Small (less than 30')	Value as a Street Tree	Comments
Botanical Name	**Common Name**			
Acer campestre	Hedge Maple	Small	Moderate	Globe shaped, urban tolerant
Acer rubrum	Red Maple	Tall	Excellent	Globe shaped, wet site tolerant, invasive roots
A. rubrum 'Columnare'	Columnar Red Maple	Tall	Moderate	Columnar, wet site tolerate, invasive roots
A. rubrum 'October Glory'	October Glory Red Maple	Tall	Excellent	Broad oval shape, wet site tolerant, good fall color
A. rubrum 'Scanlon'	Scanlon Red Maple	Medium	Excellent	Columnar, wet site tolerant, urban intolerant
Acer saccharum	Sugar Maple	Tall	Excellent	Broad oval shape, urban intolerant

Species		Mature Height Tall (more than 40') Medium (30-40') Small (less than 30')	Value as a Street Tree	Comments
Botanical Name	**Common Name**			
A. saccharum 'Columnare'	Columnar Sugar Maple	Tall	Excellent	Columnar, urban intolerant
A. saccharum 'Green Mountain'	Green Mountain Sugar Maple	Tall	Excellent	Broad oval shape, urban intolerant
A. saccharum 'Temple's Upright'	Temple's Upright Sugar Maple	Tall	Moderate	Columnar, urban intolerant
Aesculus carnea 'Brioti'	Ruby Horsechestnut	Medium	Moderate	Globe shaped, red flowers, urban tolerant
Aesculus hippocastanum 'Baumanni'	Double Flowering Horsechestnut	Tall	Moderate	Narrow conical shape, double white flowers, urban tolerant
Carpinus betulus	European Hornbeam	Small	Moderate	Broad oval shape, urban tolerant
Carpinus betulus 'Fastigiata'	Pyramidal European Hornbeam	Medium	Moderate	Columnar shape, urban tolerant
Carpinus caroliniana	American Hornbeam	Small	Moderate	Spreading shape, difficult to transplant
Celtis occidentalis	Common Hackberry	Tall	Moderate	Globe shaped, wet site, dry site, urban tolerant
Cladrastis kentukea (lutea)	Yellowwood	Medium	Moderate	Globe shaped, white flowers in early summer
Fraxinus americana	White Ash	Tall	Excellent	Globe shaped, urban tolerant, spray for borers
Fraxinus pennsylvanica "Marshall's Seedless'	Marshall's Seedless Green Ash	Tall	Excellent	Wet site, urban tolerant, spray for borers
Gleditsia triacanthos inermis 'Shademaster'	Shademaster Thornless Honeylocust	Tall	Moderate	Broad oval shape, mimosa webworm problem, urban

Species		Mature Height Tall (more than 40') Medium (30-40') Small (less than 30')	Value as a Street Tree	Comments
Botanical Name	**Common Name**			
				tolerant
Gleditsia triacanthos inermis 'Skyline'	Skyline Thornless Honeylocust	Tall	Moderate	Pyramidal, mimosa webworm problem, urban tolerant
Liquidambar styraciflua	American Sweet Gum	Tall	Poor - Moderate	Broad oval shape, good fall color, wet site tolerant, gumballs are litter problem
Magnolia xloebneri 'Merrill'	Dr. Merrill Magnolia	Small	Moderate	Broad oval shape, white flowers, urban tolerant
Magnolia salicifolia	Anise Magnolia	Medium	Excellent	Narrow conical shape, white flowers
Platanus acerifolia	London Planetree	Tall	Moderate	Spreading shape, urban tolerant
Platanus occidentalis	American Sycamore	Tall	Poor	Spreading shape, wet site tolerant, subject to twig blight
Pyrus calleryana 'Chanticleer'	Chanticleer Pear	Medium	Excellent	Broad oval shape, urban tolerant, white flowers, red fall color
Quercus palustris	Pin Oak	Tall	Moderate	Narrow conical, wet site tolerant, lower branches are a problem
Quercus phellos	Willow Oak	Tall	Moderate	Broad oval shape, wet site tolerant, fine texture
Quercus rubra	Red Oak	Tall	Excellent	Spreading shape, urban tolerant
Ulmus americana	American Elm	Tall	Moderate	Vase shaped, resistant to Dutch Elm Disease
Zelkova serrata 'Green Vase'	Japanese Zelkova	Tall	Moderate	Wine-glass shaped, wide canopy, resembles elm, dry site tolerant

Species		Mature Height Tall (more than 40') Medium (30-40') Small (less than 30')	Value as a Street Tree	Comments
Botanical Name	**Common Name**			
Zelkova serrata 'Village Green'	Village Green Zelkova	Tall	Excellent	Vase shaped, resembles elm, dry site tolerant

e. Trees shall be a minimum of three (3) inches to three and one-half (3½) inches caliper (based upon American Nurserymen Standards). Within sight triangles, a single tree may be permitted only with site-specific approval of the Borough Engineer. Such trees, including those at driveways, shall be of such size as will enable them to be immediately pruned up to seven (7) feet branching height upon planting.

3. Cul-de-Sacs. Cul-de-sac islands provide an opportunity to create visual interest, soften the harshness of a large paved area, increase groundwater recharge, screen headlight glare into residences, and preserve existing vegetation.

   a. All plant material shall exhibit a mature height under 30" or above 7' with no more than three trunks in order to allow for proper visibility.
   b. All plants shall be tolerant of harsh, dry roadwide conditions.
   c. Ground cover plantings shall be consistent with the degree of maintenance expected for the cul-de-sacs and of sufficient density to entirely cover the ground plane.

4. Stormwater. Stormwater management areas include retention and detention basins, drainage ditches and swales, and wetland areas. Sensitively-designed basins and swales can benefit the health, welfare and safety of Borough residents. This may involve integration of these areas as aesthetic landscape features, naturalized wetland areas, or active and passive recreation areas, in addition to their stormwater management function.

a. Stormwater Detention Areas.

(1) The detention area shall be graded creatively to blend into the surrounding landscape and imitate a natural depression with an irregular edge. This shall include gentle berming and avoiding linear, geometric basins.

(2) The quantity of trees to be planted on the interior of the basins shall be equal to the number of trees that would be necessary to cover the entire area, based upon a 20 foot by 20 foot grid to the high water line or outflow elevation. Of this number 10% shall be 2-2½" caliper, 20% shall be 1-2" caliper, and 70% shall be 6-8' height whips. The trees shall be planted in groves and spaced 5 feet to 15 feet on center.

(3) The ground plane shall be seeded with a naturalization, wildflower and/or wet meadow grass mix. The specific blend shall be approved by the Borough Landscape Architect.

(4) All woody and herbaceous plants shall be species indigenous to the area and/or tolerant to typical wet/dry floodplain conditions.

TREES AND SHRUBS RECOMMENDED FOR WET SITES	
Amelanchier alleghiensis	Allegheny Serviceberry
Viburnum recognitum	Arrowwood Viburnum
Aronia melanocarpa	Black Chokeberry
Nyssa sylvatica	Black Gum
Salixiinigra	Black Willow
Acer negundo	Boxelder
Celphalanthus occidentalis	Buttonbush
Sambucus Canadensis	Elderberry
Betula populifolia	Gray Birch
Fraxinus pennsyanicum	Green Ash
Vaccinium corymbosium	Highbush Blueberry

TREES AND SHRUBS RECOMMENDED FOR WET SITES (continued):

Ilex glabra	Inkberry Holly
Quercus palustris	Pin Oak
Salix	Pussy Willow
Aronia arbutifolia	Red Chokeberry
Acer rubrum	Red Maple
Cornus	Red Twig Dogwood
Betula nigra	River Birch
Amelanchier canadensis	Shadblow Serviceberry
Cornus amomum	Silky Dogwood
Acer saccharinum	Silver Maple
Alnus serrulata	Smooth Alder
Lindera benzoin	Spicebush
Salix	Streamco Willow
Rhododendron viscosum	Swamp Azalea
Rosa palustris	Swamp Rose
Quercus bicolor	Swamp White Oak
Magnolia virgineana	Sweetbay magnolia
Liquidambar styraciflora	Sweetgum
Clethra alnifolia	Sweet Pepperbush
Platanus occidentalis	Sycamore
Itea virginica	Virginia Sweetspire
Ilex verticillata	Winterberry Holly

(5) Planting shall not be located within ten (10) feet of low flow channels to allow for maintenance.

(6) The perimeter area (slopes above the high water line) shall include shade trees (approximately 60/1000 linear feet), evergreen trees (approximately 30 ornamental trees and shrubs screening drainage structures and

creating visual interests.

(7) Provisions for emergency access as well as general maintenance of the basins shall be reviewed by the Borough Engineer. Plantings shall be designed to disguise yet not hinder vehicular access.

(8) Plantings are not permitted upon any dikes associates with a detention basin unless approved by the Borough Engineer.

b. Stormwater Retention Areas - Open Space/Recreation Features. This landscape treatment can take on a variety of landscape forms, from formal reflecting pools and canals or entry fountain features to natural park-like lakes and ravines.

(1) Water fountains/features are encouraged in the design of research and developments.

(2) The waters edge shall be easily maintained and stable. Possible treatments might include rip-rap, stone walls, natural plantings, decking and bulkheads.

(3) The planting of the perimeter of the feature shall accentuate views and interest and integrate pedestrian paths, sitting areas, and other uses.

(4) Plantings shall include formal or informally-massed deciduous and evergreen trees and shrubs to screen and frame views with ornamental trees, shrubs and grasses used for visual interest or special effects. A continuous landscape area shall be provided.

(5) If used as a recreational feature, the connection to the water must be addressed and controlled. The types of uses shall be specified and the plantings and pedestrian spaces shall be integrated with these uses.

(6) Plants with pervasive root systems shall not be located where they may cause damage to drainage pipes or other underground utilities.

(7) All engineered basin structures shall be designed to blend into the landscape in terms of construction materials, color, grading and planting.

5. Open Space. Common or public open space provided as a part of any cluster development shall be landscaped in one of the following ways, depending upon the intent of the use for the open space.

a. Preservation of Open Space. This treatment is appropriate in areas adjacent to and inclusive of natural amenities to be preserved, such as wooded areas, water bodies; streams and wetlands, as well as other undevelopable areas.

The following standards shall apply:

(1) Use open space to preserve existing natural amenities during site planning.
(2) Provide pedestrian walkways and bridges as necessary to connect to open space on adjacent tracts of land.
(3) Cleared areas shall be renaturalized where appropriate.
(4) The planting quantities and sizes for renaturalized areas shall be as per renaturalization standards.
(5) The ground plane shall be seeded with a naturalization wildflower and/or meadow grass mix. The specific blend shall be approved by the Borough Landscape Architect.

b. Recreation Open Space. Recreational open space includes lands provided for active recreation and passive recreation and as additions to park lands. It can take on many forms, from a tot lot or tennis and swimming complex in a residential development to an English landscape garden in an office development. The landscape treatment of these areas shall address safety, visual interest, microclimate and use.

The following standards shall apply:

(1) The proposed use of all open space areas shall be indicated and comply with Borough ordinances.
(2) Open space in commercial, office or similar developments shall include sitting and outdoor eating areas. Provisions for other active and passive recreation facilities is encouraged.
(3) Grading and plantings of the recreation area shall remain consistent with the overall landscape design. The landscape design shall consist of massed deciduous and evergreen trees and berms to create spaces and

views and ornamental trees and shrub masses for visual variety, interest and detail.

(4) Plants shall be provided in a mix of sizes with shade trees averaging 2-2½" caliper, ornamental and evergreen trees averaging 6-8 feet in height and shrubs 24-36 inches height.

(5) In general, plants shall be provided at the following rate:

i. Shade trees - 15 per acre
ii. Evergreen Trees - 5 per acre
iii. Flowering Shrubs - 3 per acre
iv. Shrubs - 20 per acre

The above quantities do not include plants necessary to achieve screening, which shall be provided.

(6) Irrigation of all open space/planted areas within non-residential developments shall be provided.

(7) All plants shall be tolerant of specific site conditions, which shall be indigenous species. Exotic, invasive plant species are not permitted.

(8) Suggested improvements for residential recreation open space areas include a tot lot (play structure with slide and a separate swing set), an open air shelter, an open lawn area for open field play, pedestrian pathways, and benches. Other improvements shall be provided as required by ordinance based upon population.

(9) The adjacent residences shall be partially screened from play areas using berms and planting.

(10) If a recreation facility fronts onto a roadway, a post and rail fence or other protective measures may be integrated to provide protection and separation. The adjacent street tree planting shall be continued along this area, and any reverse frontage buffer planting shall be integrated with open space planting.

(11) All open space should optimally be located centrally within a development. In large developments, several smaller facilities may be appropriate. Adequate access from buildings, roadways, and other open space areas shall be provided. Pedestrian easements between lots, connecting to open space areas in another development or a public facility, shall be provided.

6. Buffers. Landscaping buffers are areas provided to minimize and screen any adverse impacts or nuisances on a site or from any adjacent area. Included within any landscape buffer area shall be a landscape strip consisting of trees, conifers, shrubs, berms, and if appropriate, fences or walls and providing a completely planted visual barrier. In areas of less than twenty-five (25) feet width, the provisions of the windbreak/heavy buffer requirements shall be followed.

   a. Nonconforming Use Buffer. These buffers shall be provided where a residential zone abuts an area currently used or zoned for a different or higher intensity use. The following landscape treatment shall be provided to assure complete visual screening.

      (1) Provide a buffer area as per zoning ordinance yard/setback requirements.
      (2) Preserve existing trees within the provided landscape buffer area. If existing vegetation is insufficient, the landscape strip shall be supplemented with new understory plantings of shade-tolerant coniferous and ornamental trees in naturalistic groupings in order to provide a complete visual screen.
      (3) Areas void of existing vegetation shall receive landscape treatment including berming and planting consisting of groupings of predominantly evergreen trees, with deciduous and ornamental trees and shrubs for visual interest and variety.
      (4) Berming shall be 2-8 feet in height and meander in a naturalistic manner without adversely affecting natural drainage.
      (5) Planting shall consist of evergreen trees of minimum height 6-8 feet planted 10 feet on center, shade trees 2½ - 3"caliper, flowering tree 4-5 feet height and shrubs 2 feet high, planted in naturalistic groupings of mixed plant varieties and sizes.

b. Reverse Frontage Buffer. Reverse frontage screening shall be required where residential units and/or lots back onto any arterial or major collector street. The following landscape treatments shall be provided in order to screen private residential spaces from the roadway.

(1) Provide a continuous landscape/sidewalk easement or open space strip of not less than 50 feet width.
(2) Preserve existing trees within the provided landscape buffer area. Supplement understory with shade tolerant naturalistic massed plantings of evergreen and ornamental trees in order to complete screening of residences. Meander sidewalk into new plantings and, as necessary, to preserve existing trees.

c. Filtered Buffer. Filtered screening shall be required around the perimeter of parking areas and where interior roads run parallel with other roads, parking areas, or the perimeter of a site in order to screen unsafe distractions and avoid confusion.

The following standards shall apply:

(1) Provide landscape buffer area of 25 feet in width or as per zoning ordinance front yard requirements, whichever is greater.
(2) Preserve existing trees within the landscape buffer area. If existing vegetation is insufficient, the landscape strip shall be supplemented with new understory plantings of shade-tolerant coniferous and ornamental trees in naturalistic groupings.
(3) In areas of necessary disturbance, existing quality vegetation shall be relocated for use in other areas. Detailed plans for tree removal and relocation must be made on plans and in the field (tag trees) for review and inspection.
(4) The landscape design shall provide shade for parking areas and evergreen and ornamental trees to screen nuisances and emphasize appropriate views.
(5) All plants shall be tolerant of harsh roadside conditions.

(6) If a 25 feet landscape strip cannot be provided, a row of evergreen trees or a combination of a low wall and berm with planting may be required.

d. Windbreak/Heavy Screening. Windbreak screening shall be required where necessary to provide windbreak or to stop windborne debris from leaving a site. This type of screening may also be required in undersized buffer areas or around outdoor storage facilities. The following standards shall apply:

(1) Provide a landscape strip consisting of a double staggered row of evergreen trees of 6-8 feet height spaced 8 feet on center.
(2) If a landscape buffer area is less than 10 feet wide, or windborne debris is produced, then a fence may be required in addition to planting.
(3) All outdoor storage facilities shall be screened with a landscape strip. If the strip is less than 10 feet wide, a fence shall be required.
(4) If a fence is required, it shall be 6 feet high and of a design consistent with the architecture of the principal building. Planting shall be included in any fencing plan.

e. Parking Areas. The objectives of the landscape architectural treatment of all parking areas shall be to provide for safe and convenient movement of vehicles, to limit pedestrian/vehicular conflicts, to limit paved areas, to provide for screening from public right-of-way and buildings, to soften the overall visual impact of parking lots, and to provide shade and reduce heat island effects.

(1) Large parking lots shall be subdivided into modules of 10-12 spaces on a side. Separation of modules should be achieved by a landscape buffer area and strip of 10 feet width. Integrating pedestrian circulation into these strips should be considered.
(2) Trees within the parking areas shall be provided at a minimum rate of 1 tree per 3 parking spaces, except where the normal spread of the tree exceeds 30 feet. Preservation or relocation of existing trees greater than 5 inches in caliper is encouraged to meet this

requirement. Landscape buffer or parking area perimeter plantings do not satisfy this requirement.

(3) Any parking area in a front yard or within clear view from the public right-of-way shall be screened from view by a landscape buffer area.

(4) Parking areas shall be screened from interior drives using evergreen, deciduous and flowering trees and shrubs to create a continuous landscape strip of 10 feet minimum width. Consider integration of pedestrian walkways within these strips.

(5) Plant sizes shall be a minimum 2½-3" caliper for shade trees, 5-6 feet height for evergreen and ornamental trees and 2 feet height for shrubs.

(6) Parking lot lighting should be sited within landscape islands. However, trees shall not hinder safe lighting coverage. Therefore, varieties must be considered. Shade trees should be used so as to reduce glare to adjacent properties, buildings and roadways.

(7) Pedestrian and vehicular conflicts shall be minimized through design, yet, when necessary, clearly indicated by change of paving and/or plant material.

7. Amenities/Resources. The objectives of landscape architectural treatment of sites inclusive of historic resources and natural amenities shall be to preserve and enhance such amenities for present and future residents. Historic resources and natural amenities are areas of unique landscape character. This may include, but is not limited to, bodies of water, streams, wetlands, windbreaks, groves of trees, hedge rows, orchards, unique vistas, farmsteads, villages and historic structures and landmarks. Land developments in the Borough shall be designed to preserve and utilize these amenities as features. The architectural, site plan and landscape architectural design shall utilize these amenities for design themes, preserving their heritage and enhancing their significance.

8. Provisions applicable to Site Plans and Subdivisions

a. Utilize the uniqueness of the existing bodies of water, groves of trees, hedge rows, historic structures and landmarks, and farmsteads within the site plan as features.

b. Respect the historic value and character of the villages and hamlets which exist in the Borough. Development within these areas shall conserve their individual character.

c. Provide landscaping as required, integrated with existing vegetation or historic landscape themes.

d. When appropriate, the development of historical markers or displays in coordination/agreement with the Historic Preservation Commission shall be required.

9. Landscape Maintenance. A landscape management/maintenance specification shall be provided in conjunction with all approved subdivisions as to street trees, common open space and areas to be dedicated to the public and all approved site plans.

§1633 LIGHTING

A. Street lighting of a type supplied by the applicable utility and of a type and number approved by the approving authority shall be provided for all street intersections and along all arterial, collector and local streets and anywhere else deemed necessary for safety reasons. Wherever electric utility installations are required to be underground, the applicant shall provide for underground service for street lighting.

B. All parking areas and walkways thereto and appurtenant passageways and driveways serving commercial, public, office, multiple family, recreational or other uses having common off-street parking and/or loading areas shall be adequately illuminated for security and safety purposes. The lighting plan in and around the parking areas shall provide for non-glare lights focused downward. The light intensity provided at ground level shall be indicated in footcandles on the submitted site plans and shall average at least five-tenths (0.5) footcandles at intersections. Refer to Exhibit A for other areas to be illuminated. Lighting shall be provided by fixtures with a mounting height not more than twenty-five feet (25') or the height of the building, whichever is less, measured from the ground level to the centerline of the light source.

C. Any other outdoor lighting such as building and sidewalk illumination, driveways with no adjacent parking, the lighting of signs and ornamental lighting, shall be shown on the lighting plan in sufficient detail to allow a determination of the effects upon adjacent properties, traffic safety and overhead sky glow. The objectives of these specifications is to minimize

undesirable off-premises effects. No light shall shine into building windows, nor onto streets and driveways so as to interfere with or distract driver vision. To achieve these requirements, the intensity of such light sources, the light shielding and similar characteristics shall be subject to site plan approval. Wall mounted fixtures are only permitted if directed into a site and not positioned towards neighboring properties or public streets.

1. Exhibit A - Illumination Guidelines for Street, Parking, and Pedestrian Areas

a. Street Illumination

	Area Classification		
Street Hierarchy	**Commercial (Footcandles)**	**Intermediate (Footcandles)**	**Residential (Footcandles)**
Collector/or greater	1.2	0.9	0.6
Minor-Residential subcollector	0.9	0.6	0.4
Local	0.6	0.4	0.4

b. Parking Illumination - (Open parking facilities)

	Vehicular Use Area Only		**General Parking & Pedestrian Safety**	
Level of Activity	**Lux**	**Footcandles**	**Lux**	**Footcandles**
Low activity	5	0.5	2	0.2
Medium activity	11	1	6	0.6
High activity	22	2	10	0.9

c. Pedestrian Way Illumination - Average Levels for Special Pedestrian Security

Walkways & Bikeway Classification	Minimum Average Level Footcandles	Mounting Heights 3 to 5 meters (9 to 15 feet) Footcandles	Mounting Heights 5 to 10 meters (15 to 30 feet) Footcandles
Sidewalks (roadside) and Type A bikeways:			
Commercial Areas	0.9	2.0	4.0
Intermediate Areas	0.6	1.0	2.0
Residential Areas	0.2	0.4	0.8
Walkways distant from roadways and Type B bikeways, park walkways and bikeways	0.5	0.6	1.0
Pedestrian Tunnels	4.0	5.0	-
Pedestrian Overpasses	0.3	0.4	-
Pedestrian Stairways	0.6	0.8	-

D. Facilities for Pedestrians and Bicyclists

1. Pedestrian sidewalks shall be provided throughout the district, interconnecting all units with community facilities and active open space and in such locations, including entrances and exits, where normal pedestrian traffic will occur. Where appropriate, bikeways may be provided instead of sidewalks. Provision of bikeways along streets shall be made upon determination and requirement by the Planning Board and the Master Plan.

CHAPTER XXVI

ZONING

§ 2600 SHORT TITLE.

The short form by which this Ordinance may be known shall be "THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF FLEMINGTON".

§ 2601 PURPOSES.

It is the intent and purpose of this Ordinance to exercise the authority delegated to municipalities under the Municipal Land Use Law (P.L. 1975, c. 291; codified as *N.J.S.A*. 40:55D-1 et seq.) to regulate development.

This Ordinance is intended to implement the policies of the Master Plan in its provisions:

A. To guide the appropriate use or development of all lands in a manner that will promote the public health, safety, morals and general welfare;

B. To secure safety from fire, flood, panic and other natural and manmade disasters;

C. To provide adequate light, air and open space;

D. To ensure that the development of the Borough of Flemington does not conflict with the development and general welfare of neighboring municipalities, the county and State as a whole;

E. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;

F. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;

G. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and

open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

H. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which will result in congestion or blight;

I. To provide a desirable visual environment through creative development techniques and good civic design and arrangements;

J. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;

K. To encourage senior citizen community housing construction;

L. To encourage the 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;

M. To promote utilization of renewable energy sources;

N. To promote the maximum practical recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to compliment municipal recycling programs;

O. To encourage a mixture of land uses that facilitates non-vehicular and pedestrian access;

P. To plan adequately for the timely provision of new community facilities, including but not limited to:

1. Firehouses;

2. Schools;

3. Community Centers;

4. Parks;

5. Bicycle lanes and pedestrian paths;

6. Municipal facilities; and

7. Public transit.

Q. To encourage the redevelopment and revitalization of existing underutilized or abandoned lands and buildings;

R. To promote the redevelopment and revitalization of the commercial center of Flemington through coordinated parking, streetscape improvements, signage, and lighting in keeping with the historic character of this district;

S. To preserve and enhance historic buildings, places and landscapes, encourage the maintenance of traditional architectural forms in buildings, and retain streetscape characteristics.

T. To establish design standards to encourage the construction of new buildings to complement the style and scale of existing buildings;

U. To promote the preservation of natural features during land development;

V. To promote the visual improvement of the Borough's major arterials by the coordination of visual design and character of signage, planting additional street trees, and requiring on-site landscaping improvements during the redevelopment review process.

W. To encourage the coordination of development through the connection of commercial properties by easement and physical improvement.

X. To decrease the visibility and extent of parking lots and access driveways by:

1. Requiring the installation of landscaped traffic islands in parking lots;

2. Screening parking lots from the traveling public and adjacent residents by a combination of landscaping, berming, walls and fencing; and

3. Reducing the required number of parking spaces in pedestrian-oriented development and redevelopment.

§ 2602 INTERPRETATION OF STANDARDS.

The provisions of this Ordinance shall be held to be the minimum requirements for the protection of the public health, safety, and welfare. Where this Ordinance imposes a greater restriction than is imposed and required by other provisions of the Borough of Flemington, county, state, or federal government, the provisions of this Ordinance shall control. Where such other laws, ordinances, rules, regulations, or resolutions require greater restrictions than are imposed by this Ordinance, the provisions of such other laws, ordinances, rules, regulations, or resolutions shall control.

§ 2603 PROHIBITED USES.

All principal, accessory and conditional uses not expressly permitted in this Ordinance are hereby prohibited.

§ 2604 TIME OF COMPLIANCE.

All applicable requirements shall be met at the time of erection, enlargement, alteration, moving or change in any use or structure and shall apply to the entire structure or structures whether or not the entire structure or structures were involved in the erection, enlargement, alteration, moving or change in use.

§ 2605 DATE OF APPROVAL.

The time period for the effect of approval shall begin with the date of the adoption of the resolution memorializing such approval of the subject application by the Board of Jurisdiction.

§ 2606 GENERAL PROVISIONS.

A. Required Conformance. No structure shall be erected and no existing building shall be moved, altered, enlarged, or rebuilt, nor shall any land be designed, used or intended to be used for any purpose other than as permitted within the zoning districts so described by this Ordinance, nor shall any open space or yard area be encroached upon or reduced in any manner except in strict conformity with the regulations contained herein.

B. Unlawful Encroachment. In the event of any unlawful encroachment or reduction of open space or yard area, the building or structure, as the case may be, shall be deemed in violation of the provisions of this Ordinance and the certificate of occupancy for such building or structure shall be null and void.

C. Exception for Certain Utilities and Other Infrastructure. The provisions for review by a board of competent jurisdiction shall not apply to utility distribution or collection lines for water, sewerage, storm water, natural gas, and electric, nor telephone, cable television or other telecommunications lines supplied by a public or local utility, or cable television company which are located in or on a public street providing service to private property.

D. Frontage on Public Street. Every principal use shall be located on a lot with frontage upon an existing improved public street or new street which has been built in accordance with the applicable Borough standards or for which such improvement has been insured by the posting of a performance guaranty in accordance with this Ordinance.

E. Dedication of Right-of-Way. No subdivision or site plan involving any street(s) requiring additional right-of-way width as specified in the Master Plan or Official Map and the street requirements of this Ordinance shall be approved unless such additional right-of-way, either along one or both sides of said street(s), as applicable, shall be deeded to the municipality or other appropriate governmental agency.

F. Yards. No open space provided around any principal building for the purposes of complying with the front, side, or rear yard requirements of this Ordinance shall be considered as providing for the required yard areas of another principal building.

§ 2607 EXCEPTIONS AND PERMITTED MODIFICATIONS.

A. Permitted Modifications for Residential Infill Development. New principal dwellings in the Transition Residential district and the Single Family district on infill lots may encroach within the yard areas as otherwise required in this Ordinance under the following criteria:

1. Front Yard. The front yard depth may be reduced to the average of the setbacks from the streetline of existing dwellings on both sides of

the proposed residence. In the event an adjacent lot is vacant, the average shall be calculated using the required setback for the vacant lot.

2. Side Yard. The side yard may be reduced to the depth of the side yard of the adjacent lot but in no instance shall the distance between dwellings be reduced to less than 10 feet.

B. Height Limits. Except for one and two-family dwellings as permitted in this Ordinance, penthouses or roof structures for the housing of stairways, tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building, skylights, spires, cupolas, flagpoles, chimneys or similar structures may be erected above the height limits prescribed by this Ordinance but in no case shall such extension exceed 20% of the maximum height permitted in the district.

C. Child Care Centers and Family Day Care Homes.

1. Child Care Centers. Child care centers shall be permitted in any non-residential district. Any child care center shall be duly licensed pursuant to *N.J.S.A.* 30:5B-1 et seq. A child care center functionally integrated within a non-residential development owned or operated for the benefit of their employees, their tenant's employees, or employees within an office or business park or research and development complex shall not be required to provide additional off-street parking for the use. In the calculation of any floor area ratio applicable to an office or business park or research and development complex, the area occupied by a child care center shall not be included.

2. Family daycare homes as defined in 40:50D-66.5a. and b. are principal permitted uses in all residential zone districts.

D. Emergency Housing. Trailers for emergency housing for households displaced by fire, storm, flooding, or other natural disaster may be located on individual lots in zoning districts where single family detached and two-family residential uses are permitted for the period of reconstruction. The installation of such trailers shall conform to the following requirements:

1. No trailer shall be installed at a site prior to the issuance of all required Uniform Construction Code permits.

2. The trailer shall be placed on the lot where the residence made uninhabitable by such disaster is located.

3. No more than one unit of emergency housing shall be permitted per lot.

4. All such trailers shall be removed from the reconstruction site upon the issuance of a temporary certificate of occupancy prior to permitting the occupancy of the permanent residence.

5. No such trailer shall be placed in the front yard setback required for the respective zoning district.

6. Such temporary housing shall not exceed 900 square feet in floor area.

E. Groundwater Remediation. Temporary structures and equipment required for the remediation of groundwater contamination pursuant to *N.J.S.* 58-10A-1 et seq. shall be permitted in any district provided that:

1. Existing on-site buildings shall be used to the extent feasible to house equipment and offices;

2. Structures and equipment shall be set back from any property line a minimum of 25 feet, and shall emit no noise when measured at the property line.

3. Equipment shall be enclosed by opaque fencing.

4. All temporary structures and equipment shall be removed within 90 days following completion of the remedial action.

5. Disturbed areas shall be graded and seeded with an appropriate ground cover in accordance with the soil erosion control regulations of the municipality or county.

6. Groundwater remediation action shall be exempt from site plan review as otherwise required in this Ordinance.

F. Public and Local Utilities and Cable Television Facilities. Distribution facilities for public and local utilities and cable television companies shall be permitted in any district, but shall not include communication towers or antennae, utility yards for the storage of vehicles, equipment and supplies,

nor for maintaining and extending distribution networks, power generation, or facilities requiring a New Jersey Pollution Discharge Elimination System permit (NJPDES), provided that:

1. The proposed installation in a specific location must be reasonably necessary for the satisfactory provision of service by the utility to the neighborhood or area in which the particular use is to be located.

2. The design of any building in connection with such facilities must conform to the general character of the area and not adversely affect the safe, comfortable enjoyment of property rights in the zone in which it is located.

3. Adequate fences and other safety devices must be provided as may be required. Fences, when used to enclose public utility facilities such as electrical power substations, shall be built in accordance with the applicable requirements of the New Jersey Board of Public Utility Commissioners and the National Electrical Code in effect at the time of construction.

4. Landscaping, including shrubs, trees and lawns, shall be provided.

5. Off-street parking shall be provided as determined by the Approving Authority during site plan review.

6. All of the other area, yard, height and building coverage requirements of the respective zone and any other applicable requirements of this Ordinance shall be met.

G. Sales Offices. Temporary sales offices for the marketing of residential development shall be permitted only upon the lot or tract to which such sales relate. Temporary sales offices shall conform to the following requirements:

1. No such office shall be installed prior to the filing of stamped final subdivision plats or issuance of signed and sealed site plans, as the case may be.

2. Sales offices shall provide for no less than five (5) and no more than ten (10) temporary off-street parking spaces located in a safe and convenient manner. Off-street parking shall be provided as determined by the Approving Authority during site plan review.

3. No sales office shall be located within 25 feet of a lot line or streetline. Such offices shall be temporarily landscaped along the foundation of the structure.

4. Sales offices shall be removed from the site under any of the following circumstances:

   A. The issuance of a certificate of occupancy for a model dwelling unit.

   B. The sale or lease of 75% of the total number of housing units in the development.

H. Temporary Construction Trailers. Temporary construction trailers at work sites shall be permitted in all zoning districts for office use and the storage of equipment and supplies during active construction activities. The installation of such trailers shall conform to the following requirements:

1. No trailer shall be installed at a work site prior to the issuance of a construction permit.

2. All such trailers shall be removed from the work site upon the issuance of a temporary or permanent certificate of occupancy to which the use of the trailer relates.

3. No trailer shall be remain at a work site where active construction activity has ceased for a period of more than 30 days, except where inclement weather prohibits the immediate renewal.

4. No trailer shall be located within 25 feet of a lot line or streetline. Such trailers shall be temporarily screened from public view by a combination of opaque fencing and/or landscaping.

5. No more than 3 temporary construction trailers shall be permitted per work site, and shall be removed prior to the issuance of the last certificate of occupancy.

I. Temporary Uses. Application may be made to the Borough Council for a permit for a temporary use inconsistent with the provisions of this Article for special events lasting for a period not to exceed two weeks in any one year. Such events may include, but not be limited to, circuses, bazaars, fairs, and

athletic contests. In the granting or denial of such temporary use permit the Borough Council may consider the following:

1. The adequacy of provisions for public safety, including, but not limited to, fire prevention, crowd control, and emergency medical services.

2. The adequacy of provisions for vehicular and pedestrian traffic control, including ingress and egress, parking, attendants and temporary traffic signage.

3. The adequacy of provisions for food handling, solid waste, and sanitary sewerage.

4. The sufficiency of insurance for the event.

5. Any other measures necessary to protect the public health, safety, and welfare.

The Borough Council may impose reasonable conditions on the issuance of any temporary use permit including, but not limited to, the posting of adequate surety and the reimbursement of expenses incurred by the municipality.

§ 2608 EXISTING AND NON-CONFORMING USES, STRUCTURES OR LOTS.

A. Continuance. Any nonconforming use or structure lawfully existing at the time of passage of the ordinance which made such use or structure non-conforming may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction (up to but not exceeding 50% of value) thereof.

B. Non-Conforming Use Certificate. A prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure was in existence before the adoption of the ordinance which rendered the use or structure non-conforming and that said use or structure may continue as a lawful pre-existing use pursuant to *N.J.S.A.* 40:55D-68. The applicant shall have the burden of proof.

C. Application Procedure. Applications pursuant hereto shall be made to the Zoning Officer within one (1) year of the adoption of the ordinance which rendered such use or structure non-conforming, or at any such time to the Planning Board. Notice shall be given in accordance with §1410. A fee in accordance with Chapter XXVIII shall be required for the Certificate of Non-Conforming Use. The Board Secretary shall publish notice of the Zoning Officer's decision of either approval or denial of the certification in the Planning Board's official newspaper within ten (10) days of the issuance of such certification or denial of same. Any interested party affected by any decision of the Zoning Officer may appeal such decision to the Planning Board in accordance with *N.J.S.A.* 40:55D-72 within twenty (20) days of the publication of the notice of decision.

D. Maintenance. 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, or increase the area of a lot used for a nonconforming purpose.

E. Building Additions. Any existing structure with a permitted use located on either a conforming or nonconforming lot, but which building is situated on the lot so as to violate one or more yard requirements, may have additions to the principal building and/or construct an accessory building without an appeal for a variance, provided:

1. The existing use(s) on the lot are conforming to the permitted use(s) stipulated in this Ordinance for the lot in question; and

2. The total permitted building coverage is not exceeded; and

3. The accessory building and/or addition do not violate any other requirements of this Ordinance including, but not limited to, height, setback, and parking; and

4. There is no increase in the existing non-conformity.

5. This section shall not apply to infill development.

6. The addition of eave overhangs, cellar doors and similar features is permitted, if they do not more than extend four (4) feet beyond the building setback.

F. Subdivision of Lots. An existing lot whose area and/or dimensions are sufficient to permit a subdivision, but where a structure exists on the lot with one or more setback violations, may nevertheless be subdivided without an appeal for a variance provided the subdivision itself does not create any new zoning violations and does not increase the severity of the existing setback violations.

G. Merging of Substandard Lots. Whenever title to two or more contiguous lots is held by the same owner, regardless of whether or not each of the lots may have been approved as portions of a subdivision or acquired by separate conveyance or by other operation of law, and one or more individual lots should, by reason of substandard area or yard space or similar measurements, not conform with the minimum lot area and dimension requirements for the zone in which it is located, the contiguous lots shall be merged into a single lot.

§ 2609 ACCESSORY BUILDINGS, STRUCTURE OR USE.

The following regulations shall apply to all accessory buildings:

A. Accessory Buildings as Part of Principal Buildings. Any accessory building attached to a principal building shall be considered part of the principal building and the total structure shall adhere to the yard requirements for the principal building regardless of the technique of connecting the principal and accessory buildings.

B. Accessory Buildings Not to Be Constructed Prior to Principal Building. No permit shall be issued for the construction of an accessory building prior to the issuance of a construction permit for the construction of the main building upon the same premises. If construction of the main building does not precede or coincide with the construction of the accessory building, the construction official shall revoke the construction permit for the accessory building until construction of the main building has proceeded substantially toward completion.

C. Location and Setback of Accessory Buildings. An accessory building or structure may be erected in side and rear yard areas only excepting certain limited uses otherwise permitted in this Ordinance and shall be set back from property lines as required herein. In the event that no accessory building or structure setback is established in the particular district, the setback requirements for principal buildings shall apply.

§ 2610 ZONING DISTRICTS.

For the purposes of this Ordinance, the Borough of Flemington is hereby divided into the following districts:

Zoning District	Zoning Symbol
Single Family Residential	SF
Transition Residential	TR
Townhouse Residential	TH
Garden Apartment Residential	GA
Senior Citizen Residential	SC
Transition Commercial	TC
Community Business	CB
Downtown Business	DB
Downtown II Business	DBII
Professional Office	PO
Village Shopping	VS
Highway Retail	HR
Super Shopping Overlay	O/SS
Public School and Parks	PS/P

§ 2611 ZONING MAP.

The zoning map entitled "Zoning Map, Flemington Borough, Hunterdon County, New Jersey," dated August, 1999 is hereby adopted and made a part of this Ordinance.

§ 2612 INTERPRETATION OF ZONING MAP.

A. Interpretation of Boundaries and Property Lines. Zoning district boundary lines are intended to follow street centerlines, railroad rights-of-way, streams and lot or property lines as they exist on lots of record at the time of enactment of this Ordinance unless otherwise indicated by dimensions on the zoning map. Any dimensions shown shall be in feet and measured horizontally and, when measured from a street, shall be measured from the street right-of-way line even if the centerline of that street is used for the location of a zoning district line. The exact location of any disputed zoning district boundary line shall be determined by the Planning Board pursuant to *N.J.S.A.* 40:55D-70b.

B. Construction. Where boundaries are not fixed by dimensions and where they approximately follow lot lines and where they do not scale more than 20 feet distant therefrom, the street centerlines, railroad rights-of-way, streams and lot lines shall be construed to be such boundaries.

C. Use of Scale. Where a zoning district boundary divides a lot, the location of the boundary, unless indicated by dimensions on the zoning map, shall be determined by use of the stated scale on the map.

D. Applicability Within Each District. The zoning standards, controls and designations apply to every structure, lot and use within each district and the district line extends vertically in both directions, i.e. above and below grade.

§ 2613 SINGLE FAMILY RESIDENTIAL (SF) DISTRICT.

A. Purpose. The purpose of the Single Family Residential (SF) District is to provide locations for detached dwellings occupied by one household generally located in the outer ring of development in the Borough. It is the lowest density residential district in the Borough. In addition to single family uses, governmental and institutional uses are permitted.

B. Permitted Principal Uses. In the Single Family Residential zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except the following:

1. Single family detached dwelling.

2. Place of Worship.

3. ECHO Housing.

a. The ECHO Housing unit shall be located to the rear of the principal residence, but shall not be located in the side or rear setbacks. The Zoning Officer may require a landscaped buffer of evergreen trees and shrubs to minimize visual impact on neighboring properties.

b. The ECHO unit shall be separated from the principal dwelling by a minimum of five feet.

c. The ECHO housing unit shall comply with the minimum unit size requirements for Neighborhood Preservation Balanced Housing Program (*N.J.A.C.* 5.14-1 et seq.) as follows:

(1) Efficiency - 500 sq. ft.
(2) 1 bedroom - 600 sq. ft
(3) 2 bedroom - 750 sq. ft.

d. No ECHO housing unit shall exceed 900 square feet in area.

e. The exterior of ECHO housing units shall be covered with a material and color that is complementary with the facade of the primary residence on the property.

f. The unit shall be removed from the premises within six months of the end of the term of occupancy f the approved applicant and the lot restored to its status prior to the installation of the unit. The Zoning Officer may extend the time period for removal up to an additional three months upon adequate documentation of marketing efforts to sell the unit during the initial six month period.

4. Cemetery.

5. Municipal use, including parks and recreation.

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Single family detached dwellings:

A. Private garage.

B. Private swimming pool and other outdoor recreation.

C. Storage shed.

D. Home occupation in accordance with §2625.

E. Deck, gazebo and cabana.

2. Place of Worship:

   A. Rectory or parish house.

   B. Maintenance shed or garage.

   C. Child care center and senior care center.

   D. Social hall primarily for the use of members.

3. Cemetery:

   A. Grounds keepers house.

   B. Office.

   C. Mausoleum, columbarium or other funerary structure excepting funeral homes or crematoria.

   D. Maintenance building or structure.

4. Signs, §2631.

5. Off-street parking.

6. Fences and walls.

D. Conditional Uses Permitted. The following uses may be permitted when authorized as a conditional use by the Planning Board:

1. Accessory apartment meeting the following criteria:

   A. No more than one accessory apartment per lot shall be permitted.

   B. The accessory apartment shall be used only for one family.

   C. The owner of the lot must reside in the primary dwelling.

   D. The accessory apartment shall be created within the existing square footage of the primary dwelling and any required access and egress shall be created within the existing structure.

E. Any exterior entrance to the accessory apartment shall not be located on the same facade of the building as the primary dwelling.

F. The accessory apartment must contain at least 500 square feet in gross floor area, but must not constitute more than 35% of the gross floor area of the principal building.

G. At least one additional off-street parking space shall be provided for the use of the accessory apartment occupants.

H. The accessory apartment structure and lot shall be in full compliance with all applicable health and construction codes.

I. The owner of the accessory apartment must submit an affidavit of continuing use every two (2) years.

J. Flemington Borough acknowledges the need to provide its fair share of housing for low and moderate income households. Any property owner applying for an accessory apartment under this section must affirmatively demonstrate that the accessory apartment is to be rented to and occupied by a household meeting the affordable housing criteria of the NJ Council on Affordable Housing (COAH) and the Affordable Housing Procedural Requirements of Section 2632.

K. Accessory apartments shall be affirmatively marketed to the housing region and shall be administered by an experienced administrative entity as further described in Section 2633.

L. Recognizing that Flemington Borough is meeting its unmet need with accessory apartments for low and moderate income households, the Borough has not been required to bond to fund the creation of accessory apartments. However, in the event that development fee revenue is available, the Borough will provide at least $10,000 to subsidize the physical creation of an accessory apartment conforming to the requirements of this section.

M. The maximum number of accessory apartments permitted under this section shall be the number that the municipality is permitted to apply toward its unmet fair share obligation of low and moderate income housing in accordance with the

applicable regulations of COAH that exist at the time of application.

N. The accessory apartment shall be rented only to a household which is either a low or moderate income household at the time of initial occupancy of the unit.

O. Ten (10) year affordability controls shall be imposed via a deed restriction or other instrument acceptable to the Borough Attorney and COAH.

P. Rents of accessory apartments shall be affordable to low or moderate income households as per COAH regulations and shall include a utility allowance.

2. Public and private non-profit day school meeting the following criteria:

A. The minimum lot size shall be 3 acres.

B. The minimum lot frontage shall be 150 feet.

C. No building shall be located within 50 feet of a lot line.

D. Parking lots shall be properly screened and shall be a minimum of 25 feet from surrounding properties and public roads.

E. Outdoor athletic fields shall be oriented to minimize adverse impacts on neighboring residential uses from noise, lighting, and vehicular and pedestrian access.

3. Any other requirement not herein modified shall apply to any conditional use.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all SF districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Max. Building Coverage
Single Family Detached	11,250 sf	75'	150'	25'	10'	35'	35'(1)	.50	.25
Accessory Building(2)				*NP*	*5'*	*5'*	*18'*		
Place of Worship	43,560 sf	100'	200'	25'	25'	35'	80'(3)	.50	.25
Accessory Building(2)				*NP*	*15'*	*15'*	*28'*		
Cemetery(4)	5 acres	200'	400'	50'	10'	10'	N/A	.25	.10
Accessory Building(2,5)				*35'*	*15'*	*15'*	*25'*		
Municipal	2,000 sf	45'	50'	25'	10'	10'	45'	.75	.50
Public and Private School	3 acres	150'	350'	50'	25'	50'	45'	.75	.50
Accessory Building(2)				*NP*	*15'*	*30'*	*25'*		

NP = Not Permitted.
N/A = Not Applicable.
(1) - Or 2½ stories, whichever is less.
(2) - No more than two (2) accessory structures for lots < 15,000 sf.; no more than three (3) accessory structures for lots 15,000 sf.
(3) - The ridgeline of the main roof shall not exceed 45 feet in height.
(4) - Setbacks apply to graves and monuments or other markers.
(5) - Applies to any accessory structure in a cemetery excluding uses in note No. 3.

§ 2614 TRANSITION RESIDENTIAL (TR) DISTRICT.

A. Purpose. The purpose of the Transition Residential (TR) District is to provide for a medium density residential district of single family detached and two-family dwellings located between primarily commercial districts and single family zones. Certain governmental and institutional uses would also be permitted.

B. Permitted Principal Uses. In the Transition Residential zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except the following:

1. Single family detached dwelling.

2. Two-family dwelling.

3. Place of Worship.

4. ECHO Housing.

a. The ECHO Housing unit shall be located behind the rear of the principal residence, but shall not be located in the side or rear setbacks. The Zoning Officer may require a landscaped buffer of evergreen trees and shrubs to minimize visual impact on neighboring properties.

b. The ECHO unit shall be separated from the principal dwelling a minimum of five feet.

c. Each ECHO housing unit shall comply with the minimum unit size requirements for Neighborhood Preservation Balanced Housing Program (*N.J.A.C.* 5.14-1 et seq.) as follows:

(1) Efficiency - 500 sq. ft.
(2) 1 bedroom - 600 sq. ft.
(3) 2 bedroom - 750 sq. ft.

d. No ECHO housing unit shall exceed 900 square feet in area.

e. The exterior of ECHO housing units shall be covered with a material and color that compliments the facade of the primary residence on the property.

f. The unit shall be removed from the premises within six months of the end of the term of occupancy of the approved applicant and the lot restored to its status prior to the installation of the unit. The Zoning Officer may extend the time period for removal up to an additional three months upon adequate documentation of marketing efforts to see the unit during the initial six month period.

5. Municipal use, including parks and recreation.

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Single family detached and two-family dwellings:

A. Private garage.

B. Private swimming pool and other outdoor recreation.

C. Storage shed.

D. Home occupation.

E. Deck, gazebo and cabana.

2. Place of Worship:

A. Rectory or parish house.

B. Maintenance shed or garage.

C. Child care center.

D. Social hall primarily for the use of members.

3. Signs, §2631.

4. Off-street parking.

D. Conditional Uses Permitted. The following uses may be permitted when authorized as a conditional use by the Planning Board:

1. Conversion of single family detached dwelling to a two family dwelling meeting the following criteria:

A. The existing dwelling may be expanded and shall meet the minimum gross floor area requirements for the conversion.

B. Each dwelling unit shall have individual kitchen and bathroom facilities.

C. Each dwelling unit created by such conversion shall have a minimum gross floor area of 600 square feet plus 120 square feet per bedroom.

D. No dwelling unit or portion thereof created by conversion shall be permitted below grade.

E. No conversion shall be permitted under the provisions of this section which would result in the creation of more than two dwelling units in a structure or on a lot.

2. Bed and breakfast accommodation conforming to the following criteria:

A. No more than six guest rooms or suites shall be permitted.

B. No expansion of the existing dwelling shall be permitted.

C. Off-street parking space equal to one for each guest room or suite shall be required. Off-street parking may be accommodated off-site provided that the location is within 600 feet of the subject site and an adequate guaranty subject to the approval of the Approving Authority's Attorney that establishes a right to the use of the off-tract parking is secured.

D. No parking shall be permitted in the front yard.

E. Only guests of the facility and their invitees shall be served food and drink on the premises.

F. No cooking facilities shall be permitted in guest rooms or suites.

G. There shall be a maximum residency limitation on all guests of 30 days.

3. Public and private non-profit day school meeting the following criteria:

A. The minimum lot size shall be 3 acres.

B. The minimum lot frontage shall be 150 feet.

C. No building shall be located within 50 feet of a lot line.

D. Parking lots shall be properly screened and shall be a minimum of 25 feet from surrounding properties and public roads.

E. Outdoor athletic fields shall be oriented to minimize adverse impacts on neighboring residential uses from noise, lighting, and entrances.

4. Any other requirement not herein modified shall apply to any conditional use.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all TR districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio
Single Family Detached *Accessory Building*	9,000 sf	50'	125'	25' *NP*	8' *5'*	25' *5'*	35'(1) *18'*	.50
Two Family Dwelling *Accessory Building*	7,500 sf/ dwelling; 15,000 sf total	75'	125'	25' *NP*	8' (2) *5'*	25' *5'*	35'(1) *18'*	.50
Place of Worship *Accessory Building*	43,560 sf	100'	200'	25' *NP*	25' *15'*	35' *15'*	80'(3) *28'*	.60
Governmental	2,000 sf	20'	50'	5'	5'	5'	45'	.75
Public and Private School *Accessory Building*	3 acres	150'	350'	50' *NP*	25' *15'*	50' *30'*	45' *25'*	.75

NP = Not Permitted.
N/A = Not Applicable.
(1) - Or 2½ stories, whichever is less.
(2) - Where two existing units, each on a separate lot, join each other by a common vertical wall from foundation to roof, the side yard between the existing two units shall be 0 feet.
(3) - The ridgeline of the main roof shall not exceed 45 feet in height.

§ 2615 TOWNHOUSE (TH) RESIDENTIAL DISTRICT.

A. Purpose. The purpose of the Townhouse (TH) Residential District is for townhouse dwellings at a density of six units per acre with common open space and amenities in a planned environment. Additionally, municipal and certain institutional uses are permitted.

B. Permitted Principal Uses. In the Townhouse Residential zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except the following:

1. Townhouse dwelling.

2. Municipal use, including parks and recreation.

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Townhouse use:

A. Common elements for the use of all residents:

(1) Community center.

(2) Outdoor recreational facilities, including swimming pool, tennis court or other court sports.

(3) Off-street parking and car sheds.

(4) Fences, walls, gazebos, mail kiosks and other street furniture.

B. For individual uses:

(1) Home occupation in accordance with this Ordinance.

(2) Private garages.

(3) Decks for fee simple townhouses after initial construction.

2. Signs, §2631.

3. Maintenance building, not to exceed 1,500 square feet in gross floor area.

D. Conditional Uses Permitted. Public and private non-profit day schools may be permitted when authorized as a conditional use by the Planning Board meeting the following criteria:

1. The minimum lot size shall be 3 acres.

2. The minimum lot frontage shall be 150 feet.

3. No building shall be located within 50 feet of a lot line.

4. Parking lots shall be properly screened and shall be a minimum of 25 feet from surrounding properties and public roads.

5. Outdoor athletic fields shall be oriented to minimize adverse impacts on neighboring residential uses from noise, lighting, and entrances.

6. Any other requirement not herein modified shall apply to any conditional use.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all TH districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imprev. Surface Ratio
Townhouse:								
Tract	2½ acres	200'	200'	60'	30'	50'		.70
Lot (Fee Simple)	2,000 sf	22'	80'	22'	22'	22'	38'(1)	
Accessory Building				*NP*	*30'*	*30'*	*18'*	*.10*
Municipal	2,000 sf	20'	50'	25'	10'	10'	35'	.75
Public and Private School	3 acres	150'	350'	50'	25'	50'	45'	.70
Accessory Building				*NP*	*15'*	*30'*	*25'*	*.05*

NP = Not Permitted.
N/A = Not Applicable.
(1) - Or 3 stories, whichever is less.

Principal Use	Minimum Front Yard Area	Minimum Rear Yard Area	Min. Unit Width	Max. Gross Density	Min. Open Space	Min. Distance Between Buildings	Min. Distance Between Buildings and Accessory Uses
Townhouse	500 sf	500 sf	22'	6 units per acre	20% of Tract	25'	15'

F. Additional Regulations for Townhouse Development.

1. The minimum number of dwellings in each structure shall be four and the maximum twelve.

2. The establishment of an organization for the ownership and maintenance of all common elements shall be required, the form and substance of which shall be approved by the Board of Jurisdiction with the advice of the Board Attorney.

3. Each dwelling unit shall have at least two exterior exposures with at least one window in each exposure.

4. Exterior television reception shall be limited to one master antenna for the entire development.

5. Air conditioning units in windows or through exterior walls shall not extend more than six inches from the exterior surface.

6. A swimming pool and/or recreation complex for the use of all residents shall be permitted in a suitable location a minimum of 25 feet from any dwelling. Such complexes shall be sited so as to minimize adverse effects from noise, lighting, and entrances.

7. Fences, walls and landscaping shall be used to delineate yard areas for the private use of residents and screen mechanical equipment.

8. A comprehensive pedestrian system linking common amenities to each townhouse structure shall be established with a minimum width of eight feet.

§ 2616 GARDEN APARTMENT (GA) DISTRICT.

A. Purpose. The purpose of the Garden Apartment (GA) District is to provide for multi-family housing in a garden apartment configuration at a density not to exceed 24 units per acre. Municipal use, including public recreation, is also permitted.

B. Permitted Principal Uses. In the Garden Apartment zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except the following:

1. Multi-family dwelling.

2. Municipal use, including parks and recreation.

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Multi-family Dwelling:

A. Community center for the common use of residents.

B. Outdoor recreational facilities, including swimming pool, tennis court or other court sports.

C. Off-street parking, private garages and car sheds.

D. Fences, walls, gazebos, mail kiosks and other street furniture.

2. Signs, §2631.

3. Maintenance building, not to exceed 1,500 square feet in gross floor area.

D. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all GA districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Lot Coverage
Garden Apartment Tract Requirements	7 acres	200'	200'	60'	30'	50'	32'(1)	.60
Accessory Building				*NP*	*30'*	*30'*	*18'*	
Municipal	2,000 sf	20'	50'	5'	5'	5'	45'	.75

NP = Not Permitted.
(1) - Or 2 stories, whichever is less.

Principal Use	Maximum Dwellings per Building	Maximum Floor Area per Floor	Max.. Bldg. Length	Max. Gross Density	Min. Open Space	Min. Distance Between Buildings	Min. Distance Between Buildings and Accessory Uses
Garden Apart-ment Bldg.	16	10,000 sf	200'	24 units per acre	40% of Tract	25'	15'

E. Additional Regulations for Garden Apartment Development.

1. The establishment of an organization for the ownership and maintenance of all common elements shall be required where no rental units are proposed, the form and substance of which shall be approved by the Board with the advice of the Board Attorney.

2. Each dwelling unit shall have at least one exterior exposure with at least one window.

3. Exterior television reception shall be limited to one master antenna for the entire development.

4. Air conditioning units in windows or through exterior walls shall not extend more than six inches from the exterior surface.

5. A swimming pool and/or recreation complex for the use of all residents shall be permitted in a suitable location a minimum of 25 feet from any dwelling. Such complexes shall be sited so as to minimize adverse effects from noise, lighting, and entrances.

6. Fences, walls and landscaping shall be used to screen mechanical equipment.

7. A comprehensive pedestrian system linking common amenities to each garden apartment building shall be established with a minimum width of eight feet.

§ 2617 SENIOR CITIZEN RESIDENTIAL(SC) DISTRICT.

A. Purpose. The purpose of the Senior Citizen Residential (SC) District is to provide a development zone in a limited area for the creation of age-restricted dwelling units to fulfill the needs of senior citizens by allowing them to remain in their community by reducing housing costs and maintenance responsibilities and to provide age-restricted housing affordable to senior citizen households of low and moderate income.

B. Permitted Principal Uses. In the Senior Citizen Residential District, no lot shall be used and no structure shall be erected, alteredor occupied for any purpose except for dwelling units age-restricted to persons 55 years or older in accordance with the U.S. Fair Housing Amendments Act of 1988 as it may be amended or superseded."

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Community center for the common use of residents.

2. Outdoor recreational facilities, including swimming pool, tennis court or other court sports.

3. Off-street parking, private garages and car sheds.

4. Fences, walls, gazebos, mail kiosks and other street furniture.

5. Signs, §2631.

6. Maintenance building, not to exceed 1,500 sq. ft. in gross floor area.

D. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all SC districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Min. Open Space
Senior Apartment Bldg. Tract Requirements *Accessory Building*	2 ac.	200'	200'	35' *NP*	30' *30'*	50' *30'*	32'(1) *18'*	.60	40%

Principal Use	Maximum Dwellings per Building	Maximum Floor Area per Floor	Maximum Building Length	Maximum Gross Density	Minimum Distance Between Buildings	Min. Distance Between Buildings and Accessory Uses
Senior Apart-ment Bldg.	24	10,000 sf	200'	10 units per acre	25'	15'

NP = Not Permitted.
(1) - Or 2 stories, whichever is less.

E. Additional Regulations.

1. The establishment of an organization for the ownership and maintenance of all common elements shall be required where no rental units are proposed, the form and substance of which shall be approved by the Board with the advice of the Board Attorney.

2. Each dwelling unit shall have at least one exterior exposure with at least one window.

3. Exterior television reception shall be limited to one master antenna for the entire development.

4. Air conditioning units in windows or through exterior walls shall not extend more than six inches from the exterior surface.

5. A swimming pool and/or recreation complex for the use of all residents shall be permitted in a suitable location a minimum of 25 feet from any dwelling. Such complexes shall be sited so as to minimize adverse effects from noise, lighting, and entrances.

6. Fences, walls and landscaping shall be used to screen mechanical equipment.

7. A comprehensive pedestrian system linking common amenities to each garden apartment building shall be established with a minimum width of eight feet.

8. A Minimum of twenty percent (20%) of all residential units constructed pursuant to the Senior Citizen Residential District shall be affordable to households of low and moderate income pursuant to the applicable terms of the Ordinance.

9. The affordable units constructed pursuant to the Senior Citizen Residential District shall adhere to the affordable housing procedural regulations and affirmative marketing requirements in Sections 2632 and 2633 of this Chapter.

§ 2618 TRANSITION COMMERCIAL (TC) DISTRICT.

A. Purpose. The purpose of the Transition Commercial (TC) District is to provide areas for more intensive commercial uses commonly with a wholesale component or outdoor storage which were developed in proximity to rail lines or highways.

B. Permitted Principal Uses. In the Transition Commercial zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except as herein described. Uses shall be defined in accordance with their SIC Code number where shown with a number in parentheses (thus). The following establishments or uses shall be permitted:

1. Plumbing, heating and air conditioning contracting (1711), however, no outside storage is permitted.

2. Painting and paperhanging contracting (172).

3. Electrical contracting (173).

4. Paint, glass and wallpaper sales and service (523).

5. Hardware store (525).

6. Lawn and garden center (5261).

7. Variety store (533).

8. General merchandise store (539).

9. Grocery store (541).

10. Meat and fish markets, including frozen food purveyors (542).

11. Fruit and vegetable market (543).

12. Candy, nut and confectionery store (544).

13. Dairy products sales (545).

14. Retail bakery (546).

15. Other food stores (549).

16. Apparel and accessories store (56).

17. Furniture and accessories store (57).

18. Restaurants, excluding fast food restaurants (581).

19. Drug and proprietary stores (591).

20. Second hand shops (593).

21. Jewelry, hobby, camera, gift, luggage, leather, dry goods, sewing, and similar shops (594).

22. Opticians and optical goods (5995).

23. Art and drafting supply, gallery, auction room, antique store, cosmetics, pets and pet supply store, picture framing, philatelist

shop, awning shop, and other miscellaneous retail uses (5999).

24. Offices for finance, insurance, and real estate services (60-65, 67).

25. Dry cleaners (7212), dry cleaning plant excepting rug cleaning (7216), laundry services excluding coin-operated services (7219).

26. Photographic and portrait studio (7221).

27. Beauty (7231) and barber (7241) shops.

28. Shoe repair and shoeshine services (7251).

29. Tax return preparation (7291), babysitting bureaus, bartering services, buyer's clubs, clothing and costume rental excluding industrial laundering and linen supply, vending machine operators, dating service, debt and diet counseling, hair replacement or removal, tanning salon, shopping services for individuals, locksmith, and other similar personal services (7299).

30. Advertising, credit reporting, reproduction, computer programming, data processing, building services, and similar business services (73).

31. Repair of appliances, electronic equipment, watches and jewelry, furniture and upholstery, antiques excluding automobiles, optical goods, cameras, precision instruments, leather goods including luggage and tack, musical instruments including tuning, office equipment and similar repair services but not to include automobile (motor vehicle) repair (7699).

32. Physical Fitness Facility (7991).

33. Legal services (8111).

34. Child day care services (8351)

35. Medical and dental offices (801, 802, 803, 804).

36. Engineering, surveying, architectural, accounting, auditing, bookkeeping, research and development, management, public relations and similar services (87).

37. Municipal use.

38. Paperbound containers and boxes (265).

39. Miscellaneous Repair (762-764).

40. Dance Studios (791).

41. Metalworking Machinery (354).

42. Electrical Apparatus and Equipment (5063).

43. Florists (5992).

44. Optical Goods Stores (5995).

45. Individual and Family Services (8322).

46. Labor Organizations (8631).

47. Sales Offices Only for Wholesale Machinery.

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Outdoor dining.

2. Outdoor display.

3. Off-street parking.

4. Private garages for commercial vehicles used in conjunction with the principal use.

5. Fences and walls.

6. Signs, §2631.

7. Storage and maintenance buildings.

D. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all TC districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Floor Area Ratio
Retail and Service Use *Accessory Building*	20,000 sf	100'	175'	25' *NP*	15'[(1)] *15'*	50' *30'*	32'[(2)] *18'*	.70 *inclusive*	.22
Municipal	2,000 sf	20'	50'	5'	5'	5'		35'	.25

NP = Not Permitted.
(1) - Minimum side yard shall increase to 35 feet where adjacent to a residential use.
(2) - Or 2 stories, whichever is less.

E. Additional Regulations for Retail and Service Uses.

1. Outdoor storage of materials shall be permitted in side or rear yards only. Such storage shall be screened from the view of adjacent uses and any public street by a combination of fencing, walls and landscaping in accordance with the standards of §1830.

2. All equipment stored on the site shall be placed within an enclosed building.

3. Outdoor dining. Outdoor dining shall conform to the following requirements:

   A. The location of each outdoor dining area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the outdoor dining area.

   B. All outdoor dining areas shall allow at least eight feet of passage between tables and chairs and the curb.

   C. All outdoor dining areas shall allow at least six feet of unobstructed access to building entrances and exits.

D. No outdoor dining area shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

E. Outdoor dining areas may only be located in front of the building in which the restaurant operates.

F. Food and drink served in outdoor dining areas shall be the same as served in the restaurant.

G. No food or drink shall be prepared in the outdoor dining area.

H. Tables and chairs shall be placed and maintained in an orderly fashion and shall not create a hazard.

I. Tables and chairs may be left out overnight, but other accessories shall be removed when the establishment is closed.

J. Nothing herein shall be construed to authorize outdoor dining areas for uses prohibited by the landowner or by this ordinance or other rule or regulation. Nothing herein shall be construed to vary, alter, or amend any rule or regulation relating to the sale and consumption of alcoholic beverages.

4. Outdoor display. Outdoor displays shall conform to the following requirements:

A. The location of each display area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the display area.

B. All displays shall allow at least five feet of passage between the display and the curb.

C. All displays shall allow at least six feet of unobstructed access to building entrances and exits.

D. No display shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede

adequate sight distance for motorists.

E. Displays may only be located adjacent to or in front of the building in which the business displaying wares is located.

F. Displays shall not extend more than four feet from the facade of the building.

G. The only merchandise which may be displayed is the merchandise sold by the business.

H. No display may exceed six feet in height.

I. Displays shall be maintained in an orderly fashion and shall not create a hazard.

J. Displays may only be shown during daylight hours and when the business is otherwise open to the public.

K. Nothing herein shall be construed to authorize outdoor displays for uses prohibited by the landowner or by this ordinance or other rule or regulation.

§ 2619 COMMUNITY BUSINESS (CB) DISTRICT.

A. Purpose. The purpose of the Community Business (CB) District is provide a mixed use zone combining a number of different residential housing types, retail sales and services limited to the everyday needs of residents and small scale office uses. This district is located at the southern end of the Borough around the Rt. 12 traffic circle where it functions as Flemington's southern gateway.

B. Permitted Principal Uses. In the Community Business zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except as herein described. Commercial uses shall be defined in accordance with their SIC Code number where shown with a number in parentheses (thus). The following establishments or uses shall be permitted:

1. Single family detached dwelling.

2. Two-family dwelling.

3. Plumbing, heating and air conditioning contracting (1711).

4. Painting and paperhanging contracting (172).

5. Electrical contracting (173).

6. Meat and fish markets, including frozen food purveyors (542).

7. Fruit and vegetable market (543).

8. Candy, nut and confectionery store (544).

9. Dairy products sales (545).

10. Retail bakery (546).

11. Grocery stores (541) and other food stores (549).

12. Apparel and accessories store (56).

13. Drug and proprietary stores (591).

14. Opticians and optical goods (5995).

15. Art and drafting supply, gallery, auction room, antique store, cosmetics, pets and pet supply store, picture framing, philatelist shop, awning shop, and other miscellaneous retail uses (5999).

16. Garment pressing (7212).

17. Coin Operated Laundries (7215).

18. Offices for finance, insurance, and real estate services (60-65, 67).

19. Dry cleaning plant excepting rug cleaning (7216), laundry services excluding coin-operated services (7219).

20. Photographic and portrait studio (7221).

21. Beauty (7231) and barber (7241) shops.

22. Shoe repair and shoeshine services (7251).

23. Tax return preparation (7291), babysitting bureaus, bartering services, buyer's clubs, clothing and costume rental excluding industrial laundering and linen supply, vending machine operators, dating service, debt and diet counseling, hair replacement or removal, tanning salon, shopping services for individuals, locksmith, and other similar personal services (7299).

24. Advertising, credit reporting, reproduction, computer programming, data processing, building services, and similar business services (73).

25. Engineering, surveying, architectural, accounting, auditing, bookkeeping, research and development, management, public relations and similar services (87).

26. Legal services (8111).

27. Medical and dental offices (801, 802, 803, 804).

28. Municipal use.

29. Miscellaneous Repair (762-764).

30. Dance Studios (791).

31. Optical Goods Stores (5995)

32. Commercial Printing (275).

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Single family detached dwellings:

   A. Private garage.

   B. Private swimming pool and other outdoor recreation.

   C. Storage shed.

   D. Home occupation in accordance with this Ordinance.

E. Deck, gazebo and cabana.

2. Outdoor display.

3. Off-street parking.

4. Private garages for commercial vehicles used in conjunction with the principal use.

5. Fences and walls.

6. Signs, §2631.

7. Storage and maintenance buildings.

D. Conditional Uses Permitted. The following uses may be permitted when authorized as a conditional use by the Planning Board:

1. Conversion of single family detached or two-family dwelling to a bank, credit union, savings and loan association, or other retail financial service; or, office use meeting the following criteria:

A. The gross floor area shall not exceed 3,000 sf. or the size of the existing dwelling, whichever is greater.

B. Parking lots shall be oriented to the side and rear of the building line established by the front wall of the building.

C. Any applicable requirement of -D.2 below.

2. Bank, credit union, savings and loan association, or other retail financial service meeting the following criteria:

A. Drive-thru facilities shall only be permitted on lots of 20,000 sf. or larger.

B. Parking lots shall be oriented to the side and rear of the building line established by the front wall of the building.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all CB districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Floor Area Ratio
Single Family Detached *Accessory Building*	4,000 sf	40'	90'	25' *NP*	8' *5'*	25' *5'*	35'(1) *18'*	.60	N/A
Two Family Dwelling *Accessory Building*	2,500 sf/ dwelling	75'	90'	25' *NP*	7' (2) *5'*	25' *5'*	35'(1) *18'*	.70	N/A
Commercial Use *Accessory Building*	4,000 sf	40'	100''	25' *NP*	10'(2) *15'*	30'' *30'*	35'(1) *18'*	.75	.20
Municipal	2,000 sf	20'	50'	5'	5'	5'	35'	.75	.25

NP = Not Permitted.
(1) - Or 2½ stories, whichever is less.
(2) - Minimum side yard shall increase to 15 feet where adjacent to a residential use.

F. Additional Regulations for Commercial Uses.

1. Maximum building size shall not exceed 5,000 sf or 3,000 sf on any one level. An existing building shall not be demolished in order to utilize this provision.

2. Outdoor display. Outdoor displays shall conform to the following requirements:

A. All displays shall allow at least eight feet of passage between the display and the curb.

B. All displays shall allow at least six feet of unobstructed access to building entrances and exits.

C. No display shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

D. Displays may only be located adjacent to or in front of the building in which the business displaying wares is located.

E. Displays shall not extend more than four feet from the facade

of the building.

F. The only merchandise which may be displayed is the merchandise sold by the business.

G. No display may exceed six feet in height.

H. Displays shall be maintained in an orderly fashion and shall not create a hazard.

I. Displays may only be shown during daylight hours and when the business is otherwise open to the public.

J. The location of each display area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the display area.

K. Nothing herein shall be construed to authorize outdoor displays for uses prohibited by the landowner or by this ordinance or other rule or regulation.

§ 2620 DOWNTOWN BUSINESS (DB) DISTRICT.

A. Purpose. The purpose of the Downtown Business (DB) District is to provide for mixed uses in the traditional business and governmental center of the Borough and is a transitional area between the Downtown Business (DB) zone and the Village Shops (VS) zone.

B. Permitted Principal Uses. In the Downtown Business II zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except as herein described. Commercial uses shall be defined in accordance with their SIC Code number where shown with a number in parentheses (thus). The following establishments or uses shall be permitted:

1. Apartment(s) on second and upper floors of principal structures.

2. Paint, glass and wallpaper sales and service (523).

3. Hardware store (525).

4. Lawn and garden center (5261).

5. Variety store (533).

6. General merchandise store (539).

7. Grocery store (541).

8. Meat and fish markets, including frozen food purveyors (542).

9. Fruit and vegetable market (543).

10. Candy, nut and confectionery store (544).

11. Dairy products sales (545).

12. Retail bakery (546).

13. Other food stores (549).

14. Apparel and accessories store (56).

15. Furniture and accessories store (57).

16. Restaurants, excluding fast food restaurants (581).

17. Drug and proprietary stores (591).

18. Second hand shops (593).

19. Jewelry, hobby, camera, gift, luggage, leather, dry goods, sewing, and similar shops (594).

20. Opticians and optical goods (5995).

21. Art and drafting supply, gallery, auction room, antique store, cosmetics, pets and pet supply store, picture framing, philatelist shop, awning shop, and other miscellaneous retail uses (5999).

22. Offices for finance, insurance, and real estate services (60-65, 67).

23. Photographic and portrait studio (7221).

24. Beauty (7231) and barber (7241) shops.

25. Advertising, credit reporting, reproduction, computer programming, data processing, building services, and similar business services (73).

26. Engineering, surveying, architectural, accounting, auditing, bookkeeping, research and development, management, public relations and similar services (87).

27. Legal services (8111).

28. Repair of appliances, electronic equipment, watches and jewelry, furniture and upholstery, antiques excluding automobiles, optical goods, cameras, precision instruments, leather goods including luggage and tack, musical instruments including tuning, office equipment and similar repair services but not to include automobile repair (7699).

29. Medical and dental offices (801, 802, 803, 804).

30. Municipal use.

31. Coin Operated Laundries, etc. (7215).

32. Miscellaneous Repair (762-764).

33. Dance Studios (791).

34. Travel Agencies (4724).

35. Florists (5992).

36. Optical Goods Stores (5995).

37. Individual and Family Services (8322).

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Outdoor dining.

2. Outdoor display.

3. Off-street parking.

4. Private garages used in conjunction with the principal use(s).

5. Fences and walls.

6. Signs, §2631.

7. Storage and maintenance buildings.

D. Conditional Uses Permitted. The following uses may be permitted when authorized as a conditional use by the Planning Board:

1. Bed and breakfast accommodation conforming to the following criteria:

   A. No more than six guest rooms or suites shall be permitted.

   B. No expansion of the existing dwelling shall be permitted.

   C. Off-street parking equal to one for each guest room or suite shall be required. Off-street parking may be accommodated off-site provided that the location is within 600 feet of the subject site and an adequate guaranty subject to the approval of the Board Attorney that establishes a right to the use of the off-tract parking is secured.

   D. No parking shall be permitted in the front yard.

   E. Only guests of the facility and their invitees shall be served food and drink on the premises.

   F. No cooking facilities shall be permitted in guest rooms or suites.

   G. There shall be a maximum residency limitation on all guests of 30 days.

2. Public and private non-profit day school meeting the following criteria:

A. The minimum lot size shall be 3 acres.

B. The minimum lot frontage shall be 150 feet.

C. No building shall be located within 50 feet of a lot line.

D. Parking lots shall be properly screened and shall be a minimum of 25 feet from surrounding properties and public roads.

E. Outdoor athletic fields shall be oriented to minimize adverse impacts on neighboring residential uses from noise, lighting, and entrances.

3. Any other area, yard, height, and building coverage requirement not herein modified shall apply to any conditional use.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all DB districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Impervious Surface Ratio
Non-Municipal Use *Accessory Building*	7,000 sf	45'	100'	25'(1) *NP*	0' *15'*	50' *30'*	40'(2) *18'*	.75
Municipal	2,000 sf	20'	50'	5'	5'	5'	45'	.80

NP = Not Permitted.

(1) - The front yard depth may be reduced to the average of the setbacks from the streetline of existing buildings on both sides of the proposed building. In the event an adjacent lot is vacant, the average shall be calculated using the required setback for the vacant lot.

(2) - Or 3 stories, whichever is less.

F. Additional Regulations for Retail and Service Uses.

1. All equipment stored on the site shall be placed within an enclosed building.

2. Outdoor dining. Outdoor dining shall conform to the following requirements:

A. The location of each outdoor dining area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the outdoor dining area.

B. All outdoor dining areas shall allow at least eight feet of passage between tables and chairs and the curb.

C. All outdoor dining areas shall allow at least six feet of unobstructed access to building entrances and exits.

D. No outdoor dining area shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

E. Outdoor dining areas may only be located in front of the building in which the restaurant operates.

F. Food and drink served in outdoor dining areas shall be the same as served in the restaurant.

G. No food or drink shall be prepared in the outdoor dining area.

H. Tables and chairs shall be placed and maintained in an orderly fashion and shall not create a hazard.

I. Tables and chairs may be left out overnight, but other accessories shall be removed when the establishment is closed.

J. Nothing herein shall be construed to authorize outdoor dining areas for uses prohibited by the landowner or by this ordinance or other rule or regulation. Nothing herein shall be construed to vary, alter, or amend any rule or regulation relating to the sale and consumption of alcoholic beverages.

3. Outdoor display. Outdoor displays shall conform to the following requirements:

A. The location of each display area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the display area.

B. All displays shall allow at least five feet of passage between the display and the curb.

C. All displays shall allow at least six feet of unobstructed access to building entrances and exits.

D. No display shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

E. Displays may only be located adjacent to or in front of the building in which the business displaying wares is located.

F. Displays shall not extend more than four feet from the facade of the building.

G. The only merchandise which may be displayed is the merchandise sold by the business.

H. No display may exceed six feet in height.

I. Displays shall be maintained in an orderly fashion and shall not create a hazard.

J. Displays may only be shown during daylight hours and when the business is otherwise open to the public.

K. Nothing herein shall be construed to authorize outdoor displays for uses prohibited by the landowner or by this ordinance or other rule or regulation.

4. There shall be no retail sales activities open to the public for the purpose of selling any goods or services in any basement, cellar, or attic, provided that nothing in this section shall be construed to prohibit the use of such areas for storage or the basement or cellar for public restrooms.

5. There shall be no drive-in or drive-thru facilities allowed for any purpose.

§ 2621 DOWNTOWN II BUSINESS (DBII) DISTRICT.

A. Purpose. The purpose of the Downtown Business II (DBII) District is to provide for mixed uses in the traditional business and governmental center of the Borough and is a transitional area between the Downtown Business (DB) zone and the Village Shops (VS) zone.

B. Permitted Principal Uses. In the Downtown Business II zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except as herein described. Commercial uses shall be defined in accordance with their SIC Code number where shown with a number in parentheses (thus). The following establishments or uses shall be permitted:

1. Apartment(s) on second and upper floors of principal structures.

2. Paint, glass and wallpaper sales and service (523).

3. Hardware store (525).

4. Lawn and garden center (5261).

5. Variety store (533).

6. General merchandise store (539).

7. Grocery store (541).

8. Meat and fish markets, including frozen food purveyors (542).

9. Fruit and vegetable market (543).

10. Candy, nut and confectionery store (544).

11. Dairy products sales (545).

12. Retail bakery (546).

13. Other food stores (549).

14. Apparel and accessories store (56).

15. Furniture and accessories store (57).

16. Restaurants, excluding fast food restaurants (581).

17. Drug and proprietary stores (591).

18. Second hand shops (593).

19. Jewelry, hobby, camera, gift, luggage, leather, dry goods, sewing, and similar shops (594).

20. Opticians and optical goods (5995).

21. Art and drafting supply, gallery, auction room, antique store, cosmetics, pets and pet supply store, picture framing, philatelist shop, awning shop, and other miscellaneous retail uses (5999).

22. Offices for finance, insurance, and real estate services (60-65, 67).

23. Photographic and portrait studio (7221).

24. Beauty (7231) and barber (7241) shops.

25. Advertising, credit reporting, reproduction, computer programming, data processing, building services, and similar business services (73).

26. Engineering, surveying, architectural, accounting, auditing, bookkeeping, research and development, management, public relations and similar services (87).

27. Legal services (8111).

28. Repair of appliances, electronic equipment, watches and jewelry, furniture and upholstery, antiques excluding automobiles, optical goods, cameras, precision instruments, leather goods including luggage and tack, musical instruments including tuning, office equipment and similar repair services but not to include automobile repair (7699).

29. Medical and dental offices (801, 802, 803, 804).

30. Municipal use.

31. Coin Operated Laundries, etc. (7215).

32. Miscellaneous Repair (762-764).

33. Dance Studios (791).

34. Travel Agencies (4724).

35. Florists (5992).

36. Optical Goods Stores (5995).

37. Individual and Family Services (8322).

38. Funeral home and crematorium (7261) with a minimum lot area of one (1) acre.

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Outdoor dining.

2. Outdoor display.

3. Off-street parking.

4. Private garages used in conjunction with the principal use(s).

5. Fences and walls.

6. Signs, §2631.

7. Storage and maintenance buildings.

D. Conditional Uses Permitted. The following uses may be permitted when authorized as a conditional use by the Planning Board:

1. Bed and breakfast accommodation conforming to the following criteria:

   A. No more than six guest rooms or suites shall be permitted.

   B. No expansion of the existing dwelling shall be permitted.

   C. Off-street parking equal to one for each guest room or suite shall be required. Off-street parking may be accommodated off-site provided that the location is within 600 feet of the subject site and an adequate guaranty subject to the approval of the Board Attorney that establishes a right to the use of the off-tract parking is secured.

   D. No parking shall be permitted in the front yard.

   E. Only guests of the facility and their invitees shall be served food and drink on the premises.

   F. No cooking facilities shall be permitted in guest rooms or suites.

   G. There shall be a maximum residency limitation on all guests of 30 days.

2. Public and private non-profit day school meeting the following criteria:

   A. The minimum lot size shall be 3 acres.

   B. The minimum lot frontage shall be 150 feet.

   C. No building shall be located within 50 feet of a lot line.

   D. Parking lots shall be properly screened and shall be a minimum of 25 feet from surrounding properties and public roads.

E. Outdoor athletic fields shall be oriented to minimize adverse impacts on neighboring residential uses from noise, lighting, and entrances.

3. Any other area, yard, height, and building coverage requirement not herein modified shall apply to any conditional use.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all DB II districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Impervious Surface Ratio
Non-Municipal Use *Accessory Building*	7,000 sf	45'	100'	25'(1) *NP*	0' *15'*	50' *30'*	40'(2) *18'*	.75
Municipal	2,000 sf	20'	50'	5'	5'	5'	45'	.80

NP = Not Permitted.
(1) - The front yard depth may be reduced to the average of the setbacks from the streetline of existing buildings on both sides of the proposed building. In the event an adjacent lot is vacant, the average shall be calculated using the required setback for the vacant lot.
(2) - Or 3 stories, whichever is less.

F. Additional Regulations for Retail and Service Uses.

1. All equipment stored on the site shall be placed within an enclosed building.

2. Outdoor dining. Outdoor dining shall conform to the following requirements:

A. The location of each outdoor dining area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the outdoor dining area.

B. All outdoor dining areas shall allow at least four feet of passage between tables and chairs and the curb.

C. All outdoor dining areas shall allow at least four feet of unobstructed access to building entrances and exits.

D. No outdoor dining area shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

E. Outdoor dining areas may only be located in front of the building in which the restaurant operates.

F. Food and drink served in outdoor dining areas shall be the same as served in the restaurant.

G. No food or drink shall be prepared in the outdoor dining area.

H. Tables and chairs shall be placed and maintained in an orderly fashion and shall not create a hazard.

I. Tables and chairs may be left out overnight, but other accessories shall be removed when the establishment is closed.

J. Nothing herein shall be construed to authorize outdoor dining areas for uses prohibited by the landowner or by this ordinance or other rule or regulation. Nothing herein shall be construed to vary, alter, or amend any rule or regulation relating to the sale and consumption of alcoholic beverages.

3. Outdoor display. Outdoor displays shall conform to the following requirements:

A. The location of each display area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the display area.

B. All displays shall allow at least five feet of passage between the display and the curb.

C. All displays shall allow at least six feet of unobstructed access to building entrances and exits.

D. No display shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

E. Displays may only be located adjacent to or in front of the building in which the business displaying wares is located.

F. Displays shall not extend more than four feet from the facade of the building.

G. The only merchandise which may be displayed is the merchandise sold by the business.

H. No display may exceed six feet in height.

I. Displays shall be maintained in an orderly fashion and shall not create a hazard.

J. Displays may only be shown during daylight hours and when the business is otherwise open to the public.

K. Nothing herein shall be construed to authorize outdoor displays for uses prohibited by the landowner or by this ordinance or other rule or regulation.

4. There shall be no retail sales activities open to the public for the purpose of selling any goods or services in any basement, cellar, or attic, provided that nothing in this section shall be construed to prohibit the use of such areas for storage or the basement or cellar for public restrooms.

5. There shall be no drive-in or drive-thru facilities allowed for any purpose.

§ 2622 PROFESSIONAL OFFICE.

A. Purpose. The purpose of the Professional Office (PO) District is to provide an area in close proximity to the county courts and administration offices. The Professional Office district would provide an area for law, title, paralegal, and similar offices as the need grows with an expanding county population.

B. Permitted Principal Uses. In the Professional Office zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except as herein described. Commercial uses shall be defined in accordance with their SIC Code number where shown with a number in parentheses (thus). The following establishments or uses shall be permitted:

1. Offices for finance, insurance, and real estate services (60-65, 67).

2. Engineering, surveying, architectural, accounting, auditing, bookkeeping, research and development, management, public relations and similar services (87), excepting research and development uses (873).

3. Legal services (8111).

4. Governmental use.

5. Child Care Center (8351).

6. Beauty Shops (7231).

7. Barber Shops (7241).

8. Individual and Family Services (8322).

9. Photographic Studios, Portrait (7221).

10. Shoe Repair Shops and Shoeshine Parlors (7251).

11. Miscellaneous Personal Services (7299).

12. Medical and Dental Offices.

C. Conditional Use. Public and private non-profit day school.

D. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Off-street parking.

2. Private garages for commercial vehicles used in conjunction with the principal use, excepting public works garages or yards.

3. Fences and walls.

4. Signs, §2631.

5. Storage and maintenance buildings.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all PO districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Floor Area Ratio
Office *Accessory Building*	9,000 sf	50'	100'	25' *NP*	10' *15'*	50' *30'*	35'(1) *18'*	.75	.22
Municipal	2,000 sf	20'	50'	25'	5'	10'	45'	.80	.25
Other Governmental	10,000 sf	60'	100'	25'	10'	50'	45'	.80	.25

NP = Not Permitted.
(1) - Or 2½ stories, whichever is less.

§ 2623 VILLAGE SHOPPING (VS) DISTRICT.

A. Purpose. The purpose of the Village Shopping (VS) District is to include the majority of the destination oriented retail outlet shopping in Flemington. This district is highway oriented but is designed to encourage walking from store to store once the destination has been reached. It contrasts with the more pedestrian oriented outlet shopping in the Downtown Business district and the more highway oriented shopping in the Highway Retail zone. An overall site plan may be submitted for a village shopping center, indicating

buildings, driveways, loading and parking areas, lighting, landscape, provisions for storm drainage and signs. Once approved, modification may be made to the plan as a minor site plan to the Planning Board, if there is no effect on external circulation, lighting, drainage, landscaping or signs.

B. Permitted Principal Uses. In the Village Shopping zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except as herein described. Commercial uses shall be defined in accordance with their SIC Code number where shown with a number in parentheses (thus). The following establishments or uses shall be permitted:

1. Paint, glass and wallpaper sales and service (523).

2. Hardware store (525).

3. Lawn and garden center (5261).

4. Variety store (533).

5. General merchandise store (539).

6. Grocery store (541).

7. Meat and fish markets, including frozen food purveyors (542).
8. Fruit and vegetable market (543).

9. Candy, nut and confectionery store (544).

10. Dairy products sales (545).

11. Retail bakery (546).

12. Other food stores (549).

13. Department Stores (531).

14. Apparel and accessories store (56).

15. Furniture and accessories store (57).

16. Restaurants (581).

17. Drug and proprietary stores (591).

18. Second hand shops (593).

19. Jewelry, hobby, camera, gift, luggage, leather, dry goods, sewing, and similar shops (594).

20. Opticians and optical goods (5995).

21. Art and drafting supply, gallery, auction room, antique store, cosmetics, pets and pet supply store, picture framing, philatelist shop, awning shop, and other miscellaneous retail uses (5999).

22. Repair of appliances, electronic equipment, watches and jewelry, furniture and upholstery, antiques excluding automobiles, optical goods, cameras, precision instruments, leather goods including luggage and tack, musical instruments including tuning, office equipment and similar repair services but not to include automobile repair (7699).

23. Physical fitness centers (7991).

24. Municipal use.

25. Places of worship.

26. Child Day Care Services (8351).

27. Miscellaneous Repair (762-764).

28. Dance Studios (791).

29. Wood Kitchen Cabinets (2434).

30. Jewelry Manufacturing (3911).

31. Optical Goods Stores (5995).

32. Plumbing, heating and air conditioning contracting (1711), however, no outside storage is permitted.

33. Finance, Insurance, etc. (60-65, 67)

34. Photographic Studios, Beauty and Barber Shops (7221, 7231, 7241, 7251).

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Outdoor dining.

2. Outdoor display.

3. Off-street parking.

4. Private garages for commercial vehicles used in conjunction with the principal use, excepting public works garages or yards.

5. Fences and walls.

6. Signs, §2631.

7. Storage and maintenance buildings.

8. Kiosks, if located surrounded by building of the village stores and not visible to any residential stores.

D. Conditional Use Permitted. Bed and breakfast accommodation may be permitted when authorized as a conditional use by the Planning Board conforming to the following criteria:

1. No more than six guest rooms or suites shall be permitted.

2. No expansion of the existing dwelling shall be permitted.

3. Off-street parking equal to one for each guest room or suite shall be required. Off-street parking may be accommodated off-site provided that the location is within 600 feet of the subject site and an adequate guaranty subject to the approval of the Board Attorney that establishes a right to the use of the off-tract parking is secured.

4. No parking shall be permitted in the front yard.

5. Only guests of the facility and their invitees shall be served food and drink on the premises.

6. No cooking facilities shall be permitted in guest rooms or suites.

7. There shall be a maximum residency limitation on all guests of 30 days.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all VS districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Floor Area Ratio
Retail and Service Uses *Accessory Building*	65,000sf	150'	200'	35' *NP*	15' *15'*	50' *30'*	35'(1) *18'*	.80 (2)	.22
Municipal	2,000 sf	20'	50'	25'	5'	10'	45'	.80	.25

NP = Not Permitted.
(1) - Or 2½ stories, whichever is less. The height may be increased to 50 feet or 4 stories, whichever is less, when the building is greater than 200 feet from a residential district.
(2) - Maximum lot coverage may be increased to .82 if additional landscaped areas are provided with trees, shrubs and proper ground cover treatment.

F. Additional Regulations for Retail and Service Uses.

1. All equipment stored on the site shall be placed within an enclosed building.

2. Outdoor dining. Outdoor dining shall conform to the following requirements:

A. The location of each outdoor dining area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the outdoor dining area.

B. All outdoor dining areas shall allow at least eight feet of passage between tables and chairs and the curb.

C. All outdoor dining areas shall allow at least six feet of unobstructed access to building entrances and exits.

D. No outdoor dining area shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

E. Outdoor dining areas may only be located in front of the building in which the restaurant operates.

F. Food and drink served in outdoor dining areas shall be the same as served in the restaurant.

G. No food or drink shall be prepared in the outdoor dining area.

H. Tables and chairs shall be placed and maintained in an orderly fashion and shall not create a hazard.

I. Tables and chairs may be left out overnight, but other accessories shall be removed when the establishment is closed.

J. Nothing herein shall be construed to authorize outdoor dining areas for uses prohibited by the landowner or by this ordinance or other rule or regulation. Nothing herein shall be construed to vary, alter, or amend any rule or regulation relating to the sale and consumption of alcoholic beverages.

3. Outdoor display. Outdoor displays shall conform to the following requirements:

A. The location of each display area shall first be reviewed and approved by the Zoning Officer for conformance with the provisions of this section. Upon satisfactory review, a zoning permit or other suitable document shall be issued by the Zoning Officer for the display area.

B. All displays shall allow at least five feet of passage between the display and the curb.

C. All displays shall allow at least six feet of unobstructed access to building entrances and exits.

D. No display shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

E. Displays may only be located adjacent to or in front of the building in which the business displaying wares is located.

F. Displays shall not extend more than four feet from the facade of the building.

G. The only merchandise which may be displayed is the merchandise sold by the business.

H. No display may exceed six feet in height.

I. Displays shall be maintained in an orderly fashion and shall not create a hazard.

J. Displays may only be shown during daylight hours and when the business is otherwise open to the public.

K. Nothing herein shall be construed to authorize outdoor displays for uses prohibited by the landowner or by this ordinance or other rule or regulation.

4. There shall be no retail sales activities open to the public for the purpose of selling any goods or services in any basement, cellar, or attic, provided that nothing in this section shall be construed to prohibit the use of such areas for storage or the basement or cellar for public restrooms.

§ 2624 HIGHWAY RETAIL (HR) DISTRICT.

A. Purpose. The purpose of the Highway Retail (HR) District is to encompass existing highway oriented retail development concentrated around Rt. 31 and Rt. 202. This district contrasts with the more pedestrian- and destination-oriented shopping of the Downtown Business and Village Shopping zones. The district is also intended to include more intensive office uses than permitted by the Professional Office zone.

B. Permitted Principal Uses. In the Highway Retail zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except as herein described. Commercial uses shall be defined in accordance with their SIC Code number where shown with a number in parentheses (thus). The following establishments or uses shall be permitted:

1. Plumbing, heating and air conditioning contracting (1711), however, no outside storage is permitted.

2. Paint, glass and wallpaper sales and service (523).

3. Hardware store (525).

4. Lawn and garden center (5261).

5. Department Stores (531).

6. Variety store (533).

7. General merchandise store (539).

8. Grocery (541) and convenience (5411) stores.

9. Meat and fish markets, including frozen food purveyors (542).

10. Fruit and vegetable market (543).

11. Candy, nut and confectionery store (544).

12. Dairy products sales (545).

13. Retail bakery (546).

14. Other food stores (549).

15. New car and automotive dealers (55), including sales of parts related to motor vehicles.

16. Motor Vehicle Supplies and New Parts (5013).

17. Apparel and accessories store (56).

18. Furniture and accessories store (57).

19. Restaurants (581).

20. Drug and proprietary stores (591).

21. Liquor stores (592)

22. Second hand shops (593).

23. Jewelry, hobby, camera, gift, luggage, leather, dry goods, sewing, and similar shops (594).

24. Opticians and optical goods (5995).

25. Art and drafting supply, gallery, auction room, antique store, cosmetics, pets and pet supply store, picture framing, philatelist shop, awning shop, and other miscellaneous retail uses (5999).

26. Offices for finance, insurance, and real estate services (60-65, 67).

27. Dry cleaners and coin-operated laundry services (7219).

28. Photographic and portrait studio (7221).

29. Beauty (7231) and barber (7241) shops.

30. Shoe repair and shoeshine services (7251).

31. Funeral home and crematorium (7261).

32. Tax return preparation (7291), babysitting bureaus, bartering services, buyer's clubs, clothing and costume rental excluding industrial laundering and linen supply, vending machine operators, dating service, debt and diet counseling, hair replacement or removal, tanning salon, shopping services for individuals, locksmith, and other similar personal services (7299).

33. Advertising, credit reporting, reproduction, computer programming, data processing, building services, and similar business services (73).

34. Engineering, surveying, architectural, accounting, auditing, bookkeeping, research and development, management, public relations and similar services (87).

35. Legal services (8111).

36. Repair of appliances, electronic equipment, watches and jewelry, furniture and upholstery, antiques including automobiles, optical goods, cameras, precision instruments, leather goods including luggage and tack, musical instruments including tuning, office equipment and similar repair services but not to include automobile repair (7699).

37. Bowling alleys (793)

38. Physical fitness centers (7991).

39. Medical and dental offices (801, 802, 803, 804).

40. Shopping centers incorporating any preceding use.

41. Municipal use.

41. Painting and Paper Hanging (172).

42. Electrical Work (173).

43. Garment Pressing & Agents (7212).

44. Coin Operated Laundries, etc. (7215).

45. Miscellaneous Repair (75).

46. Dance Studios (791).

47. General Contractors (15).

48. Motor Vehicle Supplies and New Parts (5013).

49. Optical Goods Stores (5995).

50. Senior Citizens

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Off-street parking.

2. Drive-thru and drive-in facilities.

3. Private garages for commercial vehicles used in conjunction with the principal use.

4. Fences and walls.

5. Signs, §2631.

6. Storage and maintenance buildings.

D. Conditional Uses Permitted. The following uses may be permitted when authorized as a conditional use by the Planning Board:

1. Service stations (5541) conforming to the following criteria:

A. Service stations shall be permitted only two entrances and exits on one street frontage and three per lot.

B. All equipment, work pits, storage areas and trash facilities other than gasoline filling pumps or air pumps shall be within a building or roofed structure.

C. Fuel pumps and air pumps shall be no closer than 25 feet to any existing or future street line and 50 feet from a rear

property line. Fuel pumps shall not be located closer than 25 feet from a side property line.

D. All lubrication, repair or similar activities shall be performed in a fully enclosed building and no dismantled parts shall be displayed outside of an enclosed building.

E. No junked motor vehicle or part thereof, or such vehicles incapable of normal operation upon the highway, shall be permitted on the premises of the repair garage, except as noted herein. A maximum of 11 vehicles shall be permitted to await repair or disposition at the repair garage, with no more than 3 inoperable vehicles permitted in an enclosed building and no more than 8 inoperable vehicles permitted outside the building. If more than 8 such vehicles on the property are awaiting repairs, they shall be enclosed in a fenced area, screened from view from adjacent properties and public streets.

F. In addition to landscaping that is otherwise required pursuant to the provisions of this Ordinance, a minimum of 25% of the front yard shall consist of landscape screening of the building and front yard parking.

G. No exterior display of motor vehicles, recreational vehicles, boats, other forms of transportation, or equipment for sale shall be permitted.

2. Hotels and motels (701) subject to the following criteria:

A. Any such use shall contain a minimum of at least 20 units of accommodation not including any on-site superintendent's living quarters. The minimum number of units of accommodation in any single building shall be 10.

B. Each unit of accommodation shall contain a minimum floor area of 250 square feet. Ceilings shall be a minimum of 8 feet in height.

C. There shall be a residency limitation on all guests of 30 days maximum. The residency limitation shall not apply to an employee living on the premises.

3. Automotive body repair (7532) subject to the following criteria:

   A. Such uses shall only be in conjunction with a automobile dealership selling new cars.

   B. Body panels and parts shall be stored in a completely enclosed building.

   C. No repair work shall take place out-of-doors.

4. Communication Towers (4812) subject to the following criteria:

   A. The applicant shall first demonstrate that no other existing tower or structure may be used for the subject application. Such demonstration may include but not be limited to expert reports and responses to bona fide inquiries to existing tower owners concerning the availability of space.

   B. The height of the tower shall be the lowest feasible for the intended purpose.

   C. The free-standing tower shall be set back from any property line a minimum of 110% of the tower's height.

   D. Towers shall be of monopole construction if less than 250 feet in height.

   E. Any communications tower shall comply with the promulgated radiation emissions standards of the Federal Communications Commission.

   F. A landscape buffer visually impervious after five (5) years of maturity shall be installed to screen the base of the tower, equipment building and parking. The minimum height of buffer materials shall be six (6) feet at the time of installation.

   G. At least two and no more than five (5) parking spaces for maintenance use shall be provided.

   H. Accessory buildings for communications/electronic equipment not exceeding 1,000 square feet in area nor one-story or 15 feet in height, whichever is less, shall be permitted.

I. Any approval shall be so conditioned as to allow additional communications operators to lease space on the subject tower.

J. To the extent feasible, communications towers shall be painted or disguised to minimize contrast with the natural environment.

K. Notwithstanding any other provision to the contrary, no communications tower shall be located in an historic district as designated in the Historic Preservation Element of the Master Plan.

5. All other parts of this Ordinance not modified herein shall apply.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all HR districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Floor Area Ratio
Retail and Service Uses *Accessory Building*	65,000 sf	150'	200'	35' *NP*	25' *15'*	50' *30'*	35'(1) *18'*	.70	.20
Office *Accessory Building*	30,000 sf	100'	200'	35' *NP*	25' *15'*	35' *30'*	35'(2) *18'*	.70	.25
Hotel and Motel	2 acres	200'	200'	50'	35'	50'	35'(3)	.60	.22
Shopping Center *Accessory Building*	3 acres	300'	200'	75' *NP*	50' *25'*	50' *30'*	25'(1) *18'*	.70	.20
Senior Citizen Housing	2 acres	200'	200'	35'	25'	50'	48'(4)	.70	NA

NP = Not Permitted.
(1) - Or 2 stories, whichever is less.
(2) - Or 2½ stories, whichever is less.
(3) - The height may be increased to 45 feet or 4 stories, whichever is less, when the building is greater than 200 feet from a residential district.
(4) - or 3 stories Not to exceed (3) three stories

F. Additional Regulations for Retail and Service Uses.

1. All equipment stored on the site shall be placed within an enclosed building.

2. There shall be no retail sales activities open to the public for the purpose of selling any goods or services in any basement, cellar, or attic, provided that nothing in this section shall be construed to prohibit the use of such areas for storage or the basement or cellar for public restrooms.

3. Minimum buffer with residential uses or zones is 75 feet.

§ 2625 PUBLIC SCHOOL AND PARKS (PS/P).

A. Purpose. The zone is established to recognize two areas in the Borough used for public purpose. These include the Reading-Fleming Middle School, Tuccamirgan Park, Green Acres Park, and the Flemington Swim Club, and Memorial Park on the east side of town.

B. Permitted Principal Uses. In the PS/P zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except the following:

1. Public Schools.

2. Government use, including parks and recreation.

3. Private swim clubs.

C. Accessory Uses Permitted.

1. Storage sheds.

2. Signs, §2631.

3. Off-street parking.

D. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all PS/P districts

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Mn. Front Yard	Min. Side Yard	Min. Rear Yard	Max Height	Max. Imperv. Surface Ratio	Max building Coverage
Parks & Community Pools	43,560 sf	100'	200'	25' *NP*	25' *15'*	35' *15'*	80'[(1)] *28'*	.50	.25
Public School *Accessory Building*[(2)]	3 acres	150'	350'	50' *NP*	25' *15'*	50' *30'*	45' *25'*	.75	.50

NP = Not permitted.
(1) - The ridgeline of the main roof shall not exceed 45 feet in height.
(2) - No more than two (2) accessory structures for lots , 15,000 sf; no more than three (3) accessory structures for lots $\geq$ 15,000 sf.

§ 2626 SUPER SHOPPING (SS) OVERLAY DISTRICT.

A. Purpose. The purpose of the Super Shopping (SS) Overlay District is to provide for the redevelopment of a portion of the Highway Retail zone that is characterized by small lots or abandoned and vacant land. The overlay district provides an optional set of development regulations that permits an added intensity of development as an incentive to assemble substandard lots.

B. Permitted Principal Uses. In the Super Shopping Overlay zone, no lot shall be used and no structure shall be erected, altered or occupied for any purpose except for a shopping center incorporating any permitted use in the Highway Retail district.

C. Accessory Uses Permitted. Any of the following uses may be permitted when used in conjunction with a permitted principal use:

1. Off-street parking.

2. Drive-thru and drive-in facilities.

3. Private garages for commercial vehicles used in conjunction with the principal use.

4. Fences and walls.

5. Signs, §2631.

6. Storage and maintenance buildings.

D. Conditional Uses Permitted. The following uses may be permitted when authorized as a conditional use by the Planning Board:

1. Hotels and motels (701) subject to the following criteria:

a. Any such use shall contain a minimum of at least 20 units of accommodation not including any on-site superintendent's living quarters. The minimum number of units of accommodation in any single building shall be 10.

b. Each unit of accommodation shall contain a minimum floor area of 250 square feet. Ceilings shall be a minimum of 8 feet in height.

c. There shall be a residency limitation on all guests of 30 days maximum. The residency limitation shall not apply to an employee living on the premises.

E. Area, Yard, Height and Building Coverage. Except as otherwise modified, the following bulk standards shall apply to all SS districts:

Principal Use	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Height	Max. Imperv. Surface Ratio	Floor Area Ratio
Shopping Center:									
Tract	15 acres	500'	500'	150'	50'	25'	32'(1)	.75	.22
Lot(2)	1½ acres	100'	200'	75'	N/A	50'	30'(3)		
Accessory Building				*NP*	*25'*	*30'*	*18'*		
Hotel and Motel	2 acres	200'	200'	50'	35'	50'	45'(4)	.60	.25

NP = Not Permitted.
(1) - Or 3 stories, whichever is less, however, the maximum height for 33% of the front facade may be 36' if used to accommodate a front elevation with a pediment or similar structure.
(2) - These regulations only pertain to lots within the overall tract area and is intended for use with pad sites approved as part of the shopping center plan.

(3) - Or 1½ stories, whichever is less.
(4) - Or 4 stories, whichever is less.
(5) - Roof mounted appurtenances such as heating and air conditioners (HVAC), communications antennae and other equipment shall be concealed by a parapet wall from surrounding land uses. The parapet wall cannot exceed the allowable height.

F. Additional Regulations for Retail and Service Uses.

1. All equipment stored on the site shall be placed within an enclosed building.

2. There shall be no retail sales activities open to the public for the purpose of selling any goods or services in any basement, cellar, or attic, provided that nothing in this section shall be construed to prohibit the use of such areas for storage or the basement or cellar for public restrooms.

3. Minimum buffer with residential uses or zones is 75 feet.

§ 2627 ADDITIONAL STANDARDS APPLYING TO ALL DISTRICTS.

A. Community Shelters. Community residences for the developmentally disabled, community shelters for victims of domestic violence, and community residences for persons with head injuries shall be allowed in any residential district permitting single family detached housing, provided that:

1. No more than 15 persons, excluding resident staff, shall occupy the premises except as permitted herein.

2. The facility is duly licensed pursuant to *N.J.S.A.* 30:11B-1 et seq. for community residences for the developmentally disabled, *N.J.S.A.* 30:14-1 et seq. for community shelters for victims of domestic violence, and *N.J.S.A.* 30:11B-1 et seq. for community residences for persons with head injuries.

3. The residential character of the building shall remain unchanged.

4. All other applicable regulations of this Ordinance shall apply.

B. Decks. Decks shall not be attached to any floor higher than the second floor of a dwelling. Decks for which railings are required shall be located no

closer to a side or rear lot line than permitted by the principal building setback requirement. Lower decks may be located to within the required setbacks for accessory buildings but in no instance closer than five (5) feet to a property line, excepting fee simple townhouses. Decks for which railings are required shall not be permitted in the front yard. Decks attached to fee simple townhouses may be located on a side property line provided the townhouse is attached to another townhouse along such property line. Fee simple townhouse decks closer than five (5) feet to the side property line shall have a decorative screen at least 60% visually opaque attached to its side edge and six (6) feet tall measured from the deck surface.

C. Exterior Equipment. All ground-based utility meters or boxes, air compressors, heat pumps, or other exterior equipment shall be located at the side or rear of buildings and shall be screened by architectural elements or landscape plantings. Roof-based equipment shall be screened by architectural elements.

D. Family Day Care. Family day care shall be allowed as a home occupation, as regulated in this ordinance, in any residential district, provided that no operator shall provide child care for more than five (5) children at any one time not including children legally related to the care provider nor children being cared for under a cooperative agreement with their parents for which no payment is received. In age-restricted developments, deed restrictions or bylaws may prohibit family day care homes from being a permitted use. All other applicable regulations of this Ordinance shall apply.

E. Fences and Walls. The following regulations shall apply to fences and walls:

1. Fences and walls may be placed with the finished side (without supports) located on the property line. All permitted fences shall be situated on a lot in such a manner that the finished side shall face adjacent properties.

2. No fence shall be erected of barbed wire, topped with metal spikes, broken bottles and glass, nor constructed of any material or in any manner which may be dangerous to persons or animals.

3. On any lot in any district, no wall or fence shall be erected or altered so that said wall or fence shall be over four (4) feet in height in front yard areas and six (6) feet in height in side and rear yard areas except:

a. A dog run or privacy area may have fencing a maximum of 7

(seven) feet in height provided such area is located in rear yard areas only and is set back from any lot line at least 15 feet.

b. A tennis court area, located in rear yard areas only, may be surrounded by a fence a maximum of 15 feet in height; said fence to be set back from any lot line the distances required for accessory buildings in the zoning district as stipulated in this Article.

c. No fence shall exceed five (5) feet in height in a rear yard of a reverse frontage lot.

d. On corner lots, no fences or walls may be placed within the sight triangle. Fences or walls shall not exceed two (2) feet in height on corner lots in the front yard setback.

4. A private residential swimming pool area shall be surrounded by a fence at least four (4) feet, but no more than six (6) feet, in height.

5. Non-residential uses may be permitted a fence of up to eight (8) feet in height when located behind the front yard provided the specific size, type, and location is approved by the Planning Board. Deviations from this subsection shall be considered as waivers from the Ordinance standards.

F. Garage Sales. Garage sales shall be subject to the following regulations:

1. *License Regulated.* It shall be unlawful for any person to conduct a garage sale in the Borough of Flemington without first filing with the clerk the information hereinafter specified and obtaining from said clerk a license to do so, to be known as a "garage sale license". Any bona fide charitable, non-profit, educational, cultural or governmental institution or organization shall be required to obtain a license. The burden of establishing the exemption from the payment of a license fee shall be on the organization or institution claiming such fee exemption.

A license shall be issued for each lot as shown on the official Borough of Flemington tax map only twice within a 12-month period. No license shall be issued for more than two consecutive calendar days. Under special circumstances, and for special reasons, more than two

licenses may be issued in connection with each parcel of property with the approval of the common council. Each license issued under this section shall be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale.

2. *License Information To Be Filed*. The information to be filed with the borough clerk, pursuant to this section shall be as follows:

   a. Name of the person, firm, group, corporation, association , or organization conducting the sale.

   b. Name of the owner of the property on which the sale is to be conducted, and consent of owner if applicant is other than the owner.

   c. Location at which the sale is to be conducted.

   d. Number of days of the sale.

   e. Date, nature of any past sale.

   f. Relationship or connection applicant may have had with any other person, conducting a sale and the date or dates of such sale.

   g. Whether or not applicant has been issued any other vendor's license by any local, state, or federal agency.

   h. Sworn statement or affirmation by the person signing that the information therein given is full and true.

3. *Hours of Sale.* All garage sales shall be conducted between the hours of 9:00 a.m. and 6:00 p.m. only, and no sale shall be conducted on a Sunday.

4. *Signs*. No person shall make, cause to be made or erected signs other than those signs provided by the borough. These signs shall be made available by the borough and shall be a uniform size and form (12" x 12") and must be purchased from the borough. The signs shall have a space allotted to place the name and address of the person running the sale and the signs shall be removed within 48 hours after the

completion of the sale.

5. *Persons and Sales Excepted.* The provisions of this section shall not apply to or affect the following persons or sales:

   a. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

   b. Persons acting in accordance with their powers and duties as public officials.

   c. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

   d. Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts in good faith without knowledge of its false, deceptive, or misleading character or without knowledge that the provisions of this section have not been complied with.

6. *Conduct of Sale.* The person to whom such license is issued and the owner or tenant of the premises on which the sale or activity is conducted shall be responsible for the maintenance of good order and decorum on the premises during all hours of the sale or activity. Not person shall permit any loud or boisterous conduct on the premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises.

G. Home Occupations. Home occupations shall be subject to the following regulations:

1. The use is limited solely to office use;.

2. The uses is operated by or employs in the residence only a resident or residents who are permanent full-time residents of the dwelling unit, and no other persons;

3. No non-resident employees, customers, or business invitees or guests shall visit the dwelling unit for business purposes;

4. The use shall be located in only one room of the dwelling unit, which shall not be served by an entrance separate from the household;

5. Interior storage of materials shall consists only of office supplies;

6. There shall be no change to the exterior of buildings or structures because of the use, and no outside appearance of a business use, including, but not limited to, parking, storage, signs, or lights;

7. The use operates no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interferences, including interference with telephone, radio or television reception, detectable by neighboring residents;

8. The use does not require any increased or enhanced electrical or water supply;

9. The quantity and type of solid waste disposal is the same as other residential uses in the zone district;

10. The capacity and quality of effluent is typical of normal residential use, and creates no potential or actual detriment to the sanitary sewer system or its components;

11. Delivery trucks shall be limited to U.S. Postal Service, United Parcel Service, Federal Express, and other delivery services providing regular service to residential uses in the zone district;

12. All vehicular traffic to and from the home office use shall be limited in volume, type and frequency to what is normally associated with other residential uses in the zone district.

H. Off-Street Parking and Private Garages. Off-street parking and private garages for residential districts shall conform to the following requirements:

1. Garages shall conform to the setback requirements as otherwise established in this Ordinance.

2. No driveway shall be located closer than five (5) feet in the front setback area to a side or rear property line, except for the driveway access, which can be on the line.

3. That portion of a driveway from the street to a parking apron located directly in front of the dwelling shall not exceed 12 feet in width.

4. No curb cut to a single family or two-family dwelling shall exceed 22 feet in width.

5. No parking shall be permitted in the front yard.

6. Commercial vehicles cannot be parked or stored on any site in any residential zone district.

Deviations from subsections -F.2-4 shall be considered as waivers from the Ordinance standards.

I. Recreational Vehicle Storage. The following requirements apply to recreational vehicle storage:

1. Trailers, boats or boat trailers which are twenty-one (21) feet or more in length as measured from outside dimensions, shall be parked or stored inside the confines of a building only.

2. All trailers, boats or boat trailers shall be stored in side or rear yard areas only; no trailer, boat, or boat trailer shall be parked or stored in the front yard area of a lot.

3. Each occupied single-family residential property may have outside parking or storage upon it for two recreational vehicles or trailers, in safe and effective operating condition. All recreational vehicles and trailers shall display thereon a current State license and/or registration. No self-propelled recreational vehicle stored on the property shall exceed 40 feet in length unless within the confines of a building.

4. At no time shall any recreational vehicle parked or stored on any lot be used for living or housekeeping purposes.

J. Residential Swimming Pools and Cabanas. The following requirements, after application for a permit, apply to private residential swimming pools, hot tubs, and pool cabanas:

1. No private residential swimming pool shall be constructed or installed on any lot unless the lot contains a residential building.

Pools shall be considered impervious surface, which shall not exceed the impervious surface ratio of the zone when included with other impervious surfaces. Pools shall be located in rear or side yard areas only. No swimming pool or elevated pool deck shall be closer than ten (10) feet to any lot line. No pool apron shall be located closer than five (5) feet to any lot line.

2. Cabanas shall not exceed 150 square feet in area and fifteen (15) feet in height. Any cabana shall be located no closer than ten (10) feet to any lot line unless a greater setback for an accessory structure is otherwise required.

K. Residential Shed. Private residential sheds shall comply with the following regulations:

1. No shed shall exceed 160 square feet in floor area.

2. No shed shall exceed 12 feet in height.

L. Satellite Dish and Television Antennae. Satellite dish and television antennae in single and two-family districts shall conform to the following requirements:

1. To the greatest extent feasible, consistent with the unimpeded reception of broadcasts, antennae are to be located in a rear yard or the rear slope of a roof.

2. An antenna that is in excess of one meter (39.37 inches) but no larger than two meters (78.74 inches) in diameter shall conform to the setback requirements for accessory uses and structures in the zoning district in which it is located.

3. An antenna that is in excess of two meters (78.74 inches) shall conform to the rear yard setback requirements for accessory uses and structures in the zoning district in which it is located.

4. The Administrative Officer shall have the power to waive the enforcement of this subsection upon certification from a qualified installer that conformance with these requirements will materially limit the reception of broadcasts from communications satellites.

§2628 BUS STOPS

Bus Stops are conditional uses, subject to Planning Board approval including site plan approval and subject to the following requirements:

1. Adequate circulation and stopping/drop off/and pickup area for the bus shall be provided. Turning radius for a AASHTO B-40 design vehicle shall be provided where necessary.

2. The bus drop/off pickup area ("bus area") shall utilize an existing parking area in a commercial zone containing at least 100 parking spaces. The use of the existing parking area is not to be a deduction from parking presently credited to the principal use.

3. The bus area shall be a minimum of seventy five (75) feet from any adjoining residential use or zone.

4. A bus shelter, not exceeding 250 square feet, may be permitted if it is a roofed structure without heat or air conditioning.

5. In cases where the bus area or associated automobile parking abuts a residential property or zone, there shall be a landscaped buffer strip along the perimeter of the property or zone. Such buffer strip shall be at least eight feet in width or depth measured from the residential property line. The five feet of such buffer strip nearest the residential property line shall be used as a planting strip on which shall be placed a fence or plant material, trees, shrubs, plants or both, the minimum height being six feet. Such fence or planting strip shall be of sufficient density to provide adequate screening during all seasons of the year.

§2629 PARKING: NUMBER OF SPACES (*N.J.A.C.* 5:21-4.14)

A. An adequate number of on-street and off-street parking spaces shall be required in all developments to accommodate residents and visitors. For projects containing dwelling units required by the New Jersey Uniform Construction Code's Barrier Free Subcode (N.J.A.C. 5:23-7) to be accessible, accessible parking spaces for people with disabilities shall be provided in accordance with the requirements of the Barrier Free Subcode and shall be considered part of the total number of required spaces.

B. For residential developments, off-street parking space shall be provided, as set forth in Table 26.1 below. If applicant does not specify the number of bedrooms per unit, note "3" for each category in Table 26.1 shall apply for the parking requirement.

C. For non-residential developments, off street parking space shall be provided. See Chapter XVI.

D. Alternative parking standards to those shown in Table 26.1 shall be accepted if the applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking resources.

Table 26.1 Parking Requirements for Residential Land Uses [(1)]

Housing Unit Type/size [(2)]	Parking Space Requirement
SINGLE-FAMILY DETACHED	
2 Bedroom	1.5
3 Bedroom	2.0
4 Bedroom	2.5 [(3)]
5 Bedroom	3.0

All other housing unit parking space requirements shall comply with the requirements of the Residential Site Improvement Standards (NJAC 5:21).

Notes, Table 26.1:

1) When determination of the required number of parking spaces results in a fractional space for the entire development, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

2) Requirements for attached units (apartment/condominium/ townhouse) include provisions for quest parking. Guest parking shall not be concentrated in any one parking area but shall be distributed so as to provide easy access to the affordable rental residences.

3) If applicant does not specify the number of bedrooms per unit, this off-street parking requirement shall apply.

SOURCE: Modified and adapted from U.S. Department of Commerce, Bureau of the Census, Public Use File--New Jersey (cross-tabulation of vehicles by housing unit for units constructed 1975 to 1980).

Table 26.2 Off-Street Parking Space Requirements for Nonresidential Land Uses

Nonresidential Land Principal Use	Required Off-Street Parking Spaces Per Indicated Area
Taverns/Bar	1 per 2 seats
House of Worship	1 per 3 seats
Bed and Breakfast	1 per guest bedroom, and 1 per employee
Banks	1 per 300 sf GFA
Hotels	1 per room plus 1 per employee (maximum shift)
Library	1 per 300 sf GFA
Health or Athletic Club	1 per 100 GFA
Manufacturing	1 per 1000 sf GFA
Fire & Rescue	1/300 sf GFA
Medical & Dental Office	1 per 150 sf GFA
Convenience Store	6 per 1000 GFA
Shopping center	1 per 200 sf GFA
Offices	3.5 per 1,000 sf GFA
Mortuary	10 per viewing room/chapel
Research	1 per 1,000 sf GFA
Restaurant	1 per 3 seats
Retail use	1 per 250 sf GFA (4 per 1,000 GFA)
Schools: Elementary	2 per classroom; but not less than 1 per teacher & staff
Intermediate	1.5 per classroom; but not less than 1 per teacher & staff
Secondary	2.5 per classroom; but not less than 1 per teacher & staff
Service station	4 per bay & work area
Theater	1 per 3 seats

Notes: GFA = Gross floor area
GLA = Gross leasable area

E. A one-car garage and driveway combination shall count as 2.0 off-street parking spaces, provided the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way. A two-car garage and driveway combination shall count as 3.5 off-street parking spaces, provided a minimum parking area width of 20 feet is provided for a minimum length of 18 feet as specified for a one-car garage and driveway combination.

F. When housing is included in mixed-use development, a shared parking approach to the provision of parking shall be permitted, provided however the applicant demonstrates the adequacy of parking for the development in accordance with best design practice.

G. When, in the judgment of the local approving authority, on-street parking is available, then only that proportion of the parking requirement which is not available on the street shall be provided in off-street parking facilities. A length of 23 feet per on-street parking space shall be used in calculating the number of available on-street parking spaces.

§2630 OFF-STREET LOADING

A. Off-street loading shall be required for every retail, industrial, institutional and governmental use for the loading and unloading of material or merchandise. Office uses in excess of 20,000 gross square feet in either a single building or in a combination of buildings as part of an office park shall also be required to provide off-street loading. Off-street loading shall be as required:

1. Retail uses of 5,000 sf. or less shall provide one loading space 12' x 35'. Retail uses singularly or in combination shall provide one loading space 15' x 60' for each 25,000 sf. up to 100,000 sf., plus one space for each additional 100,000 sf. up to 500,000 sf., plus one additional space for each 250,000 sf. thereafter.

2. Industrial uses shall provide one loading space 15' x 60' for each 20,000 sf. or part thereof.

3. Institutional uses shall provide one loading space 15' x 60' for each 50,000 sf. or part thereof.

4. Governmental uses shall provide one loading space 12' x 35' for each 100,000 sf. or part thereof.

5. Office uses greater than 20,000 sf. shall provide one loading space 12' x 35' for each 50,000 square feet or part thereof.

B. Additional loading spaces may be necessary and required dependent upon the specific activity.

§2631 SIGNS

A. Accessory signs--Permitted in all districts

1. The following accessory signs are permitted in all districts in the borough:

a. A non-illuminated nameplate, with the name of the principal occupant and the street number and name of a private dwelling or both, with an area of not more than one hundred forty-four (144) square inches.

b. A sign, illuminated or not, for a church, educational institution or public or quasi-public building or use, with an area of not more than sixteen square feet.

c. The following non-illuminated temporary signs:

I. A single sign pertaining to the lease or sale of the premises upon which it is placed, with an area of not more than eight square feet; provided, that such sign shall be removed within seven days after the consummation of a lease or sale of the premises.

ii. Signs for a building, premises or part thereof, under construction or renovation, with the street number of a building and the name of the architect, engineer, landscaper, the general contractor and subcontractors, and the project title during construction on the premises. Such signs shall be located at the principal entrance and within the street line and lot lines of the

premises and shall be removed within seven days after the completion of the construction work. The total area of such signs on a lot shall not exceed eight square feet.

iii. Signs announcing or advertising any political, educational, religious or like campaign, drive or event; provided that the total area of all such signs on a lot shall not exceed eight square feet.

iv. Temporary banner signs are permitted when approved by the Borough Council, subject to time limitations and conditions set by Borough Council as to size, colors, public safety and visible impact.

d. Directional signs, not to exceed two (2) square feet.

B. Permitted signs in business districts

1. The following business signs are permitted for each business building in the CB, TC, DB, PO, VS, and HR/OSS districts:

a. Facade (Wall) Signs

(1) A facade sign shall be located on the wall surface of the principal frontage or facade of the area occupied by such business and extending not more than four (4) inches from such wall, a minimum of two (2) inches. Such business use, if located on a corner lot, may have a second sign located on the wall facing the other street. The total area of such sign (or signs) shall not exceed fifty square feet except for the HR/OSS District, which sign(s) shall not exceed one hundred (100) square feet, and shall in no event exceed fifty percent (50%) of the front wall surface, including window and door area, attributable to such business (demising wall to demising wall). See chart for additional standards.

(2) Business uses located in the rear or on the upper floors may have one non-illuminated business sign to be shared by all such uses on the premises. It shall be located on a wall surface immediately adjacent to the main entrance to such uses and may extend not more

than four inches from such wall. The total area of such sign shall not exceed eight (8) square feet. It may not include more than one set of graphics for each use, such as an identification sign and inclusion of the use in a directory sign. Such uses may, in addition, have one painted sign to be shared by all such uses, on the glass or partially glass door serving as the main entrance to such uses. The total area of such painted sign shall not exceed two (2) square feet.

(3) Interior signs in the VS zone, not facing a public street or residential use or zone, shall not be subject to site plan review.

b. Free-Standing Signs

(1) Free-standing signs, where permitted, shall be located between the principal structure and the public street and may be located in the front yard setback. The business use, if located on a corner lot, may have a second sign located between the second side of the building facing a public street and the street.

(2) Each business located at the basement level of any building may have one main business sign, located on the wall surface of the principal frontage or facade of the area occupied by such business, and extending not more than four inches from such wall. The total area of such sign shall not exceed seventy two (72) square inches.

(3) Businesses with a minimum of five hundred (500) feet on a State highway may have up to two signs on such frontage.

(1) Monument signs are considered free-standing signs for purposes of determining the number or quantity permitted.

(2) See chart for setback requirements.

c. Projecting Signs

A projecting sign or a sign on a canopy shall be permitted in addition to a facade sign.

d. Miscellaneous Signs

(1) Signs on windows, doors, and awnings. Each business located at the street level may have the following signs, for the name, street, number or type of business or any combination thereof:

(a) Two signs, with a total area not to exceed six (6) square feet, painted on the windows or doors, or both, but with not more than one such sign on any window or door; except that an establishment serving food may post its menu and hours or service on the first floor facade in reasonable proximity to the front entry. Such menu sign may be no more than six (6) square feet and may be in addition to the two signs permitted herein.

(b) One sign on the valance of an awning, which shall be considered a projecting sign.

(2) A-frame sign. An A-frame sign for retail establishments in the DB and DB II zones conforming to the following:

(a) The sign may be displayed only during business hours.
(b) Each side of the sign may not exceed 6 square feet.
(c) The sign shall consist of a framed chalkboard or tack board for the listing of daily specials and hours of operation, only. Permanent lettering, excepting the name of the establishment, shall not be permitted.
(d) The location of the sign shall interfere with pedestrian or vehicular traffic.

e. Directory Signs

(1) Directory signs are permitted in the CB, TC, PO, VS and in certain cases, in the HR/OSS zones only.

(2) A directory sign for any business building; provided, that a direction sign is set back at the existing building but no closer than the front yard setback of such premises. Each side of a directory such sign may have the names of all principal tenants of the building. The area of a directory sign devoted to each tenant shall not exceed seventy-two (72) square inches. For the total area of such sign, see the chart for additional requirements.

(3) Menu Board Signs, not to exceed twenty (20) square feet, located adjacent to the building drive-through lane. It shall not be visible from a public street. It may be internally illuminated but shall not be visible from a public street.

f. Each business use located in the rear or on the upper floor may have one non-illuminated sign, with an area not exceeding seventy-two (72) square inches, at a side or rear entrance serving such business.

g. Special signs

(1) Special signs serving the public convenience, such as "Notary Public", "Public Telephones", "Public Rest Rooms" or words or directions of similar import. The area of such sign shall not exceed seventy-two (72) square inches. Only one sign of each type shall be displayed.

(2) A temporary free-standing advertisement or menu sign ("A" frame sign or "sandwich-board" sign) announcing any special sale or event for a consecutive period not to exceed fourteen days, may be displayed during hours of operation, provided only one such sign be installed per street level business establishment not to exceed six (6) square feet in size per side. Such sign shall be placed so

that, a minimum of five (5) feet of an unobstructed sidewalk area, measured from sign to curb, is maintained.

(3) Public business signs may be permitted in the CB, DB, DBII, TC, PO, VS and HR/OSS Districts. The signs shall be temporary "A" frame or "sandwich-board" signs providing direction to various business, with names and directional arrows only.

h. Temporary paper signs

Temporary signs placed on glass which are made out of paper or similar material and containing extraordinary information pertaining to matters of limited duration, such as sales, product promotion, community, cultural, or other public events, and employment opportunities. Such signs shall not have an area exceeding ten percent of the total square footage of the glass frontage of the establishment.

I. Parking rate sign

Operators of parking garages and open lots shall post a sign setting forth all pertinent rate information. Such information shall be readily visible to potential patrons before they pull into the entryway. Such rate sign may be no more than ten (10) square feet and may be in addition to such other signage as is permitted herein.

j. All signs in the DB zone shall be considered "c" variances, unless a variance for height, which shall be a "d" variance. The applications shall be heard by the SRC, §1401.

2. Prohibited signs

a. The following signs or artificial lighting are prohibited:

(1) Billboards, unless previously approved or constructed prior to the adoption of this ordinance, however, they shall not be increased in size.

(2) Flashing signs or moving signs, including any sign or device or which the artificial light is not maintained stationary and constant in intensity an color at all times when in use.

(3) Neon signs.

(4) Signs which compete for attention with, or may be mistaken for, a traffic signal.

3. Location

(a) Except as otherwise provided in the article, no sign shall project into a required yard or beyond the lot or street line.

(b) No sign shall be placed, inscribed or supported upon the roof, or upon any structure which extends above the roof, of any building, except such directional devices as may be required by federal or state aeronautical authorities.

(c) No sign shall be so placed as to interfere with the opening of an exit door or to obstruct any window opening of a room which is used for dwelling purposes.

(d) No part of any business sign shall project above the top or beyond the ends of the wall surface upon which it is placed.

4. Lighting

Permitted lighting for illuminated signs shall be limited to that concentrated upon the face of the sign. If any such sign is situated within twenty feet of a street, the direct source of light shall not be visible from the street or any neighboring lots or uses.

Flemington Borough - Summary of Sign Regulations

Zone	Façade (Wall Signs)			Projecting Signs (In lieu of façade signs)			Freestanding Signs***					Monument Signs****			Directory Signs***		Other Deisgn Requirements
	Number of Signs	Maximum Size or Percent of Linear Frontage**	Max. Height	Min. Ht. Above Ground	Maximum Projection	Max. Height	No. of Signs>	Maximum Size of Sign	Max. Ht. Of Sign	Min. Height Above Ground	Sign Set Back from Right of Way	No. of Signs	Max. Size of Sign	Max. Height from Ground	No. of Signs	Max. Size of Sign	
CB	1/street frontage*; not to exceed 2 per business	50 sf or 50% whichever is simaller	2'	8'	4.5' (54")	1'(12")	1	20 sf, monument sign only	3'	0	10'	1	20 sf	Inc. Base No.	1/site	12 sf	
TC	1/street frontage*; not to exceed 2 per business	50 sf or 50% whichever is smaller	2'	8'	4.5' (54")	1' (12")	1	30 sf. 50 sf. on Rt. 31	22	8	10'	1****	50 sf		1/site	16 sf.	
DB & DBII	1/street frontage*; not to exceed 2 per business	50 sf or 50% whichever is smaller	2'	8'	4.5' (54")	1'(12") Wooded Signs)	1	20 sf.	6'	0	10'	NA	NA	NA	NA	NA	Signs to be reviewed by Planning Board as minor site plan. Freestanding sign can be located at one-half setback of building, but no less than ten feet (10') from curbline.
PO	1/street frontage*; not to exceed 2 per business	50 sf or 50% whichever is smaller	2'	8'	4.5' (54")	1' (12")	1	20 sf.	6'	0	10'	NA	NA	NA	1/site	16 sf.	Height of freestanding sign shall be set at the elevation of the existing grade.
VS	1/street frontage*; not to exceed 2 per business	50 sf or 50% whichever is smaller	2'	8'	6 sf.	3'	1	60 sf./100,000sf. center	22	8	10'	1****	60 sf	8'	NA	NA	
HR, OSS	1/street frontage*; not to exceed 2 per business	100 sf or 50%, whichever is smaller	4'	8'	4.5' (54")	1' (12")	1 1 1	35 sf - Church Street 50 SF - Rts. 12 & 31, Reaville Ave. 90 sf - Rt. 202	16' 16' 20'	8' 0' 8'	20'	1****	50 sf	8'	NA NA 1/site	NA NA 16 sf.	

NA - Not applicable
* Street frontage shall mean vehicular access to a public street where the building fronts, or to a parking lot which serves the building and which directly connects to a public street.
** Linear frontage to be measured from demissing wall to demising wall, below soffit of the roof.
*** Maximum size for directory sign located at the setback of the existing building, but no closer than the required frontyard setback.
> Two freestanding signs may be permitted if the business use fronts on more than one street.
In all zones, one identification sign not exceeding 72 sq. inches shall be permitted at the entrance to the business.
****Monument Signs are allowed in TC, VS and HR on Rt. 12 and 31.
Monument Signs shall be no more than eight feet (8') in height including the base.
Either a Monument Sign or a free standing sign shall be permitted as shown but not both.

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§2632 AFFORDABLE HOUSING PROCEDURAL REQUIREMENTS

This section of the Land Development Ordinance of the Borough of Flemington sets forth regulations regarding low and moderate income housing units in the Borough of Flemington that are consistent with the provisions of *N.J.A.C.* 5:93 et seq. These rules are pursuant to the Fair Housing Act of 1985 and the Borough of Flemington's constitutional obligation to provide for its fair share of low and moderate income housing.

1. The Borough of Flemington's new construction or inclusionary component will be divided equally between low and moderate income households.

2. Except for inclusionary developments constructed pursuant to low income tax credit regulations:

   a. at least half of all units within inclusionary development will be affordable to low income households; and

   b. at least half of all rental units will be affordable to low income households; and

   c. at least one-third of all units in each bedroom distribution pursuant to N.J.A.C. 5:93-7.3 will be affordable to low income households.

3. Inclusionary developments that are not restricted to senior citizens will be structured in conjunction with realistic market demands so that:

   a. the combination of efficiency and one bedroom units is at least 10 percent and no greater than 20 percent of the total low and moderate income units; and

   b. at least 30 percent of all low and moderate income units are two bedroom units; and

   c. at least 20 percent of all low and moderate income units are three bedroom units; and

   d. low and moderate income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of senior citizen low and moderate income units within the inclusionary development.

4. In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:

   a. efficiency units will be affordable to one person households; and

   b. one bedroom units will be affordable to 1.5 person households; and

   c. two bedroom units will be affordable to three person households; and

   d. three bedroom units will be affordable to 4.5 person households; and

   e. median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD as per N.J.A.C. 5:93-7.4(b); and

   f. the maximum average rent and price of low and moderate income units within each inclusionary development will be affordable to households earning 57.5 percent of median income; and

   g. moderate income sales units will be available for at least three different prices and low income sales units will be available for at least two different prices; and

   h. for both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an inclusionary development; and

   i. low income units will be reserved for households with a gross household income less than or equal to 50 percent of the median income approved by COAH; moderate income units will be reserved for households with a gross household income less than 80 percent of the median income approved by COAH as per N.J.A.C., 5:93-9.7.4(j); and

   j. the regulations outlined in N.J.A.C. 5:93-9.15 and 9.16 will be applicable for purchased and rental units.

5. For rental units, developers and/or municipal sponsors may:

   a. establish one rent for a low income unit and one for a moderate income unit for each bedroom distribution; and

b. gross rents, including an allowance for utilities, will be established so as not to exceed 30 percent of the gross monthly income of the appropriate household size as per N.J.A.C. 5:93-7.4(a). The tenant-paid utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey.

6. For sale units:

a. the initial price of a low and moderate income owner-occupied single family housing unit will be established so that after a down payment of five percent, the monthly principal, interest, homeowner's insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee do not exceed 28 percent of the eligible gross monthly income; and

b. master deeds of inclusionary developments will regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers at 100 percent of that paid by market purchasers. This percentage is consistent with the requirement of N.J.A.C. 5:93-7.4(h). Once established within the master deed, the percentage will not be amended without prior approval from COAH; and

c. the Borough of Flemington will follow the general provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or reoccupancy on sale units as per N.J.A.C. 5:93-9.3; and

d. the Borough of Flemington will require a certificate of reoccupancy for any occupancy of a low or moderate income sales unit resulting from a resale as per N.J.A.C. 5:93-9.3(c); and

e. municipal, state, non-profit and seller options regarding sale units will consistent with N.J.A.C. 5:93-9.5 – 9.8. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:93-9.9; and

f. the continued application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:93-9.10; and

g. eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11; and

h. the regulations detailed in N.J.A.C. 5:93-9.12 – 9.14 will be applicable to low and moderate income units that are for sale units.

7. In zoning for inclusionary developments the following is required:

a. low and moderate income units will be built in accordance with N.J.A.C. 5:93-5.6(d);

Minimum % of Low/Moderate Income Units Completed	% of Market Housing Units Completed
0	25
10	25 + 1 unit
50	50
75	75
100	90

b. a design of inclusionary developments that integrates low and moderate income units with market units is encouraged per N.J.A.C. 5:93-5.6(f).

8. A development fee ordinance was approved by COAH and adopted by Flemington Borough (see Section 9C-1 et seq.).

9. To provide assurances that low and moderate income units are created with controls on affordability over time and that low and moderate income households occupy these units, Flemington will designate an experienced administrative entity (by resolution and approved by COAH) with the responsibility of ensuring the affordability of sales and rental units over time. The experienced administrative agency will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

a. in addition, the experienced administrative agency will be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:93-9.1(b) in placing households in low and moderate income units; and

b. newly constructed low and moderate income sales units will remain affordable to low and moderate income households for at least 30

years. The experienced administrative entity will require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred to as Appendix E as found in N.J.A.C., 5:93; and

c. housing units created through the conversion of a non-residential structure will be considered a new housing unit and will be subject to 30 year controls on affordability. The experienced administrative entity will require an appropriate deed restriction and mortgage lien subject to COAH's approval.

10. Regarding rehabilitated units:

a. rehabilitated owner-occupied single family housing units that are improved to code standard will be subject to affordability controls for at least six years; and

b. rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least 10 years; and

11. Regarding rental units:

a. newly constructed low and moderate income rental units will remain affordable to low and moderate income households for at least 30 years. The experienced administrative entity will require an appropriate deed restriction and mortgage lien subject to COAH's approval;

b. affordability controls in accessory apartments will be for a period of at least 10 years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for 30 years; and

c. alternative living arrangements will be controlled in a manner suitable to COAH that provides assurance that such a facility will house low and moderate income households for at least 10 years except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for 30 years.

12. Section 14(b) of the Fair Housing Act N.J.S.A. 52:27D-301 et seq. incorporates the need to eliminate unnecessary cost generating features from Flemington's land use ordinances. Accordingly, Flemington will eliminate development standards that are not essential to protect the public welfare and to expedite or fast tract municipal approvals/denials on inclusionary development applications. The Borough of Flemington will adhere to the components of N.J.A.C. 5:93-10.1 – 10.3.

§2633 AFFORDABLE HOUSING AFFIRMATIVE MARKETING PROCEDURES

1. Fair Share Obligation (Second Round)

The Borough of Flemington has a fair share allocation of 70 units. This 70 unit obligation consists of a 32 unit rehabilitation component and a 38 unit new construction component. The new construction component has been adjusted downward from 38 units to 4 units as the result of a vacant land adjustment, yielding a net total fair share obligation 36 units [4-unit Realistic Development Potential (RDP) and 32-unit rehabilitation component].

The Borough's Fair Share Plan addresses its fair share allocation by utilizing credits and the following affordable housing program:

Allen Street Senior Inclusionary Development	4 units
Rehabilitation Credits & Program:	32
Total Plan Capacity	36 units

In addition, the Borough has a 34-unit unmet need which it shall address through a development fee ordinance, accessory apartment program and age-restricted affordable rental housing. This ordinance shall apply to all accessory apartments and any other new units developed in Flemington Borough.

2. Affirmative Marketing Plan

The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by the Borough of Flemington or designated entity pursuant to *N.J.A.C.* 5:93-9.1(a). The affirmative marketing plan of the Borough of Flemington addresses the requirements of *N.J.A.C.* 5:93-11. In addition, the plan prohibits discrimination in the sale, rental, financing or other services related

to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. The Borough of Flemington is in the West-Central housing region consisting of Hunterdon, Somerset and Middlesex Counties. The affirmative marketing program is a continuing program and shall meet the following requirements:

a. All newspaper articles, announcements and requests for applications for low and moderate income units shall appear in the following daily regional newspaper: The Hunterdon County Democrat and Courier News.

b. The primary marketing effort shall take the form of at least one press release and one paid display advertisement sent to the above publication. Additional advertising and publicity shall be on an "as needed" basis.

c. The advertisement shall include a description of the following: street address of the units; directions to housing units; number of bedrooms per unit; range of rents; size of units; household income limits; and the location of applications including business hours and where and how applications may be obtained.

d. All newspaper articles, announcements and requests for applications for low and moderate income housing shall be submitted for publication in neighborhood oriented weekly newspapers, religious publications and organizational newsletters within the region, and for public information announcements on the local cable television station.

e. The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program including specific employment centers within the region: Posting of notices in the Borough Hall, and delivery of notices to the municipal clerks of all municipalities in the region. Applications shall be available at the Borough Hall during its regular business hours.

f. A list of community contact persons and/or organizations within the housing region shall be maintained to aid the affirmative marketing program for any newly constructed units with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region.

g. Quarterly flyers and applications for newly constructed units will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Hunterdon, Somerset and Middlesex Counties.

h. Applications will be mailed to prospective applicants upon request.

i. Additionally, for newly constructed units quarterly informational circulars and applications will be sent to the chief administrative employees of each of the following agencies in the counties within Flemington's region: welfare or social service board, rental assistance office (local office of DCA), Office on Aging, libraries, and housing agency or authority in each of the counties within Flemington's housing region.

j. A random selection method will be sued to select occupants of low and moderate income housing.

k. Households who live or work in the COAH-established housing region may be given preference for sales and rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced. The Borough of Flemington intends to comply with N.J.A.C. 5:93-11.7.

l. All developers of low and moderate income housing units will be required to assist in the marketing of the affordable units in their respective developments.

3. Administrative Agency

The Borough of Flemington is ultimately responsible for administering the affirmative marketing program. The Borough of Flemington will designate an experienced administrative entity (by resolution and as approved by COAH) to be responsible for the rehabilitation and accessory apartment programs, as well as any new construction units. The experienced administrative entity will income qualify low and moderate income households; provide for the initial occupancy of low and moderate income units with income qualified households; continue to income qualify households for reoccupancy of units as they become vacant during the period of affordability controls; assist with advertising and outreach to low

and moderate income households; and enforce the terms of the deed restriction and mortgage loan as per *N.J.A.C.* 5:93-9.1.

The Borough Clerk within Flemington Borough is the designated housing officer to act as liaison to the experienced administrative entity.

The experienced administrative entity will provide counseling services as appropriate to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements and landlord/tenant law.

4. Commencement of Program

The affirmative marketing program shall commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The affirmative marketing program shall continue until all low and moderate income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.

5. Monitoring and Reporting

The Borough of Flemington shall comply with monitoring and reporting requirements as per *N.J.A.C.* 5:93-11.6 and 12.1.

CHAPTER XXVIII

FEES, GUARANTEES, INSPECTIONS AND OFF-TRACT IMPROVEMENTS

§2800 APPLICATION AND ESCROW FEES

A. Fee Schedule. Every application for development shall be accompanied by a check payable to the municipality in accordance with the following schedule:

Subdivisions		
Application Type	**Application Fee**	**Escrow Fee**
Minor Subdivision	$250.00	$500.00
Preliminary Major Subdivision	$500.00	$1,000.00
Final Major Subdivision	$200.00	$75.00 per lot
Boundary Line Adjustment.	$200.00	$200.00

Site Plans		
Application Type	**Application Fee**	**Escrow Fee**
Minor Site Plan	$400.00	$600.00
Minor Site Plan for Signs	$25.00	$100.00
Preliminary Site Plan	$500.00	See Page 1A
Final Plan	$250.00	See Page 1A

Fees to Site Plan Review Escrow. The engineering fees for site plan review escrow shall be based on the costs of improvements exclusive of buildings, including, but not limited to construction and installation costs of grading, pavement, surveyors, monuments, drainage structures, storm sewers, sanitary sewers, water mains, fire protection features, streets, gutters, sidewalks, culverts, street lighting, shade trees and landscaping, parking areas, street signs, sedimentation and erosion control devices, public improvements of open space and any other on-tract improvements. Said fees are as follows:

a. Application review fees:
   1. $0 to $3,000.00 - 25.0% of the total cost
   2. $3,001.00 to $5,000.00 - $750.00 plus 18.0% of the amount over $3,001.00
   3. $5,001.00 to $15,000.00 - $1,110.00 plus 8.5% of the amount over $5,001.00
   4. $15,001.00 to $50,000.00 - $2,810.00 plus 6.5% of the amount over $15,001.00
   5. $50,001.00 to $100,000.00 - $4,435.00 plus 4.5% of the amount over $50,001.00
   6. $100,001.00 to $250,000.00 - $6,685.00 plus 3.0% of the amount over $100,001.00
   7. $250,001.00 to $500,000.00 - $11,185.00 plus 2.0% of the amount over $250,001.00
   8. $500,001.00 to $750,000.00 - $16,185.00 plus 2.0% of the amount over $500,001.00
   9. $750,001.00 to $1,000,000.00 - $21,185.00 plus 2.0% of the amount over $750,001.00
   10. $1,000,001.00 and over - $26,185.00 plus 2.0% of the amount over $1,000,001.00

b. Additional escrow fees:
   1. Planner - For any application for development except for minor subdivision or minor site plan (preliminary or final) - $500.00.
   2. Attorney
      (I) For any application not requiring a public hearing - $350.00
      (ii) For any application requiring a public hearing - $750.00

c. The fees provided for in this section shall be preliminary fees and shall not include any additional escrow fees which are required to be paid form time to time as hereinafter provided. The planning board or board of adjustment shall not act or consider any plan until such time as the initial fees are paid in full and no application shall be considered complete until such time as the fees provided for in this section are deposited with the Borough of Flemington.

Additional Fees. There shall be an additional fee due and owing whenever the original fee paid into escrow is reduced by charges against the account to 35 percent or less of the original fee. The secretary of the planning board or of the board of adjustment shall in writing require the applicant to provide an additional 65 percent of the original fee which additional fee shall be payable within seven days and prior to the planning board or board of adjustment considering in any way or hold hearing on, or public or private discussion of, any site plan, subdivision or other matter before the planning board or board of adjustment. The planning board or board of adjustment shall not discuss, consider, or in any way make any recommendations for a proposed site plan at a regular meeting or work session of the planning board or board of adjustment when the additional fees have not been paid. Any preliminary discussion of a site plan subdivision or any other matter to come before the planning board or the board of adjustment shall be at a work session of the board and no applicant shall request to be placed on the agenda for a regular meeting unless formal application has been made and fees paid. All informal discussion shall be at work sessions. In the event the planning board or board of adjustment must seek the advice of its professionals, either engineering, legal or planning, the application shall no longer be considered informal and the fees provided for herein must be paid prior to participation of any professional advisors of the planning board or board of adjustment.

Other Application and Escrow Fees		
Application Type	**Application Fee**	**Escrow Fee**
Variances Hardship (40:55D-70c) Use (40:55D-70d)	$250.00 $250.00	$500.00 with $250.00 for each additional variance. $700.00 with $350.00 for each additional variance.
Historic District Applications	$25.00	$100.00
Hear and Decide Appeals	$300.00	
Conditional Uses	$200.00	
Interpretation of the Zoning Map	$300.00	
Sign Variance	$100.00	
Hardship or Other Variance	$400.00	
Use or other Variance: Residential Other Uses Minimum Maximum	 $25.00 per dwelling unit $250.00 per acre for the portion affected by the proposed use. $500.00 $8,000.00	
Building Permit/Conflict with Official Map Building Permit/Lot not related to a street	$400.00 $400.00	
Application to the Board of Adjustment/Extension of Meeting	$100.00/additional meeting	
Other Actions by Board of Adjustment Appeals (40:55D-70a) Interpretation (40:55D-70b)	 $200.00 $200.00	 None $200.00
Appeals to Borough Council	$400.00	None

Other Application and Escrow Fees		
Issuance of Permit for a Building in Certain Locations (40:55D-34b and 35)	$150.00	$200.00 minimum
Permit Fees: Zoning Historic District - Commercial Zoning Historic District - Residential Certificate of Occupancy Non-Residential Certificate of Occupancy	 $100.00 No Fee (included with cost of Bldg. Permit Fee) $25.00 $50.00	
Certified List of Property Owners	$10.00	Not Applicable
Copy of Transcripts (*See* § 708.E.1 [*N.J.S.A.* 2A:11-15])	$1.50 per page for first copy of plus $.50 per copy for each additional copy, as amended.	Not Applicable
Copy of Minutes or Decisions	$.10 per page	Not Applicable
Copy of Meeting Tapes	$10.00/Tape	

§2801 GUARANTEES AND INSPECTIONS

A. No final plat shall be approved by the approving authority until all improvements (onsite, offsite, and off-tract), for which a bond is required in the public interest, have been installed, inspected, and certified as approved and conforming to the requirements of this Ordinance and any other applicable law, including the conditions of preliminary approval by the Municipal Engineer and the approving authority, and a maintenance guarantee has been filed and accepted by the governing body in accordance with the requirements of this Section, or 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 maintenance guarantee shall be accepted nor shall any partial facility

be accepted for any item which has further stages or work to 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.

B. The performance guarantee cost estimate shall be based on the cost of the installation of all improvements required for final approval or for the issuance of a zoning permit, as the case may be. In calculating such estimate, allowance shall be made for the cost of any prevailing wage determined pursuant to state or federal law if such wage would have to be paid by the Borough or party under contract with it were the Borough to install the improvements on default of the obligor on the guarantee. The performance guarantee cost estimates shall take into account improvements installed prior to application for approval that do not meet the standards of this Ordinance or other regulations.

C. A performance guarantee cost estimate shall be submitted to the approving authority by the Borough Engineer as part of his report on preliminary and final plat review. The approving authority may request the Borough Engineer to review and update this estimate from time to time, as required.

D. The proposed performance guarantee required for final plat approval shall be submitted to the Borough Engineer and Borough Attorney for recommendations as to accuracy and form and then to the governing body for approval and acceptance by resolution.

1. The portion of the performance guarantee consisting of cash or certified check shall be deposited with the Borough by payment to the Borough Treasurer. The Borough 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 are not completed or corrected in accordance with the performance guarantee and the standards of the Borough within the stipulated time, but not 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 not completed or corrected and, upon authorization by the governing body, the Borough Attorney shall take the necessary steps to obtain such cost from the obligor and surety. The Borough may, either prior to or after receipt of the process of the performance guarantee, complete such improvements.

2. The total performance guarantee shall equal 120 percent of the cost of installation to be determined by the Borough Engineer pursuant to N.J.S.A. 40:55D-53.4 and shall include a time limit, not to exceed 2 years, for the proper and complete installation of the improvements for which the guarantee is given. Ninety percent of this total shall be in either cash, certified check, or surety bond, as specified above. The remaining 10 percent 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 10 percent cash fund herein mentioned shall be first applied to the completion of the requirements and the additional cash, certified check, or surety bond shall thereafter be resorted to, if necessary, for the completion of the requirements. The surety bond or document submitted and approved with the cash or certified check may recite the foregoing provision. The Borough Engineer's certification that the principal has satisfactorily installed or has defaulted in meeting the required standards of construction shall be the basis for governing body action which accepts or rejects the improvements, withholds approval, or extends the time allowed for installation of the improvements.

E. The Borough Clerk shall immediately notify the approving authority and the Borough Engineer when the performance guarantee has been approved and accepted by the governing body.

F. Prior to beginning construction, the developer shall arrange for a preconstruction conference between the developer, contractor, and Borough Engineer. All improvements and utility installations shall be inspected during the time of their installation by the Borough Engineer or his representative to ascertain satisfactory completion. The Borough Engineer shall be notified by the developer 5 days in

advance of the start of construction. The cost of said inspection shall be the responsibility of the developer. The developer shall deposit a certified check or bank money order with the Borough Clerk in the amount stated below for the purpose of covering all reasonable inspection fees to be paid to the Borough Engineer for the inspection of improvements.

1. The deposit shall be in addition to the amount of the performance guarantee and all application fees and shall be computed as follows:

2. The construction inspection fee deposit is to be calculated from the following tabulation based on the estimated cost of constructing the improvements (calculated in the same manner as a performance guarantee cost estimate), which estimate is to be prepared and submitted by the applicant's engineer and approved by the Borough Engineer, with the concurrence of the approving authority.

   a. In addition to the performance guarantee provided for above, the developer shall deposit with the borough treasurer in cash or equivalent an amount equal to the following amounts to defray the costs of inspection fees which shall be based on the cost of construction estimate:

      (1) $0 to $3,000.00 - 12.0% of the total.
      (2) $3,001.00 to $5,000.00 - $360.00 plus 11.5% of the amount over $3,001.00
      (3) $5,001.00 to $25,000.00 - $590.00 plus 11.0% of the amount over $5,001.00.
      (4) $25,001.00 to $50,000.00 - $2,790.00 plus 10.25% of the amount over $25,001.01.
      (5) $50,001.00 - $100,000.00 - $5,352.50 plus 9.5% of the amount over $50,001.00.
      (6) $100,001.00 to $250,000.00 - $10,102.50 plus 6.0% of the amount over $100,001.00.
      (7) $250,001.00 to $500,000.00 - $19,102.50 plus 4.0% of the amount over $250,001.00.

(8) $500,001.00 to $750,000.00 - $29,102.50 plus 3.75% of the amount over $500,001.00.

(9) $750,001.00 to $1,000,000.00 - $38,477.50 plus 3.75% of the amount over $750,001.01.

(10) $1,000,001.00 and over - $47,852.50 plus 3.75% of the amount over $1,000,001.00.

3. Improvement costs as estimated in this section shall include construction and installation costs of grading, pavement, drainage structures, storm sewers, sanitary sewers and other means of sewage disposal and facilities, water mains, fire protection features, streets, gutters, curbs, culverts, site lighting, shade trees, parking areas, landscaping, street signs, erosion control and sedimentation control devices, public improvement of open space, and other required improvements.

G. The deposit shall be utilized to reimburse the Borough for all reasonable inspection fees billed by the Borough Engineer for the inspection of improvements. Prior to the utilization of any of such deposit for the reimbursement of such fees, the developer shall be notified in writing by the Borough Engineer. If the developer objects to the amount of such fees as unreasonable, he shall notify the Engineer in writing of such objection within 10 days of the giving of such notice, otherwise he shall be deemed to have waived any right to object to the amount of such fees. In the event the developer objects, his objections shall be heard by the governing body who shall thereafter decide the amount of the fee and authorize payment to the Borough Engineer. Any of the deposit not required for the reimbursement of the inspection fees shall be returned to the developer. The developer shall reimburse the Borough, however, for the amount of such reasonable inspection fees over and above the amount of the deposit.

H. Electrical, gas, telephone, and all other utility installations installed by utility companies shall also be subject to the inspection requirements contained herein.

I. A certificate of occupancy shall 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, and base course for the street and driveway are installed to serve the lot and structure for which the certificate is requested. It is permissible that streets not receive surface course paving until all heavy construction is completed. Shade trees shall not be planted until grading and earth moving is completed. Seeding of grass areas shall be in the final operation.

J. Inspection by the Borough 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, is the responsibility of the developer, not the Borough Engineer.

K. After completing the construction of the improvements covered by the performance guarantee, the developer shall prepare 2 sets of plans of the improvements and utility plans and the profiles amended to read "as constructed", which shall be submitted to the governing body. Upon substantial completion of all required utility improvements, and the connection of the same to any public system, the obligor may notify the governing body in writing by certified mail, addressed in care of the Borough Clerk, of the completion of said improvements and shall send a copy of such notification to the Borough Engineer. Thereupon, the Borough Engineer shall inspect all of the improvements of which such notice has been given and shall, within 30 days of completing the inspection, report in writing to the governing body indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements, as approved or rejected, shall be set forth.

L. The governing body shall either approve, partially approve, or reject the improvements on the basis of the report of the Borough Engineer

and shall notify the obligor in writing by certified mail of the content of said report and the action of said approving authority with relation thereto not later than 65 days after receipt of the required notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved (provided that 30% of the amount of the performance guarantee posted may be retained to insure completion of all improvements). Failure of the governing body to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements.

M. 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.

N. The approval of any plat under this Ordinance by the approving authority shall in no way be construed as acceptance of any street, drainage system, or other improvement required by this Ordinance, nor shall such plat approval obligate the Borough in any way to maintain or exercise jurisdiction over such street, drainage system, or other improvement. Acceptance of any street, drainage system, or other improvement shall be implemented only by specific and appropriate action by the governing body.

O. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120 percent of the cost of installation as determined by the Borough Engineer pursuant to N.J.S.A. 40:55D-53.4, as of the time of the passage of the resolution.

P. Maintenance Guarantee

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

1. The Borough 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 law.

2. Except where waived as hereinafter provided, a maintenance guarantee shall have been posted with the governing body for a period of 2 years after final acceptance of the improvements in an amount equal to 15% of the cost of improvement as determined by the Borough Engineer pursuant to N.J.S.A. 40:55D-53.4. The requirement for a maintenance guarantee may be waived by the approving authority as to particular, or all, improvements where the Borough Engineer has certified that such improvements have been in continuous use and satisfactorily maintained for some period of time, not less than one year from the date that the Borough Engineer certified the completion of such improvements to the approving authority, such use and maintenance giving reasonable assurance that the maintenance guarantee can be waived.

Q. Proviso

Notwithstanding the foregoing, 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 Borough for such utilities or improvements.

§2802 INCONSISTENT ORDINANCES REPEALED

All ordinances or part of ordinances which are consistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. Upon the adoption of this Ordinance, the following are hereby repealed:

A. The Ordinance creating a Planning Board in the Borough of Flemington.

B. The Ordinance known as the Land Subdivision Ordinance of the Borough of Flemington and all amendments and supplements thereto.

C. The Ordinance known as the Zoning Ordinance of the Borough of Flemington and all amendments and supplements thereto.

D. The Development Regulations Ordinance of the Borough of Flemington, and all amendments and supplements thereto.

§2803 INTERPRETATION

A. The provisions of this Ordinance shall be held to be minimum requirements. If there are any inconsistencies within this ordinance, or if this ordinance conflicts with any other ordinance, statute, rule or regulation, whichever provisions are more restrictive or impose higher standards shall control.

B. Zoning district boundary lines are intended to follow street center lines, streams, and lot or property lines unless otherwise indicated by dimensions on the zoning map. Any dimensions 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 50 feet of the zoning district line as shown on the zoning map. A use or structure permitted in the zoning district so extended shall thereafter be a permitted use or structure 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.

§2804 PERMITS

A. 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 development approvals and the issuance of required permits.

B. Prior to any change in the use of any land or building where the changed use is affected by the requirements of this Ordinance, the developer or his authorized agent shall apply for a zoning permit, except that no separate zoning permit shall be required in any case in which the change in use will require a building permit. The application for a zoning or building permit shall be on forms to be provided by the Borough and shall contain such information, sketches, plans, and data as may be required to determine compliance with this Ordinance. The zoning officer shall issue a zoning permit, or endorse the building permit, if he determines that the proposed use conforms with the requirements of this Ordinance and any necessary subdivision, site plan or conditional use approval has been granted. No building permit shall be issued under the Borough building code unless and until the building inspector has determined that the proposed use and building conform fully to the provisions of this Ordinance and until any necessary subdivision, site plan, or conditional use approval has been granted. The applicant shall supply such sketches, maps, plans, deed description, or such other information as may be necessary to determine conformity with the requirements of this Ordinance.

C. The zoning officer shall maintain a file of all permits granted, together with all applications, and shall make copies of the permits available to the agencies and officials designated by the Borough Council.

D. 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 such 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 Borough Engineer,

and the construction and applicable Board of Health codes are complied with.

E. Certificate of Occupancy

1. With respect to any finally approved subdivision and/or site plan or subsection thereof, a certificate of occupancy for each use within the subdivision and/or site plan shall be issued only upon payment of all fees, the posting and continued effectiveness of any required performance and maintenance guarantees, upon compliance with all other applicable statutes, codes, ordinances and regulations, and upon completion of the following improvements for the lot in question and for that portion of the tract serving the use such as providing access to it, providing storm water facilities to control storm water flows to, through, and beyond the site in question, or similar services where the following improvements have been required as part of the subdivision and/or site plan approval:

   a. Curbs.

   b. All utilities.

   c. Water supply and sewerage treatment facilities, which shall be functioning and servicing each use for which a certificate of occupancy is being requested.

   d. Storm drainage facilities.

   e. Rough drainage facilities.

   f. Base course of the street(s) serving the property.

   g. Base course of driveways and parking areas.

2. With respect to any individual residential lot within a subdivision, a certificate of occupancy shall be issued only upon the completion of the following improvements, in addition to those listed in Subsection E.1 above, to the extent the same are required as part of a subdivision approval:

   a. Sidewalks.

   b. Driveway aprons.

   c. Street names and traffic regulatory signs.

§2805 VALIDITY

If any section, paragraph, clause, or other provision "or application" 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.

§2806 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; or any regulation made under authority conferred hereby or any approval granted here under or the conditions of such approval, the violator shall be subject to a fine not to exceed $1,000.00 or 90 days in jail for each violation. Each day in which the offense occurs shall constitute a separate violation. Further, the proper local authorities of the Borough 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 to prevent any illegal act, conduct, business or use in or about such premises.

B. If, before any final subdivision approval has been granted, any person transfers or sells or agrees to transfer any land which forms a part of a subdivision for which municipal approval is required by this Ordinance, such persons shall be subject to a penalty not to exceed $1,000 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 N.J.S.A. 40:55D-56.

§2807 SUBDIVISION REVIEW AND APPROVAL

Subdivision approval pursuant to this Ordinance is required for subdivisions (except exempt subdivisions). The submittal of an application for site plan approval shall not limit the requirements for submission and approval of subdivisions as otherwise required by this Ordinance.

No subdivision plat shall be filed and no deed describing subdivided land requiring subdivision approval shall be recorded with the County Recording Officer until the required minor or final major subdivision approval has been obtained from the approving authority.

§2808 SITE PLAN REVIEW

No construction permit shall be issued for any new structure, a change of use of an existing structure or addition to an existing structure until a site plan has been reviewed and approved by the approving authority except for the following:

A. Construction permits for individual lot applications involving only a detached one- or two-dwelling unit building, except for those in a planned residential development as to which no final site plan approval has been granted.

B. Accessory buildings as otherwise permitted for detached one- or two-family dwellings.

C. Other buildings accessory to residential principal uses.

D. Any change of use from one permitted principal use to another permitted principal use, if, in the opinion of the Administrative Officer, the parking and traffic circulation provisions existing on the site shall be adequate and sufficient for the proposed use.

E. The alteration or repair of an existing building which is not either a detached one- or two-dwelling unit building upon determination by the Administrative Officer that the alterations or repair:

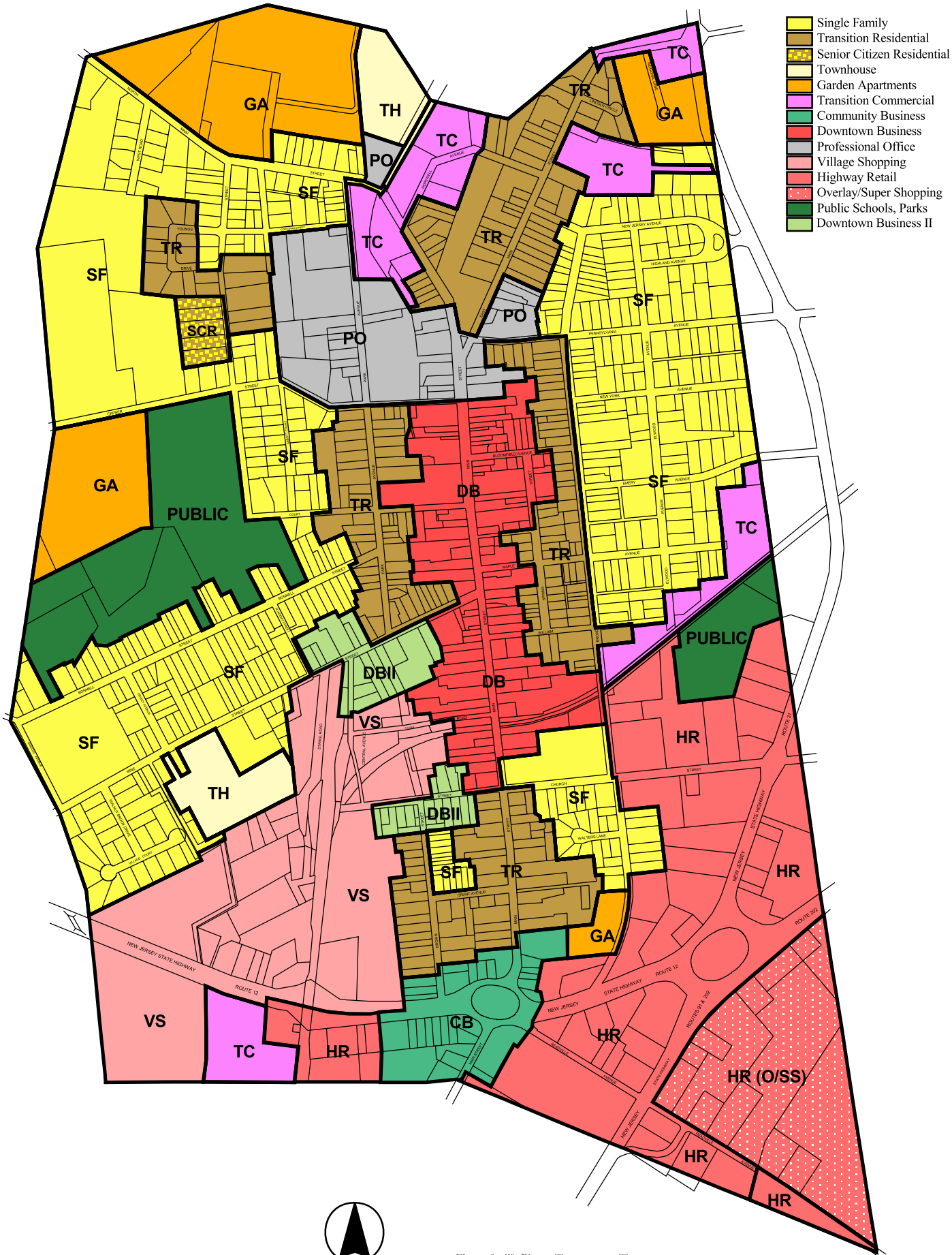
1. Will not result in additional lot coverage whether by buildings or site improvements; except that a non-residential structure which increases the existing building coverage by 10% or less shall not require site plan approval if, in the opinion of the Administrative Officer, such addition or alteration shall not create nuisance problems to adjoining land uses;

2. Will not increase the number of required off-street parking or loading spaces;

3. Will conform to the maximum and minimum standards as set forth in Chapter XVI; and

4. Is not proposed in conjunction with a use requiring a conditional use permit.

Such exemption from site plan review shall not apply to any use, building, structure, or landscape either currently listed on the local, State or National Register of Historic Places, or proposed for inclusion on such register or registers in the Historic Preservation Element of the Master Plan.



CLARKE CATON HINTZ

December 2004

Borough of Flemington

Zoning

FLEMINGTON HISTORIC DISTRICT
NATIONAL REGISTER OF HISTORIC PLACES

- SIGNIFICANT
- CONTRIBUTING
- NON-CONTRIBUTING HISTORIC\ CONTEMPORARY
- ENCROACHING
- DEMOLISHED
- HISTORIC DISTRICT

GRAPHIC SCALE
200 0 100 200 400 800
(IN FEET)

CLARKE♦CATON♦HINTZ

Borough of Flemington

September 9, 1999
Revised: February 5, 2003

HISTORIC DISTRICT