

Ordinance #2020-1235
An Ordinance Adopting The Codification Of The Land Use Volume
Of The Borough Of Manville In The County Of Somerset, New Jersey

STATEMENT OF PURPOSE

The purpose of this Ordinance (the "Adopting Ordinance") is to adopt the Codification in a single volume as "The Land Use Volume" of the previously Land Use & Development Ordinances of the Borough of Manville, to provide for continuing updates to the Land Use Volume as future land use and development ordinances are adopted, to make a complete copy of the Land Use Volume available for inspection at the office of the Borough Clerk, to make a copy of the Land Use Volume available for review and access on-line.

WHEREAS, the Borough Council of the Borough of Manville in the County of Somerset, New Jersey, has caused the Land Use and Development Ordinances to be codified, including where necessary amended and supplemented for clarity, compiled and revised to become a part of the Codification to be known as The Land Use Volume of the Revised General Ordinances of the Borough of Manville.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MANVILLE IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY AS FOLLOWS:

Section 1. Codification of Previously Adopted Ordinances as The Land Use Volume.

The existing previously adopted Land Use and Development Ordinances of the Borough of Manville have been amended, formatted and Codified and shall become The Land Use Volume of the Revised General Ordinances of the Borough of Manville upon final adoption and publication according to law of this adopting ordinance. The chapters contained in the Land Use Volume include:

- Chapter 25 Soil & Soil Removal
- Chapter 26 Flood Damage Prevention
- Chapter 27-29 (reserved)
- Chapter 30 Land Development
- Chapter 31 Zoning
- Chapter 32 Airport Zoning
- Chapter 33 Affordable Housing

Section 2. Codification Date; Land Use Map. The Land Use Volume as here adopted includes all amending ordinances up to and including Ordinances adopted as of January 1, 2018 and include Chapters 25 through 33; the Schedule of Limitations, and the current Borough Zoning Map dated March, 2018.

Section 3. Adoption of the Land Use Volume. This ordinance provides for the adoption by reference of the Land Use Volume, which establishes Flood Damage Prevention Regulations, Planning Board powers, Planning Board powers, including as a "Joint Land Use Board" incorporating the powers of the former Zoning Board of Adjustment); provides standards and requirements for Development Applications, Subdivisions, Design and Performance Standards, Improvements, Parking and Loading, Zoning Regulations and Site Plan Review. The Land Use Volume contains Chapters 25 to 33, related applications and schedules, and the current Borough Zoning Map dated March, 2018.

Section 4. The Land Use Volume to be Available for Inspection at the Office of the Borough Clerk. The Land Use Volume containing Chapters 25 through 33 of the Revised General Ordinances of the Borough of Manville, County of Somerset and State of New Jersey, has been filed in the office of the Municipal Clerk of the Borough of Manville and shall remain there for the use and examination of the public until final action is taken on this ordinance, and

if this ordinance shall be adopted, such copy shall be certified to by the Municipal Clerk in the Borough of Manville, by impressing thereon the seal of the Borough of Manville, as provided by law, and such certified copy shall remain on file in the office of the Municipal Clerk of the Borough of Manville, to be made available to persons desiring to examine the same during all times while this chapter is in effect.

Section 5. **The Land Use Volume to also be Available On-Line.** In addition to the copy made available at the office of the Borough Clerk per Section 4 of this Ordinance, the Borough Clerk and Borough Administrator shall take such actions as are necessary to make the Land Use Volume available on-line on the website of the Borough of Manville, within sixty (60) calendar days of the adoption of this Ordinance.

Section 6. **Publication of this Adopting Ordinance.** The Municipal Clerk of the Borough of Manville, pursuant to law, shall cause to be published in the manner required a copy of this Adopting Ordinance in a newspaper of general circulation in the Borough of Manville and shall be maintained in the office of the Municipal Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance coupled with availability of copies of the Land Use Volume for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the Land Use Volume for all purposes.

Section 7. **Continuing Updates of the Land Use Volume.** The Borough Administrator and Borough Clerk shall, in consultation and cooperation with the Borough's Ordinance Codification professionals, and in further consultation if and as necessary with the Borough Attorney, the Borough Engineer, and the Planning Board Attorney, cause the Land Use Volume to be continuously updated as future Borough Land Use and Development Ordinances are adopted by the Mayor & Council of the Borough of Manville, or as future Land Use Maps are adopted or updated, by causing any such future Land Use and Development Ordinances and Land Use Maps to be codified and incorporated into the Land Use Volume promptly upon the adoption of same. The Mayor & Council may by Resolution establish future procedures for implementing such future updates of the Land Use Volume. As such future and continuing updates are made to the Land Use Volume, same shall to be made available to the public in accord with both Section 4 and Section 5 of this Adopting Ordinance.

Section 8. **Severability.** Each section of the Land Use Volume of the Revised General Ordinances of the Borough of Manville, and every part of each section is an independent section or part of a section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or part thereof. In the event that any provision of this Ordinance, or the application of thereof to any person or circumstance is adjudged invalid, such adjudication of invalidity shall not affect the validity of the remaining provisions same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 9: **Repealer.** All other Ordinances or other local requirements that are inconsistent or in conflict with this ordinance are hereby repealed to the extent of any inconsistency or conflict, and the provisions of this ordinance shall apply.

Section 10: **Purpose of Captions.** The captions contained in this Ordinance have been inserted only for the purpose of facilitation reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

Section 11: **Effective Date:** This Ordinance shall take effect after adoption, passage, and publication according to law.

Borough of Manville,



Richard M. Onderko, Mayor

ORDINANCE #2020-1235

FIRST READING:

ROLL CALL

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		MAGNANI	✓			
	✓	LUKAC	✓			
✓		MAEDER	✓			
		PETROCK	✓			
		SZABO	✓			
		ZAMORSKI	✓			
		MAYOR ONDERKO				

INTRODUCED this 27th day of April__, 2020

Attest:



Wendy Barras, Borough Clerk

SECOND READING:

ROLL CALL

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		MAGNANI	✓			
	✓	LUKAC	✓			
		MAEDER	✓			
		PETROCK	✓			
✓		SZABO	✓			
		ZAMORSKI	✓			
		MAYOR ONDERKO				

[ADOPTED] [DEFEATED] this 11th day of May, 2020

Attest:



Wendy Barras, Borough Clerk

CHAPTER 31
ZONING ORDINANCE

ARTICLE 1 PURPOSE; INTERPRETATION; SCOPE

31-101	TITLE.
31-102	PURPOSE.
31-103	INTERPRETATION.
31-104	SCOPE.
31-105	RELATION TO THE LAND DEVELOPMENT ORDINANCE.

ARTICLE 2 ZONE DISTRICTS; BOUNDARIES

31-201	ZONE DISTRICTS.
31-202	ZONING MAP.
31-203	SCHEDULE OF REQUIREMENTS.
31-204	DISTRICT BOUNDARIES.
31-204.1	Zone Boundary Lines.
31-204.2	Lot Lines as Boundaries.
31-204.3	Location of Zone Boundary Line.

ARTICLE 3 DEFINITIONS

31-301	DEFINITION OF TERMS.
--------	----------------------

ARTICLE 4 GENERAL PROVISIONS

31-401	ZONING AFFECTS ALL STRUCTURES, BUILDINGS AND LAND AND THE USE THEREOF.
31-402	YARDS AND STREET FRONTAGE.
31-403	ACCESSORY BUILDING.
31-404	DWELLINGS IN REAR OF LOTS.
31-405	REDUCTION OF LOT.
31-406	OFF-STREET PARKING REQUIRED IN RESIDENTIAL DISTRICTS; COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.
31-406.1	Off-Street Parking and Driveways.
31-406.2	Commercial Vehicles and Trailers in Residential Districts.
31-407	DANGEROUS CONDITIONS.
31-408	RESERVED.
31-409	TRAFFIC VISIBILITY ACROSS CORNER LOTS.
31-410	PRINCIPAL BUILDING, RESIDENTIAL DISTRICTS.
31-411	OPEN SPACES AROUND BUILDING.
31-412	INGRESS OR EGRESS THROUGH RESIDENTIAL DISTRICT TO BUSINESS OR INDUSTRIAL PROPERTY.
31-413	NATURE AND EXTENT OF USES OF LAND.
31-414	OUTDOOR STORAGE OR DISPLAY.
31-415	PUBLIC UTILITIES.
31-415.1	Applicability.
31-415.2	Underground Utilities; When Required.
31-416	SOIL REMOVAL.
31-417	PRESERVATION OF NATURAL FEATURES.
31-418	DUMPING PROHIBITED.
31-419	YARDS AND OTHER AREAS MUST BE IN SAME ZONE AS USE.
31-420	DEDICATION OF EASEMENTS AND RIGHT-OF-WAY TO BOROUGH.
31-421	PROHIBITED USES.
31-421.1	Uses Not Specifically Permitted.
31-421.2	Specifically Prohibited Uses.
31-422	LIMITATION ON VARIANCE OR CONDITIONAL USE.
31-423	COMPUTATION OF DENSITY IN SLOPE AREA.

ARTICLE 5 NONCONFORMING BUILDINGS, LOTS AND USES

31-501	CONTINUANCE.
31-502	ABANDONMENT.
31-502.1	Reserved.
31-502.2	Use After Abandonment.
31-503	RESTORATION.
31-504	REPAIR FOR SAFETY.
31-505	REVERSION.
31-506	NONCONFORMING LOTS INCLUDED IN CERTAIN PRIOR SUBDIVISIONS.
31-507	UNDERSIZE LOTS.
31-508	CONSTRUCTION APPROVAL PRIOR TO ORDINANCE.
31-509	ALTERATIONS.
31-510	UNLAWFUL USE NOT AUTHORIZED.
31-511	ESTABLISHMENT OF VALIDITY OF NONCONFORMING BUILDING OR USES.
31-511.1	Application to Zoning Officer.

ARTICLE 6 ZONE DISTRICT REGULATIONS

31-601	S-100 RESIDENTIAL DISTRICT.
31-601.1	Permitted Uses.
31-601.2	Permitted Accessory Uses.
31-601.3	Area and Bulk Requirements.
31-601.4	Uses Permitted Upon Application to the Planning Board as Conditional Uses, Subject to Article 7.
31-602	S-75 RESIDENTIAL DISTRICT.
31-602.1	Permitted Uses.
31-602.2	Permitted Accessory Uses.
31-602.3	Area and Bulk Requirements.
31-602.4	Uses Permitted Upon Application to the Planning Board as Conditional Use, Subject to Article 7.
31-603	S-60 RESIDENTIAL DISTRICT.
31-603.1	Permitted Uses.
31-603.2	Permitted Accessory Uses.
31-603.3	Area and Bulk Requirements.
31-603.4	Uses Permitted upon Application to the Planning Board as Conditional Use, Subject to Article 7.
31-604	S-50 RESIDENTIAL DISTRICT.
31-604.1	Permitted Uses.
31-604.2	Permitted Accessory Uses.
31-604.3	Area and Bulk Requirements.
31-604.4	Uses Permitted Upon Application to the Planning Board as Conditional Use, Subject to Article 7.
31-605	S-80 RESIDENTIAL DISTRICT.
31-605.1	Permitted Uses.
31-605.2	Uses Permitted Upon Application to the Planning Board as Conditional Uses Subject to Article 7.
31-605.3	Permitted Accessory Uses.
31-605.4	Area and Bulk Requirements.
31-606	C-COMMERCIAL DISTRICT.
31-606.1	Permitted Uses.
31-606.2	Area and Bulk Requirements.
31-606.3	Uses Permitted upon Application to the Planning Board as Conditional Use, Subject to Article 7.
31-606.4	Other Requirements.
31-607	I-INDUSTRIAL DISTRICT.
31-607.1	Permitted Uses.
31-607.2	Permitted Accessory Uses.
31-607.3	Area and Bulk Requirements.
31-607.4	Uses Permitted upon Application to the Planning Board as Conditional Use, Subject to Article 7.
31-607.5	Performance Standards.
31-608	SPECIAL PROVISIONS FOR TOWNHOUSES.
31-608.1	Area and Density Requirement.
31-608.2	Setback Requirements.
31-608.3	Building Requirements.
31-608.4	Dwelling Unit Requirements.
31-608.5	Accessory Building Requirements.
31-608.6	Reserved.
31-608.7	Landscaping and Open Space Requirements.
31-608.8	Resident Association.
31-609	EDD ECONOMIC DEVELOPMENT DISTRICT.
31-609.1	Permitted Uses.
31-609.2	Conditional Uses.
31-609.3	Area and Bulk Requirements.
31-609.4	Performance Standards.
31-609.5	Parking Requirements for Economic Development District.
31-610	AH10 AFFORDABLE HOUSING 10 DISTRICT.
31-610.1	Permitted Principal Uses.
31-610.2	Permitted Accessory Uses and Structures.
31-610.3	Area and Bulk Requirements.
31-610.4	Supplementary Bulk Requirements.
31-610.5	Design Standards.
31-610.6	Landscaping and Open Space Requirements.
31-610.7	Resident Association.

ARTICLE 7 CONDITIONAL USES

31-701	NATURE OF CONDITIONAL USES.
31-702	PROCEDURE.
31-703	MODIFICATION IN PROPOSAL.
31-704	CONDITIONS ON APPROVAL.
31-705	PUBLIC UTILITIES.
31-705.1	Application.
31-705.2	Conditional Uses.
31-706	SCHOOLS.
31-707	HOSPITALS, PHILANTHROPIC OR CHARITABLE USES.
31-707.1	Application.
31-707.2	Conditional Uses.
31-707.3	Expansion.
31-708	QUASI-PUBLIC BUILDINGS AND RECREATION AREAS.
31-708.1	Application.
31-708.2	Conditional Uses.
31-708.3	Expansion.
31-709	RESERVED.
31-710	HOUSES OF WORSHIP.
31-710.1	Application.
31-710.2	Conditional Uses.
31-711	PUBLIC GARAGES AND MOTOR VEHICLE SERVICE STATIONS.
31-711.1	Application.
31-711.2	Conditional Uses.
31-712	CONDITIONAL USES SET FORTH IN SECTION 31-606, C DISTRICT.
31-712.1	Application.
31-712.2	Requirements.
31-713	RESTRICTIONS ON REGULATED USES.
31-714	WIRELESS TELECOMMUNICATIONS EQUIPMENT AND FACILITIES.
31-714.1	Definitions.
31-714.2	Purposes.
31-714.3	Objectives.
31-714.4	Conditional Use.
31-714.5	Maximum Height.
31-714.6	Location Priorities.
31-714.7	Area, Setback and Miscellaneous Requirements.
31-714.8	Overall Comprehensive Plan.
31-714.9	Visual Compatibility Requirements and Sound Design Standards.
31-714.10	Design Standards.
31-714.11	Site Plan Submission and Approval Requirements.
31-714.12	Antenna Modifications.
31-714.13	Co-Location Required.
31-714.14	Application and Escrow Fees.
31-714.15	Restoration Provisions.
31-714.16	Applicability.
31-714.17	Other Requirements.

ARTICLE 8 PARKING AND LOADING

31-801	OFF-STREET PARKING REGULATIONS.
31-801.1	Off-Street Parking for Residential Dwellings.
31-801.2	Off-Street Parking for Non-Residential Uses.
31-802	OFF-STREET LOADING AND UNLOADING PROVISIONS.
31-802.1	Standards.
31-802.2	Access.
31-802.3	Location.
31-802.4	Surfacing; Approval by Engineer.
31-803	SPECIAL PERMIT FOR REDUCTION IN REQUIRED PARKING OR LOADING SPACES.
31-803.1	Compliance with Regulations Required; Agreement; Maintenance.
31-803.2	Shared Parking.

ARTICLE 9 SIGNS

31-901	SIGN REGULATIONS.
31-901.1	Signs Permitted in Residential Districts.
31-901.2	Signs Permitted in Commercial, Industrial and Economic Development Districts.
31-902	SIGN PERMITS.
31-903	GENERAL PROVISIONS.
31-903.1	Flashing Sign.
31-903.2	Sign Height.
31-903.3	Outdoor Advertising, Billboards.
31-903.4	Obstructions.
31-903.5	Sign Advertising Business No Longer on Premises; Order to Remove.
31-903.6	Dangerous Signs; Notice to Remove.

ARTICLE 10 LANDSCAPING AND FENCES

31-1001	LANDSCAPING.
31-1001.1	Landscaping to be Shown on Site Plans; Compliance.
31-1001.2	Guarantees.
31-1002	FENCES.
31-1002.1	Site Plan to Show Proposed Fencing.
31-1002.2	Prohibited Fencing.
31-1002.3	Placement Within Property Lines Required, Encroachment on Public Right-of-Way Prohibited.
31-1002.4	Maintenance.
31-1002.5	Fence Height; Material.

ARTICLE 11 RESERVED

ARTICLE 12 ADMINISTRATION; PERMITS; CERTIFICATES

31-1201	ENFORCEMENT.
31-1201.1	Construction Official.
31-1201.2	Zoning Officer.
31-1201.3	Deputy Zoning Officers.
31-1201.4	Appointments.
31-1202	DUTIES OF ZONING OFFICER.
31-1202.1	Remedy of Violations.
31-1202.2	Issuance of Permits.
31-1202.3	Certificate of Occupancy.
31-1202.4	Records.
31-1203	PROCEDURE ON APPLICATIONS.
31-1203.1	Zoning Permit.
31-1203.2	Site Plan Review and Approval.
31-1204	CERTIFICATES AND PERMITS.
31-1204.1	Construction Permit.
31-1204.2	Certificate of Occupancy.
31-1204.3	Zoning Permit.
31-1204.4	Temporary Use Permit.

ARTICLE 13 VIOLATIONS AND PENALTIES

31-1301	PENALTIES.
31-1302	PARTIES LIABLE.
31-1303	OTHER REMEDIES.
31-1304	RESERVED.

ARTICLE 14 VALIDITY

31-1401	SEVERABILITY.
---------	---------------

ARTICLE 15 REPEALER

31-1501	REPEALER.
---------	-----------

ARTICLE 16 EFFECTIVE DATE

31-1601	EFFECTIVE DATE.
---------	-----------------

ZONING DISTRICTS AND THE MINIMUM SETBACKS

[HISTORY: Chapter 31 adopted by Ord. No. 643. Chapter 31 as amended through January 1, 2018, was readopted 5-11-2020 by Ord. No. 2020-1235.]

CHAPTER 31
ZONING ORDINANCE

(Chapter 31 as amended through January 1, 2018, was readopted 5-11-2020 by Ord. No. 2020-1235)

Note: References herein to the Zoning Board of Adjustment refer to the Planning Board acting in the capacity of a Zoning Board of Adjustment. See Chapter 30, Section 30-201.

ARTICLE 1 PURPOSE; INTERPRETATION; SCOPE
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-101 TITLE.

This Ordinance shall be known and may be cited as “The Zoning Ordinance of the Borough of Manville (1987).”

31-102 PURPOSE.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted to promote the purposes set forth in Section 2 of Article 1 of Chapter 291, P.L. 1975, The Municipal Land Use Law (N.J.S.A. 40:55D-2) and pursuant to the power and authority set forth in Article 8 (N.J.S.A. 40:55D-62 et seq.) of said Act.

31-103 INTERPRETATION.

Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, restrictions, covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of land or buildings or requires larger yards, courts or other open spaces than are imposed or required by existing easements, restrictions, covenants or agreements between parties, the provisions of this Ordinance shall govern.

31-104 SCOPE.

From and after the effective dates of this Ordinance, the use of all land and every building and structure and portions of a building or structure erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the Borough of Manville, shall be in conformity with the provisions of this Ordinance. Any lawful existing building or structure and any lawful existing use of a building or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, extended or changed subject to the special regulations herein provided with respect to nonconforming buildings or uses.

31-105 RELATION TO THE LAND DEVELOPMENT ORDINANCE.

This Ordinance shall be read in conjunction with Chapter 30, the Land Development Ordinance of the Borough of Manville, both ordinances being enacted pursuant to the Municipal Land Use Law, P.L. 1975, c. 291.

ARTICLE 2 ZONE DISTRICTS; BOUNDARIES
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-201 ZONE DISTRICTS.

For the purpose of this Ordinance the Borough of Manville is hereby divided into districts as follows:

S-100	RESIDENTIAL DISTRICT
S-75	RESIDENTIAL DISTRICT
S-60	RESIDENTIAL DISTRICT
S-50	RESIDENTIAL DISTRICT
S-80	RESIDENTIAL DISTRICT
I	INDUSTRIAL DISTRICT
C	COMMERCIAL DISTRICT
EDD	ECONOMIC DEVELOPMENT DISTRICT (Ord. No. 95-820)
AH-10	Affordable Housing - 10 District (Ord. No. 2004-999)

31-202 ZONING MAP.

- a. Adoption. The boundaries of the districts shall be as shown on a certain map entitled “Zoning Map, Borough of Manville, County of Somerset, State of New Jersey, (March 2018)” which map has been and is now on file in the Office of the Clerk of the Borough of Manville and will remain on file therein. Said map is hereby adopted and included within this Ordinance as fully as if a replica of said map were printed herewith.

The designation or placing of any streets, roads or avenues on said map shall not be construed to be a dedication or acceptance of any of such streets, roads or avenues as may not have been heretofore dedicated or accepted.

- b. Amendments.

1. Ord. No. 693:

Lots 31-41 in Block 82 Rezoned to S-80 Residential, pursuant to Article VI, Section 31-605 of the Zoning Ordinance of the Borough of Manville.
2. Ord. No. 95-820:

Lot 1 in block 311, lot 1, in block 312 and lot 1 in block 309, all as shown on the tax map of the Borough of Manville are hereby rezoned from industrial to Economic Development District.
3. Ord. No. 96-863:

The Zoning Map, Borough of Manville, County of Somerset, State of New Jersey, (1987) is hereby amended by removing that portion of Block 279, Lots 30.02, 31.02 and 32.02, as designated on the Tax Map of the Borough of Manville, which is in the S-75 Residential Zone, from said residential zone, and including the entirety of said lots in the I-Industrial District. (Ord. No. 96-863)
4. Ord. No. 2004-999:

The Zoning Map is hereby amended by rezoning Block 42.01, Lot 1.03 from the current zoning district designation within the S-100 Residential District to the newly created AH-10 Affordable Housing-10 District. (Ord. No. 2004-999)
5. Ord. No. 2005-1000:

Rustic Mall Redevelopment Plan adopted for the following parcels:

BLOCK	LOT
310.01	2.01
310.01	2.02
310	2.03
315	1-9

31-203 SCHEDULE OF REQUIREMENTS.

The “Schedule of Requirements” attached hereto shall be part of this Ordinance, provided, however, that it shall be considered a general guide to the requirements of this Ordinance and in any case where said “Schedule” may conflict with the express wording of any provision of this Ordinance, such express wording shall control.

31-204 DISTRICT BOUNDARIES.

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

31-204.1 Zone Boundary Lines.

Zone boundary lines are intended generally to follow the center lines of streets and streams, and lot lines, or the projection or extension of lot lines, or the connection of the lot lines of separated lots across an intervening lot or lots; all as exist and are recorded in the official records of the Borough, County or State at the date of adoption of this Ordinance.

31-204.2 Lot Lines as Boundaries.

Where such boundaries are not fixed by dimensions and where they approximately follow lot lines, and where they do not scale more than ten (10) feet distant therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

31-204.3 Location of Zone Boundary Line.

The location of a zone boundary line which divides a lot shall be determined by the use of the graphic scale appearing on the Zoning Map, unless the manner of determining its location is otherwise provided for above.

ARTICLE 3 DEFINITIONS

(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-301 DEFINITION OF TERMS.

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Ordinance to have the meaning herein indicated. The singular shall include the plural, and the plural shall include the singular. The word "used" shall include the words "arranged", "designed", or "intended to be used". The word "building" shall include the word "structure". The present tense shall include the future tense.

In the event of any conflict between the following definitions and those contained in the Municipal Land Use Law, P.L. 1975, c. 291, the latter shall control. See also definitions contained in the Land Development Ordinance of the Borough of Manville, codified as Chapter 30.

ACCESSORY BUILDING. A subordinate building or structure on the same lot with a main building, or a portion of the main building, occupied or devoted exclusively to an accessory use. Where an accessory building is attached to a main building in a substantial manner by a wall or roof such accessory building shall be considered part of the main building.

ACCESSORY USE. A use naturally, normally and customarily incidental and subordinate to the main use of the premises or lot.

ADULT BOOK STORE. An establishment, business or use having as a predominant part of its stock in trade and presented for observation or purchase by persons therein: books, magazines, photographs, pictures, films, video tapes, computer disks or programs, devices or other periodicals or documents which are distinguished or characterized by their emphasis on matter depicting or relating to sexual activities. (Ord. No. 96-855)

ADULT MOTION PICTURE THEATER. An enclosed building with the capacity for one or more persons used predominantly for presenting for observation therein whether by film or otherwise, material distinguished or characterized by an emphasis on matter depicting or relating to sexual activities. (Ord. No.96-855)

ALTERATION OF BUILDING. A change in the supporting members of a building, an addition to or diminution of a building. A change in use from that permitted in one zone district to a use permitted in another, a conversion of a building or a part thereof, or removal of a building from one location to another.

ANATOMICAL AREAS. means (a) Opaquely or less than completely covered human genitals, buttocks, pubic regions and female breasts; or, (b) human male genitals in a discernibly rigid or aroused stated, even if completely covered. (Ord. No. 96-855)

AUCTION MARKET. Any premises on which are held at periodic times auction sales of merchandise or any other personal property.

AUTOMOBILE AUCTION MARKET. A premises on which is held at periodic times auctions sales of automobiles and other motor vehicles including facilities related to the auctioning of motor vehicles, for indoor and outdoor storage of motor vehicles and related vehicles for mechanical repair, auto body repair, maintenance, painting, washing and servicing of motor vehicles and office facilities, display areas and lounge and dining facilities for employees, clients and customers as well as such signs and amenities normally associated with maintenance and operation of a motor vehicle auction facility. (Ord. No. 95-820 § 1)

AUTOMOBILE WRECKING. See Junk Yard definition.

BASEMENT. A story partly underground and having more than one-half (1/2) of its height above the average level of the finished grade at the front of the building. See Cellar.

BUILDING LINE. A line formed by the intersection of a horizontal plane at average grade and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, the vertical plane will coincide with the more projected surface. All yard requirements are measured to the building line.

BUSINESS OFFICE. A business establishment which does not offer a product or merchandise for sale to the public but offers only a service to the public; such as a real estate office, insurance agents' office, and the like. Personal service establishments, such as barber and beauty shops, and repair service shops are not included within the meaning of Business Office.

CABARET. An establishment, business or use which features dancing depicting, describing or demonstrating sexual activities or anatomical areas by male and/or female entertainers; or any dancing described, promoted, advertised or commonly referred to as "go-go" dancing by male and/or female entertainers designed or intended to appeal primarily to the sexual interest of patrons. (Ord. No. 96-855)

CELLAR. A story partly underground and having more than one-half (1/2) of its clear height below the average level of the finished grade at the front of the building. (See Basement.)

CHURCH. A building or group of buildings including customary accessory buildings designed or intended for public worship. For the purpose of this Ordinance the word church shall include chapels, congregations, cathedrals, temples and similar designations as well as parish houses, convents and such accessory uses, and shall include buildings for what is generally known as "Sunday Schools", but not including church-conducted academic schools.

COVERAGE. That percentage of the plot or lot areas covered by the building area.

CURB LEVEL. The elevations of the street curb in front of the mid-point of the front lot line.

DWELLING UNIT. One or more rooms designed for, intended for, or occupied by one family or household.

DWELLING, ONE-FAMILY. A detached building containing one (1) dwelling unit occupied exclusively by one family.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance, by public utilities, telephone or municipal or other governmental agencies of underground or overhead gas, electric, steam, water or sewage transmission or distribution systems, including buildings, poles, alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

FAMILY. One or more persons occupying a dwelling unit as a single non-profit housekeeping unit, who are living together as a stable and permanent living unit, being a traditional family unit or the functional equivalency thereof.

FENCE. A constructed barrier of wood, masonry, stone, wire, metal or any other materials, or combination of such materials, erected for the purpose of enclosing or screening yard areas or other features on a lot or property.

FLOOR AREA. The area of all floors computed by measuring the inside dimensions of the outside walls in a building, excluding: attic and basement and cellar floors, whether or not used for living purposes, attached accessory buildings, porches, patios, terrace or breezeways, veranda and garages.

GARAGE, PRIVATE. A detached accessory building or portion of a main building, used exclusively for the storage of a passenger vehicle or vehicles, enclosed on three sides and having a closeable vehicular entrance on the fourth.

GARAGE, PUBLIC. A garage, other than a private garage, available to the public, operated for gain, and which is used either for the storage, servicing and/or repair of automobiles or other motor vehicles, and may include the incidental supply of gasoline or oil or other fuel for vehicular propulsion.

HOME PROFESSIONAL OFFICE. The office of a member of a recognized profession when conducted on residential property. Such home offices shall be limited to those of medical doctors, lawyers, architects, engineers, accountants, artists, clergymen, musicians and other recognized professions which require a similar degree of training an experience and which engage in services to persons (as contrasted with animals or property), and the operation of which has the same impact on the area as those specifically listed herein.

HOTEL. A building containing a number of rental units providing lodging, and usually meals, to the general public on a transient basis. Such rental units are customarily serviced by a single entrance to the principal building. When conducted solely within the principal building, incidental uses such as meeting rooms, dining rooms, kitchens, cocktail lounges, and the like, shall also be activities included within this definition of "hotel".

JUNK. For the purpose of this Ordinance, the term "junk" shall include rags, scrap iron, shavings, borings, old rope, old iron, brass, copper, tin, lead, aluminum, plastic, and other old materials, automobiles, boats, and tractors, trailers, construction equipment, boats, and all manner of vehicles which are unfit for reconditioning for sale or use or transportation, used parts of any of such vehicles or equipment, old bottles, drums, barrels, glass, lumber, paper, discarded machinery or parts thereof, old or broken pipe, brick, tubing and any forms of construction materials, discarded iceboxes, refrigerators, freezers, washing machines, dryers, water heaters, tubs, bathtubs, water closets, lavatories, and other discarded fixtures, discarded doors, windows, and storm doors and storm windows, and any other second-hand articles or used materials and merchandise and such other articles or things as commonly come within the classification of junk or debris.

JUNK YARD. Any area and/or structure used for the collection, storage, or abandonment of any waste, discarded materials, or "junk", or the dismantling, demolition, salvaging, or abandonment of structures, automobiles, or other vehicles, equipment and machinery, pipe, or parts thereof.

LOT. A parcel of land upon which main and accessory buildings are or may be placed, together with the required open spaces.

LOT AREA. The total square unit contents included within lot lines and measured to the street line only.

LOT, CORNER. A lot at the junction of, and having a frontage on, two or more intersecting streets.

LOT COVERAGE. That percentage of the lot area that may be devoted to physical improvements.

LOT DEPTH. A mean horizontal distance between the front and rear lot lines, measured at right angles to the streets from the intersection of the side lines and the front lot lines.

LOT FRONTAGE. A lot line or portion thereof which coincides with a street line. In the case of corner lots the shorter of the two lot lines coinciding with the street lines shall be considered the lot frontage. See Street Line.

LOT INTERIOR. A lot other than a corner lot.

LOT WIDTH. The horizontal distance between the side lot lines measured between the points at which the rear line of the required front yard area intersects the side lot lines.

MANUFACTURING. The treatment or processing of raw products, and the production of articles or finished products from raw or prepared materials by giving them new forms or qualities.

MASSAGE SHOP. An establishment, business or use which provides the service of massage and body manipulation, unless operated by an athletic trainer, chiropractor, physical therapist, physician or masseuse licensed by, or registered with, the State of New Jersey. (Ord. No. 96-855)

MEDICAL BUILDING. A building intended to house one or more offices and/or laboratories for the medical profession. An incidental use may include pharmacy for sale of prescription medicines and like sundries. By "Medical profession" is meant all fields of medicine and dentistry, licensed by the State of New Jersey, and providing services to human beings.

MODELING STUDIO. An establishment, business or use which provides the service of modeling in a manner depicting, describing or demonstrating sexual activities or anatomical areas, whether for the purpose of live viewing or of reproducing such depictions, descriptions or demonstrations by means of photographs, moving pictures, video or computer based recording. (Ord. No. 96-855)

MOTEL. A group of rental units for transient guests with individual entrances from the exterior of the building to each unit, operated as a business for the purpose of providing lodging to transient guests. An office and single dwelling unit for the owner, operator or manager of said motel, may be included as secondary uses in conjunction with the operation of a motel.

MOTOR VEHICLE SERVICE STATION. A place where gasoline or other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale at retail to the public, including sale of accessories, oiling, greasing, washing, and light motor vehicle repairs on the premises, but in no case to include major vehicle repairs or rebuilding or fender, body or frame straightening, painting, or rebuilding.

NONCONFORMING BUILDING OR USE. A lawful building, or lawful use of land or of a building existing at the effective date of this Ordinance, or any amendment thereto, which does not conform with the requirements of this Ordinance.

NURSING, REST, CONVALESCENT HOME. A home for the aged, convalescent, and ill persons where such persons are housed or lodged and furnished with food and nursing care for compensation, and which is licensed as such under the laws of the State of New Jersey; same shall not include "boarding house".

OCCUPANCY. The act of occupying land or building for the purpose it is arranged, intended, designed or maintained.

OPEN SPACE. An unoccupied space open to the sky on the same lot with a principal building.

PARKING AREA. An open space, other than a street or other public way, used for the parking of motor vehicles and available for public use whether for a fee or as a service or privilege for clients, customers, suppliers or residents.

PARKING SPACE. An off-street area available for the parking of a motor vehicle and which in this ordinance is held to be a minimum of ten (10) feet wide(measured center of stripe to center of stripe) and twenty (20) feet long (not including overhang over curb or sidewalk) for non-residential & mixed use shared parking (residential & nonresidential) parking spaces and residential spaces shall comply with NJ RSIS N.J.A.C. 5:21 standards, exclusive of passageways and driveways appurtenant thereto, and giving access thereto. The Planning Board or Approving Authority. In reviewing site plans, shall have the power to permit a limited number of parking spaces to be less than the dimensions above, to be marked for compact vehicles only. Adequate provision shall be made for ingress and egress to all parking spaces as approved by the Borough Engineer.

PLANNING BOARD. The Planning Board of the Borough of Manville, unless otherwise specified.

PRINCIPAL BUILDING. A building in which is conducted the main or principal use of the lot on which said building is situated.

POOL ROOM OR BILLIARD PARLOR. Any building or structure, room or place in which pool or billiards shall be played for gain, hire or reward, or where a fee is charged for use of the facilities.

PROFESSIONAL OFFICE. The office of a member of a recognized profession maintained for the conduct of his profession. Such professions shall be limited to:

- a. Those of medicine, law, architecture, engineering, accounting, art, religion, music, and other professions which require a similar degree of training and experience and which engage in services to persons (as contrasted with animals or property); and
- b. Offices of veterinarians for the treatment and care of domestic pets, including veterinarian hospital facilities, provided that all such facilities are housed within buildings. This shall not permit operations commonly known as kennels, whether for coops, runs or other facilities.

REGULATED USE. Adult bookstores, adult motion picture theaters, cabarets, massage shops and modeling studios. (Ord. No. 96-855)

RESIDENTIAL DENSITY, GROSS. The total number of dwelling units which may be developed on an area of land, before requirements for public access and required open space are provided.

RESTAURANT. Any establishment, however designated, at which food is sold principally for consumption on the premises to patrons seated within an enclosed building.

SCHOOL, PUBLIC OR PRIVATE. Any non-profit academic institution offering courses and curricula which are approved by the New Jersey Department of Education, to pupils enrolled in nursery school, or in grades Kindergarten (pre-first grade) to twelve, or any segment of such grade structure.

SLOPE. Slope shall be determined by the scale distance between ten (10) foot contours, being contours divisible by ten. (In other words, the contour lines to be used shall be, for example, 450, 460, 470, etc., and not 452, 462, 472, etc.). Accordingly, 20% slope is whenever the ten (10) foot contours are fifty (50) feet apart.

SIGN. Any structure or part thereof or device attached thereto or painted or represented thereon, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of any announcement, direction or advertisement, or for the purpose of bringing the subject thereof to the attention of others. For the purpose of this Ordinance the word "sign" includes "billboards."

- a. **ADVERTISING SIGN.** A sign which directs attention to a business, commodity, service, or establishment conducted, sold or offered elsewhere than upon the premises.
- b. **BUSINESS SIGN.** A sign which directs attention to a business or profession conducted upon the premises. A "for sale" or "to rent" sign relating to the property on which it is displayed shall be deemed a business sign.

SIGN, AREA OF. The area included within the frame or edge of the sign. Where the sign has no such frame or edge, the area shall be defined by an enclosed four sided (straight sides) geometric shape which most closely outlines said sign.

SITE PLAN. The general plan or layout of a lot and the installations on the lot showing the location and/or proposed location of main buildings, other structures, streets, driveways, access roads, parking and loading lots and areas, drainage, topography, grading, landscaping, sewerage disposal system, water supply system, easements, signs and utilities, including dimensions of all of the foregoing and elevations of all sides of building(s), together with such other data as will fully disclose the nature of the use or uses proposed. See Chapter 30, Land Development Ordinance of the Borough of Manville.

STORY. 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 space between any floor and the ceiling next above it.

- a. **HALF STORY.** That portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such half-story. A basement shall also be included as a half-story. (See Basement)

STREET. A public thoroughfare which has been dedicated or deeded to the public for public use and which has been improved in accordance with municipal standards.

STREET LINE. The line determining the limit of the highway rights of the public, either existing or contemplated. Where a definite right-of-way width hasn't been established, the street line shall be assumed to be at a point twenty-five (25) feet from the center line of the existing pavement. Where a building lot has frontage on a street which the Master Plan or Official Map of the Borough indicates is proposed for right-of-way widening, the required front yard shall be measured from such proposed right-of-way line.

STRUCTURE. The word "structure" shall include the word "building" and shall include anything constructed, assembled, or erected, the use of which requires location in or on the ground or attachment to something having location in or on the ground, and shall include, by way of illustration and not by way of limitations, fences, swimming pools, tanks, towers, signs, bins, tents, lunch wagons, trailers, dining cars, camp cars, or similar structures on wheels or other support used for business, recreation, living, or other purposes. The word "structure" shall not apply to essential service utilities entirely below the ground.

SWIMMING CLUB. A public or privately-owned swimming pool open to the general public on a membership or fee basis and having appropriate dressing room facilities and off-street parking areas.

SWIMMING POOL, PRIVATE. A swimming pool which is an accessory use to a dwelling unit located on the same lot. Such private swimming pool, whether "in ground" or "above-ground" shall be considered a structure and be subject to all of the provisions of this Ordinance governing the location of any accessory building.

TOWNHOUSE - A one-family dwelling in a connected row of at least three (3) such units in which each unit has its own front and rear access to the outside, and each unit is separate from any other unit by one or more vertical common fire-resistant walls. (Ord. No. 706, Ord. No. 2003-979, Ord. No. 2004-999)

TRAILER.

- a. **TRAILER COACH.** A vehicle or structure used or so constructed as to permit its being used as a licensed conveyance upon the public streets or highways and constructed in such a manner as will permit its occupants as a place of day-to-day habitation for one or more persons. This term shall also include automobile trailers, mobile homes, house trailers, trailer coaches and camper trailers, excepting therefrom "travel trailers" which are less than six (6) feet in width and less than ten (10) feet in length and which are not used for purposes of day-to-day habitation.
- b. **TRUCK TRAILER.** Any vehicle or unit equipped with wheels or similar devices used for the purpose of commerce or transporting goods, stock or merchandise, for transportation on a flat-bed railroad or ship.

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

YARD.

- a. **FRONT YARD.** An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of that lot. "Setback line" shall be synonymous with the rear limit of the required front yard area.
- b. **REAR YARD.** An open space extending across the full width of the lot and lying between the rear line of the lot and the nearest line of any building on the same lot. The depth of a rear yard shall be measured at right angles to the rear line of the lot, or if the lot is not rectangular, then in the general direction of its side building lines.
- c. **SIDE YARD.** An open, unoccupied space between the side lot line and the building line nearest thereto, extending from the front yard to the rear yard, or in the absence of either, to the street or rear lines as the case may be. The width of the side yard shall be measured parallel to the front lot line.

ZONING OFFICER. The official appointed to administer the Zoning Ordinance of the Borough of Manville, or his Deputy or other person officially appointed to act in his place or stead, or in the event of his absence, disability or disqualification.

ARTICLE 4 GENERAL PROVISIONS (Ord. No. 643; readopted by Ord. No. 2020-1235)

31-401 ZONING AFFECTS ALL STRUCTURES, BUILDINGS AND LAND AND THE USE THEREOF.

No land or premises may be used and no building or structure may be erected, raised, moved, extended, enlarged, altered or used for any purpose other than a purpose permitted herein, for the district in which it is located, and all construction shall be in conformity with the regulations provided for the district in which such building or premises is located; nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the regulations designated in the Schedule and this Ordinance for the district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or such use shall be deemed to be in violation of this Ordinance and the Certificate of Occupancy shall become void.

31-402 YARDS AND STREET FRONTAGE.

31-402.1

Every lot must provide a front yard, rear yard and side yards as required by its zone district.

31-402.2

Every principal building shall be built upon a lot with frontage upon a public street improved to meet the Borough's requirements or for which such improvements have been guaranteed by the posting of a performance guarantee pursuant to Chapter 30, Land Development Ordinance of the Borough Code, unless relief has been granted under the provisions of Section 27 of Chapter 291, P.L. 1975 (N.J.S.A. 40:55D-36), as the same may be amended or supplemented.

31-402.3

All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone district in which located. Corner lots shall provide the minimum front yard requirements for the respective zone district for all intersecting streets, for both principal and accessory buildings.

31-403 ACCESSORY BUILDING.

31-403.1

No accessory building may be built on any lot on which there is no principal building.

31-403.2

No accessory building shall exceed the height of the principal building.

31-403.3

For the purpose of regulating the locations of accessory buildings on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the district in which said corner lot or through lot is located; provided, further, that no accessory building shall be permitted in any front yard.

31-403.4

Accessory buildings, excepting hot tubs and spas, shall be at least ten (10) feet from any principal building situated on the same lot, unless an integral part thereof, and shall be at least six (6) feet from any other accessory building. Hot tubs and spas shall be at least two (2) feet from any such principal or accessory building. (Ord. No. 2005-1001)

31-403.5

No accessory buildings shall be erected or constructed closer than four (4) feet to any side or rear lot line. (Ord. No. 664)

31-404 DWELLINGS IN REAR OF LOTS.

No building to be used as a dwelling shall be constructed, altered, or moved to the rear of a building situated on the same lot, nor shall any building be constructed in front of or moved to the front of a dwelling situated on the same lot.

31-405 REDUCTION OF LOT.

No lot area shall be reduced by subdivision, sale or in any other manner so that the area of the lot or the dimensions of the required open spaces shall be smaller than herein prescribed.

31-406 OFF-STREET PARKING REQUIRED IN RESIDENTIAL DISTRICTS; COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

31-406.1 Off-Street Parking and Driveways.
(Ord. No. 2006-1038)

- a. There shall be provided upon every lot in every Residential District, and upon every lot in any other District upon which a dwelling house may now or hereafter be permitted, off-street parking space for at least two vehicles, including a driveway for the same, all of which shall be paved or covered by material such as asphalt, concrete or brick pavers providing an impervious surface so as to adequately withstand and not be affected adversely by changes in temperature or weather in the extremes of heat and cold experienced in the Borough, damage from the elements such as, but not limited to, erosion, and the wear and tear brought about by the use of such areas by motor vehicles. Materials such as stone or gravel shall not be permitted. In any case in which any part of said parking area or driveway shall be below grade of the street providing access thereto, the design of said area and the adequacy of the type of material used therein and curbing along the same, shall be subject to approval by the Borough Engineer who shall give consideration to the topography, the grade of the street, the effect of the drainage system upon said proposed area, and other principles of sound engineering practice. Expansion of existing driveways shall be required to meet the standards of this subsection. Wherever a garage is provided upon any such lot, the areas within said garage used for motor vehicles may be counted toward the off-street parking spaces required under this subsection.
- b. The curb opening for a driveway shall be no more than twenty-two (22) feet.
- c. The width of a driveway shall be no more than twenty-two (22) feet extending from the side of the dwelling nearest to the driveway to the nearest side line of the lot.
- d. There shall be no parking in the front yard of any dwelling except on the driveway thereof, provided, however, in the event of an emergency, parking shall be permitted on any portion of the front yard for a period of time not to exceed twenty-four (24) hours.
- e. No curb opening shall be constructed or enlarged and no driveway shall be constructed or enlarged without the owner of the premises obtaining a permit therefor. Application for a permit shall be made to the Zoning Officer along with a survey upon which the proposed curb opening and/or driveway is superimposed and a non-refundable permit fee of ten (\$10.00) dollars paid. The Zoning Officer shall refer the matter to the Borough Engineer for a determination that the proposed improvement conforms to principles of sound engineering practice. Upon the approval of the Borough Engineer and a determination by the Zoning Officer that the proposed improvement meets all zoning requirements, a permit shall be issued by the Zoning Officer.

31-406.2 Commercial Vehicles and Trailers in Residential Districts.

- a. Not more than one (1) commercial vehicle of a rated capacity of three-quarter (3/4) tons or less, owned or used by a resident of the premises, shall be permitted to be regularly garaged on a lot in any residential district; any such commercial vehicles so permitted to be regularly garaged in such district must be garaged and shall not be regularly parked or stored by, on or in the vicinity of such lot without being garaged thereon. No commercial vehicle of a rated capacity of more than three-quarter (3/4) ton, whether owned or used by a resident of the premises or not, shall be regularly parked, stored or garaged on a lot in any Residential District.
- b. No trailer designed or used for hauling or transporting shall be regularly parked or stored on, by, or in the vicinity of any lot in any residential district.
- c. No trailers designated or used for dwelling purposes, no boat trailers, no campers, no motorized sleds, and no boats or marine equipment shall be regularly parked or stored on, by or in the vicinity of any lot in any residential district without being garaged thereon, or placed to the rear of the principal building and no closer than fifteen (15) feet from any side or rear property line.

31-407 DANGEROUS CONDITIONS.

No permit shall be granted for a building or use if the design, construction or location of the same involves or is likely to involve exceptional risks of traffic congestion, public safety, or hazard.

31-408 RESERVED.

31-409 TRAFFIC VISIBILITY ACROSS CORNER LOTS.

On any corner lot no fence, structure, or planting over thirty (30) inches in height shall be erected or maintained within thirty (30) feet of the intersection of the road right-of-way lines so as to interfere with traffic visibility across the corner, and no wall or fence, and no hedge, tree, shrub, or other growth shall be maintained in such a way as to cause danger to traffic on a street by obscuring the view.

31-410 PRINCIPAL BUILDING, RESIDENTIAL DISTRICTS.

No lot in a residential district shall have erected upon it more than one (1) principal residential building.

31-411 OPEN SPACES AROUND BUILDING.

No yard or other open space provided around any building for the purpose of complying with the provisions of this Ordinance shall be considered to provide a yard or open space for any other building.

31-412 INGRESS OR EGRESS THROUGH RESIDENTIAL DISTRICT TO BUSINESS OR INDUSTRIAL PROPERTY.

No ingress to or egress from any building or industrial use shall be permitted over or across any property located in residential district. No business or industrial property and no property used for any business or industrial purpose having frontage upon any street, highway, or road in a business or industrial zone district shall be permitted access for business or industrial purposes by means of any street, avenue, or road not located in a business or industrial district. For the purposes of this Ordinance the use of any access by vehicles, whether such vehicles be themselves commercial or whether the same be the passenger vehicles or employees or customers of a business or industry shall be considered itself a business or industrial use and shall not be permitted in any residential district.

31-413 NATURE AND EXTENT OF USES OF LAND.

The control and regulation of the uses of buildings and structures as herein provided, shall apply equally to the nature and extent of the use of the land.

31-414 OUTDOOR STORAGE OR DISPLAY.

No article, material, merchandise, goods, inventory, or part thereof, or equipment shall be kept, stored, displayed or exhibited outside of the confines of a building unless the same is screened by fences, walls, or planting in such manner that it is not visible from the public street or adjoining properties. Such storage or display must be located behind the rear building line.

31-415 PUBLIC UTILITIES.

31-415.1 Applicability.

The provisions of this Ordinance shall not apply to customary local utility distribution or collection lines for water, gas, telephone or electric service. All facilities such as pumping stations, repeater stations, and electric substations which require a structure shall be subject to the provisions of this Ordinance.

31-415.2 Underground Utilities; When Required.

In all developments, or land subdivisions involving the extension of streets or the opening of new streets, all utilities shall be placed underground.

31-416 SOIL REMOVAL.

No persons, firm or corporation shall strip, excavate, or otherwise remove top soil for sale or other use other than on the premises from which taken. The provisions of Borough Code Chapter 25 Soil and Soil Removal, shall also be complied with.

31-417 PRESERVATION OF NATURAL FEATURES.

To the maximum extent possible, existing natural features such as trees, brooks, drainage channels and view shall be retained. Whenever such features interfere with the proposed use of property, a retention of the maximum amount of such features consistent with the use of the property shall be required, and this shall be designated on the site plan in all cases where a site plan is required in this Ordinance or in Chapter 30 Land Development Ordinance.

31-418 DUMPING PROHIBITED.

The dumping of refuse, waste material, junk or other substances is prohibited in all districts within the Borough. This provision shall not supersede or repeal any other ordinances or regulations prohibiting the same.

31-419 YARDS AND OTHER AREAS MUST BE IN SAME ZONE AS USE.

All yards, open space, off-street parking and required landscaping in connection with any use must be contained within the same district in which such use is permitted.

31-420 DEDICATION OF EASEMENTS AND RIGHT-OF-WAY TO BOROUGH.

No lot which conforms to the requirements of this Ordinance governing minimum lot width, depth or area shall be deemed or considered to be nonconforming where such nonconformity is created solely by virtue of the dedication to and acceptance by the Borough of Manville, or the County of Somerset, or the State of New Jersey, of land for a street, avenue or road right-of-way, or sewer or drainage easement; provided that the width, depth or lot area remaining is not less than eighty percent (80%) of the requirements of this Ordinance and provided further, that this Section shall not apply where such dedication is made pursuant to Chapter 30, the Land Development Ordinance, in connection with the subdivision of lands into four (4) or more lots or in connection with the dedication of a new street.

31-421 PROHIBITED USES.

31-421.1 Uses Not Specifically Permitted.

Any use not specifically permitted in a zone district established by this Ordinance is hereby expressly prohibited from that district.

31-421.2 Specifically Prohibited Uses.

Editor's Note: See also specific zone for exceptions.

Without in any way limiting or being limited by the language in subsection 31-421.1 hereof, the following uses and activities are specifically prohibited in all zone districts in the Borough of Manville.

- a. All billboards, signboards, advertising signs or devices not expressly related to the business being conducted on the premises, or otherwise specifically permitted by this Ordinance.
- b. Auction market or auction establishments, whether conducted in an enclosed building or structure or not, except as permitted in the EDD District.
- c. Any business or use conducted outside the confines of a building or structure, including by way of illustration and not by way of limitation, junk yards, dismantling or storage of motor vehicles or machinery, the sale or rental of trucks, busses, truck trailers, trailers designed or intended for hauling or transporting, trailers designed or intended for dwelling purposes, campers, recreational vehicles (whether self-contained, motorized, or requiring another vehicle in order to move same from place to place), boats, motorized sleds or carts, motorcycles, motorbikes or the like, or construction, quarrying or tree service equipment, machinery or materials, outdoor amusements, miniature golf courses, golf driving ranges and similar outdoor commercial recreation facilities, or any other business or use conducted outside the confines of a building or structure. The foregoing prohibitions all apply regardless of the manner of registration of any of the vehicles mentioned under the motor vehicle laws, and regardless of whether any of same may also be used for regular passenger transportation.
- d. The sale, rental, leasing, storage, or display of trucks, busses, truck trailers, trailers designed or intended for hauling or transporting, trailers designed or intended for dwelling purposes, campers, recreational vehicles (whether self-contained, motorized, or requiring another vehicle in order to move same from place to place), boats, motorized sleds or carts, motorcycles, motor bikes or the like, or construction, quarrying or tree service equipment, machinery or materials, except only from a totally enclosed building or structure. The foregoing prohibitions shall apply regardless of the manner of registration of any such vehicle under the motor vehicle laws, and regardless of whether any of same may also be used for regular passenger transportation.
- e. Outdoor storage of any kind. See Section 31-414.
- f. Privately-operated dumps for the disposal of garbage, trash, junk, refuse, and similar materials, whether by landfill, incineration, or otherwise.
- g. Trailer courts or parks, trailer coaches used for dwelling, or any commercial activities related to the outdoor storage, display, exhibition, sale or rental of trailer coaches.
- h. Cemeteries or crematoriums.
- i. Outdoor vending machines, except where specifically permitted incidental to another use.
- j. Any use of any building or premises in such a manner that the health, morals, safety or welfare of the community may be endangered, or which will cause environmental pollution or be inimical to the ecology of the area.
- k. Any use which emits excessive and objectionable amounts of dusts, fumes, noise, odor, smoke, vibration, glare, or waste products.
- l. Adult book stores, businesses showing X-rated movies, and other businesses dealing primarily with indecent or obscene materials, acts or paraphernalia be and the same are hereby prohibited within any zone in the Borough of Manville. (Ord. No. 670)
- m. Massage parlors.

31-422 LIMITATION ON VARIANCE OR CONDITIONAL USE.

A variance or conditional use granted by the Approving Authority shall expire if no construction permit shall have been issued for construction, alteration or conversion, as the case may be, within one year from the date of granting such variance or conditional use, or shall expire if a certificate of occupancy has not been granted within two (2) years from the date of granting such variance or conditional use; provided, however, that where a variance and/or conditional use approval is granted in conjunction with a final subdivision or final site plan approval for which Section 40 of the Municipal Land Use Law (N.J.S.A. 40:55D-52) grants rights for a period longer than one year, then the variance and/or conditional use, as the case may be, shall remain concurrent with the rights granted under the Municipal Land Use Law. (N.J.S.A. 40:55D-1 et seq.)

31-423 COMPUTATION OF DENSITY IN SLOPE AREA.

In computing the gross area of lands within a proposed subdivision for residential development, to determine the number of residential units permitted in said subdivision all areas of lands having a slope between 10% and 20% shall be counted at a factor of .7 (e.g., if any area of 10,000 square feet shall have slope between 15% and 20%, same shall be calculated as 7,000 square feet for the purpose of determining density).

ARTICLE 5 NONCONFORMING BUILDINGS, LOTS AND USES (Ord. No. 643; readopted by Ord. No. 2020-1235)

31-501 CONTINUANCE.

Except as otherwise provided in this Article, the lawful use of land or buildings existing at the date of the adoption of this Ordinance may be continued even if such use of land or building does not conform to the regulations specified by this Ordinance, provided, however:

- 31-501.1** That no nonconforming lot shall be further reduced in size.
- 31-501.2** That no nonconforming building shall be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of nonconformance, and except as provided in subsection 31-501.4 hereof.
- 31-501.3** That no nonconforming use may be expanded.
- 31-501.4** That any single-family dwelling house which is in existence on the effective date of this Ordinance, but which has been rendered nonconforming by this Ordinance, either by reason or area or use, may be extended upon the same lot and may be altered, provided that the yard requirements of the S-50 Residential District are met, and accessory buildings to such an existing single-family dwelling house may be constructed on the same lot to the extent that such buildings are permitted in the S-50 Residential District.
- 31-501.5** That the limitations imposed by this Ordinance shall not prohibit the extension, enlargement, alteration, remodeling, repairing, or modernization of any dwelling, nor the construction, extension, enlargement, alteration, remodeling, repairing or modernization of a permitted building or structure accessory thereto in any Residential District existing at the effective date of this Ordinance which conforms to the Ordinance immediately superseded hereby, but which dwelling does not strictly conform to the requirements of this Ordinance, provided, however, that such extension, enlargement, alteration, remodeling, repairing, or modernization of such dwelling, or such construction, enlargement, alteration, remodeling, repairing, or modernization of such permitted accessory building or structure, as the case may be, does not itself create a violation of any of the provisions of this Ordinance, and provided, further, that no additional families or dwelling units are occasioned thereby.

31-502 ABANDONMENT.

31-502.1 Reserved.

31-502.2 Use After Abandonment.

If a nonconforming use of a building or land is abandoned, subsequent use of such building or land shall be in conformity with the provisions of this Ordinance.

31-503 RESTORATION.

A nonconforming use or structure existing at the effective date of this Ordinance may be restored or repaired in the event of partial destruction thereof.

31-504 REPAIR FOR SAFETY.

Nothing in this Ordinance shall prevent strengthening or restoring to a safe condition any wall, floor, or roof which has been declared unsafe by the Construction Official.

31-505 REVERSION.

No nonconforming use shall, if once changed into a conforming use, be changed back again to a nonconforming use.

31-506 NONCONFORMING LOTS INCLUDED IN CERTAIN PRIOR SUBDIVISIONS.

Buildings may be erected on lots shown upon a subdivision plan at the effective date of this Ordinance, which are not of the required minimum area or width or on which the required open spaces cannot be easily provided, if such lots are included in a land subdivision and development plan which was either duly approved under the Municipal Planning Act of 1953, prior to the effective date of this Ordinance but subsequent to January 1, 1954, or which plan of subdivision was granted tentative approval under said Act prior to the effective date of this Ordinance but subsequent to January 1, 1954, and granted final approval after the effective date of this Ordinance but within three (3) years from the date of such tentative approval.

31-507 UNDERSIZE LOTS.

Any parcel of land with an area or width less than that prescribed for a lot in the district in which such lot is located which parcel was under one ownership at the date of the adoption of this Ordinance and the owner thereof owns no adjoining land may be used as a lot for any purpose permitted in the district provided that all other regulations prescribed for the district by this Ordinance are complied with, and further provided that no lot of less than five thousand (5,000) square feet in area or less than fifth (50) feet of frontage shall be so used.

31-508 CONSTRUCTION APPROVAL PRIOR TO ORDINANCE.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a construction permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit, and the ground story framework of which, including the second tier of beams, has been completed within six (6) months of the date of the permit, and which entire building shall be completed according to such plans as filed within one (1) year from the effective date of this Ordinance.

31-509 ALTERATIONS.

Except as otherwise herein provided, a nonconforming building may be altered but not enlarged or extended, unless said building is changed to a building conforming or more nearly conforming to the requirements of this Ordinance.

31-510 UNLAWFUL USE NOT AUTHORIZED.

Nothing in this Ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this Ordinance.

31-511 ESTABLISHMENT OF VALIDITY OF NONCONFORMING BUILDING OR USES.

The following procedure is to be followed where an owner of a building or use not in conformity with the provisions of this Ordinance seeks to establish that said building and/or use is a valid nonconforming building or use as defined in this Ordinance.

31-511.1 Application to Zoning Officer.

The owner or other party in interest shall apply to the Zoning Officer for a Zoning Certificate certifying that said building and/or use is a valid nonconforming building and/or use under the terms of this Ordinance. Accompanying said application, said applicant shall submit proofs by affidavit that said building and/or use, as the case may be, was a valid lawful use under the Ordinance superseded hereby, or was then a valid nonconforming use or building by reason of having pre-existed said ordinance superseded hereby. Copies of any documents, such as leases, surveys, contracts, and the like, certified as true copies by persons having knowledge thereof, shall also be submitted and the proofs shall be as detailed as possible and shall set forth, to the extent possible, the facts surrounding the date of establishment or construction of the use or building, the exact location thereof, and the extent or intensity of any use thereon or therein.

31-511.2 The Zoning Officer, if he be satisfied that said proofs tend to establish the existence of the valid nonconforming building or use, issue the Zoning Certificate, which shall specifically set forth any limitations established in connection with such nonconforming building or use. The proofs shall remain on file as permanent records of the Zoning Officer.

31-511.3 If the Zoning Officer, upon submission of the application and proofs to him, does not find that they tend to establish the validity thereof, then the application shall be denied and the applicant shall have the right to appeal such decision to the Board of Adjustment. (N.J.S.A. 40:55-D-70b)

ARTICLE 6 ZONE DISTRICT REGULATIONS

(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-601 S-100 RESIDENTIAL DISTRICT.

31-601.1 Permitted Uses.

- a. Single-family dwelling.
- b. Municipal buildings, municipal facilities, deemed necessary by the Mayor and Council, including service facilities such as fire house and rescue squad buildings, whether operated by the municipality itself or by a non-profit organization duly organized for those purposes.
- c. A home professional office for a person residing on the premises, provided that no more than one-half of the floor area of one story of the dwelling be devoted to such use.
- d. Temporary buildings for uses incidental to construction work, provided such buildings are removed upon completion or abandonment of the construction work.

31-601.2 Permitted Accessory Uses.

- a. Private garages.
- b. Signs, subject to the provisions of Article 9.
- c. Fences, subject to the provisions of Article 10.
- d. Other normal, incidental residential secondary structures such as private swimming pools, tools sheds, outdoor barbecues, fireplaces, trellises, lamp posts or the like.
- e. Off-street parking facilities, subject to the provisions of Article 8.
- f. Other customary accessory uses and buildings which are clearly incidental to the principal use and building.

31-601.3 Area and Bulk Requirements.

- a. Height. No building shall exceed a maximum of 2-1/2 stories, or thirty-five (35) feet.
- b. Front Yard. There shall be a front yard of not less than thirty (30) feet.
- c. Side Yards.
 1. Principal buildings. There shall be two (2) side yards, and no side yard shall be less than twelve (12) feet, provided, however, that the aggregate width of the two (2) side yards combined must equal at least twenty-seven (27) feet at the building line.
 2. Accessory buildings. No accessory building shall be closer than ten (10) feet to a side lot line.
 3. Corner lot. There shall be a side yard on the side street frontage, having a width of not less than twenty-five (25) feet.
- d. Rear Yard.
 1. Principal buildings. There shall be a rear yard of at least twenty-five (25) feet.
 2. Accessory buildings. No accessory building shall be closer than ten (10) feet to the rear lot line.
- e. Maximum lot coverage. The combined area of all buildings and structures on any lot shall not exceed thirty-five (35%) percent of the lot area.
- f. Minimum lot area. There shall be a lot area of not less than ten thousand (10,000) square feet.
- g. Lot width. There shall be a lot width of not less than one hundred (100) feet.

31-601.4 Uses Permitted Upon Application to the Planning Board as Conditional Uses, Subject to Article 7.

- a. Public utilities.
- b. Schools.
- c. Churches.
- d. Quasi-public buildings and recreation areas.
- e. Reserved. (Ord. No. 706; Ord. No. 2003-979)

31-602 S-75 RESIDENTIAL DISTRICT.

31-602.1 Permitted Uses.

- a. Single-family dwelling.
- b. Same as subsection 31-601.1b.
- c. Same as subsection 31-601.1c.
- d. Same as subsection 31-601.1d.

31-602.2 Permitted Accessory Uses.

Same as Section 31-601.2

31-602.3 Area and Bulk Requirements.

- a. Height. No building shall exceed a maximum of 2-1/2 stories, or thirty-five (35) feet.
- b. Front Yard. There shall be front yard of not less than thirty (30) feet.
- c. Side Yards.
 - 1. Principal buildings. There shall be two side yards, and no side yard shall be less than ten (10) feet provided, however, that the aggregate width of the two side yards combined must be equal to at least twenty-two (22) feet at the building line.
 - 2. Accessory building. No accessory building shall be closer than ten (10) feet to a side lot line.
 - 3. Corner lot. There shall be a side yard on the side street frontage, having a width of not less than eighteen (18) feet.
- d. Rear Yard.
 - 1. Principal Buildings. There shall be a rear yard of at least twenty-five (25) feet.
 - 2. Accessory Buildings. No accessory building shall be closer than ten (10) feet to the rear lot line.
- e. Maximum Lot Coverage. The combined area of all buildings and structures on any lot shall not exceed 35% of the lot area.
- f. Minimum Lot Area. There shall be a lot area of not less than 7,500 square feet.
- g. Lot Width. There shall be a lot width of not less than 75 feet.

31-602.4 Uses Permitted Upon Application to the Planning Board as Conditional Use, Subject to Article 7.

- a. Public utilities.
- b. Schools.
- c. Churches.
- d. Quasi-public buildings and recreation areas.
- e. Reserved. (Ord. No. 706; Ord. No. 2003-979)

31-603 S-60 RESIDENTIAL DISTRICT.

31-603.1 Permitted Uses.

- a. Single-family dwelling
- b. Same as subsection 31-601.1b.
- c. Same as subsection 31-601.1c.
- d. Same as subsection 31-601.1d.

31-603.2 Permitted Accessory Uses.

Same as Section 31-601.2

31-603.3 Area and Bulk Requirements.

- a. Height. No building shall exceed a maximum of 2-1/2 stories, or thirty-five (35) feet.
- b. Front Yards. There shall be a front yard of not less than twenty-five (25) feet.
- c. Side Yards.
 - 1. Principal buildings. There shall be two side yards, and no side yard shall be less than eight (8) feet provided, however, that the aggregate width of the two side yards combined must be equal to at least eighteen (18) feet. at the building line.
 - 2. Accessory buildings. No accessory building shall be closer than ten (10) feet to a side lot line.
 - 3. Corner Lot. There shall be a side yard on the side street frontage, having a width of not less than fifteen (15) feet.
- d. Rear Yard.
 - 1. Principal buildings. There shall be a rear yard of at least twenty-five (25) feet.

2. Accessory buildings. No accessory buildings shall be closer than ten (10) feet to a side lot line.

e. Maximum lot coverage. The combined area of all buildings and structures on any lot shall not exceed forty (40%) percent of the lot area.

f. Minimum lot area. There shall be a lot area of not less than six thousand (6,000) square feet.

g. Lot width. There shall be lot width of not less than sixty (60) feet.

31-603.4 Uses Permitted upon Application to the Planning Board as Conditional Use, Subject to Article 7.

a. Public utilities.

b. Schools.

c. Churches.

d. Quasi-public buildings and recreation areas.

e. Townhouses (S-60 Zone). (Ord. No. 706; Ord. No. 2003-979)

31-604 S-50 RESIDENTIAL DISTRICT.

31-604.1 Permitted Uses.

a. Single-family dwelling.

b. Same as subsection 31-601.1b.

c. Same as subsection 31-601.1c.

d. Same as subsection 31-601.1d.

e. Reserved (Ord. No. 706; Ord. No. 2003-979)

31-604.2 Permitted Accessory Uses.

Same as subsection 31-601.2.

31-604.3 Area and Bulk Requirements.

a. Height. No building shall exceed a maximum of 2-1/2 stories, or thirty-five (35) feet.

b. Front Yards. There shall be a front of not less than twenty-five (25) feet.

c. Side Yards.

1. Principal buildings. There shall be two (2) side yards, and no side yard shall be less than eight (8) feet provided, however, that the aggregate width of the two (2) side yards combined must be equal to at least eighteen (18) feet at the building line.

2. Accessory buildings. No accessory building shall be closer than eight (8) feet to a side line.

3. Corner lot. There shall be a side yard on the side street frontage, having a width of not less than twelve (12) feet.

d. Rear Yard.

1. Principal buildings. There shall be a rear yard of at least twenty-five (25) feet.

2. Accessory Buildings: No accessory building shall be closer than ten (10) feet to the rear lot line.

e. Maximum Lot Coverage: The combined area of all buildings and structures on any lot shall not exceed forty (40%) percent of the lot area.

f. Minimum Lot Area: There shall be a lot area of not less than five thousand (5,000) square feet.

g. Lot Width: There shall be a lot width of not less than fifty (50) feet.

31-604.4 Uses Permitted Upon Application to the Planning Board as Conditional Use, Subject to Article 7.

a. Public utilities.

b. Schools.

c. Churches.

d. Quasi-public buildings and recreation areas.

e. Townhouses (S-50 Zone). (Ord. No. 2003-979)

31-605 S-80 RESIDENTIAL DISTRICT.

31-605.1 Permitted Uses.

a. Same as subsection 31-601.1

b. Two-family dwelling.

c. Townhouses (S-80 Zone). (Ord. No. 706; Ord. No. 2003-979)

31-605.2 Uses Permitted Upon Application to the Planning Board as Conditional Uses Subject to Article 7.

- a. Same as subsection 31-601.4.

31-605.3 Permitted Accessory Uses.

- a. Same as subsection 31-601.2

31-605.4 Area and Bulk Requirements.

- a. Height.
 - 1. No single-family dwelling or two-family dwelling shall exceed thirty-five (35) feet or 2-1/2 stories.
 - 2. For all other allowed uses, no building or structure shall exceed forty (40) feet or three (3) stories.
- b. Front Yard. There shall be a front yard of not less than twenty-five (25) feet.
- c. Side Yards.
 - 1. There shall be two (2) side yards with an aggregate width of not less than eighteen (18) feet, and the width of the narrower side yard shall not be less than eight (8) feet.
 - 2. On a corner lot there shall be a side yard on the side street frontage, having a width of not less than fifteen (15) feet on a lot sixty (60) feet in width; the width of such yard shall be increased six (6) inches for each additional foot of width of the lot in excess of sixty (60) feet, but in no case need such side yard exceed twenty-five (25) feet in width.
- d. Rear Yard. There shall be a rear yard having a depth of not less than twenty-five (25) feet.
- e. Maximum Lot Coverage. The lot coverage shall not exceed forty (40%) percent of the lot area.
- f. Minimum Lot Area.
 - 1. For a single-family dwelling and its accessory structures and uses, there shall be a lot area of not less than 6,000 square feet.
 - 2. For a two-family dwelling and its accessory structures and uses, there shall be a lot area of not less than 8,000 square feet.
 - 3. For all other allowed uses, there shall be a lot area of not less than 10,000 square feet.
- g. Lot Width.
 - 1. For a single-family dwelling and its accessory structures and uses, there shall be a lot width of not less than 80 feet.
 - 2. For a two-family dwelling and its accessory structures and uses, there shall be a lot width of not less than 80 feet.
 - 3. For all other allowed uses, there shall be a lot width of not less than 100 feet.

31-606 C-COMMERCIAL DISTRICT.

Note: See also 31-712 for conditional uses in the C District.

31-606.1 Permitted Uses.

- a. Club.
- b. Residential dwelling units on second story or above.
- c. Rooming or boarding houses on second story or above, hotels. (Ord. No. 705)
- d. Retail stores.
- e. Barber shops, beauty parlor or similar personal service establishment.
- f. Restaurants.
- g. Banks.
- h. Business, professional or government offices, office buildings.
- i. Business schools or studios conducted for gain.
- j. Theater or motion picture theater, including such theaters and motion picture theaters that serve alcoholic beverages on premises, subject to all applicable local, state and federal regulations including but not limited to those regulations concerning the consumption, sale and provision or alcoholic beverages. (Ord. No. 2017-1183)
- k. Motor vehicle sales establishment entirely within a building.
- l. Bakeries, confectionery, or catering establishment, for sale at retail on the premises only.
- m. Drycleaning, dying or laundry establishments, employing not more than five (5) persons.
- n. Cabinetmaking or upholstering.
- o. Printing offices, newspaper offices.
- p. Wholesale establishments.
- q. Police station, fire house.
- r. Municipal parking areas.

s. Townhouses (C Zone). (Ord. No. 706; Ord. No. 2003-979)

31-606.2 Area and Bulk Requirements.

- a. Height. No building shall exceed a maximum of four (4) stories or fifty (50) feet.
- b. Front Yard. There shall be a front yard of not less than ten (10) feet.
- c. Side Yards. The Planning Board shall consider the matter of side yards at site plan reviewing in light of existing buildings on adjacent lands (and light and air thereto), and in view of Section subsection 31-607.5a. side yard is required to provide parking in the rear. There shall be no more than two hundred (200) feet of building without break.
- d. Rear Yard. There shall be a rear yard of not less than fifty (50) feet. No accessory building shall be closer than twenty (20) feet to the rear lot line.
- e. Maximum Lot Coverage. The maximum lot coverage for all buildings and structures shall be limited to seventy (70%) percent of the total lot area.
- f. Minimum Lot Area. Each lot shall be of sufficient size in relation to the building and accessory buildings to be constructed thereon to conform to the requirements of this Ordinance, including but not by way of limitation, front yard, rear yards, maximum lot coverage, off-street parking and loading and unloading requirements, and landscaping and buffer area requirements provided, however, that no lot shall contain less than 10,000 square feet.
- g. Lot Width. Each lot shall be at least one hundred (100) feet in width at the building line.

31-606.3 Uses Permitted upon Application to the Planning Board as Conditional Use, Subject to Article 7.

- a. Conditional Uses.
 - 1. Any conditional uses allowed in S-100 zone.
 - 2. Public utilities.
 - 3. Service stations, public garages.
 - 4. Funeral homes.
 - 5. Bowling alleys.
 - 6. Indoor entertainment for profit.
 - 7. Bar, tavern or other establishment for consumption of alcoholic beverages on the premises, except uses pursuant to subsection 31-606.1j. shall be considered permitted uses pursuant to that subsection. (Ord. No. 2017-1183)
 - 8. Veterinarian's establishment or animal hospital.

Note: See Section 31-712 for conditional use provisions.

31-606.4 Other Requirements.

- a. Off-Street Parking. Off-street parking shall be provided; see Article 8. All off-street parking shall be in rear of the premises, and subject to site plan review and approval.

31-607 I-INDUSTRIAL DISTRICT.

31-607.1 Permitted Uses.

- a. Plants and facilities engaged in light manufacturing, fabricating, compounding assembling, storing, warehousing, handling, or other processing of commodities, materials or equipment.
- b. Research laboratories and product development facilities.
- c. Executive and administrative offices, including central or headquarter-type buildings occupied by single companies or affiliated members of a corporation entity, which do not include separate offices for rent or lease.
- d. Employee education and training facilities operated by a corporation or firm for use by its employees or employees of other corporations or firms.
- e. Same as subsection 31-601.1d.
- f. Reserved. (Ord. No. 706; Ord. No. 2003-979)

31-607.2 Permitted Accessory Uses.

- a. Signs, subject to the provisions of Article 9.
- b. Fences and landscaping, subject to the provisions of Article 10.
- c. Off-street parking facilities, subject to the provisions of Article 8.
- d. Loading and unloading ramps and structures, subject to the provisions of Article 8.
- e. Private garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises.

31-607.3 Area and Bulk Requirements.

- a. Height. No building shall exceed a maximum of two (2) stories, or thirty-five (35) feet.
- b. Front Yard. There shall be a front yard of not less than fifty (50) feet.
- c. Side Yards. There shall be two (2) side yards, and no side yard shall be less than twenty-five (25) feet provided, however, that the aggregate width of the two side yards combined must total at least thirty-five (35%) percent of the lot width at the building line. No accessory building shall be closer than fifty (50) feet to any side lot line.

- d. Rear Yard. There shall be a rear yard of not less than fifty (50) feet. No accessory building shall be closer than fifty (50) feet to the rear lot line.
- e. Maximum Lot Coverage. The combined area of all buildings and structures on any lot shall not cover more than forty (40%) percent of the total lot area.
- f. Minimum Lot Area. No lot shall be less than one (1) acre; and, further, no parcel in the industrial District containing five (5) acres or less shall hereafter be subdivided, and no parcel in any such zone containing more than five (5) acres shall hereafter be subdivided in such manner that any lot resulting therefrom contains less than three (3) acres.
- g. Lot Width: Each lot shall be at least three hundred (300) feet in width at the building line.

31-607.4 Uses Permitted upon Application to the Planning Board as Conditional Use, Subject to Article 7.

- a. Conditional Uses.
 - 1. Public utilities.

31-607.5 Performance Standards.

- a. Standards for All Permitted Uses. The following performance standards shall apply to all permitted uses in this district:
 - 1. Any noise produced on the premises shall not be in excess of the standards listed below when measured at any property line of the lot in which the use is located.

Frequency Band Hertz	Sound Pressure Level Decibels 2 0.002 dyne/cm2
20-75	69
75-150	54
150-300	47
300-600	4
600-1200	37
1200-2400	34
2400-4800	31
4800-10000	28

If the noise is not smooth and continuous but is of an impulsive or periodic character, the decibel levels indicated above shall be reduced by five (5%) percent. Sound levels shall be measured with a sound level meter and associated frequency analyzer or filter, manufactured in compliance with standard prescribed by the American Standards Association. The Environmental Impact Statement shall address this subsection.

- 2. Any smoke emitted from any source on the premises shall be of a density less than that described as No. 1 on the Ringleman Chart, as published by the United States Bureau of Mines.
 - 3. No fly ash, dust fumes, vapors, gases, or other forms of air pollution which can cause any damage to health of animals or vegetation, or damage or soiling of other forms of property shall be permitted.
 - 4. No objectionable odors shall be transmitted beyond the property lines of the lot on which the use is located.
 - 5. No activity shall be maintained on the premises which will produce heat or glare beyond any property line.
 - 6. No machinery or operation shall be permitted which shall cause perceptible earth shaking vibration beyond the property lines of the lot on which the use is located.
 - 7. No use or activity shall be maintained on the premises which will violate any laws of the State of New Jersey relating to air or environmental pollution.
- b. Residential uses of any type and retail business establishments are categorically prohibited uses in this District. Also prohibited is any use which by its nature would tend to create or in any way result in a detrimental effect upon the surrounding area and the general community.
- c. Industrial uses located in this zone shall set aside not less than twenty (20%) percent of the tract for lawns for landscaping and shall use said area for no other purpose.
- d. Parking areas may be permitted in the front yard, but not closer than twenty-five (25) feet to the street nor nearer than ten (10) feet to any building or any property line; parking areas may be permitted in side yards up to seventy-five (75%) percent of the total area of each side yard, but not closer than ten (10) feet to any property line or building.
- e. Wherever an industrial zone or use abuts a residential zone, a solid and continuous landscape screen shall be planted and maintained. Said landscaping shall consist of massed evergreen and deciduous trees and shrubs of such species and size as will produce, within two (2) growing seasons, a screen at least six (6) feet in height, and of such density as will effectively obscure the light of automobile headlamps emitted from the premises throughout the full course of the year. Such buffer planting shall be at least ten (10) feet wide. In addition to such buffer planting, the owner of the business or office property shall erect on the buffer area a fence six (6) feet in height for the purpose of protecting the residential property from litter, debris, and light glare and such other nuisances that would disturb peaceful possession. Such fence shall not be less than seventy-five (75%) percent solid, and shall be located only as shown on the site plan approved by the Planning Board.
- f. The landscape screen described above shall be at least fifty (50) feet in depth from any residential property line.
- g. Whenever the property line abuts an arterial highway a buffer zone one hundred (100) feet in width as measured from said property line or right-of-way shall be provided. Within said buffer zone, no use, activity, or sign shall be established other than the following:
 - 1. Such driveways as may be necessary to provide proper means of ingress and egress for the parking areas and should be on conformance with those standards as set forth in Article 8 of the Ordinance.
 - 2. Directional signs in conjunction with said driveway which are necessary for the proper guidance and control of vehicular traffic provided that not more than one (1) such sign is erected in conjunction with each driveway.

All townhouse development shall be subject to the requirements set forth in subsection 31-608.1 through subsection 31-608.8. For townhouse development in the S-60 and S-50 Zone districts, the area and density standards specified in subsection 31-608.1 shall be considered conditional use requirements. (Ord. No. 2003-979)

31-608.1 Area and Density Requirement.

- a. The minimum lot size shall be no less than twenty thousand (20,000) square feet in an area having a frontage on an existing public street of not less than one hundred (100) feet.
- b. The maximum density shall not exceed twelve (12) dwellings per acre.
- c. The maximum building coverage (ground-floor area) of all buildings shall not exceed thirty-five (35) percent of the lot area.
- d. No more than four (4) townhouse buildings, each containing the required number of dwelling units, will be permitted per acre. (Ord. No. 2003-979)

31-608.2 Setback Requirements.

- a. No principal building shall be located within twenty (20) feet of a front property line, nor within twenty (20) feet of a rear property line, or within ten (10) feet of a side property line. (Ord. No. 2003-979)
- b. No principal building shall be located within five (5) feet of an internal roadway or driveway.
- c. There shall be a minimum distance between principal buildings of twenty (20) feet plus one-half (½) foot for each foot of opposing building wall in excess of fifty (50) feet.
- d. On corner lots, a principal building shall meet the minimum front yard setback requirements along all roadway frontages. (Ord. No. 2003-979)

31-608.3 Building Requirements.

- a. No building shall exceed a height of two and one-half (2 ½) stories or thirty-five (35) feet.
- b. No townhouse dwelling structure shall contain less than three (3) or more than six (6) townhouse dwelling units. (Ord. No. 2003-979)
- c. Building plans and elevations shall show a variation in design and appearance of units and structures to be achieved by types of roof, heights of eaves and peaks, building materials and architectural treatment of the building facade.
- d. Each townhouse dwelling unit shall be separated from adjoining units by a fire wall extending from the basement to the roof and constructed in accordance with the building code.

31-608.4 Dwelling Unit Requirements.

- a. Each townhouse dwelling unit shall contain as a minimum a separate living room, a separate bedroom, a separate bath, a basement for storage and utilities and a separate kitchen, which kitchen facility shall be located and apart from the other rooms in the unit with the exception of the dining room. (Ord. No. 2003-979)
- b. Each townhouse dwelling unit shall have a minimum floor area of six hundred (600) square feet plus one hundred fifty (150) square feet for each bedroom.
- c. No room within the townhouse dwelling unit intended for human habitation shall be located in a cellar, basement or attic except that a cellar or basement may contain a family room or recreation room.
- d. Each townhouse dwelling unit shall have individual private outside front and rear entrances.
- e. Each townhouse dwelling unit shall contain its own heating plant and system and shall constitute a separate, independent unit for metering and all other purposes with respect to all required utilities and similar facilities intended for three (3) or more dwelling units. (Ord. No. 2003-979)
- f. Each townhouse dwelling unit shall have an individual private front yard area adjoining the unit of at least ten (10) feet in depth and an individual private rear yard area or open patio or court adjoining the unit of at least fifteen (15) feet in depth. Each private rear yard area, patio or court shall be effectively screened from adjoining units by a fence, wall or natural screening in order to provide a reasonable degree of privacy. (Ord. No. 2003-979)

31-608.5 Accessory Building Requirements.

- a. Any accessory building shall be located at rear of any principal building and shall be a minimum of fifteen (15) feet from any principal building, three (3) feet from the property line and ten (10) feet from another accessory building. Clubhouses, swimming pools and recreation facilities shall be at least fifteen (15) feet from a principal building property line.
- b. The maximum height of an accessory building shall not exceed sixteen (16) feet.
- c. Architectural design and materials used in the construction of accessory building shall conform to or compliment those used in the construction of the principal buildings.

31-608.6 Reserved.
(Ord. No. 2003-979)

31-608.7 Landscaping and Open Space Requirements.

- a. Exclusive of internal roadways, driveways and parking areas, there shall be provided a minimum of twenty (20) percent of the entire tract for common open space and facilities.
- b. Effective screening by a fence or wall no less than four (4) feet nor more than six (6) feet in height shall be provided to shield parking areas and other common facilities from view of adjoining residential properties; provided, however, screening by hedge or other natural landscaping may be substituted for the required fence or wall if approved by the approving authority as part of the development plan.
- c. Adequate lighting shall be provided in parking areas and along sidewalks, walkways and internal roadways. The source of lighting shall be directed downward, away from the buildings and adjoining street and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent residential area.

31-608.8 Resident Association.

In the event that the individual residential units are sold on a condominium or other individually owned basis, containing common areas, a membership association shall be created for the purpose of owning and maintaining the common areas in accordance with N.J.S.A. 40:55D-43 and shall contain the following provisions:

- a. Membership in any created resident association shall be mandatory, and each member shall agree, in writing, to be responsible for his pro rata share of the association costs, and the Borough of Manville shall be a party beneficiary to such agreement.
- b. Each Deed for the individual unit shall, in the form of restrictions and covenants, set forth the individual owner’s responsibility to be a member of the resident association and liability for its responsibilities.
- c. The agreements of the resident association and the deeds of conveyance shall provide that in the event that the resident association shall cease to function or shall fail to pay municipal taxes, maintain the property or facilities, including maintenance, upkeep, snowplowing and snow removal, then the Borough of Manville shall have the right, by special assessment, to assess to owners of each condominium unit in the development annually a sum of money which will be sufficient to pay the taxes, provide proper upkeep and maintenance, snowplowing and snow removal and public liability insurance for said premises.

Said restriction shall further provide that the same shall not be altered, amended, voided or released in whole or in part without the written consent of the Borough of Manville.

31-609 EDD ECONOMIC DEVELOPMENT DISTRICT.
(Ord. No. 95-820 §2)

31-609.1 Permitted Uses.

- a. Commercial uses, as set forth in Section 31-606.1.
- b. automobile auction market notwithstanding the prohibitions of subsections 31-414, 31-421.2b. 31-421.2c., 31-421.2d., and 31-421.2e.
- c. Medical facilities, medical clinics, and day care facilities.

31-609.2 Conditional Uses.

Conditional uses shall be as provided by subsection 31-606.3.

31-609.3 Area and Bulk Requirements.

Area and bulk requirements for the Economic Development District shall be as follows:

- a. Minimum Tract Area 50 acres
- b. Minimum Lot Size 1 acre
- c. Maximum Height 35 feet/2 stories
- d. Front Yard 100 feet*
- e. Side Yards 25 feet
- f. Rear Yard 50 feet**
- g. Max. Tract Imp. Cov. 75% Aggregate
- h. Max. Ind. Lot Imp. Cov. 90%
- i. Min. Lot Width 100 feet

NOTES: *May be reduced to 0 feet for retail/office use along North Main Street.
**May be reduced to 25 feet for rail access.

31-609.4 Performance Standards.

- a. The following performance standards shall apply to all permitted uses in the Economic Development District:
 - 1. As set forth in subsection 31-607.5 a.1. through a.7.
 - 2. Automobile auctions may only be held between the hours of 7:00 a.m. and 7:00 p.m. on weekdays; no automobile auctions may be held on Saturdays, Sundays or national holidays.
 - 3. The stated purpose of the Economic Development District shall be to permit flexibility in the planning and development of the zone to provide an appropriate mix of uses for the community taking into account the need to provide opportunities for extension of commercial and public development of the Main Street frontage of the property zoned for such use. To that end, any plans submitted of approval of an automobile auction market shall set aside a portion of the overall tract abutting Main Street consisting of not less than 26 acres for uses other than an automobile auction and as more specifically permitted by the provisions of this district. It is contemplated that said portion of the tract shall be utilized for retail stores, office buildings, and public facilities, such as a police station. Upon presentation of a site plan for development of an automobile auction market, the applicant shall submit to the planning board a plan showing the set-aside of said 26 acres as well as an economic development district master plan for the development of said acres. Any application for site plan approval on any portion of the tract shall be accompanied by a master plan for the balance of the tract.

31-609.5 Parking Requirements for Economic Development District.

- a. Retail 4 spaces per 1,000 sq. ft.
- b. Office 3 1/2 spaces per 1,000 sq. ft.
- c. Alternate Standard--overall parking and mixed use in the Economic Development District can be reduced to 3 spaces per 1,000 if shared parking is demonstrated to the planning Board’s satisfaction.

31-610 AH10 AFFORDABLE HOUSING 10 DISTRICT.
(Ord. No. 2004-999)

31-610.1 Permitted Principal Uses.

- a. Townhouse development, subject to the developer’s monetary contribution to the Borough’s Affordable Housing Trust Fund in accordance with the terms of a court-approved settlement agreement.

31-610.2 Permitted Accessory Uses and Structures.

- a. Private garages.
- b. Signs permitted in residential districts, subject to the provisions of Article 9.
- c. Fences, subject to the provisions of Article 10.
- d. Off-street parking facilities.
- e. Other normal, incidental residential secondary structures such as private swimming pools, tool sheds, outdoor barbecues, trellises, lamp posts, or the like.
- f. Other customary accessory uses and buildings which are clearly incidental to the principal use and building.

31-610.3 Area and Bulk Requirements.

Townhouse developments shall be subject to the following schedule of area and bulk requirements:

Regulation		Requirement
Maximum number of dwelling units		Ten (10) dwelling units
Minimum overall tract area		50,000 square feet
Minimum frontage on an improved public street		200 feet
Maximum building coverage of all buildings		35% (principal & accessory)
Minimum dwelling units per building		Three (3) dwelling units
Maximum dwelling units per building		Six (6) dwelling units
Maximum height (feet)		35 feet
Maximum number of stories		2 ½ stories
Minimum Principal Building Setbacks	Front yard	20 feet (from street line)
	Rear yard	20 feet
	Side yard	20 feet
	Between buildings	10 feet
	Interior roadway/street*	20 feet
Dwelling Unit Standards	Minimum width	20 feet
	Minimum depth	40 feet
Fee Simple Lot Standards	Minimum lot width	20 feet
	Minimum depth	65 feet
	Minimum lot area	1,300 square feet
Minimum number of Parking Spaces		As specified by the “New Jersey Residential Site Improvement Standards”

*Measured between the building line and the face of curb or edge of pavement.

31-610.4 Supplementary Bulk Requirements.

- a. No driveway, individual parking space, or curb cut serving an individual townhouse dwelling shall enter directly from the public street. Vehicular access to parking spaces and individual townhouse unit garages shall only be provided from an internal driveway or private street.
- b. No garage opening or entrance for vehicles shall be located on the façade of the building facing any public street.
- c. Any accessory building or structure shall be located at the rear of any principal building and shall be a minimum of fifteen (15) feet from any principal building, ten (10) feet from the property line and ten (10) feet from another accessory building or structure; clubhouses, swimming pools and recreational facilities shall be at least fifteen (15) feet from a principal building and at least fifteen (15) feet from a property line.
- d. The maximum height of an accessory building shall not exceed sixteen (16) feet.
- e. A buffer strip having a minimum width of at least ten (10) feet shall be provided along all side and rear lot lines, consisting solely of open space and landscaping.

31-610.5 Design Standards.

- a. Building plans and elevations shall show a variation in design and appearance of units and structures to be achieved by types of roof, heights of eaves and peaks, building materials and architectural treatment of building façade.
- b. Architectural design and materials used in the construction of accessory buildings shall conform to or compliment those used in the construction of the principal buildings.
- c. Each townhouse dwelling unit shall have individual private outside front and rear entrances.
- d. Each townhouse dwelling unit shall have an individual private landscaped yard area adjoining an entrance of the unit of at least twenty (20) feet in depth, as measured between the building line and the face of curb or edge of pavement.
- e. All off-street parking areas and internal roadways shall be designed and improved in accordance with the New Jersey Residential Site Improvement Standards.

31-610.6 Landscaping and Open Space Requirements.

- a. Exclusive of internal roadways, driveways and parking areas, there shall be provided a minimum of twenty (20) percent of the entire tract for common open space and facilities.
- b. Effective screening by a fence or wall no less than four (4) feet nor more than six (6) feet in height shall be provided to shield parking areas and other common facilities from view of adjoining residential properties; provided, however, screening by hedge or other natural landscaping may be substituted for the required fence or wall if approved by the approving authority as part of the development plan.
- c. Adequate lighting shall be provided in parking areas and along sidewalks, walkways and internal roadways. The source of lighting shall be directed downward, away from the buildings and adjoining street and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent residential area.

31-610.7 Resident Association.

- a. Membership in any created resident association shall be mandatory, and each member shall agree, in writing, to be responsible for his pro rata share of the association costs, and the Borough of Manville shall be a party beneficiary to such agreement.
- b. Each deed for the individual unit shall, in the form of restrictions and covenants, set forth the individual owner's responsibility to be a member of the resident association and liability for its responsibilities.
- c. The agreements of the resident association and the deeds of conveyance shall provide that in the event that the resident association shall cease to function or shall fail to pay municipal taxes, maintain the property or facilities, including maintenance, upkeep, snowplowing and snow removal, then the Borough of Manville shall have the right, by special assessment, to assess to owners of each condominium unit in the development annually a sum of money which will be sufficient to pay the taxes, provide proper upkeep and maintenance, snowplowing and snow removal and public liability insurance for said premises.
- d. Said restriction shall further provide that the same shall not be altered, amended, avoided or released in whole or in part without the written consent of the Borough of Manville.

ARTICLE 7 CONDITIONAL USES
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-701 NATURE OF CONDITIONAL USES.

The necessity for certain specific uses is recognized but at the same time it is recognized that they or any one of them may be, or become, inimical to the Public health, safety and general welfare of the community if located without due consideration to the existing conditions and surroundings. Accordingly, "conditional uses" are permitted in a particular zoning district only upon a showing that such use in the specified location, and in the district in which such use is listed as a possible conditional use 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 Planning Board.

31-702 PROCEDURE.

An application for a conditional use shall be made to the Planning Board in accordance with the procedures and standards set forth in the Chapter 31 Land Development Ordinance, and shall accompany the application for site plan review set forth in that ordinance.

The following uses, to the extent the same are listed as permitted conditional uses in any specific district, may be permitted as conditional use in such district by the Planning Board; provided, however, that where requirements for maximum lot coverage, lot area, lot width, or minimum floor area outlined in this Article differ from requirements of the specific district, the requirements set forth in this Article shall prevail.

31-703 MODIFICATION IN PROPOSAL.

In acting upon an application for conditional use, the Planning Board may suggest modifications and changes.

31-704 CONDITIONS ON APPROVAL.

The Planning Board in granting approval of any conditional use may impose such conditions, in addition to those required in this Ordinance, as are necessary to assure that the general purpose and intent of this Ordinance is met.

31-705 PUBLIC UTILITIES.

Public utility uses, such as telephone dial equipment centers and power substations, but not service or storage yards, may be permitted in any district provided that:

31-705.1 Application.

With the application, the applicant shall submit:

- a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under Chapter 30, Land Development Ordinance.
- b. A plat showing the locations of all existing buildings and structures within two hundred (200) feet of the subject property and showing all streets within one thousand (1,000) feet of the subject property.
- c. A plan showing or indicating the distribution routes for said utility to and from said property.

31-705.2 Conditional Uses.

No such conditional use shall be permitted unless it is determined that:

- a. The proposed installation in a specific location is necessary for the satisfactory provision of services by the utility to the neighborhood or area in which the particular use is to be located;
- b. The design of any building in connection with such facilities conforms to the general character of the area, and will not adversely affect the safe, comfortable enjoyment of property rights in the zone in which it is located;
- c. Adequate and attractive fences and safety devices will be provided;
- d. Sufficient landscaping including shrubs, trees and lawns will be provided and will be periodically maintained;
- e. Adequate off-street parking will be provided;
- f. All of the area, yard and building coverage requirements of the respective zone will be met.

31-706 SCHOOLS.

31-707 HOSPITALS, PHILANTHROPIC OR CHARITABLE USES.

Hospital, philanthropic or eleemosynary uses, but not correctional or detention institutions may be permitted as conditional use in any district in which such use is set forth as a conditional use.

31-707.1 Application.

With the application, the applicant shall submit:

- a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under Chapter 30, Land Development Ordinance.
- b. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with the proposed use.
- c. A statement setting forth in general terms the proposed use or uses, the anticipated number of staff and/or employees, the nature of the services to be rendered, and the total numbers of persons expected to use the proposed facilities at any one time; for example, in the case of a hospital, the maximum number of "beds," or other usual measure of capacity.

31-707.2 Conditional Uses.

No such conditional use shall be permitted unless it is determined that:

- a. The subject property contains at least five (5) acres.
- b. No structure will be erected nearer than seventy-five (75) feet to any street line, nor nearer than fifty (50) feet to any property line.
- c. The off-street parking and loading requirements of Article 8 will be met.
- d. Buildings will not occupy more than twenty-five percent (25%) of the lot area.
- e. All other requirements as set forth in this Ordinance for the zone in which it is to be located are observed; except that the front, rear and side yards shall be increased one (1) foot for each foot by which such building exceeds the height limit herein established for the zone district in which it is to be located, but in no case shall any building exceed a height of thirty-five (35) feet.
- f. Such use will in no way be detrimental to the surrounding property values and that the building or use proposed will serve a useful purpose and promote the general welfare of the Borough.

31-707.3 Expansion.

In any case where any such use may now be in existence, or may hereafter be granted approval pursuant to the provisions of this Ordinance, in the event of any expansion of said facilities, or increase in intensity of such use beyond that originally represented (whether or not such intensity is accompanied by enlargement of the physical facilities), the person, firm, corporation, board or body in charge of said use, and the owner of the property upon which it is located, shall reapply to the approving authority in the same manner as for an original application as provided herein.

31-708 QUASI-PUBLIC BUILDINGS AND RECREATION AREAS.

Quasi-public buildings and recreation areas and facilities, including club houses, parks, playgrounds, swimming pools, tennis courts, and other similar activities, operated by non-profit membership organizations may be permitted as a conditional use in any district in which such uses are set forth as conditional uses.

31-708.1 Application.

With the application, the applicant shall submit:

- a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under Chapter 30, Land Development Ordinance.
- b. A set of architectural plans and specifications showing proposed buildings and structures.
- c. A statement setting forth full particulars on the operation of the proposed use.
- d. A complete list of proposed charter membership, including names and resident addresses.

31-708.2 Conditional Uses.

No such conditional use shall be permitted unless it is determined that:

- a. The proposed use is a *bona fide* non-profit organization operated solely for the recreation and enjoyment of the members of said organization;
- b. The proposed use in the proposed location will not adversely affect the safe and comfortable enjoyment of property rights or the values of adjacent properties; that the design of any structure erected in connection with such use will be in keeping with the general character of the area, and that sufficient landscaping, including trees, shrubs, and lawn will be provided to serve as a buffer between said use and any adjoining residential properties, and to insure an attractive appearance for the use;
- c. The property proposed to be occupied by such use shall have a minimum lot area of one (1) acre, a minimum road frontage of one hundred fifty (150) feet, and a maximum lot coverage of twenty percent (20%);
- d. No building, structure, or active recreational facilities shall be located within fifty (50) feet to an adjacent residential lot.

31-708.3 Expansion.

The maximum membership limit of said organization shall be fixed at the time of application and shall be commensurate to the amount of land to be used and the exact nature of the use. No further expansion of said membership shall be made unless additional land is acquired or other steps are taken to provide for such increase, and supplemental application is made to the approving authority.

31-710 HOUSES OF WORSHIP.

Houses of worship may be permitted as a conditional use in any district in which such use is set forth as a conditional use.

31-710.1 Application.

With the application, the applicant shall submit:

- a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under the Chapter 30, Land Development Ordinance.
- b. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with such proposed church.

31-710.2 Conditional Uses.

No such conditional use shall be permitted unless it is determined that:

- a. The lot area shall be not less than three (3) acres.
- b. In all other respects, the proposed use and buildings shall comply with the area and bulk requirements of the zone district in which the proposed church is to be located; provided, however, that the approving authority shall have the authority to grant, an exception from the height limitation for a church spire, bell tower or belfry.

31-711 PUBLIC GARAGES AND MOTOR VEHICLE SERVICE STATIONS.

Public Garages and Motor Vehicle Stations may be permitted as conditional use in the C Commercial District only, and only in strict compliance with the provisions of this Section and other applicable provisions of this Ordinance.

31-711.1 Application.

With the application, the applicant shall submit.

- a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under Chapter 30, Land Development Ordinance.
- b. To be included in said site plan, in addition to those items specified in Chapter 30, Land Development Ordinance, shall be the number and location of fuel tanks to be installed, the dimension capacity of each tank, the depth at which the tanks will be placed below ground, the number and location of pumps to be installed, the type of work to be done and a statement of the number of automobiles which may be garaged.
- c. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with such proposed use.

31-711.2 Conditional Uses.

No such conditional use shall be permitted unless it is determined that:

- a. Gasoline pumps and all service facilities shall be set back at least thirty-seven (37) feet from any street line.
- b. Public garages and motor vehicle service stations shall be located on a lot having a frontage of not less than two hundred (200) feet.
- c. The entire area of the site to be traversed by motor vehicles shall be surfaced with a concrete or asphaltic pavement.
- d. No motor vehicle service station or public garage shall be located within 1,500 feet of another motor vehicle service station and said distance shall be measured in a straight line from the nearest boundary of the lot of one such use to be nearest boundary of the other.
- e. No part of any public garage or motor vehicle service station shall be used for residence or sleeping purposes.
- f. No uses prohibited by any provisions of this Ordinance shall be permitted in conjunction with the use of any property for a public garage or motor vehicle service station, and no such prohibited use shall be permitted, allowed or considered as an accessory use to the use of any premises as such public garage or motor vehicle service station.

31-712 CONDITIONAL USES SET FORTH IN SECTION 31-606, C DISTRICT.

Uses enumerated in subsection 31-606.3 may be permitted as a conditional use in the C Commercial District only, and only in strict compliance with the provisions of this subsection 31-712 and other applicable provisions of this Ordinance.

31-712.1 Application.

With the application, the applicant shall submit:

- a. The detailed site plan and all accompanying data and documents as submitted to and considered by the Zoning Officer and Planning Board under Chapter 30, Land Development Ordinance.
- b. Complete architectural plans and specifications of all proposed buildings and structures, and of any existing structures proposed to be continued and used in connection with such proposed use.

31-712.2 Requirements.

No such conditional use shall be permitted unless it is determined that:

- a. Sufficient on-site parking is provided.
- b. No conditional use set forth in subsection 31-606.3, paragraphs a.6. and a.7. shall be located within 1,500 feet of a school, church or another similar conditional use, and the said distance shall be measured in a straight line from the nearest boundary of the lot to the nearest boundary of the other.

31-713 RESTRICTIONS ON REGULATED USES.
(Ord. No. 96-855)

Note: Regulated uses defined in Section 31-301.

- a. No regulated use shall be located within one thousand (1000) feet of a school, hospital, church, library, nursing home, public building, funeral parlor, other regulated use or residentially zoned property (whether utilized or not for residential purposes). All such distances shall be measured along a straight line from the nearest point on the boundary of the lot on which the regulated use is proposed to the nearest point on the boundary of the lot on which the school, hospital, church, library, nursing home, public building, funeral parlor other regulated use or residentially zoned property is located.
- b. Every regulated use shall comply with all standards contained in the Zoning Ordinance for the general use group in which the proposed regulated use would be classified and for the zone in which it is located.
- c. When any existing building is converted from any other use to a regulated use, or from one regulated use to another regulated use, a full and complete site plan application and review shall be required, regardless of pre-existing use, and the municipal body conducting the site plan review shall have no authority to waive any application or review requirements.
- d. Upon conviction for violation of any provision of this Section 31-713, the maximum penalty shall be one or more of the following: a fine not to exceed \$1,000.00, imprisonment in the County Jail for a period of not to exceed ninety (90) days, and/or a period of community service not to exceed ninety (90) days. Each and every day upon which a violation of any provision of this section exists shall constitute a separate violation.

31-714 WIRELESS TELECOMMUNICATIONS EQUIPMENT AND FACILITIES.
(Ord. No. 2011-1102)

31-714.1 Definitions.

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

- ANTENNA.** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.
- BACKHAUL NETWORK.** Lines that connect a providers’ towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- CELLULAR ANTENNA.** Antennas which are used for the transmission and reception of wave frequencies for the purposes of telephone, radio, paging and/or television communication and which are permitted as “conditional uses” in accordance with the specific zoning conditions and standards for their location and operation within this section. For the purposes of this section “cellular antennas,” as referred to in the 1996 Federal Telecommunications Act, shall not be considered to be a public utility.
- FAA.** The Federal Aviation Administration.
- FCC — the Federal Communications Commission.**
- PUBLIC VIEW.** Visible from a public thoroughfare, public lands or buildings or navigable waterways.
- TELECOMMUNICATIONS ACT.** Federal Telecommunications Act of 1996 and amendments or modifications which may be made thereto.
- TOWER.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including self supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto.
- WIRELESS TELECOMMUNICATIONS EQUIPMENT COMPOUND.** A fenced in area which houses any combination of wireless telecommunications structures, buildings, antennas, equipment, and/or towers.
- WIRELESS TELECOMMUNICATIONS STRUCTURES, ANTENNAS, EQUIPMENT, AND/OR TOWERS.** Buildings and/or structures and equipment for the delivery of wireless telecommunications, except for satellite dish antennas. Wireless telecommunications tower means a vertical structure used for wireless telecommunications antennas.

31-714.2 Purposes.

It is the purpose of this Section 31-713 to provide specific zoning conditions and standards for the location and operation of cellular antennas for telephone, radio, paging and other personal wireless communication services and/or telecommunications within the Borough of Manville which, while acknowledging that, at times, there may be inherent benefits derived from the construction and operation of such antennas, also recognized, is the need to safeguard the public good and preserve the intent and purpose of the Borough of Manville Zone Plan. This section seeks to meet the mandate of the Telecommunications Act of 1996 while at the same time limiting the proliferation of wireless telecommunications towers.

31-714.3 Objectives.

The overall objective of this section is to enable the location within the Borough of Manville of those antennas and/or towers which have been determined by the Telecommunications Act to be necessary and protected so as to provide full and seamless communication services while, at the same time, limiting the number of supporting towers to the extent reasonably practicable. Therefore, since the Telecommunications Act has recognized that service carriers have the right to provide cellular communication service within the Borough of Manville, it also is an objective of these provisions that many of the different carriers locate their antennas on the same tower in order to limit the overall number of towers within the Borough to the extent reasonably practicable.

31-714.4 Conditional Use.

- a. Notwithstanding anything in the Zoning and Land Use Ordinances of the Borough of Manville to the contrary, the installation of wireless telecommunications structures, antennas, equipment and/or towers and their respective locations shall be a conditional use in the following zoning districts of the Borough: I-Industrial District and C-Commercial District. They are prohibited in all other zoning districts.

b. The installation of wireless telecommunication service shall also be prohibited on any school property, parks and playgrounds, recreations facilities or land dedicated as Green Acres, irrespective of whatever zoning district they are in.

c. Nothing within this section shall be deemed to apply to municipal towers.

31-714.5 Maximum Height.

a. The maximum height of any proposed cellular antenna and any proposed new cellular tower shall be demonstrated by the applicant to be the minimum height necessary for the proposed installation to satisfactorily operate, but in no event in excess of the following standards for height, exclusive of lightning rods:

1. Singular vendor: 120 feet.
2. Two vendors: 120 feet.
3. Three or more vendors: 120 feet.

b. All tower footings shall be designed to permit future extensions to a maximum height of 120 feet.

31-714.6 Location Priorities.

If needed, in accordance with an overall comprehensive plan for the provision of full cellular communication services within the Borough utilizing the fewest number of towers to the extent reasonably practicable, cellular antennas and wireless telecommunications structures, antennas, equipment and/or towers shall be permitted as conditional uses at the following prioritized locations:

- a. The first priority location shall be an existing tower, building, silo, steeple or structure or any existing or proposed water tower or water stand pipe within or near the Borough of Manville in the zoning districts delineated in subsection 31-714.4.
- b. The second priority location shall be on lands owned by the Borough of Manville in the following zoning districts within the Borough in order of priority:
 1. I-Industrial districts.
 2. C-Commercial districts.
- c. The third priority location shall be on lands within the Borough of Manville not owned by the Borough zoned as follows in order of priority:
 1. I-Industrial districts.
 2. C-Commercial districts.

31-714.7 Area, Setback and Miscellaneous Requirements.

- a. If the proposed antennas will be attached to an existing tower or to an existing water tower or water stand pipe or other structure or building, no land area shall be required in addition to the land area upon which the existing structure or equipment is situated; or
- b. If the proposed antennas and supporting tower will be on lands within the nonresidential zoning districts recited in subsection 31-714.6b. above and owned by the Borough of Manville, the land area required shall be approved by the Planning Board with consideration given to existing site conditions and surrounding land uses and shall be subject to a lease agreement between the applicant and the Borough of Manville.
- c. If the proposed antennas and proposed new supporting tower will be on land within the Borough of Manville zoned I-Industrial and C-Commercial, the following minimum bulk requirements shall be met:
 1. The proposed antennas and proposed supporting tower and ancillary building enclosing related electronic equipment shall be located on a lot size in accordance with the following formula:
 - (a) The total enclosure, including the footprint, shall not be greater than 50 feet by 50 feet.
 - (b) The setback from the footprint to the property boundaries shall adhere to the applicable zone standards.
 2. Excepting for any access driveway into the property, any required landscaping and any underground utility lines reviewed and approved by the Planning Board as part of the site plan submission, no building, structure and/or disturbance of land shall be permitted:
 - (a) Within a distance of 100 feet from the property line of any existing residence.
 - (b) Within a distance closer than 2,500 feet from another tower.
 - (c) Within a distance closer than 200 feet from a school property line.
 3. All utilities serving the site shall be underground where reasonably practicable.
 4. A wireless telecommunications equipment compound shall be unoccupied other than purposes of repair, maintenance and/or construction.

31-714.8 Overall Comprehensive Plan.

In order to provide evidence that the proposed location of the proposed wireless telecommunications structures, antennas, equipment and/or towers have been planned to result in the fewest number of tower locations within the Borough of Manville at the time full service is provided by the applicant throughout the Borough, the applicant shall provide an overall comprehensive plan indicating how it intends to provide full service throughout the Borough of Manville and, to the extent reasonably practicable, shall indicate how its plan specifically relates to and is coordinated with the needs of all other providers of cellular communications services within the Borough of Manville. Essentially and summarily, the overall comprehensive plan shall indicate the following:

- a. Documentary evidence regarding the need for new wireless telecommunications antennas within the Borough with due consideration given to the Borough population. This information shall identify the wireless network layout and coverage area to demonstrate the need for new equipment at a specific location within the Borough as well as future plans for applicant's expansion to the extent reasonably foreseeable.
- b. Documentary evidence that a legitimate attempt has been made to locate the antennas on existing buildings or structures. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures in the search area for such antennas. Efforts to secure such locations shall be documented through correspondence between the wireless telecommunications provider and the property owner of the existing buildings or structures and statements under oath by the applicant.

- c. Document the locations of all existing communications towers and/or antennas within the Borough of Manville and surrounding areas with coverage in the Borough and shall provide competent testimony by a radio frequency expert regarding the suitability of potential locations in light of the design of the wireless telecommunications network. Where a suitable location on an existing tower is found to exist in the zoning districts delineated in subsection 31-714.4, but an applicant is unable to secure an agreement to collocate its equipment on such tower, the applicant shall provide credible written evidence of correspondence with the owner of such tower or statements under oath verifying that suitable space is not available on the existing tower.
- d. Explain how the proposed location of the proposed antennas relates geographically to the location of any existing towers within and near the Borough of Manville.
- e. Explain how the proposed location of the proposed antennas relates to the anticipated need for additional antennas and supporting towers within and near the Borough of Manville by the applicant and by other providers of cellular communication services within the Borough to the extent such information is not proprietary and can be obtained with reasonable effort.
- f. Explain how the proposed location of the proposed antennas relates to the objective of collating the antennas of many different providers of cellular communication services on the same tower.
- g. Explain how the proposed location of the proposed antennas relates to the overall objective of providing full cellular communication services within the Borough while, at the same time, limiting the number of towers to the extent reasonably practicable.

31-714.9 Visual Compatibility Requirements and Sound Design Standards.

- a. Wireless telecommunications antennas may be erected on existing buildings or structures and a wireless telecommunications compound may be constructed in support of such antennas within the zoning districts delineated in subsection 31-714.4 consistent with the following requirements:
- Antenna arrays may be mounted on such existing buildings or structures, but shall not extend beyond the overall height of any such building or structure by more than 10 feet.
 - The wireless telecommunications equipment compound shall be enclosed within a fence at least seven feet and no more than eight feet high as approved by the Borough Engineer which shall include a locking security gate.
 - A wireless telecommunications equipment compound consisting of no more than 900 square feet may be erected in support of such antenna arrays provided:
 - It is situated behind existing structures, buildings or terrain features which shall shield the wireless telecommunications equipment compound from public view; or
 - When a location out of public view is not reasonably practicable, a landscape buffer shall be provided outside the fence around the wireless telecommunications equipment compound to shield the facility from public view. Landscaping shall include native evergreen and deciduous trees at least eight feet high at the time of planting.
- b. Antennas installed according to these provisions shall be suitably finished and/or painted so as to minimize their visual impact on the landscape. Depending on the placement of this equipment, color shall be selected to be consistent with the color scheme of the building or structure on which they are mounted, in order to blend with their surroundings. When this is not reasonable or practicable, color selection shall be designed to minimize the visual impact of the antenna arrays.
- c. Where new wireless telecommunications towers or other antennas support structures are proposed, stealth designs where reasonably practicable shall be employed to camouflage their appearance, such as bell towers, silos, artificial trees and similar treatments. The degree and nature of such stealth designs shall depend upon the specifics of the site involved so as to provide the most appropriate designs under the circumstances presented.
- d. The NJDEP noise regulation (N.J.A.C. 7:29) limits the A-weighted sound levels produced by a commercial facility when measured at a property line. A-weighting is a standardized sound level meter setting having a frequency characteristic similar to the human ear/brain sensitivity and, therefore, provides an overall sound level measurement which correlates with how people perceive noise. The following levels are applicable:
- Daytime regulation: (7:00 a.m. to 10:00 p.m.)

$\frac{31.5}{96}$	$\frac{63}{82}$	$\frac{125}{74}$	$\frac{250}{67}$	$\frac{500}{63}$	$\frac{1,000}{60}$	$\frac{2,000}{57}$	$\frac{4,000}{55}$	$\frac{8,000}{53}$
Sound Pressure Level								
 - Nighttime regulation: (10:00 p.m. to 7:00 a.m.)

$\frac{31.5}{86}$	$\frac{63}{71}$	$\frac{125}{61}$	$\frac{250}{53}$	$\frac{500}{48}$	$\frac{1,000}{45}$	$\frac{2,000}{42}$	$\frac{4,000}{40}$	$\frac{8,000}{38}$
Sound Pressure Level								
 - The NJDEP noise regulation limits the peak sound pressure levels of an impulsive sound when measured at a residential property line, to 80 decibels during all hours of the day.

31-714.10 Design Standards.

- a. Any proposed building enclosing related electronic equipment shall not be more than 12 feet in height nor more than 300 square feet in area and only one such building shall be permitted on the lot for each provider of cellular communications services located on the site.
- b. Any proposed new tower shall be a monopole unless the applicant can demonstrate and the Planning Board agrees, that a different type pole is necessary for the co-location of additional antennas on the tower.
- c. No antenna shall be located on any tower in order to provide noncellular telephone service; such service shall be provided via existing telephone lines if available to the site, or by the underground extension of telephone lines to the site if necessary.
- d. All proposed antennas, any proposed new tower and any proposed building enclosing related electronic equipment shall be colored to best blend with the surroundings, including any site vistas.
- e. Other than typical "warning," "emergency" and equipment information signs, no signs are permitted. Emergency signs shall be on plates attached to the tower or building and shall not exceed two square feet.

f. No lighting is permitted, except as follows, which shall be subject to review and approval by the Planning Board as part of the site plan application:

1. The building enclosing electronic equipment may have one light at the entrance of the building, provided that the light is attached to the building, is focused downward and is switched so that the light is turned on only when workers are at the building. This shall be exclusive of lights equipped with motion detectors. To the extent these requirements are inconsistent with BOCA requirements, the BOCA requirements shall apply; and
 2. No lighting is permitted on a tower except lighting that is specifically as required by the FAA and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project toward adjacent and nearby properties.
- g. No cellular antenna and/or its related electronic equipment shall interfere with any public safety communications subject to FCC rules and regulations.
- h. All equipment shall be designed and automated to the greatest extent possible in order to reduce the need for on-site maintenance and thereby, minimize the need for vehicular trips to and from the site.
- i. Minimal off-street parking shall be permitted as needed and as approved by the appropriate Board having jurisdiction.
- j. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access. Additionally, any tower supporting the cellular antennas and any building enclosing related electronic equipment shall be surrounded by a fence between seven feet and eight feet high. The fence shall be bordered by a landscape buffer pursuant to subsection 31-714.9a.3(b).
- k. Additional safety devices shall be permitted as needed and as approved by the appropriate Board having jurisdiction.
- l. Between any existing or zoned residential property bordering the proposed lot and the location of any proposed new tower or any proposed building enclosing related electronic equipment, a landscaped buffer at least 20 feet deep shall be provided in accordance with the following:
1. The landscaped buffer shall consist of a combination of existing and/or newly planted evergreen and deciduous trees of sufficient density to screen the view of the tower and building from the surrounding properties to the maximum extent possible.
 2. Any newly planted evergreen trees shall be at least eight feet high at time of planting and any newly planted deciduous trees shall be a minimum caliper of 2 1/2 inches to three inches at time of planting.
- m. Towers and antennas shall meet the following requirements:
1. Towers shall be subject to any applicable standards of the FAA and, to the extent reasonably practicable, be painted a neutral color so as to reduce visual obtrusiveness.
 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color such as sky blue that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as reasonably practicable.
 4. The applicant shall submit a report from a qualified expert certifying that the wireless telecommunications antenna and equipment facility comply with the latest structural and wind-loading requirements as established by applicable building and electrical codes. The applicant shall provide a description of the number and type of antennas that may be accommodated and the effect on structural integrity.

31-714.11 Site Plan Submission and Approval Requirements.

- a. Wireless telecommunications structures, antennas, equipment and/or towers and cellular antennas for telephone, radio, paging and/or television communication shall require major site plan review and approval in accordance with the zoning and land use ordinances of the Borough of Manville.
- b. In addition to the applicable documentation and items of information required for major site plan approval contained in the zoning and land use ordinances of the Borough of Manville and on the related checklist, the following additional documentation and items of information specific to wireless telecommunications are required to be submitted to the Board of Adjustment or Planning Board, as appropriate, for review and approval as part of the site plan submission:
1. Documentation by a qualified professional engineer expert in structural engineering regarding the capacity of the proposed tower for the number and type of antennas.
 2. Documentation by a qualified professional engineer expert in structural engineering that any proposed tower will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas and that the structural standards developed for antennas by the Electronic Industry Association (EIA) and/or the Telecommunications Industry Association (TIA) have been met.
 3. A letter of intent by the applicant in a form which is reviewed and approved by the Borough Planning Board Attorney or Zoning Board of Adjustment Attorney indicating that the applicant will share the use of any tower with other approved cellular communication services and that the cost to achieve co-location to other carriers shall not exceed fair market value. This co-location requirement shall be a condition of approval.
 4. A visual site distance analysis using balloon testing and a composite image, graphically simulating the appearance of any proposed tower and indicating its view from at least the five locations around and within one mile of the proposed tower where the tower will be most visible.
- c. An environmental assessment or inventory study in accordance with the zoning and land use ordinances of the Borough of Manville shall be required. Proof that the applicant meets FCC standards as to radiation emissions shall also be required.
- d. A report from a qualified expert containing the following:
1. A description of the tower and the technical and other reasons for the tower design and height.
 2. Documentation by a professional engineer to establish that the tower has sufficient structural integrity for the proposed uses of the proposed location and meets the minimum safety requirement margins according to FCC requirements and their current adopted revision as well as BOCA requirements.
 3. The general capacity, of the tower in terms of the number and type of antenna it is designed to accommodate.
- e. A letter of commitment pursuant to subsection 31-714.11b.3. by the applicant to lease excess space on the tower to other potential users at prevailing market rates and conditions. The letter of commitment shall be recorded prior to issuance of a building permit. This letter shall commit the tower owner and successors in interest.

- i. Elevations of the proposed tower and accessory building generally depicting all proposed antennas, platforms, finish materials and all other accessory equipment.
- g. A copy of the lease or deed for the property, redacted so as to protect the lessor and lessee proprietary and confidentiality interests.
- h. The site plan shall also provide the following information:
 1. Legal description of the parent tract and lease parcel.
 2. The setback distance between the proposed tower and the nearest residential unit, planned residentially zoned properties and unplatted residentially zoned properties.
 3. The separation distance from other towers described in the inventory of existing sites submitted. The applicant shall also identify the type of construction of the existing tower and owner/operator of the existing tower if known.
 4. A landscape plan showing specific landscape materials.
 5. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 6. Identification of the entities providing the backhaul network for the tower described in the application and other cellular sites owned or operated by the applicant in the municipality and surrounding competitor sites, to the extent reasonably obtainable.
 7. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

31-714.12 Antenna Modifications.

Operators of wireless telecommunications towers shall provide to the Borough of Manville a report every three years from a licensed professional engineer certifying the structural integrity of the tower, together with all antennas mounted thereon and whether they remain in use, and that they meet applicable minimum safety requirements. Such report shall also be provided whenever antenna arrays are modified, and shall include a detail listing of all antennas and equipment so certified. Vendors shall also be required to notify the Borough when the use of such antennas and equipment is discontinued. A satisfactory insurance company inspection report shall be deemed to meet the requirements of this section.

31-714.13 Co-Location Required.

Authorization for the construction for a new wireless telecommunications tower shall be conditioned on agreement by the tower owner that other wireless telecommunication service providers will be permitted to co-locate on a proposed tower within the limits of structural and radio frequency engineering requirements and at rates which reflect a fair market price for such service. As part of the application for tower approval, the applicant shall document the extent to which additional equipment could be mounted on the tower, the extent to which the height of the tower could be increased and the type of equipment which could be accommodated. Such request for approval shall be considered to be a "C" or bulk variance to be reviewed by the Planning Board.

31-714.14 Application and Escrow Fees.

Development application and escrow fees for wireless telecommunications installations are as provided in Chapter 30, Land Development.

31-714.15 Restoration Provisions.

The applicant shall provide a performance bond and/or other assurances satisfactory to the Planning Board in a form approved by the Borough Attorney that will cause the antennas, the supporting tower, the ancillary building enclosing related electronic equipment and all other related improvements to the land to be removed at no cost to the Borough, when the antennas are no longer operative. Any communication facility not used for its intended and approved purpose for a period of 12 months shall be considered no longer operative and abandoned and shall be removed by the applicant or their assigns within 60 days thereof. If the use of the tower is 10% or less of its maximum permitted capacity, it shall be considered no longer operative and therefore abandoned.

31-714.16 Applicability.

- a. All new towers or antennas shall be subject to this article and to the jurisdiction of the Planning Board except as provided in paragraph c. hereinbelow.
- b. Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this article, but shall be required to meet the requirements of all state and federal regulations on the subject including FCC, FAA and BOCA requirements. However, at time of submission of any application for site plan approval, such towers and antennas shall be brought into conformance with this section where reasonably practicable.
- c. All other planned and nonconforming structures and expansions of existing antennas, structures, towers or wireless telecommunications equipment compounds shall be deemed to be an expansion of a nonconforming use and shall require a "D" variance from the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70(d).

31-714.17 Other Requirements.

- a. All antennas, structures, towers, or wireless telecommunications equipment compounds shall be insured with liability coverage as follows: \$1,000,000 to \$3,000,000 with the Borough named as co-insured. Evidence of such insurance coverage shall be submitted to the Borough Attorney or his designee at the time of approval and each succeeding year by the anniversary date of the approval.
- b. All other applicable requirements of this section contrary to the specific conditions and standards specified herein shall be met, but waivers and/or variances of all applicable requirements of this section may be granted by the Planning Board or Zoning Board of Adjustment.

ARTICLE 8 PARKING AND LOADING (Ord. No. 643; readopted by Ord. No. 2020-1235)

31-801 OFF-STREET PARKING REGULATIONS.

Off-street parking space shall be provided as further specified in this Ordinance, and shall be furnished with necessary passageways and driveways.

31-801.1 Off-Street Parking for Residential Dwellings.

Parking for residential dwellings shall comply with NJ RSIS parking standards listed under N.J.A.C. 5:21-4.14, unless otherwise stated in Chapter 31 Article 8.

31-801.2 Off-Street Parking for Non-Residential Uses.

- a. All parking areas, passageways and driveways shall be surfaced with a dustless, durable, all-weather pavement (asphalt, bituminous or concrete or equivalent), clearly marked for vehicle spaces, properly graded and adequately drained, all subject to the approval of the Borough Engineer.
- b. The site plan filed pursuant to Chapter 30, Land Development Ordinance, shall designate the areas to be used for off-street parking, passageways and driveways, and the dimensions thereof.
- c. Except as provided in subsection 31-801.2d. hereof, or as may be permitted in Section 31-803, all parking spaces shall be provided on the same lot as the use to be served by said parking area.
- d. For business uses in the commercial districts, collective off-street parking areas for two (2) or more buildings or uses located on adjacent lots may be permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately, and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users, and provided, further, that no parking space located more than three hundred (300) feet from a building may be counted as providing a parking space for that building.
- e. Except as may be otherwise specifically provided in the regulations of this Ordinance, parking areas may be located in any yard space for business uses, and in any yard except the front yard for other than business uses, but shall not be closer than fifty (50) feet to any street line or ten (10) feet to any property line. (This paragraph e. does not apply to any permitted non-residential use in any residential district.)
- f. Except as may be otherwise specifically provided in this Ordinance not more than two (2) driveways, of not less than twenty (20) feet nor more than thirty (30) feet in width used as a means of ingress and egress for non-residential off-street parking areas shall be permitted for each two hundred (200) feet of frontage on a public street, nor shall any driveway be located closer than fifty (50) feet to the intersection of the right-of-way lines of two (2) public streets.
- g.
1. All parking areas must provide curbing of concrete or equivalent, at least seven (7) inches above the parking surface, along the outer perimeter of the parking area, as designated by the Planning Board. Where a fence is required the curbing shall run parallel to the fence and at a distance of five (5) feet from said fence.
 2. When the parking area adjoins a residential district, the following regulations shall also apply:
 - (a) When a parking area for four (4) or more vehicles adjoins a residential district, a planted buffer strip, as defined in subsection 31-1001.1 at least ten (10) feet wide shall be provided between the parking area and the adjoining property.
 - (b) A fence shall be erected as provided in subsection 31-1001.1b.
- h. All parking areas and appurtenant passageways and driveways serving business uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided to deflect light from adjacent residential uses so that no glare is perceptible beyond the property lines.
- i. Off-street parking areas located in the C Commercial District, and which provide parking for twenty (20) or more vehicles shall be provided with shade trees of a type approved by the Planning Board in accordance with the same standards set forth in Chapter 30, Land Development Ordinance. The shade trees shall be located in a planned manner within the parking area in quantity not less than one (1) shade tree for every twenty (20) parking spaces.
- j. Parking spaces shall be provided as follows:
1. Barber and beauty shops - two (2) spaces per chair plus one (1) additional space for each employee.
 2. Banks, financial, and business offices and professional offices - one parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof; home professional office - one parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof, devoted to such home professional office use, which shall be in addition to the off-street parking space required for the residential use under subsection 31-801.1.
 3. Shopping centers and shopping malls - one parking space for every two hundred (200) square feet of gross floor area or major fraction thereof.
 4. Supermarkets, self-service food stores - one parking space for every one hundred (100) square feet of gross floor area or major fraction thereof.
 5. Laundromats - one parking space for every two (2) washing machines.
 6. Motor vehicle sales and service - one parking space for every two hundred (200) square feet of gross floor area or major fraction thereof.
 7. Restaurants (Indoor service only) - one parking space for every four (4) seats for customers, plus one space for every two (2) employees.
 8. Bowling alleys - five (5) parking spaces for each bowling lane.
 9. Auditorium, churches, theaters, stadiums, assembly halls, and similar places of public and quasi-public assembly having fixed seating facilities - one parking space for every three (3) seats in the main assembly unit.
 10. Auditorium, exhibition halls, assembly halls, union halls, community centers, and similar places of public and quasi-public assembly not having fixed seating facilities - one parking space for every three (3) persons who may legally be admitted therein at one time under the State Fire Code.
 11. Indoor entertainment for profit establishments and bars and taverns - one parking space for every three (3) persons who may legally be admitted therein at one time under the State Fire Code.
 12. Hospitals, nursing homes, and similar institutional uses for care of the ill or aged - one parking space for every four (4) beds, plus one additional parking space for every two (2) employees and members of the staff in the two largest working shifts.
 13. Mortuaries and funeral homes - two (2) parking spaces for every fifty (50) square feet of floor area.
 14. Non-office public utility installations - five (5) spaces.
 15. Parks and other outdoor recreation sites - five (5) parking spaces for each gross acre of land up to fifty (50) acres, and one parking space per gross acre of land above fifty (50) acres.
 16. Industrial uses: Parking shall be provided as follows: one parking space for each one thousand (1,000) square feet of building area, plus one parking space for each employee, determined by the maximum number of employees on the premises at any one time, plus five (5) parking spaces. In determining the number of employees, in any case where shift work is involved, where a shift of workers will arrive at the premises before work to relieve a shift that is to depart the site, the number of parking spaces to be provided shall be computed on the basis of the total number of employees on the two largest work shifts.

17. Stores for the retail sale of furniture - one (1) parking space for every five hundred (500) square feet of gross floor area or major fraction thereof.
18. As to any use not specified above, or not otherwise provided for in this Ordinance, provision shall be made for two square feet of parking area for each square foot of floor area in the permitted building.
- k. Where a property or building is used or occupied for more than one of the uses above set forth or otherwise provided for in this Ordinance, the number of parking spaces provided shall be the total required for all such uses contained on said property or in said building, as the case may be.
- l. The minimum number of parking spaces required by this Ordinance shall be kept current with any changes in size or use of a building or property and/or number of employees, as the case may be, in addition to the requirements of a Certificate of Occupancy set forth in subsection 31-1204b. of this Ordinance. In any case where there is an increase in the size of any building or number of employees, or change in the use of any land or buildings, the occupancy shall immediately report such information to the Zoning Officer who, in conjunction with the Planning Board, shall review such increase to ascertain if additional parking spaces shall be required by reason of such increase or change. In the event any such increase or change shall require additional parking spaces, the same shall immediately be provided; compliance shall be evidenced by a Certificate of Occupancy, and in the event of noncompliance the prior Certificate of Occupancy shall be revoked and the owners, tenants and other parties in interest shall be subject to the penalties of this Ordinance for operation and/or use without a Certificate of Occupancy.
- m. All off-street parking areas, passageways, and driveways shall be subject to the approval of the Zoning Officer and Planning Board to ensure their adequacy, their relation to traffic safety, protection of the adjacent properties, whether residential or otherwise, and conformity to the requirements of this subject to the standards set forth in this Ordinance.
- n. In any Business or Industrial District, parking spaces shall be no closer than ten (10) feet to any building.

31-802 OFF-STREET LOADING AND UNLOADING PROVISIONS.

31-802.1 Standards.

For every building, structure or part thereof having five thousand (5,000) square feet or more gross building area, erected and occupied for commerce, manufacturing, storage, goods display, retail store, wholesale store or warehouse, distribution center, market, restaurant, laundry, dry cleaning, place of public or quasi-public assembly, industry, or other similar uses involved in the receipt and distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained, adequate space for standing, loading, and unloading services in order to avoid undue interference with the public use of streets or alleys, and with areas designated for parking and their passageways and driveways, in accordance with the following standards:

- a. Every such building, structure or part thereof having at least 5,000 square feet of gross building area, as aforesaid, but less than 10,000 square feet of such gross building area, there shall be provided at least one (1) truck standing, loading and unloading space on the premises, not less than twelve (12) feet in width, sixty-five (65) feet in length, and fourteen (14) feet in height.
- b. For each additional 25,000 square feet of gross building area as aforesaid, or fraction thereof, there shall be provided one additional truck standing, loading and unloading space having the foregoing minimum dimensions.
- c. No such truck standing, loading, or unloading space shall be in front of not visible from the front of any building, and no loading or unloading shall be conducted in front of any building.

31-802.2 Access.

Access to truck standing, loading and unloading space shall be provided directly from a public street or alley or from any right-of-way that will not interfere with public convenience, and will permit orderly and safe movement of truck vehicles.

31-802.3 Location.

Loading space as required under this Section 31-802 shall be provided in an area in addition to off-street parking space and shall not be considered as supplying off-street parking space.

31-802.4 Surfacing; Approval by Engineer.

Off-street loading and unloading areas shall be surfaced with a dustless, all-weather pavement (asphalt, bituminous, concrete or equivalent), which shall be adequately drained, all subject to the approval of the Borough Engineer, and subject to the posting of performance guarantees as set forth in this Ordinance.

31-803 SPECIAL PERMIT FOR REDUCTION IN REQUIRED PARKING OR LOADING SPACES.

31-803.1 Compliance with Regulations Required; Agreement; Maintenance.

The number of off-street parking spaces or off-street loading and unloading spaces to be installed initially as required by the provisions of Sections 31-801 and 31-802 for building types or uses other than dwellings or residences, may be reduced provided that:

- a. A special permit is obtained from the Planning Board in accordance with the provision of this Section.
- b. The reduced number of off-street parking or loading spaces to be installed shall not be less than the minimum number found by the Planning Board to be needed to serve adequately the use or prospective use of the building in the light of the occupancy thereof, customers, employees, traffic in connection therewith, and such other factors as are relevant to parking generated thereby.
- c. An off-street parking plan providing for not less than the number of parking spaces required by the applicable subsections of Section 31-801 shall be submitted and, if approved, shall become part of any special permit. That part of such parking layout that represents parking spaces or loading spaces in excess of the reduced number to be installed pursuant to special permit, which excess is not to be installed initially, shall not be encroached upon by buildings or other structures, shall remain readily available for future construction and installation of off-street parking, and shall be maintained in its natural state or with such landscaping as shall be required or approved by the Planning Board.
- d. The applicant shall enter into a written agreement with the Borough by which the applicant agrees to construct and install all or any part of such additional off-street parking at any time or times if the Planning Board, after receipt of a complaint from the Zoning Officer or from any interested person, shall by resolution determine to require such construction and installation, and shall so notify the owner of the premises. The agreement shall also provide that the owner shall maintain the area to be covered by the excess parking space in the manner required by the Planning Board pursuant to this subsection 31-803.1d. and that if the owner shall fail to so maintain such area, or fail to construct and install required off-street parking or loading spaces after notice to do so, the Borough shall have the right to enter upon the premises and to cause such maintenance to be performed or such off-street parking to be constructed thereon. The agreement shall further provide that if such maintenance or construction by the Borough becomes necessary, the cost of such, after procedure as required by law, shall become and be a lien on the premises, enforceable and collectible in the same manner as municipal improvement assessments. The form of the agreement shall be subject to approval of the Borough Attorney and shall become a part of any special permit issued.

Any owner or group of owners of a non-residential building or buildings located not more than three hundred (300) feet apart in any C or I Zone district may apply for a reduction in the parking requirements of each individual use and to utilize the “shared parking” concept to establish the overall parking requirements for the entire property or properties, provided that:

- a. A special permit is obtained from the Planning Board after the filing of a “shared parking” application.
- b. In considering a “shared parking” application, the Planning Board shall follow the procedure for granting relief under 40:55D-70[b].
- c. There shall be filed with the “shared parking” application, the site plan containing all information required by Chapter 30, Land Development Ordinance. If, approved, the site plan shall become a part of the “shared parking” special permit.
- d. There shall be filed with the “shared parking” application, five (5) copies of a “shared parking” study prepared by a qualified traffic engineer or transportation planner. If approved, the “shared parking” study shall become a part of any special permit issued. The filing of the written study does not relieve the applicant from the necessity of presenting oral testimony at the time of the hearing on the application. The study shall set forth all criteria used, including peak unit ratios, parking utilization for each unit by half hour periods, parking accumulation totals for each half hour period, employee parking requirements, and any other criteria used in developing the “shared parking” recommendation. Any technical articles, learned treatises or other authorities cited or relied upon shall be listed by title, author, date of publication and address from which copies may be obtained.
- e. The applicant shall enter into a written agreement with the Borough to limit and restrict the uses placed or to be placed upon the subject property so that the “shared property” provided will not be overutilized. The written agreement shall provide that upon complaint from the Zoning Officer or from any interested person, the Planning Board may limit the number, type or extent of uses on the premises, or the hours of operation of the uses on the premises, so that the “shared parking” will not be over-crowded. The agreement shall also provide that the covenants and undertakings of the applicant will be binding upon its successors and assigns, and also upon its tenants, subtenants and all other persons acquiring any interest in or possession of the premises. The agreement shall be in recordable form and shall be subject to the approval by the Borough Attorney as to form. The agreement shall become a part of any special permit issued by the Planning Board. The failure of the applicant to abide by the terms of the agreement shall constitute a violation of the relief granted, which violation may be prosecuted under Article 13, Violation and Penalties, of this Ordinance.
- f. The Planning Board shall have the power, in connection with the grant of such “shared parking” special permit, to impose conditions upon the applicant relating to the types of occupancies to be upon the premises, the nature of all commercial uses and their hours of operation. The Planning Board shall have the power to prohibit certain uses or occupancies if the projected parking requirements of the uses or occupancies would overutilize the “shared parking” available.

ARTICLE 9 SIGNS
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-901 SIGN REGULATIONS.

31-901.1 Signs Permitted in Residential Districts.

In all Residential Districts, and all properties in any zone districts used for residential purposes, the following regulations shall apply:

- a. Nonilluminated or nonflashing-indirectly illuminated name plate sign, situated within the property lines and bearing only the name of the principal occupant and/or the street number of a private dwelling and not exceeding seventy-two (72) square inches in total area: provided, however, that any illumination shall not cause a glare visible beyond the property lines.
- b. Nonilluminated or nonflashing-indirectly illuminated professional signs bearing the name of the professional person or persons using the premises and indicating the profession, each of such signs not to exceed one (1) square foot on either of two (2) sides for each professional occupying the premises.
- c. Signs, identifying a use in a residential district such as a club house, public or quasi-public building or building used solely for nonprofit, church, school, hospital or other like purposes but not including any activity of a retail nature, provided said sign is located on the same premises as the use that it identifies. No such sign shall exceed nine (9) square feet and either of two (2) such signs may be placed upon any property.
- d. Temporary advertising sign pertaining only to the lease or sale of the same premises on which it is placed provided that such sign shall not exceed six (6) square feet in area and shall not be illuminated. Such signs shall be removed within seven (7) days after the execution of any lease, rental agreement or agreement of sale for the premises.
- e. Not more than one (1) sign for each use, profession or activity coming within the provisions of this section shall be permitted for each street contiguous to the premises, but in no case shall there be more than two (2) such signs on the premises.
- f. Such signs as may be required by the Borough, County, State or Federal Government.

31-901.2 Signs Permitted in Commercial, Industrial and Economic Development Districts.
(Ord. No. 95-820§3)

- a. Any sign permitted under Section 31-901.1.
- b. One (1) sign identifying each permitted use in a principal building may be applied or attached to the front façade of that building. Such signs shall not project more than forty-eight (48) inches from the building façade, nor extend above the uppermost edge of such façade. Roof-mounted signs are prohibited. Where a principal building fronts on more than one street, such signs may also be placed on the facades facing such additional streets. The total area of all signs placed on all facades of a building shall not exceed ten percent (10%) of the area of the front façade of the building (where the main entrance is located). (Ord. No. 2004-998)
- c. Free-standing business signs are permitted but only if erected on the same premises on which the business to which they refer is conducted. Such signs shall conform to the following:
 - 1. There may be one (1) free-standing sign permitted in the District for each lot to identify the permitted use on the premises. Such sign may be illuminated by nonflashing indirect lighting. The total area of any such sign shall be in accordance with the following schedule:

Property Frontage	Number of Occupancies	Maximum No. of Sign Locations	Maximum Size Sign for Each Occupancy
190' - 249'	1	1	80 sq. ft.
190' - 249'	2 or more	2	60 sq. ft.
250' and over	1	1	160 sq. ft.
250' and over	2 or more	2	100 sq. ft.

2. In a shopping center or industrial park there may be one (1) directory sign at any location therein which shall not exceed fifteen (15) square feet for each acre of land in such shopping center or industrial park, provided that no such sign shall exceed two hundred (200) square feet in area. In addition, at each point of entrance and exit for vehicular traffic into or from such shopping center or industrial park, one (1) other sign shall be permitted which does not exceed five (5) square feet for each acre of land in such shopping center or industrial park. Such signs shall not exceed fifty (50) square feet in area. In the exterior of a shopping center or industrial park, containing more than one building, there may be one (1) directory sign not exceeding eight (8) square feet for each building unit therein; each such sign must be located within the same zone.
3. In C District having walkways roofed over with a permanent rigid canopy or other such structural device there may be one (1) illuminated or nonilluminated sign for each structure or occupant in such shopping center hanging from the underside of the canopy and not exceeding four (4) square feet.
4. In any area in which a free-standing sign is permitted to be erected or to exist, all refuse and papers shall be kept constantly removed from the ground spaces at least five (5) feet in all directions around the sign, and vegetation shall be kept trimmed so as not to exceed a height of six (6) inches.

31-902 SIGN PERMITS.

Sign permits shall be required for all signs greater than two (2) square feet in area.

31-903 GENERAL PROVISIONS.

31-903.1 Flashing Sign.

No flashing sign of any type may be erected anywhere within the corporate limits of the Borough.

31-903.2 Sign Height.

No free-standing sign shall be erected in the Borough which exceeds a height of twenty-eight (28) feet. It shall not extend beyond the property line and shall be centered no closer than fifteen (15) feet from the front property line or five (5) feet from either side property line. The sign shall be not less than ten (10) feet nor more than twenty-five (25) feet above the ground.

31-903.3 Outdoor Advertising, Billboards.

No commercial outdoor advertising signs, billboards or other signs which are not expressly and directly related to the business being conducted on the premises on which they are located shall be permitted, and all such signs, and all other signs which do not conform to the specific requirements and standards set forth in this Ordinance are specifically prohibited.

31-903.4 Obstructions.

No sign shall be permitted which, by reason of location, color or illumination shall obstruct, camouflage, detract from, be confused with, or shall interfere with any traffic direction or control signal, sign or device.

31-903.5 Sign Advertising Business No Longer on Premises; Order to Remove.

Any sign now or hereafter existing which no longer advertises a *bona fide* business being conducted on the premises shall be removed from said premises by the record owner or beneficial user of the premises within ten (10) days from the receipt of a written order to do so from the Borough Zoning Officer. In default of said removal, the Zoning Officer, Borough Clerk, or Borough Attorney is authorized to effect the removal of said sign by application to the Municipal or Superior Court and to charge all costs incident to the same to either the record owner of the premises, or to both, provided that there shall be no duplication of the payment of said costs.

31-903.6 Dangerous Signs; Notice to Remove.

If at any time the Mayor and Council shall determine that any sign in the Borough constitutes a menace to the health, safety, morals or general welfare of the community, it shall notify the record owner and the beneficial user of the premises on which said sign is located by serving a written notice upon him, together with a written notice of demand that the condition be remedied within ten (10) days from the receipt of said notice and demand. If the condition is not so remedied, the Mayor and Council shall undertake the necessary steps to rectify the same, charging all the costs incident to said efforts to either the record owner of the beneficial user of the premises, or both, provided that there shall be no duplication of the payment of said costs.

ARTICLE 10 LANDSCAPING AND FENCES (Ord. No. 643; readopted by Ord. No. 2020-1235)

31-1001 LANDSCAPING.

31-1001.1 Landscaping to be Shown on Site Plans; Compliance.

Landscaping consisting of attractive trees, shrubs, plants, natural or synthetic grass lawns and decorative stone or rock gardens, shall be shown on site plans and shall be planted and maintained as required in specific sections of this Ordinance, or as set forth in this Section 31-1001.

- a. Industrial uses abutting a residential district. See subsection 31-607.5e.
- b. The requirements for business or office districts abutting a residential district shall be the same as stated in subsection 31-607.5e.

31-1001.2 Guarantees.

- a. Whenever landscaping, seeding and/or buffer area planting is required under this section, or any other section of this Ordinance, or by Chapter 30, Land Development Ordinance, or by any condition of approval of the Planning Board or Board of Adjustment, the same shall be planted prior to the issuance of the Certificate of Occupancy for the use of the property; provided, however, that when the season or weather conditions do not permit such planting to coincide with the completion of the buildings or structures, same shall be accomplished within a time to be specified in the issuance of such Certificate of Occupancy, based upon the season of the year when issued.
- b. No Certificate of Occupancy shall be issued for any use requiring landscaping, seeding and/or planted buffer area under this Ordinance, or as a condition of any approval under this Ordinance, unless the owner shall have filed with the Borough the performance guarantees required under the provisions of Chapter 30, Land Development Ordinance, of this Borough, sufficient in amount to cover the costs of such required plantings, including replacement thereof and maintenance thereof for a two-year period.

31-1002 FENCES.
(Ord. No. 643)

31-1002.1 Site Plan to Show Proposed Fencing.

Where fences are to be installed as part of an initial application involving a building or other structures, the same shall be shown on the site plan, and the nature of said proposed fence shall be described.

31-1002.2 Prohibited Fencing.

Barbed-wire and electrically charged fences are specifically prohibited; however, barbed-wire may be permitted to be installed above a height of six (6) feet on customary security-type fences, if permission therefor is specifically granted by the Planning Board.

31-1002.3 Placement Within Property Lines Required, Encroachment on Public Right-of-Way Prohibited.

All fences must be erected within the property lines and no fences shall be erected so as to encroach upon a public right-of-way. See also Section 31-409.

31-1002.4 Maintenance.

Every fence shall be maintained in a safe, sound, upright condition.

31-1002.5 Fence Height; Material.

All fences in excess of four (4) feet in height are specifically prohibited; however, fences in excess of four (4) feet in height, up to six (6) feet in height, may be permitted to be installed if permission, therefor, is specifically granted by the Construction Code Official or his or her designee. Fences made from used or discarded materials, not usually associated with fences, such as, but not limited to, doors, old lumber and the like are specifically prohibited. (Ord. No. 664, Ord. No. 745)

ARTICLE 11 RESERVED

ARTICLE 12 ADMINISTRATION; PERMITS; CERTIFICATES
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-1201 ENFORCEMENT.

The primary enforcement officers of this Ordinance shall be the Construction Official and the Zoning Officer, and their respective deputies.

31-1201.1 Construction Official.

Whenever the term “Construction Official” is used in this Ordinance, it shall mean the Construction Official operating as such in the Borough of Manville enforcing agency under the State Uniform Construction Code.

31-1201.2 Zoning Officer.

The Mayor and Council shall appoint a Zoning Officer.

31-1201.3 Deputy Zoning Officers.

The Mayor and Council may also designate as Deputy Zoning Officers, for the purpose of signing complaints and prosecuting violations of this Ordinance in the Municipal Court, or any other Court, such other officers, including but not by way of limitation, the Chief of Police and members of the Police Department, as said Mayor and Council may deem advisable.

31-1201.4 Appointments.

The same person may be named by the Mayor and Council to serve as both Construction Official and as Zoning Officer, or the Mayor and Council may appoint separate persons to said positions.

31-1202 DUTIES OF ZONING OFFICER.

It shall be the duty of the Zoning Officer, or his duly authorized assistants or deputies, to examine and inspect any plans, buildings or premises to determine that they are not in violation of the provisions of this Ordinance. He shall have the right to enter any building or premises during the daytime in the course of his duties, except as otherwise may be proscribed by law.

31-1202.1 Remedy of Violations.

Where the Zoning Officer, in the course of his duties, determines that any plans, buildings or premises are in violation of the provisions of this Ordinance, he shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked by the Borough, and the violator’s rights of appeal; all as provided for by this Ordinance and the laws of the State of New Jersey. A copy of the written order shall be transmitted to the Construction Official who shall thereupon cause the Certificate of Occupancy for the building or premises in question to be held null and void. A new Certificate shall be required for any further use of such building or premises.

31-1202.2 Issuance of Permits.

The Zoning Officer shall issue Zoning Permits or Temporary Use Permits, as appropriate and as provided for elsewhere in this Ordinance. No such permit shall be issued for any plans which would be in violation of the provisions of this Ordinance.

31-1202.3 Certificate of Occupancy.

The Zoning Officer shall inspect premises after construction and prior to issuance of a Certificate of Occupancy to assure that the building in fact does comply with the plans as approved and this Ordinance. If it does, the Zoning Officer shall issue the Zoning Certificate.

31-1202.4 Records.

The Zoning Officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of his office and shall be available for the use of the Mayor and Council and other officials of the Borough, County and State. The records to be maintained shall include at least the following:

- a. Application File. An individual permanent file for each application for a permit provided for by this Ordinance shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents, maps and plans; notations regarding pertinent dates and fees, and the like; as appropriate, one (1) copy of the resolution of the Board of Adjustment in acting on the application; and the date the permit applied for was issued or denied by the Zoning Officer.
- b. Monthly Report. The Zoning Officer shall prepare a monthly report for the Mayor and Council. Said report shall cite all actions taken by the Zoning Officer including all referrals made by him; all permits and certificates issued and denied; and all complaints of violations received and all violations found by him, and the action taken by him consequent thereon.

A copy of this monthly report shall also be transmitted by the Zoning Officer to the Tax Assessor, Planning Board and Board of Adjustment at the same time it is transmitted to the Mayor and Council.

31-1203 PROCEDURE ON APPLICATIONS.

31-1203.1 Zoning Permit.

At the time of application for a construction permit (by whatever name) to construct, alter or repair a detached one or two dwelling-unit building, to be used exclusively for residential purposes, in a Residential District, the applicant shall also apply to the Zoning Officer for a Zoning Permit.

- a. The applicant shall supply the Zoning Officer with the information required by Section 30-603d. of Chapter 30, Land Development Ordinance, as well as all data required by the State Uniform Construction Code.
- b. If the Zoning Officer shall determine that said application conforms in all respects to the requirements of this Ordinance, he shall issue the Zoning Permit and sign and stamp all plans, and so advise the Construction Official.
- c. If the Zoning Officer shall determine that said application does not conform in all respects to the requirements of this Ordinance, he shall note in what respects the application does not conform and shall deny the application. The Zoning Officer shall notify the Construction Official of such denial, and shall advise the applicant of the applicant's right to apply to the proper board for an appropriate remedy. An applicant may file an application with the Board of Adjustment for action under any of its powers without prior application to the Zoning Officer.

31-1203.2 Site Plan Review and Approval.

Every application for a Zoning Permit, other than an application under subsection 31-1203.1 above, shall require that the applicant shall first have obtained site plan review and approval for from the Planning Board (or, in instances provided for in Chapter 291, P.L. 1975, from the Board of Adjustment). The procedure, regulations and requirements for such site plan review are set forth in Chapter 30, Land Development Ordinance, of the Borough. No Zoning Permit shall be issued unless and until site plan approval pursuant to Chapter 30 shall first have been obtained.

31-1204 CERTIFICATES AND PERMITS.

The Certificates and Permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Ordinance.

31-1204.1 Construction Permit.

No construction permit (by whatever name the same be called) as required by the Uniform Construction Code, shall be issued unless the Construction Official shall first receive or issue, as the case may be, a Zoning Permit, showing that the plans and intended use of such building or structure are designed and intended to conform in all respects to the provisions of this Ordinance and all other applicable ordinance, laws and regulations.

31-1204.2 Certificate of Occupancy.

- a. No Certificate of Occupancy shall be issued unless the Construction Official shall first receive or issue, as the case may be, a Zoning Permit or Zoning Certificate, as applicable, showing that said land and/or premises and the use thereof comply in all respects to the provisions of this Ordinance and all other applicable ordinances, laws and regulations.
- b. No land shall be occupied or used and no building shall be occupied or used, in whole or in part for any purpose whatsoever, until a Certificate of Occupancy shall have been issued by the Construction Official stating that the land or building, and the occupation or use of said land or building, comply with all the provisions of this Ordinance and all other applicable ordinances, laws and regulations.
- c. No change or extension of use and no alteration of use shall be made in a nonconforming use of any land or building, without a Certificate of Occupancy having first been issued by the Construction Official indicating that such change, extension or alteration is in conformity with the provisions of this Ordinance and all other applicable ordinances, laws and regulations.
- d. No change shall be made in the use or occupancy of any land or building without a Certificate of Occupancy having first been issued by the Construction Official indicating that such change is in conformity with the provisions of this Ordinance, and all other applicable ordinances, laws and regulations. Whenever the ownership or tenancy of a building other than a building used or occupied exclusively as a dwelling, shall change, a Certificate of Occupancy shall be obtained indicating that the use of occupation is in conformity with the provisions of this Ordinance and all other applicable ordinances, laws and regulations; such Certificate of Occupancy shall be required in any such case whether or not there is no change of such use, and to register the name or names of the party or parties liable for compliance with the terms of this Ordinance and all other applicable ordinances, laws and regulations. In any case where the Certificate of Occupancy is required because of a change in tenancy or ownership, but there is no change in use, the Construction Official shall issue such certificate without referral of the matter to the Planning Board and no site plan review shall be required.
- e. In any case where a Building/Construction Permit is also required, the Certificate of Occupancy shall be applied for at the same time that the application for a Construction Permit is filed and shall be issued within ten (10) days after the erection or alteration of the building shall have been completed in conformity with the provisions of this Ordinance and all other applicable ordinances, laws and regulations. In any case where no Construction Permit is required, but a Certificate of Occupancy is required, the Certificate of Occupancy shall be applied for before the land or building is used or occupied for the purpose for which the Certificate of Occupancy is sought or, in a case where the Certificate of Occupancy is required because of a change in the ownership of tenancy of a building other than a building used or occupied exclusively as a dwelling, the Certificate of Occupancy shall be applied for before the land or building is used by the new owner or tenant, as the case may be; such Certificate of Occupancy shall be used within ten (10) days after the application therefor, provided the purposed use or occupation of the land or building shall conform with the provisions of this Ordinance and all other applicable ordinances, laws and regulations.
- f. A record of all Certificates of Occupancy shall be kept on file in the office of the Construction Official and copies shall be furnished upon request to any person having a proprietary or leasehold interest in the building or land affected, upon payment of the appropriate fee therefor.

31-1204.3 Zoning Permit.

The Zoning Officer is hereby empowered to issue a Zoning Permit for any plans regarding the construction or alteration of any building or part of any building, or the change in use of any land or building or part thereof, in accordance with the following:

- a. For a detached one- or two-dwelling unit building to be used exclusively for residential purposes in a Residential District, when he shall determine that such plans are not in violation of the provisions of this Ordinance.
- b. For any use other than specified in paragraph a., above, when he, with the Approving Authority under the procedures set forth in Article 3 of Chapter 30, Land Development Ordinance, shall determine that such plans are in conformity with the provisions of this Ordinance and the Land Development Ordinance and that same do not require a variance or conditional use from the terms of this Ordinance.
- c. For any use requiring a variance or conditional use permit, upon receipt of the final approval of the Approving Authority for such variance or conditional use, and accompanying site plan approval.
- d. The reference to “two dwelling unit building” in subsection 31-1203.1 and subsection 21-1204.3a. above, is made to conform to the language in N.J.S.A. 40:55D-37, and shall not be deemed to be permission for any such use unless specifically permitted in a district in this Ordinance.
- e. The issuance of a Zoning Permit shall constitute & determination that the requirements of this Ordinance have been met and shall be a prerequisite to the issuance of a construction permit (subsection 31-1204.1).

31-1204.4 Temporary Use Permit.

The Zoning Officer is hereby empowered to issue a Temporary Use Permit when he shall determine that the requirements of this ordinance with respect thereto have been met, and as directed by the Approving Authority as follows:

- a. In connection with construction or development. It is recognized that certain types of construction and development require certain temporary structures and uses incidental thereto; not intended to remain permanently on the property, and not otherwise permitted by this Ordinance.
- The Approving Authority in its general supervision and site plan review shall have the power to authorize, for a period not to exceed one (1) year, the following uses customarily incidental to such construction and/or development; storage of building supplies and machinery, the assembly of building materials, temporary trailer or construction dwelling for use of workmen and supervisors on the site, and a real estate office located on the tract offered for sale.
- The issuance of such permits shall be conditioned upon written agreement by the owner to remove any structure or structures erected thereunder and to discontinue such uses upon expiration of the Temporary Permit. Such permits may be renewed by the Approving Authority annually, over a period not to exceed three (3) years.
- b. In connection with other temporary uses. It is recognized that there are certain activities or uses of land and/or buildings which are by their nature conducted only for a limited period of time and which may not otherwise be permitted by the provisions of this Ordinance, but which are of such nature and are so located that they will:
 - 1. In no way exert a detrimental effect upon land and activities normally permitted in the zone; or
 - 2. Contribute materially to the welfare of the Borough particularly in a state of emergency, or in connection with civic or charitable functions, under conditions peculiar to the time and place involved; or
 - 3. Arise by reason of the requirements of other law with reference to property.

Such uses may include strictly limited activities, such as outdoor amusements or circus events by non-profit civic organizations, one-day auctions ordered by Courts in bankruptcy or other Court-ordered liquidation, the provisions of temporary quarters for a limited period following a fire or other casualty loss, or seasonal activity such as the sale of Christmas trees from an open lot.

Application for a Temporary Use Permit under this subsection shall be made to the Zoning Officer, and shall be accompanied by a site plan modified to show such information as may be required in order to enable the Zoning Officer and approving authority to consider said matter. Such application shall also set forth in detail the times and dates for such proposed temporary use, and any other information which may be required by the Zoning Officer and approving authority.

The Approving Authority shall review such application and, upon the finding that one or more of the above criteria are met, and upon finding that the proposed activity or use is of the nature contemplated hereby, and being guided by other standards set forth in this Ordinance for the exercise of decision powers by a Board acting pursuant to this Ordinance, shall direct the Zoning Officer to issue such Temporary Use Permit.

A Temporary Use Permit issued pursuant to this subsection 31-1204.4b. shall be effective only for the period set forth in such Permit, but in no case for a period to exceed six (6) months.

In the event of the denial of such a Temporary Use Permit, the applicant shall have the right to appeal such determination to the Board of Adjustment (N.J.S.A. 40:55D-706).

ARTICLE 13 VIOLATIONS AND PENALTIES
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-1301 PENALTIES.

The maximum penalty upon conviction of the violation of any provision of this Ordinance shall be one or more of the following: a fine not to exceed two thousand (\$2,000.00) dollars, imprisonment in the County Jail for a period not to exceed ninety (90) days, and/or a period of community service not to exceed ninety (90) days; provided, however, the maximum fine for an owner for violations of housing or zoning codes shall not exceed one thousand two hundred fifty (\$1,250.00) dollars. Each and every day upon which a violation of any provision of this Ordinance exists shall constitute a separate violation. (Ord. No. 2006-1027)

31-1302 PARTIES LIABLE.

The owner of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, where anything in violation of this Ordinance shall be place or shall exist, or be suffered, allowed or permitted to exist, and any architect, builder, developer, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of any such violation shall each be guilty of a separate violation, and upon conviction thereof shall be each liable to the fine or imprisonment, or both, specified in Section 31-1301, above.

31-1303 OTHER REMEDIES.

The penalties provided in this Article are additional to any other remedies available to the Borough of Manville or to residents or property owners of the Borough of Manville who may be affected by any violation of this Ordinance, by law.

ARTICLE 14 VALIDITY
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-1401 SEVERABILITY.

If any section, subsection, article paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid by a Court of competent jurisdiction, such adjudication shall apply only to the section, subsection, article, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

ARTICLE 15 REPEALER
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-1501 REPEALER.

Except as may be specifically set forth in this Ordinance, any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms of this ordinance are hereby repealed to such extent as they are so in conflict or inconsistent; provided, however, that the adoption of this ordinance shall not prevent or bar the continuation or institution of any proceedings for offenses heretofore committed in violation of any existing ordinances of the Borough of Manville.

ARTICLE 16 EFFECTIVE DATE
(Ord. No. 643; readopted by Ord. No. 2020-1235)

31-1601 EFFECTIVE DATE.

This Ordinance shall take effect immediately after passage and publication in the manner prescribed by law. (Ord. No. 643; Ord. No. 2020-1235)

ZONING DISTRICTS AND THE MINIMUM SETBACKS
(Ord. No. 2020-1235)

S-100:

TYPE OF HOME	SINGLE FAMILY
HEIGHT	MAXIMUM OF 2 ½ STORIES OR 35 FEET
FRONT YARD	NOT LESS THAN 30 FEET
SIDE YARDS	TWO (2) SIDE YARDS, NONE LESS THAN 12 FEET, TWO (2) COMBINED TOTAL AT LEAST 27 FEET
CORNER LOT	SIDE YARD ON SIDE STREET FRONTAGE, WIDTH NOT LESS THAN 25 FEET
REAR YARD	NOT LESS THAN 25 FEET
MAXIMUM LOT COVERAGE	35 PERCENT
MINIMUM LOT AREA	10,000 SQUARE FEET
MINIMUM LOT WIDTH	100 FEET

S-80:

TYPE OF HOME	SINGLE FAMILY OR TWO FAMILY
HEIGHT	MAXIMUM OF 2 ½ STORIES OR 35 FEET
FRONT YARD	NOT LESS THAN 25 FEET
SIDE YARDS	TWO (2) SIDE YARDS, NONE LESS THAN 8 FEET, TWO (2) COMBINED TOTAL AT LEAST 18 FEET
CORNER LOT	SIDE YARD ON SIDE STREET FRONTAGE, WIDTH NOT LESS THAN 15 FEET ON A LOT WITH A 60 FOOT FRONT WIDTH: THE WIDTH OF SUCH LOT SHALL BE INCREASED BY SIX (6) INCHES FOR EACH ADDITIONAL FOOT OF WIDTH OF THE LOT IN EXCESS OF SUCH 60 FEET: HOWEVE, IN NO CASE NEED SUCH SIDE YARD EXCEED 25 FEET IN WIDTH
REAR YARD	NOT LESS THAN 25 FEET
MAXIMUM LOT COVERAGE	40 PERCENT
MINIMUM LOT AREA	6,000 SQUARE FEET (SINGLE FAMILY) 8,000 SQUARE FEET (TWO FAMILY)
MINIMUM LOT WIDTH	60 FEET (SINGLE FAMILY) 80 FEET (TWO FAMILY)

S-75:

TYPE OF HOME	SINGLE FAMILY
HEIGHT	MAXIMUM OF 2 ½ STORIES OR 35 FEET
FRONT YARD	NOT LESS THAN 30 FEET
SIDE YARDS	TWO (2) SIDE YARDS, NONE LESS THAN 10 FEET,

	TWO (2) COMBINED TOTAL AT LEAST 22 FEET
CORNER LOT	SIDE YARD ON SIDE STREET FRONTAGE, WIDTH
	NOT LESS THAN 18 FEET
REAR YARD	NOT LESS THAN 25 FEET
MAXIMUM LOT COVERAGE	35 PERCENT
MINIMUM LOT AREA	7,500 SQUARE FEET
MINIMUM LOT WIDTH	75 FEET

S-60:

TYPE OF HOME	SINGLE FAMILY
HEIGHT	MAXIMUM OF 2 ½ STORIES OR 35 FEET
FRONT YARD	NOT LESS THAN 25 FEET
SIDE YARDS	TWO (2) SIDE YARDS, NONE LESS THAN 8 FEET,
	TWO (2) COMBINED TOTAL AT LEAST 18 FEET
CORNER LOT	SIDE YARD ON SIDE STREET FRONTAGE, WIDTH
	NOT LESS THAN 15 FEET
REAR YARD	NOT LESS THAN 25 FEET
MAXIMUM LOT COVERAGE	40 PERCENT
MINIMUM LOT AREA	6,000 SQUARE FEET
MINIMUM LOT WIDTH	60 FEET

S-50:

TYPE OF HOME	SINGLE FAMILY
HEIGHT	MAXIMUM OF 2 ½ STORIES OR 35 FEET
FRONT YARD	NOT LESS THAN 25 FEET
SIDE YARDS	TWO (2) SIDE YARDS, NONE LESS THAN 8 FEET,
	TWO (2) COMBINED TOTAL AT LEAST 18 FEET
CORNER LOT	SIDE YARD ON SIDE STREET FRONTAGE, WIDTH
	NOT LESS THAN 12 FEET
REAR YARD	NOT LESS THAN 25 FEET
MAXIMUM LOT COVERAGE	40 PERCENT
MINIMUM LOT AREA	5,000 SQUARE FEET
MINIMUM LOT WIDTH	50 FEET

COMMERCIAL (C):

HEIGHT	MAXIMUM OF 4 STORIES OR 50 FEET
FRONT YARD	NOT LESS THAN 10 FEET
SIDE YARDS	PLANNING BOARD CONSIDERS THE MATTER OF
	SIDE YARDS, THERE SHALL BE NO MORE THAN
	200 FEET OF BUILDING WITHOUT A BREAK
REAR YARD	NOT LESS THAN 50 FEET, ACCESSORY BUILDING NOT
	LESS THAN 20 FEET TO THE REAR LOT LINE
MAXIMUM LOT COVERAGE	70 PERCENT
MINIMUM LOT AREA	10,000 SQUARE FEET
MINIMUM LOT WIDTH	100 FEET

INDUSTRIAL (I):

HEIGHT	MAXIMUM OF 2 STORIES OR 350 FEET
FRONT YARD	NOT LESS THAN 50 FEET
SIDE YARDS	THERE SHALL BE TWO (2) SIDE YARDS AND NO SIDE
	YARD SHALL BE LESS THAN 25 FEET PROVIDED,
	HOWEVER, THAT THE AGGREGATE WIDTH OF THE TWO
	SIDE YARDS COMBINED MUST TOTAL AT LEAST 35% OF
	THE LOT WIDTH AT THE BUILDING LINE. NO ACCESSORY
	BUILDING SHALL BE CLOSER THAN 50 FEET TO ANY SIDE LOT LINE
REAR YARD	NOT LESS THAN 50 FEET, NO ACCESSORY BUILDING
	SHALL BE CLOSER THAN 50 FEET TO THE REAR LOT LINE
MAXIMUM LOT COVERAGE	40 PERCENT
MINIMUM LOT AREA	1 ACRE
MINIMUM LOT WIDTH	300 FEET AT THE BUILDING LINE

CHAPTER 31 ZONING ORDINANCE

Published by ClerkBase
©2020 by Clerkbases. No Claim to Original Government Works.

CHAPTER 30
LAND DEVELOPMENT ORDINANCE

ARTICLE 1 GENERAL PROVISIONS

30-101	SHORT TITLE.
30-102	PURPOSE AND SCOPE.
30-103	DEFINITIONS.
30-104	COMPLIANCE.
30-105	PERMITS.
30-106	EXCEPTIONS.
30-107	PREPARATION OF PLANS BY LICENSED PROFESSIONALS.
30-108	PUBLIC UTILITIES.

ARTICLE 2 PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT

30-201	PLANNING BOARD.
30-201.1	Establishment of the Planning Board.
30-201.2	Planning Board to Exercise the Powers of the Board of Adjustment.
30-201.3	Vacancies.
30-201.4	Removal from office.
30-201.5	Eligibility to Vote Where Hearing Missed.
30-201.6	Organization of Planning Board.
30-201.7	Powers and Duties Generally.
30-201.8	Advisory Committee.
30-202	BOARD OF ADJUSTMENT.
30-202.1	Zoning Board of Adjustment Abolished.
30-202.2–30.202.6	Reserved.
30-202.7	Powers Granted by Law.
30-202.8	Additional Powers.
30-202.9	Power to Reverse or Modify Decisions.
30-202.10	Time for Decision.
30-202.11	Reserved.
30-202.12	Appeals and Applications.
30-203	PROVISIONS APPLICABLE TO THE PLANNING BOARD.
30-203.1	Conflicts of Interest.
30-203.2	Meetings.
30-203.3	Minutes.
30-203.4	Conduct of Meetings.
30-203.5	Decisions.
30-203.6	Mailing and Publication of Decision.
30-203.7	Payment of Taxes.
30-203.8	Conditional Approvals.
30-203.9	Use of Other Boards and Agencies.

ARTICLE 3 DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS

30-301	INTRODUCTION AND PURPOSES.
30-302	EXEMPTIONS.
30-302.1	Exemptions from Subdivision Regulations.
30-302.2	Exemptions from Site Plan Review Requirements; Minor Site Plans.
30-303	SIMULTANEOUS REVIEW.
30-304	INFORMAL REVIEW.
30-305	SUBMISSION OF SKETCH PLAT.
30-305.1	Filing Procedure.
30-305.2	Action by the Approving Authority.
30-306	SUBMISSION OF PRELIMINARY PLAT.
30-306.1	Filing Procedure.
30-306.2	Action by the Approving Authority.
30-307	SUBMISSION OF FINAL PLAT.
30-307.1	Filing Procedures.
30-307.2	Action by the Approving Authority.
30-308	PLAT DESIGN STANDARDS FOR SUBDIVISIONS.
30-308.1	Plat Conformity.
30-308.2	Classification Sketch Plat Standards
30-308.3	Preliminary Plat of Major Subdivision Standards.
30-308.4	Final Plat of Major Subdivision Standards.
30-308.5	Final Plans Accompanying Final Plat.
30-309	PLAT DESIGN STANDARDS FOR SITE PLANS.
30-309.1	Plat Conformity.
30-309.2	Classification Sketch Plat Standards
30-309.4	Preliminary Site Plan Plat Standards.
30-309.5	Site Plan Information for Preliminary and Final Approval.
30-309.6	Final Site Plan Plat Standards.
30-310	RESERVED.
30-311	INTERPRETATION REQUESTS.
30-312	VARIANCE REQUESTS.

ARTICLE 4 SOIL EROSION AND SEDIMENTATION CONTROL

30-401	PURPOSE.
30-402	DEFINITIONS.
30-403	PERMIT REQUIRED.
30-404	DATA REQUIRED PRIOR TO ISSUANCE OF PERMIT.
30-405	PROCEDURE FOR ISSUANCE OF PERMIT.
30-406	GENERAL DESIGN AND PROCEDURAL REQUIREMENTS.
30-407	MAINTENANCE.
30-408	INSPECTION AND ENFORCEMENT.
30-409	FEE.
30-410	VIOLATIONS AND PENALTIES.
30-411	EXEMPT ACTIVITIES.

ARTICLE 5 ENVIRONMENTAL IMPACT STATEMENT

30-501	INTENT AND PURPOSE.
30-502	DEFINITIONS.
30-503	APPLICABILITY.
30-504	DATA REQUIRED.
30-505	REVIEWS AND INSPECTIONS.
30-506	CONDITIONS OF APPROVAL.
30-507	RESERVED.
30-508	EXEMPTIONS.
30-509	BOARD OF ADJUSTMENT AS APPROVING AUTHORITY.

ARTICLE 6 STORMWATER MANAGEMENT PROGRAM

30-601	SCOPE AND PURPOSE
30-602	DEFINITIONS.
30-603	GENERAL STANDARDS.
30-604	STORMWATER MANAGEMENT REQUIREMENTS FOR MAJOR DEVELOPMENT.
30-605	CALCULATION OF STORMWATER RUNOFF AND GROUNDWATER RECHARGE.
30-606	STANDARDS FOR STRUCTURAL STORMWATER MANAGEMENT MEASURES.
30-607	SOURCES FOR TECHNICAL GUIDANCE.
30-608	SAFETY STANDARDS FOR STORMWATER MANAGEMENT BASINS.
30-609	REQUIREMENTS FOR A SITE DEVELOPMENT STORMWATER PLAN.
30-610	MAINTENANCE AND REPAIR.
30-611	PENALTIES.
30-612	RESERVED.

ARTICLE 7 DESIGN AND PERFORMANCE STANDARDS

30-701	GENERAL.
30-701.1	Development Objectives.
30-701.2	Character of the Land.
30-701.3	Plats Straddling Municipal Boundaries.
30-701.4	Development Name.
30-702	REQUIRED IMPROVEMENTS.
30-702.1	Roads.
30-702.2	Curbing.
30-702.3	Sidewalks.
30-702.4	Storm Sewers; Drainage.
30-702.5	Sanitary Sewers.
30-702.6	Utilities.
30-702.7	Street Lighting.
30-702.8	Monuments.
30-702.9	Topsoil Protection.
30-702.10	Shade Trees.
30-702.11	Water.
30-702.12	Standards for Design and Construction
30-702.13	Concrete Standards
30-703	OFF-SITE AND OFF-TRACT IMPROVEMENTS.
30-703.1	Essential Off-Site Improvements.
30-703.2	Advisable Off-Site and Off-Tract Improvements.
30-703.3	Required Improvements.
30-703.4	Improvements to be Constructed at the Expense of the Developer.
30-703.5	General Standards for Other Improvements.
30-703.6	Escrow Accounts.
30-703.7	Referral to Borough Council.
30-703.8	Implementation of Off-Tract Improvements.
30-704	EASEMENTS.
30-704.1	Flood Plain and Conservation.
30-704.2	Tress and Ground Cover.
30-704.3	Boundary Lines.
30-704.4	Drainage.
30-704.5	Easement Width.
30-704.6	Recording Instrument.
30-705	LOTS IN ALL SUBDIVISIONS.
30-705.1	Lots Requirements.
30-705.2	Lot Frontage.
30-705.3	Measurement.
30-706	LIGHTING.
30-706.1	Intensity.
30-706.2	Shielding.
30-706.3	Visible Lighting.
30-706.4	Review of Details.
30-706.5	Colored Lighting.
30-707	LOCATION SURVEY.
30-708	COMPLIANCE WITH OTHER ORDINANCES.
30-709	RECYCLING AND SOLID WASTE REQUIREMENTS FOR NEW DEVELOPMENTS OF MULTI-FAMILY RESIDENTIAL UNITS OR COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTIES.
30-709.1	Definitions.
30-709.2	Recycling Plan to be Included in Applications to Planning Board or Board of Adjustment.
30-709.3	Protection of Recycling Area.
30-709.4	Hauling Contract Required for Certificate of Occupancy.
30-709.5	Design of Containers.
30-709.6	Signs.
30-709.7	Screening.
30-709.8	Provision for Solid Waste Storage and Pickup Required.

ARTICLE 8 GUARANTEES AND INSPECTIONS

30-801	FINAL PLAT APPROVAL, REQUIREMENTS.
30-802	IMPROVEMENTS BY UTILITY COMPANY.
30-803	ITEMIZED COST ESTIMATE.
30-804	GUARANTEES.
30-805	MAYOR AND COUNCIL APPROVAL OF PERFORMANCE GUARANTEE.
30-806	RESERVED.
30-807	PERFORMANCE OF WORK.
30-808	CONSTRUCTION PERMITS.
30-809	STREET LIGHTING.
30-810	FIRE HYDRANTS.
30-811	BOROUGH LIABILITY.
30-812	AS-BUILT PLANS.
30-813	REDUCTION OF PERFORMANCE GUARANTEE.
30-814	PROCEDURE FOR APPROVALS.
30-815	REJECTION OF IMPROVEMENTS.
30-816	SUSPENSION OF WORK.
30-817	CONDITIONS AND ACCEPTANCE OF IMPROVEMENTS.
30-818	RENEWAL OF PERFORMANCE OR MAINTENANCE GUARANTEES.

ARTICLE 9 APPEALS

30-901	RESERVED.
30-902	RESERVED.
30-903	RESERVED.
30-904	APPEALS FROM BOROUGH ENGINEER DECISIONS.
30-905	APPEALS TO SUPERIOR COURT.

ARTICLE 10 PUBLIC HEARINGS AND NOTICE

30-1001	PUBLIC HEARINGS AND NOTICES.
30-1001.1	Where Public Hearing Required.
30-1001.2	Notice of Public Hearing.
30-1002	LIST OF PROPERTY OWNERS FURNISHED.
30-1003	MATTERS NOT REQUIRING PUBLIC HEARING ON NOTICE.

ARTICLE 11 FEES AND CHARGES; DEPOSITS; TRANSCRIPTS

30-1101	FEES AND ESCROW DEPOSITS.
30-1102	TRANSCRIPTS.
30-1102.1	Copy of Transcript to Approving Authority.
30-1102.2	Reserved.
30-1102.3	Choice of Transcripts.

ARTICLE 12 VIOLATIONS AND PENALTIES

30-1201	VIOLATIONS AND PENALTIES.
30-1201.1	Subdivision Violations and Penalties.
30-1201.2	Other Violations.
30-1202	PARTIES LIABLE.
30-1203	OTHER REMEDIES.
30-1204	REVOCATION AND RESCISSION OF APPROVAL AND/OR PERMITS.

ARTICLE 13 VALIDITY

30-1301	SEVERABILITY.
---------	---------------

ARTICLE 14 REPEALER

30-1401	REPEALER.
---------	-----------

ARTICLE 15 EFFECTIVE DATE

30-1501	EFFECTIVE DATE.
---------	-----------------

[HISTORY: Chapter 30 adopted by Ord. No. 642. Chapter 30 as amended through January 1, 2018, was readopted 5-11-2020 by Ord. No. 2020-1235.]

CHAPTER 30

LAND DEVELOPMENT ORDINANCE

(Chapter 30 as amended through January 1, 2018, was readopted 5-11-2020 by Ord. No. 2020-1235)

Note: References herein to the Zoning Board of Adjustment refer to the Planning Board acting in the capacity of a Zoning Board of Adjustment. See Section 30-201.

ARTICLE 1 GENERAL PROVISIONS

(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-101 SHORT TITLE.

This Ordinance shall be known and may be cited as the Land Development Ordinance of the Borough of Manville.

30-102 PURPOSE AND SCOPE.

This Ordinance is adopted pursuant to the Municipal Land Use Law of the State of New Jersey, Chapter 291, Laws of 1975, as amended and supplemented, and as the same may hereafter be amended and supplemented, and is intended to encompass the primary ordinances of the Borough of Manville relating to land development and land utilization in said Borough, and in furtherance of the purposes expressed in said Municipal Land Use Law, with the exception of the Zoning Ordinance of the Borough of Manville, which is separately adopted.

30-103 DEFINITIONS.

For the purpose of this Ordinance, unless the context clearly indicates a different meaning, the following definitions shall apply.

See also the “Definitions” contained in Article 3 of Chapter 31, Zoning Ordinance, of the Borough Code.

It is intended that the words used in this Ordinance shall be defined as set forth in Sections 3, 3.1, 3.2, 3.3 and 3.4 (N.J.S.A. 40:55D-3 through 40:55D-7, both inclusive) of the Municipal Land Use Law, as amended and supplemented, and as the same may hereafter be amended and supplemented.

ADMINISTRATIVE OFFICER. The Land Use Administrator and/or Planning Board Engineer.

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

APPROVING AUTHORITY. The Planning Board of the Borough of Manville, unless a different agency is designated in the text of this Ordinance when acting pursuant to the authority of the Municipal Land Use Law.

CRITICAL AREA. See Article 5, Section 30-502.

DEVELOPMENT COMMITTEE. The Planning Board Chairman may appoint a committee of at least three (3) members of the Planning Board, for the purpose of reviewing subdivision and site plan applications prior to action by the entire Planning Board, to provide initial review as to whether such applications comply with all ordinance provisions and to make recommendations to the Planning Board for classification and action. In the event, that no such Development Committee shall be appointed, the functions shall be performed by the Planning Board itself. Such Development Committee shall have no authority to act for the Board nor to bind the Board, but is merely an initial review and recommendatory body.

SITE PLAN. "Site plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) 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 (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the Planning Board adopted pursuant to Article 3 (N.J.S.A. 40:55D-37 et seq.) of the Municipal Land Use Law.

a. Minor Site Plan. See subsection 30-302.2b.

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

STREET. A street shall be defined as set forth in the Municipal Land Use Law. Classifications of streets shall be as follows:

- a. Arterial streets are those which are used primarily for fast or heavy traffic.
- b. Collector streets are those which carry traffic from minor streets including the principal entrance streets of a residential development and streets for circulation within such a development.
- c. Minor streets are those which are used primarily for access to the abutting properties.
- d. Marginal service streets are streets which are parallel to a adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.
- e. Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

SUBDIVISION; RESUBDIVISION; MINOR SUBDIVISION.

- a. Subdivision means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or inte-state provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown designated as separate lots, tracts or parcels on the tax map of atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."
- b. Resubdivision means (1) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or (2) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.
- c. Minor Subdivision. A subdivision of land that does not involve (1) the creation of more than 2 lots, including the remainder of the original lot; (2) planned development as defined in the Municipal Land Use Law; (3) any new street; or (4) extension of any off-tract improvement, the cost of which is to be prorated pursuant to Section 30 of the Municipal Land Use Law (N.J.S.A. 40:55D-42).

30-104 COMPLIANCE.

All developments resulting from subdivision and site plan approvals shall comply with all the design and performance standards in Article 7 and requirements of Chapter 31, Zoning Ordinance, and conditions imposed by the Approving Authority as shown on the approved plat and/or included in the resolution adopted by the Approving Authority.

30-105 PERMITS.

No Zoning Permit, Construction Permit, or Certificate of Occupancy (See Article 12 of Chapter 31, Zoning Ordinance) shall be issued for any parcel of land or structure which was sold or on which improvements were undertaken in violation of the provisions of this Ordinance or for use of a lot which was created by subdivision after the effective date of, and not in conformity with the provisions of this Ordinance. No site improvements such as, but not limited to, excavation or construction of public or private improvements shall be commenced except in conformance with this Ordinance in accordance with plat approvals and the issuance of required permits. No Certificate of Occupancy shall be issued where improvements required under site plan review have not been completed.

30-106 EXCEPTIONS.

The Approving Authority, when acting upon applications for preliminary or minor subdivision approval, and preliminary site plan approval, shall have the power to grant such exceptions from the Design and Performance Standards in Article 7 of this Ordinance as may be reasonable and within the general purpose and intent of the provisions for subdivision/site plan review and approval, If the literal enforcement of one or more provisions of this Ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

30-107 PREPARATION OF PLANS BY LICENSED PROFESSIONALS.

Except for plats submitted under the Informal Discussion provisions of Article 5, and sketch plats of minor subdivisions and minor site plans, all plans, plats and drawings, and all studies and certifications which require a particular expertise, shall be prepared by a person licensed by the State of New Jersey to perform the particular work so presented or certified, and shall bear the seal of such person. See, for example, Sections 30-308.1, 30-309.1, 30-309.4, 30-603.4, and 30-707.

30-108 PUBLIC UTILITIES.

Where specific data is called for in this Ordinance relating to a public utility installation, such as location cross-sections, circuit arrangement, system flow, and the like, and the public utility involved in electric, gas, water or communications, due consideration shall be given to Board of Public Utility guidelines as to proprietary interests of such public utilities concerning system security and public safety. Information as required by this Ordinance (i.e., Sections 30-307.1d; 30-308.3f, h; and 30-308.5) is for general purpose relating to land development as expressed in the Municipal Land Use Law. Additional information as required by the Borough Engineer for review and approval of construction plans of a developer, which the public utility does not furnish directly to the developer, may be discussed with an provided by the public utility to the Borough Engineer.

ARTICLE 2 PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT

(Ord. No. 642; readopted by Ord. No. 2020-1235)

Note: References herein to the Board of Adjustment refer to the Planning Board exercising the powers of the Board of Adjustment.

30-201 PLANNING BOARD.

30-201.1 Establishment of the Planning Board.

There is hereby established, pursuant to N.J.S.A. 40:55D-1 et seq. generally and N.J.S.A. 40:55D-23 and 40:55D-23.1 specifically, in the Borough of Manville, a Planning Board of nine (9) members and up to four (4) alternates as set forth in the statute. The composition of the member by class and terms shall be as set forth in the statute. (Ord. No. 2016-1167; Ord. No. 2016-1168)

30-201.2 Planning Board to Exercise the Powers of the Board of Adjustment.

As of the stated effective date of February 29, 2016 of Ordinance No. 2016-1168, the powers of the Manville Borough Planning Board shall, in accord with N.J.S.A. 40:55D-25c(1), include those of a Zoning Board of Adjustment, and the Manville Borough Planning Board shall exercise to the same extent and subject to the same restrictions, all the powers of a Board of Adjustment under applicable New Jersey law. Provided, however, that the Class I and the Class III members of the Manville Borough Planning Board shall not participate in the consideration of applications for development which involve relief pursuant to subsection d of N.J.S.A. 40A:55D-70.

All prior ordinances inconsistent with this Ordinance No. 2016-1168, including but not limited to any prior ordinance creating a Manville Borough Zoning Board of Adjustment, are hereby repealed to the extent of such inconsistency, and the Manville Borough Zoning Board of Adjustment is hereby abolished. (Ord. No. 2016-1167; Ord. No. 2016-1168)

30-201.3 Vacancies.

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

30-201.4 Removal from office.

Any member other than a Class I member, after a public hearing if he or she requests one, may be removed by the governing body for cause.

30-201.5 Eligibility to Vote Where Hearing Missed.

A member of the Planning Board who was absent for one 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 absence from one or more of the meetings; providing, however, that such board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the board that he has read such transcript or listened to such recording.

30-201.6 Organization of Planning Board.

The Planning Board shall elect a chairman and vice chairman from members of Class IV, select a secretary who may or may not be a member of the Planning Board or municipal employee. It may employ, or contract for, and fix the compensation of legal counsel, other than the Municipal Attorney, and experts and other staff and services as it may deem necessary not exceeding the amount appropriated by the governing body for its use.

30-201.7 Powers and Duties Generally.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this Ordinance. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S. 2A:67A-1. et seq.) shall apply. It shall also have the following powers and duties.

- a. Make and adopt, from time to time, amend, a master plan for the development of the municipality, in accordance with the provisions of C. 40:55D-28.
- b. Receive, review and act upon applications for subdivisions and site plans in accordance with the provisions of this Ordinance and the Municipal Land Use Law C.40:55D-1 et seq.
- c. Approve conditional use applications in accordance with the provisions of the Zoning Ordinance pursuant to C.40:55D-67.
- d. Participate in the preparation and review of programs or plans required by state or federal law or regulation.
- e. Assemble data on a continuing basis as part of a continuous planning process.
- f. Annually prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the governing body.
- g. Consider and make report to the governing body within thirty-five days after referral as to any proposed development regulations submitted to it pursuant to the provisions of C.40:55D-26(a) and also pass upon other matter specifically referred to the Planning Board by the governing body pursuant to the provisions of C.40:55D-26(b).
- h. When reviewing applications for approval of subdivision plate, site plans or conditional uses, the Planning Board shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment:
 1. Variances pursuant to subsection 57c of the Municipal Land Use Law (40:55D-70c).
 2. Direction pursuant to section 25 of the Municipal Land Use Law (40:55D-34) for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to section 23 of the Municipal Land Use Law (40:55D-32).

3. Direct pursuant to section 27 of the Municipal Land Use Law (40:55D-34) for issuance of a permit for a building or structure not abutting a street.

- i. Perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

30-201.8 Advisory Committee.

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

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

30-202 BOARD OF ADJUSTMENT.

30-202.1 Zoning Board of Adjustment Abolished. (Ord. No. 2016-1168)

Effective February 29, 2016 the Zoning Board of Adjustment is abolished and the Planning Board shall exercise all the powers of a Board of Adjustment.

30-202.2–30-202.6 Reserved. (Deleted by Ord. No. 2016-1168)

30-202.7 Powers Granted by Law.

The Board of Adjustment shall have such powers as are granted by law to:

- a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning ordinance.
- b. Hear and decide requests for interpretation of the map or zoning ordinance, or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.
- c. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property the strict application of any regulation pursuant to the Zoning Ordinance of the Borough would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship, including a variance for a conditional use; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use; and 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 shall review a request for a variance pursuant to subsection 47a of the Municipal Land Use Law (40:55D-60) and Section 30-201.7h. of this Ordinance; and
- d. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to the Zoning Ordinance of the Borough, including, but not limited to, allowing a structure or use in a district restricted against such structure or use, but only by affirmative vote of at least five members.

No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. Any application under any subsection of this section may be referred to any appropriate person or agency, for its report provided that such reference shall not exceed the period of time within which the Zoning Board of Adjustment shall act.

30-202.8 Additional Powers.

- a. The Zoning Board of Adjustment shall, in addition to the powers specified in Section 30-202.7, have power given by law to:
 1. Direct issuance of a permit pursuant to section 25 of the Municipal Land Use Law (40:55D-34), for a building or structure in the bed or a mapped street or public drainageway, flood control basin or public area reserved on the official map.
 2. Direct issuance of a permit pursuant to section 27 of the Municipal Land Use Law (40:55D-36) for a building or structure not abutting a street.
- b. The Zoning Board of Adjustment shall have the power to grant to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to this article, or conditional use approval pursuant to section 54 of the Municipal Land Use Law (40:55D-67) and the provisions of the Zoning Ordinance of the Borough of Manville, whenever the proposed development requires approval by the Zoning Board of Adjustment of a variance pursuant to subsection d of section 57 of the Municipal Land Use Law (40:55D-70) being Section 30-202.7 d of this Ordinance. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes and board members required to grant any such subsequent approval shall be as otherwise provided in the Act and this Ordinance for the approval in question, and the special vote pursuant to the aforesaid subsection d of section 57 of the Municipal Land Use Law shall not be required.
- c. Whenever an application for development requests relief pursuant to subsection b. of this section, the Zoning Board of Adjustment shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in the Municipal Land Use Law. Failure of the Board to act within the period prescribed shall constitute approval of the application and a certificate of the Administrative Officer as to the failure of the Zoning Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

30-202.9 Power to Reverse or Modify Decisions.

In exercising the above mentioned power, the Board of Adjustment may, in conformity with the provisions of C.291, P.L. 1975 or amendments thereto or subsequent statutes applying reverse or affirm wholly or partly or may modify the other, requirement, decision, or determination appealed from, and make such order requirement, decision or determination as ought to be made, and to that end have all the powers of the Administrative Officer from whom the appeal was taken.

30-202.10 Time for Decision.

The Board of Adjustment shall render its decision not later than 120 days after the date (1) an appeal is taken from the decision of an administrative officer, or (2) the submission of a complete application for development to the Board pursuant to the provisions of C. 40:55D-73.

Failure of the Board to render a decision within such 120 day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

30-202.11 Reserved. (Deleted by Ord. No. 2016-1168)

30-202.12 Appeals and Applications.

- a. Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of an Administrative Officer of the municipality based on or made in the enforcement of the Zoning Ordinance or official map. Such appeal shall be taken within 20 days by filling a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.
- b. A developer may file an application for development with the Board of Adjustment for action under any of its powers without prior application to an Administrative Officer; provided, however, that such direct application may not be used to circumvent the time limitation set forth in paragraph a. above.

30-203 PROVISIONS APPLICABLE TO THE PLANNING BOARD.

30-203.1 Conflicts of Interest.

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

30-203.2 Meetings.

The Board shall by its rules fix the time and place for holding its regular meetings for business authorized to be conducted by the board. Regular meetings of the board shall be scheduled not less than once a month and shall be held as scheduled unless cancelled for lack of applications for development to process. The board may provide for special meetings, at the call of the chairman, or on the request of any two of its members, which shall be held on notice to its members and the public in accordance with municipal regulations.

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

All actions shall be taken by a majority vote of the members of the board present at the meeting, except as otherwise required by sections 23, 25, 49, 50 and subsections 8e, 17a, 17b and 57d of the Municipal Land Use Law.

30-203.3 Minutes.

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

30-203.4 Conduct of Meetings.

a. Oaths.

The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties and the provisions of the "County and Municipal Investigations Law" C. 38, P.L. 1953 (C. 2A:67A-1 et seq.) shall apply.

b. Testimony.

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

c. Evidence.

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

d. Records.

The Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense. The Board, in furnishing a transcript of the proceedings to an interested party at his expense shall not charge such interested party more than the actual cost of preparing the transcript or tape. Said transcript shall be certified in writing by the transcriber to be accurate.

30-203.5 Decisions.

- a. Each decision on any application for development shall be reduced to writing as provided in this subsection, and shall include findings of facts and conclusions based thereon.
- b. Failure of a motion to approve an application for development to receive the number of votes required by approval shall be deemed an action denying the application.
- c. The Board may provide such written decision and findings and conclusions either on the date of the meeting at which the board takes to grant or deny approval, or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of memorialization setting forth the decision and the findings and conclusions of the Board thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

- d. The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the board who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the Board, and not to be an action of the board; except that failure to adopt such a resolution within the 45 day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.
- e. Whenever a resolution of memorialization is adopted in accordance with this subsection, the date of such adoption shall constitute the date of the decision for the purposes of the mailings, filings and publications required by subsection 30-203.6 of this Ordinance.

30-203.6 Mailing and Publication of Decision.

- a. A copy of the decision shall be mailed by the board within ten (10) days of the date of decision to the applicant, or if represented then to his attorney, without separate charge, and to all who request a copy of the decision and have paid the fee established by the Board for such service. A copy of the decision shall also be filed in the office of the Borough Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the Borough.
- b. A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the Secretary of the Planning Board, without separate charge to the applicant. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision.

30-203.7 Payment of Taxes.

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

30-203.8 Conditional Approvals.

- a. Regulations of the development of land and the attachment of reasonable conditions to development applications is an exercise of valid police power delegated by the state to this municipality. The applicant has the duty of compliance with reasonable conditions laid down by the Approving Authority for design, dedication, improvements, and the use of land so as to conform to the physical and economic development of the municipality and to the safety and general welfare of the future residents and/or owners in the development and in the community at large.
- b. Where County Planning Board review or approval is required on a subdivision or site plan, the Approving Authority shall condition any approval it grants upon either timely receipt of a favorable report by the County Planning Board or approval by the County Planning Board.

30-203.9 Use of Other Boards and Agencies.

The Approving Authority is encouraged to seek advice from other boards, agencies, and departments of the Borough, such as the Fire Company, Police Department, Board of Health, Board of Education, and Rescue Squad, with respect to any application for land development or utilization.

The referral of any matter to any appropriate person or agency shall not extend the period of time within which the Approving Authority shall act.

ARTICLE 3 DEVELOPMENT REVIEW PROCEDURES AND PLAT DETAILS
(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-301 INTRODUCTION AND PURPOSES.

This Article is to provide the procedures required for subdivision and site plan-review. In addition to the preliminary and final review procedures outlined in the Municipal Land Use Law, this Article provides for sketch plan review and the opportunity, in major subdivision and site plan situations, for the developer to have an informal discussion prior to submission of a formal application and prior to the incurring of substantial expenses.

Site plan approval shall be for the general purpose of enhancing the neighborhood; providing adequate access to off-street parking and loading facilities for employees, visitors and residents; providing buffering techniques for safety and/or aesthetic purposes; preventing uses which violate applicable state and federal safety and environmental regulations; preserving floodways and flood hazard areas; and requiring that all raw materials, fuel, goods in process, finished goods, machinery and equipment shall be housed and/or screened from residential areas.

30-302 EXEMPTIONS.

30-302.1 Exemptions from Subdivision Regulations.

- a. As provided in the Municipal Land Use Law, as amended, the following shall not be considered subdivisions within the meaning of said Law or this ordinance, if no new streets are created:
1. Divisions of land found by the Planning Board or Subdivision Committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size,
 2. Divisions of property by testamentary or intestate provisions,
 3. Divisions of property upon court order, including but not limited to judgments or foreclosure,
 4. Consolidation of existing lots by deed or other recorded instrument, and
 5. The conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations (this Ordinance and Chapter 31, the Zoning Ordinance, of the Borough of Manville), and are shown and designated as separate lots, tracts or parcels on the tax map of the Borough of Manville.

The agricultural exemption in paragraph a.1. above shall apply only following submission of documentation to the Planning Board demonstrating compliance with the intent of the law, and until affirmative action of the Planning Board making such determination, no person shall transfer, sell or agree to transfer or sell, as owner or agent, any land which forms part of a proposed subdivision.

30-302.2 Exemptions from Site Plan Review Requirements; Minor Site Plans.

- a. Exemptions.

An application for a building permit to construct, alter or repair a one or two dwelling-unit building, to be used exclusively for residential purposes, and located in a Residential District as delineated in Chapter 31, Zoning Ordinance, shall not require site plan review or approval. All other applications for land utilization shall require site plan review. (See Chapter 31, Zoning Ordinance, subsection 31-1203.2).

b. Minor Site Plans.

A ‘minor site plan’ means a development plan of one or more lots which:

1. Requires less than ten (10) total parking spaces (existing and proposed), as required by Chapter 31, Zoning Ordinance, and contains less than 2,000 new or additional square feet of floor area, and has not more than twenty-five (25) percent lot coverage including proposed and existing conditions; and
2. Does not involve a planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of the Municipal Land Use Law (40:55D-42); and
3. Contains the information reasonably required in order to make an informed determination as to whether the requirements established by this Ordinance for approval of a minor site plan have been met.

If the Planning Board or Site Plan Subcommittee of the Planning Board find that an application conforms to the definition of ‘minor site plan,’ and if there is no other reason for notice and public hearing (such as an accompanying application for variance or conditional use), such notice and public hearing may be waived and minor site plan approval shall be deemed to be final approval of the site plan by the Board; provided that the Planning Board, or said subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to sections 29, 29.1, 29.3 and 41 of the Municipal Law Use Law (40:55D-38, 40:55D-39, 40:55D-41 and 40:55D-53).

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

Whenever review or approval of the application by the County Planning Board is required by section 8 of P.L. 1968, c. 285 (40:27-6.6), the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two (2) years after the date of minor site plan approval.

30-303 SIMULTANEOUS REVIEW.

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

30-304 INFORMAL REVIEW.

- a. At the request of the developer, the planning board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The amount of any fees for such an informal review shall be a credit toward fees for review of the application for development. The developer shall not be bound by any concept plan for which review is requested, and the planning board shall not be bound by any such review.
- b. 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, sewerage and storm drainage facilities. Informal submissions are sketches to scale of possible plan(s) for the development of an area. They are not binding on the Borough or upon the developer and do not necessitate accurate engineered drawings. As part of application, the applicant shall submit two (2) electronic copies of application package and exhibits submitted at hearing in PDF format submitted on DISC or USB drive for the Boards records.

30-305 SUBMISSION OF SKETCH PLAT.

Whether or not an informal discussion has been held on an application for development (subdivision and/or site plan review) a sketch plat is required to record in the public record the plan’s classification and, in the case of a minor site plan or minor subdivision, to take final action on the application.

30-305.1 Filing Procedure.

The developer shall file with the Administrative Officer at least two (2) weeks prior to the meeting of the Approving Authority, ten (10) black on white or blueprint copies of the sketch plat, four (4) completed copies of the application for, five (5) copies of covenants, deed restrictions and easements, three (3) copies of deeds for any lands offered to the Borough, the applicable fee, and such other data as the Approving Authority may require. As part of application, the applicant shall submit two (2) electronic copies of application package and exhibits submitted at hearing in PDF format submitted on DISC or USB drive for the Boards records.

30-305.2 Action by the Approving Authority.

- a. The Approving Authority shall review the submission for its completeness and take action on accepting no later than its first regular meeting following the two-week review period. If incomplete, the material shall be returned to the developer for a resubmission at least two (2) weeks prior to a subsequent meeting. If complete, the Approving Authority shall classify the application as a minor or major development and shall approve, approve with conditions or deny the application within forty-five (45) days of the date of submission to the Administrative Officer or such further time as may be consented to by the applicant. The decision shall be in writing and shall be sent to the applicant and the newspaper as required in subsection 30-203.5 and 30-203.6.
- b. Before any approved sketch plat of a major subdivision or site plan or any approved final plat of a minor subdivision or site plan is returned to the developer, the Administrative officer shall have sufficient signed copies of the plat (and deed if a deed is also prepared) to forward a copy to each of the following, retaining one (1) copy for the Approving Authority’s file:
 1. Borough Engineer.
 2. Construction Official.

3. Tax Assessor.
4. County Planning Board.
5. Borough Clerk.
6. Borough Board of Health.

- c. Approval of a minor subdivision shall expire one hundred ninety (190) days from the date of Borough approval unless within such period a plat in conformity with such approval, including any conditions imposed by the Approving Authority, and in conformity with the provisions of the "Map Filing Law," P.O. 1960 C 141, 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 in their absence, respectively). In reviewing the application for development for a proposed minor subdivision the Approving Authority may accept a plat not in conformity with the "Map Filing Act," P.L. 1960, C. 141, provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of said act.

In accordance with N.J.S.A. 40:55D-54, the County Recording Officer shall notify the Approving Authority of the filing of any plat within seven (7) days of the filing.

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

- d. When the Approving Authority determines that any proposed development may create, either directly or indirectly, an adverse effect on either the remainder of the property being developed or nearby property, the Approving Authority may require the developer to revise the plat. Where the remaining portion of the original tract is of sufficient size to be developed or subdivided further, the developer may be required to submit a sketch plat of the entire remaining portion of the tract to indicate a feasible plan whereby the design of the proposed development together with subsequent subdivisions or development will not create, impose, aggravate, or lead to any such adverse effect(s).
- e. If classified as a major development and either approved or approved with conditions as a major development, a notation to that effect including the date of the Approving Authority's action shall be made on all copies of the plat and shall be signed by the chairman and secretary of the Approving Authority (or vice chairman or assistant secretary in their absence, respectively), except that the minor plats shall not be signed until all conditions are incorporated on the plat. All conditions on minor developments shall be complied with within ninety (90) days of the meeting at which conditional approval was granted, otherwise the conditional approval shall lapse. If classified as a major development, sketch plat modification is not required. Any conditions shall be incorporated on the preliminary plat.

Editor's Note: Map Filing Law, see now N.J.S.A. 46:26A-1 et seq.

30-306 SUBMISSION OF PRELIMINARY PLAT.

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

30-306.1 Filing Procedure.

Any developer shall submit to the Administrative Officer at least two (2) weeks prior to the meeting of the Approving Authority ten (10) black on white or blueprint copies of the preliminary plat, four (4) completed copies of the application form for preliminary approval; five (5) copies of any protective covenants, deed restrictions and easements, applying to the land being developed; four (4) copies of the drainage calculations, Environmental Impact Statement as required in Article 5, and Soil Erosion and Sediment Control data as required in Article 4 of this Ordinance; the application fee, and such other data as may be required by the Approving Authority. As part of application, the applicant shall submit two (2) electronic copies of application package and exhibits submitted at hearing in PDF format submitted on DISC or USB drive for the Boards records.

30-306.2 Action by the Approving Authority.

- a. The submission for preliminary approval of a major subdivision shall be examined by the Administrative Officer and a determination made as to whether the same constitutes a 'complete application' as defined in the Municipal Land Use Law as amended. If the application is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the Board or the Board's designee for the determination of completeness within forty-five (45) days of submission of such application or it shall be deemed to be properly submitted. If determined to be a 'complete application' a public hearing date shall be set and notice given as required by this Ordinance in Article 10.
- b. Upon submission of a plat and before approval of a plat, the Administrative Officer shall submit one (1) copy of the plat and supporting data to the County Planning Board, Borough Engineer, Environmental Commission, and any other agency or person as directed by the Approving Authority for their review and action. Each shall have thirty (30) days from receipt of the plat to report to the Approving Authority. In the event of disapproval, such report shall state the reasons therefor. If any agency, or person fails to report to the Approving Authority within the thirty (30) day period, said plat shall be deemed to have been approved by them. Upon mutual agreement between the County Planning Board and the Approving Authority, with approval of the applicant, the thirty (30) day period for a County Planning Board report may be extended for an additional thirty (30) days and any extension shall so extend the time within which the Approving Authority is required to act.
- c. If the submission is accepted as a subdivision, the Approving Authority shall grant or deny preliminary approval of a subdivision of two (2) or fewer lots within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a subdivision of more than two (2) lots, the Approving Authority shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Approving Authority shall be deemed to have granted preliminary approval to the subdivision.
- d. The submission for preliminary approval of a site plan shall be examined by the Administrative Officer and a determination made as to whether the same constitutes a 'complete application' as defined in the Municipal Land Use Law as amended. If the application is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the Administrative Officer within forty-five (45) days of the submission of such application or it shall be deemed to be properly submitted.

Upon the submission to the Administrative Officer of a complete application for a site plan which involves ten (10) acres of land or less, and ten (10) dwelling units or less, the Planning board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a site plan which involves more than ten (10) acres, or more than ten (10) dwelling units, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan.

1. A site plan for ten (10) acres of land or less: within forty-five (45) days of the date of submission.
2. A site plan of more than ten (10) acres: within ninety-five (95) days of the date of submission.

Before any action is taken on a preliminary site plan containing more than ten (10) acres or for a site plan containing a flood hazard area, the Approving Authority shall conduct a public hearing as established in this Ordinance. Action may be taken on a preliminary site plan for ten (10) acres of land or less without a public hearing unless, in the opinion of the Approving Authority, the proposed use, proposed intensity of development, location of the tract, traffic conditions, or environmental concerns for a property of ten (10) acres or less are of sufficient concern that the Approving Authority desires to receive the public's comments. Where a public hearing is scheduled for a site plan, no action shall be taken until completion of the public hearing and the scheduling and notifications for the hearing shall be in accordance with this ordinance.

- e. If the Approving Authority required any substantial amendment in the layout of improvements in either a site plan or subdivision as proposed by the developer and that plan had been the subject of a hearing, an amended application for development shall be submitted and proceed upon, as in the case of the original application for development. The Approving Authority shall, if the proposed development complies with this ordinance, grant preliminary approval.
- f. The Approving Authority may approve, disapprove, or approve with conditions the application, including action on the Environmental impact Statement in Article 5. Such action shall not take place until after any required public hearing has been conducted. The decision shall be in writing and shall be sent to the applicant and the newspaper as required by subsection 30-203.b. If the Approving Authority grants preliminary approval, its chairman and secretary (or vice chairman or assistant secretary in their absence, respectively) and Borough Engineer shall sign each page of the plat indicating the approval. If the plat is conditionally approved, it shall not be signed until all conditions are complied with. If all conditions are not complied with within one hundred eighty (180) days from the date of the meeting at which a plat was conditionally approved, the conditional approval shall lapse.
- g. Effect of Preliminary Approval.

Preliminary approval shall, except as provided in paragraph 3. below, confer upon the applicant the following rights for a three (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; any requirements peculiar to site plan approval; except that nothing herein shall be construed to prevent the Borough from modifying by ordinance such general terms and conditions of preliminary approval as related to public health and safety; and
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; and
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 (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

30-307 SUBMISSION OF FINAL PLAT.

30-307.1 Filing Procedures.

- a. The developer shall file with the Administrative Officer at least two (2) weeks prior to the meeting of the Approving Authority one (1) mylar, two (2) cloth and ten (10) black on white or blueprint prints of the plat and four (4) completed copies of the application form for the final approval, the performance guarantee including off-tract improvements, if any, any maintenance guarantees, two (2) electronic copies of application package and exhibits submitted at hearing in PDF format submitted on DISC or USB drive for the Boards records and the applicable fee.
- b. Letters directed to the Chairman of the Approving Authority and signed by a responsible officer of the water company, and gas, telephone and electric utility that has jurisdiction in the area, approving each proposed utility installation design and stating who will construct the facility.
- c. Developer shall file proof that all taxes are paid to date on the property. (See subsection 30-203.7)
- d. 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:
 1. Installed all improvements in accordance with the requirements of this ordinance and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or
 2. Posted a performance guarantee in accordance with this ordinance and the preliminary plat approval for all partially completed improvements or improvements not yet initiated.

30-307.2 Action by the Approving Authority.

- a. The Approving Authority shall grant final approval if the detailed drawings, specifications, and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions of preliminary approval, and in the case of a major subdivision, the standards prescribed by the "Map Filing Law," 48:23-9.9 at seq.; provided that in the case of a planned development, the Approving Authority may permit minimal deviations from the conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for preliminary approval.
- b. Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the Administrative Officer, or within such further time as may be consented to by the applicant. An approved final plat shall be signed by the chairman and secretary of the Approving Authority (or vice chairman or assistant secretary in their absence, respectively). Failure of the Approving Authority to act within the period prescribed shall constitute final approval and a certificate of the Administrative Officer as to the failure of the Approving Authority to act shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.
- c. Whenever review or approval of the application by the County Planning Board is required by 40:27-6.3 or 40:27-6.6, or other statute, the Borough Approving Authority shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- d. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to the Municipal Land Use Law, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval. If the developer has followed the standards prescribed for final approval, the Approving Authority may extend such period of protection for extensions of one (1) year, but not to exceed three (3) extensions. Upon granting of final approval, the rights conferred upon the applicant by the granting of preliminary approval shall be terminated upon final approval.
- e. Upon final approval, the applicant shall provide:
 1. Three (3) sets of final plans and one (1) signed linen and one (1) mylar of the final plan to the Borough Engineer.

2. One (1) mylar and opaque linen copies to the County Clerk per law.
3. One (1) linen to the Borough Clerk.
4. One (1) signed paper print to the Planning Board, Construction Official, Tax Assessor, County Planning Board and such other borough, county or state officials or other individuals as directed by the Board.
5. One (1) set of final plans to the Approval Authority.
6. Two (2) electronic copies of application package and exhibits submitted at hearing in PDF format submitted on DISC or USB drive for the Boards records.

- f. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The Approving Authority may for good cause shown extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat. No subdivision plat shall be accepted for filing by the County Recording Officer until it has been approved by the Approving Authority as indicated on the instrument by the signature of the Chairman and Secretary of the Approving Authority or a certificate has been issued as to the failure of the Approving Authority to act within the required guarantees. If the County Recording Officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the Borough, the plat shall be expunged from the official records. It shall be the duty of the County Recording Officer to notify the Approving Authority in writing within seven (7) days of the filing of the plat, identifying such instrument by its title, date of filing and official number.

30-308 PLAT DESIGN STANDARDS FOR SUBDIVISIONS.

30-308.1 Plat Conformity.

No development application shall be accepted unless submitted in plat form and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information, and complies with the provisions of N.J.S.A. 46:26A-1 et seq.) (Map Filing) Law, and Section 30-107 of this Ordinance.

30-308.2 Classification Sketch Plat Standards

A sketch plat shall be clearly and legibly drawn at an accurate scale.

- a. **Plat Scale** – An accurate scale of not less than one (1) inch equals one hundred (100) feet in order to include the entire tract on one (1) sheet and shall be based on a certified boundary survey.
- b. **Sheet Size** – Plats shall be presented on sheet(s) of one of the following dimensions: thirty by forty-two (30 × 42) inches, twenty-four by thirty-six (24 × 36) inches, eighteen by twenty-four (18 × 24) inches, fifteen by twenty-one (15 × 21) inches, twelve by eighteen (12 × 18) inches, nine by twelve (9 × 12) inches or eight and one-half by thirteen (8-1/2 × 13) inches.
- c. **Key Map Content** – The plat shall be designed in compliance with the provisions of Article 7 and shall include a key map with North arrow showing the entire subdivision and its relation to surrounding areas at a scale of not less than one (1) inch equals one thousand (1,000) feet.
- d. **Plat Measurement Requirements** – The boundary and acreage of the original tract measured to the nearest one-hundredth (0.01) of an acre; the number, acreage and configuration of all lots being created; the area of each lot correct to one-tenth (0.1) of an acre; all existing and proposed lot lines correct to one (1) foot. If the plat is to be submitted for approval as a minor subdivision, existing lot lines as well as proposed lot lines shall be accurately shown by precise metes and bounds, distances to nearest 0.01 ft.
- e. **Plat Features** – Plat shall include all existing buildings and structures and their use(s), with the shortest distance from existing building(s) to any proposed or existing lot line, and wooded areas, rock outcrops, rights-of-way and streets within the limits of the tract(s) being subdivided and within two hundred (200) feet thereof.
- f. **Drainage and Waterway Information** – Plat shall include streams, lakes, drainage rights-of-way and streets within the limits of the tract(s) being subdivided and within two hundred (200) feet thereof, including the location width and direction of flow of all streams, brooks, drainage structures and drainage rights-of-way.
- g. **Drainage and Waterway Information** – Plat shall include streams, lakes, drainage rights-of-way and streets within the limits of the tract(s) being subdivided and within two hundred (200) feet thereof, including the location width and direction of flow of all streams, brooks, drainage structures and drainage rights-of-way.
- h. **Demolition/Relocation Information** – Any existing features to be removed or relocated shall be indicated.
- i. **Environmental Regulated Areas** – Plat shall include location of wetlands and swamps or regulated environmental. The plat shall indicate if areas have been verified or if noted delineation has been approved by NJDEP or other regulatory agency.
- j. **Flood Hazard Information** – Plat shall include Flood Hazard Area and flood hazard classification and elevation within the tract and reference data source. The plat shall indicate if areas have been verified or if noted delineation has been approved by NJDEP/FEMA or other regulatory agency.
- k. **Plat Contours** – Plat shall include contours inside the tract and within fifty (50) feet of its boundaries, at sufficient intervals to determine the general surface drainage.
- l. **Right of Ways and Easements** – The existing and proposed rights-of-way with dimensions of all easement, sight triangle and all streets within the premises and within two hundred (200) feet thereof and the purpose of any easement.
- m. **Sight Triangle** – The existing and proposed rights-of-way with dimensions of all easement, sight triangle and all streets within the premises and within two hundred (200) feet thereof, together with existing driveway, street names and the purpose of any easement. The type of street surface material and existing utilities within two hundred (200) feet of the tract shall be shown, including at least one (1) street intersection using the fore-shortened tie distance when same is remote from the property in question.
- n. **Street Information** – Plat shall depict all streets within the premises and within two hundred (200) feet thereof, together with existing driveway, street names and the purpose of any easement. The type of street surface material within two hundred (200) feet of the tract shall be shown, including at least one (1) street intersection using the fore-shortened tie distance when same is remote from the property in question.
- o. **Utility Information** – Plat shall contain all existing utility information within the premises and within two hundred (200) feet thereof.
- p. **Property Record Information** – The Tax Map sheet, block and lot number for the tract and all adjacent lots;
- q. **Owner's Information** – The plat shall contain the name, address, phone number and signature of the owner.

- d. Applicant Information – The plat shall contain the name, address, phone number and signature of the applicant.
- s. Adjoining property – Plat shall include all adjoining property owners as disclosed by the most recent Borough tax records certified by Borough designated official;
- t. Zoning Information – The map shall indicate zone information and indicate zone district lines If the property lies in more than one zoning district
- u. Plat Preparer Information – The plat shall include the name, address, phone number and signature of the plat preparer.
- v. Plat Content – Plat shall include date, title, graphic scale, North arrow and space for the subdivision application number

30-308.3 Preliminary Plat of Major Subdivision Standards.

The following standards and content are required for preliminary plat submission/applications:

- a. Plat Classification Title - The plat shall be titled to indicate preliminary plat classification.
- b. Plat Prepared by Professional - The plat shall be clearly and legibly drawn by a licensed New Jersey engineer and/or land surveyor.
- c. Certified Survey - shall be based on a certified boundary survey by a licensed New Jersey land surveyor.
- d. Plat Scale - The plat shall be drawn at a scale of not less than one (1) inch equals fifty (50) feet.
- e. Key Map - The plat shall include a key map with North arrow showing the entire subdivision and its relation to surrounding areas at a scale of not less than one (1) inch equals one thousand (1,000) feet.
- f. Sheet Size - Plats shall be presented on sheets of one of the following dimensions: 30" × 42", 24" × 38", 18" × 24", 15" × 21", 9" × 12", 12" × 18" or 8-1/2 × 13".
- g. Plat Sheet Layout - If more than one (1) sheet is required to show the entire subdivision, a separate composite map shall be drawn showing the entire subdivision and the sheets on which the various sections are shown, and each detail sheet shall include a key map showing its relation to the whole tract. The plat shall consist of as many separate maps as are necessary to properly evaluate the site and the proposed work.
- h. Article 7 Compliance - The plat shall be designed in compliance with the provisions of Article 7.
- i. Plat Title Information - A title containing the name of the subdivision; the name of the Borough, County and State; Tax Map sheet, block and lot number, date of preparation and most recent revision
- j. Plat North Arrow – Plats shall contain a North arrow.
- k. Plat Scales – Plat shall contain written and graphic scales.
- l. Owner Information – Plat shall contain the name(s), addresses, phone numbers and signatures of the owner.
- m. Subdivider Information – Plat shall contain the name(s), addresses, phone numbers and signatures of the subdivider.
- n. Preparers Information – Plat shall contain the name(s), addresses, phone numbers and signatures of the person who prepared the plat. The preparer shall include their professional seal.
- o. 200' Property Owners List – Plat shall contain the names of all property owners within two hundred (200) feet of the extreme limits of the subdivision.
- p. Application Number – Plat shall contain space for the subdivision application number.
- q. Plat Measurement Requirements - The boundary and acreage of the original tract measured to the nearest one-hundredth (0|01) of an acre; the number, acreage and configuration of all lots being created; the area of each lot correct to one-tenth (0|1) of an acre; all existing and proposed lot lines correct to 0.01 feet.
- r. Contour Data - A map showing existing and proposed elevations and contour lines over the entire area of the proposed subdivision, together with watercourses and an indication of the final disposal of the surface waters.
- s. Contour Format - All elevations shall be related to two (2) permanent bench marks identified on the plan. Contours shall be shown at not more than two-foot intervals for areas with less than a ten-percent slopes, five-foot intervals for areas with ten or twenty percent slopes, and ten or twenty-foot intervals for areas with slopes in excess of twenty percent (20%). For tracts containing slopes in more than one (1) category, the subdivider shall show contour lines at the most restrictive interval throughout the tract unless specifically waived by the Approving Authority in lieu of some other satisfactory contour interval and topographic data to meet the objectives of this Ordinance. Such topographic data shall be shown within 200' of the tract boundaries.
- t. Existing Plat Detail - The locations and dimensions of railroad rights-of-way, bridges and natural features, such as soil types, wooded area, lakes, rock outcroppings and views within the subdivision.
- u. Existing Tree Location – Plat shall include the locations of existing individual trees outside wooded areas having a minimum caliper of six (6) inches.
- v. Proposed Tree Location – The proposed location of shade trees to be provided by the subdivider shall also be shown.
- w. Soil Data – Plat shall include Soil types shown and shall be based on United States Soil Conservation categories.
- x. Watercourse Information - All existing and proposed watercourses, including lakes, ponds and marsh areas, accompanied by the following information or data:
 - 1. When a running stream with a drainage area of one-half (1/2) square mile or greater is proposed for alteration, improvement, or relocation, or when a structure or fill is proposed over, under, in or along such a running stream, evidence of approval, required alterations, lack of jurisdiction or denial of the improvement by the New Jersey Department of Environmental Protection or such agency having jurisdiction shall accompany the application.
 - 2. Profiles and cross sections at fifty-foot intervals of watercourses, at an appropriate scale, showing the extent of the flood fringe area, top of bank, normal water level and bottom elevations of all watercourses on or within five hundred (500) feet of the subdivision.
 - 3. When ditches, streams, brooks or watercourses are to be altered, improved or relocated, the method of stabilizing slopes and the measures to control erosion and siltation during construction, as well as typical ditch sections and profiles, shall be shown on the plan or accompany it.

4. The total upstream acreage in the drainage basin of any watercourse running through or adjacent to a subdivision including the distance and average slope upstream to the basin ridge line.
 5. The total acreage in the drainage basin to the nearest downstream drainage structure and the acreage of that portion of the subdivision which drains to the structure, including the distance and average slope downstream to the structure.
 6. The location and extent of drainage and conservation easement and floodway and flood hazard area limits.
 7. The location, extent and water levels elevation of all existing or proposed lakes or ponds on or within five hundred (500) feet of the subdivision.
- y. **Stormwater System – The Plat submission shall include a stormwater plan, profile drawings and computations for any storm drainage systems (existing and proposed), including:**
1. All existing and/or proposed storm water lines on site or within five hundred (500) feet of the subdivision, showing size, profile and slope of the lines, the location of each inlet, manhole or other appurtenance and the pipe material type, strength class or thickness and bedding type.
 2. The location and extent of any proposed dry wells, groundwater recharge basins, detention basins, flood control devices, sedimentation basins and other water conservation devices.
- z. The names, locations and dimensions of all existing streets within a distance of two hundred (200) feet of the subdivision, including at least one (1) street intersection and showing existing driveways and any connection proposed by the subdivision to existing streets, sidewalks and bike routes outside the subdivision: plans, cross sections, center-line profiles, proposed: grades and standard details of all proposed streets, including full details of other utility improvements within or adjacent to the street right-of-way, including sanitary sewers, curbing, sidewalks, storm drains and water, gas and electric facilities. Typical street cross sections shall indicate the type and width of pavement and the location of curbs, sidewalks, bike routes, sewers, drains, water and gas mains, electric and telephone facilities and appurtenances and shade tree planting. At intersections, the sight triangles, radius of curb lines and the location of street signs and traffic control devices shall be clearly indicated. Horizontal scale shall not be less than one (1) inch equals forty (40) feet.
- aa. **Right of Ways and Easements – The Plat shall include the names, location, right-of-way widths and purpose(s) of existing and proposed easements and other right-of-way in the subdivision, and the location and description of all existing or proposed boundary control monuments and pipes. The plat submission shall include supporting deeds and legal descriptions.**
- bb. **Lot Lines – Plat shall include all proposed lot lines, including existing lot lines to remain and those to be eliminated, and all set back lines required by Chapter 31, Zoning Ordinance, with the dimensions thereof.**
- cc. **Public Use Dedication - Any lot(s) to be reserved or dedicated to public use shall be identified.**
- dd. **Plat Proposed Features – Plat shall show proposed improvements, such as but not limited to landscaping, grading, walkways and recreation facilities, if any.**
- ee. **Block and Lot Numbering - Each block shall be numbered and the lots within each block shall be numbered consecutively beginning with number one (1), as acceptable to the Borough Engineer and subject to approval by the Borough Tax Assessor.**
- ff. **Plat Existing Features - Locations of all existing structures and their use(s) in the tract and within two hundred (200) feet thereof, showing existing and proposed front, rear and side yard setback distances and an indication of all existing structures and uses to be retained and those to be removed.**
- gg. **Improvement Details - Plans and profiles of proposed on-site, off-site and off-tract improvements and utility layouts (sanitary sewers, storm sewers, erosion control and landscaping, storm-water control, sedimentation basin, excavation, water mains, gas, telephone, electricity, etc.) showing location, size, slope, pumping stations and other details as well as feasible connections to any existing or proposed utility systems. If service is to be provided by an existing utility company, a letter from that company shall be submitted, stating that service will be available before occupancy of any proposed structures.**
- hh. **Zoning Information – Plat shall include Zoning district(s) information, and if the property lies in more than one (1) zoning district, the plat shall indicate the zoning district lines.**
- jj. **Setbacks Lines – Plat shall include all zone setback limits including but not limited to Minimum front, rear and wide yard setback lines for the zone.**

30-308.4 Final Plat of Major Subdivision Standards.

The final plat shall be prepared in compliance with the provisions of the Map Filing (N.J.S.A. 46:26a-1 et seq.), as amended; and shall conform to the following standards and particulars and be accompanied by final plans in accordance with subsection 30-308.5 of this section.

- a. **Sheet Size & Scale - The plat shall be prepared and submitted on a sheet of standard size twenty-four by thirty-six (24x36) inches or thirty by forty-two (30x42) inches, including a margin of at least one-half (1/2) inch and be drawn at a scale of one (1) inch equals one hundred (100) feet, except that a scale of one (1) inch equals fifty (50) feet or larger shall be used where necessary and at special details to provide fully intelligible and legible information throughout. When the overall size of development or the owner's desire to submit final plans in sections will result in more than one (1) sheet, individual sheets or sections shall be numbered, match lines or boundaries with adjacent sheets or sections shall be provided and each sheet shall contain an acceptable key map of the entire tract showing the relation and orientation of the subject to adjacent sections and the total development.**
- b. **Submission Format - The original plat shall be prepared in waterproof black ink on mylar under the immediate supervision of and in accordance with the computations of a land surveyor licensed in practice in the State of New Jersey. The original and all submitted black-line prints, translucent mylar, translucent linen and opaque linen copies shall be hand signed and sealed by the responsible surveyor.**
- c. **Precision, Closure Error & Monuments- The fieldwork for the basic boundary survey shall be precise, with a linear error of closure not to exceed one (1) part in ten thousand (10,000) before adjustment. Angular error of closure shall not exceed fifteen (15) seconds times the square root of n (where "n" equals the number of sides). Field work meeting these standards shall be adjusted and balanced by the compass rule, transit rule or least square analysis, as considered appropriate by the responsible surveyor. All existing boundary evidence for the property in question and/or adjacent properties shall be clearly shown in relation to the boundaries of the property in question. All exterior boundaries shall be clearly identified by bearings precise to the nearest one (1) second of arc and distances precise to the nearest one-hundredth (0.01) of a foot. Permanent concrete monuments conforming to state statutes and extending not less than thirty (30) inches below grade nor more than one (1) inch above shall be indicated on the plat and precisely set in the field along the tract boundary at all corners, sidelines of proposed streets and beginning and ending points of all horizontal curves, inaccessible corners shall be provided with two (2) offset reference monuments clearly defined on the plat. Additional point-on-line monuments as necessary shall be installed in the field and identified on the plat whenever topographic conditions do not permit corner-to-corner visibility. Unless specifically waived by the Borough Engineer for due cause, the boundaries of all final plats shall be based on the United States Geological Survey bearing datum and all boundary monuments shall be coordinated on the New Jersey plane coordinate system, with North and East coordinates for each monument and corner shown on the plat. The gross tract area and the area of each interior parcel, including parcels dedicated to public use, shall be calculated and shown to the nearest thousandth of an acre of the nearest ten (10) square feet.**

- d. **Public Use Plat Details** - The metes and bounds for all interior parcels, streets and/or easements dedicated to public use shall be calculated to the same order of precision and shown on the plat as above described for the tract boundary. Interior monuments shall be indicated on the plat and installed in the field along one (1) side of all street rights-of-way, at all corners of parcels dedicated to public use and at such other additional locations incident to topographic conditions and other factors as the Borough Engineer may find essential to the public interest. Due to the high potential for disturbance or destruction during construction, the installation of interior monuments may be deferred until the completion of final grading and seeding, subject to posting of acceptable performance guarantee.
- e. **Street Line Plat Details** - In addition to tract, lot and street boundary lines above described, the final plat shall identify and provide precise metes and bounds for all necessary easements, sight triangles and other reservations for public or quasi-public use. The grantee of any such public or quasi-public dedication shall be identified on the plat.
- f. **Curve Data** - The following circular curve data shall be provided for all curvilinear boundaries and street center lines: radius, central angle, tangent distance, chord distance, chord bearing and arc length. Distances shall be shown to the nearest one-hundredths (1/100) foot. Angles and bearings shall be shown to the nearest one (1) second of arc.
- g. **Block and Lot Data** - Block and lot numbers shall be shown on the final plat in accordance with established standards in conformity with the Borough Tax Assessment Map as approved by the Borough Engineer and Tax Assessor.
- h. **Title Block Details** - Title block for sheet(s) shall include:
1. The name (and section, where applicable) of the plat.
 2. The current tax assessment block(s) and lot(s) numbers.
 3. The name of the municipality, county and state.
 4. Names and addresses of the owner, applicant and responsible surveyor.
 5. The date of preparation (and revisions, if any).
 6. The plat scale.
 7. Graphic scale.
- i. **Datum and North Arrow Detail** - Bearing datum North (map datum) and true North arrows shall be provided, including the angular difference between map North and true North.
- j. **Street Name** - A street names shall be shown, acceptable to the Approving Authority.
- k. **Endorsements** - The plat shall contain the following endorsements:
1. **Surveyor Certification** - Certification by the responsible surveyor that the map was prepared under his/her supervision and is in compliance with state statutes and local ordinances, such certification to be signed, sealed and dated by the responsible surveyor.
 2. **Owner Certification** - Certification by the owner(s) that the plat is in accordance with their free consent and express desires, including their consent to filing, such certification to be signed, dated and sealed by the owner(s) and witness(es). In the case of individual ownership, signature shall be certified by a notary; if a partnership, by all partners and certified by a notary; if a corporation, by an authorized principal of the corporation, certified by the corporate secretary and sealed with the corporate seal. The name and position of each signature party shall be legibly printed below each signature.
 3. **Approving Authority** - Signature block with places to be signed and dated by the chairman and Secretary of the Approving Authority.
 4. **Borough Certification** - Certification that all new streets and easements have been approved by the Borough Mayor and Council and that bonds have been given to the Borough guarantying the completion of improvements to same, such certification to be signed, dated and sealed by the Borough Clerk.
 5. **Borough Engineer** - Certification of compliance with "Map Filing Law," applicable local ordinances and regulations, signed and dated by the Borough Engineer.
 6. **Borough Clerk Filing**- Certification of compliance with state statutes and approval to file in the County Clerk's office within ninety-five (95) days of approval, such certification to be signed, dated and sealed by the Borough Clerk.
 7. **Borough Clerk Bond** - Certification that bond has been given to the Borough guarantying the future setting of a monuments (if any not previously set), such certification to be signed, dated and sealed by the Borough Clerk.
 8. **Other Authority** - Other appropriate note regarding the dedication of public or private roads, easements, recreation areas, etc., and reference to related deeds of conveyance, such notes to be signed, dated and sealed by the owner.
 9. **County** - Signature block for certification by the County Planning Board.
 10. **County Clerk** - Recording block for use by the County Clerk, with space to insert map number, date and time of filing.
- l. **Setbacks Lines** – Minimum building setback lines shall be shown for each lot. The names and block, lot and property lines of adjoining owners shall be shown, as disclosed by the current tax assessment records.

30-308.5 Final Plans Accompanying Final Plat.

Submission of the final plat shall be accompanied by final plans and other relevant supporting materials, including the following:

- a. **Street Detail** – Final Plat shall include plans, profiles and cross sections, as appropriate, for all new streets and street improvements as approved by but not limited to Borough Engineer, County Engineer and/or State Department of Environmental Protection or other agency/authority with jurisdiction over improvement(s).
- b. **Utilities Detail** – Final Plat shall include plans, profiles and cross sections, as appropriate, for all utilities and utility easements as approved by but not limited to Borough Engineer, County Engineer and/or State Department of Environmental Protection or other agency/authority with jurisdiction over improvement(s).
- c. **Site Improvements** – Final Plat shall include plans, profiles and cross sections, as appropriate, for all site improvements within the tract or offsite including grading, drainage, stormwater, sanitary as approved by but not limited to Borough Engineer, County Engineer and/or State Department of Environmental Protection or other agency/authority with jurisdiction over improvement(s).

- d. **Stream Encroachments** – Final Plat shall include plans, profiles and cross sections, as appropriate, for stream encroachments as approved by but not limited to Borough Engineer, County Engineer and/or State Department of Environmental Protection or other agency/authority with jurisdiction over improvement(s).
- e. **Utility Approvals/agreements** - Copies of all required permits or relevant agreements for proposed utility improvements related to drainage, sewerage, gas, water, electric, telephone or other facilities.
- f. **Deeds** - Copies of proposed deeds of conveyance for all new streets, sight triangles, easements, recreation parcels, school sites and/or other land restrictions.
- g. **Sanitary Sewerage Data** – Plat submission shall include the design calculations for sanitary sewerage and storm drainage facilities, signed, dated and sealed by the responsible project engineer.
- h. **Stormwater Data** – Plat submission shall include the design calculations for storm drainage facilities, signed, dated and sealed by the responsible project engineer.
- i. **Plat Size** - Plans shall be standard size (twenty-four by thirty-six (24 × 36) inches or thirty by forty-two (30 × 42) inches) and shall be drawn to an appropriate scale necessary to clearly show the scope and detail of the proposed work sufficient for the Borough Engineer to make a quantitative engineering analysis and to assure proper construction in accordance with Borough standards.
- j. **Cover Sheet Details** - A standard size cover sheet shall be provided which shall include, as a minimum:
 - 1. **Key Map** - A key map, at a scale not greater than one (1) inch equals one thousand (1,000) feet of the property in question and all adjacent lots, streets and watercourses within two thousand (2,000) feet of the property boundaries.
 - 2. **Location Map** - A general location plan, at a scale not greater than one (1) inch equals two hundred (200) feet, of the property in question, showing proposed streets and utility systems.
 - 3. **Sheet Index** - Sheet Index for the complete set of plans.

30-309 PLAT DESIGN STANDARDS FOR SITE PLANS.

30-309.1 Plat Conformity.

No development application shall be accepted unless submitted in plat form and on plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information, and shall conform to Section 30-107 of this Ordinance.

30-309.2 Classification Sketch Plat Standards

Sketch Plan for Classification and Approval shall include the following information. If the submission is classified as a minor site plan, final action may be taken on the sketch plat.

- a. **Building and Use Plan** - Each site plan shall also show the applicable data called for in the Building and Use Plan may be waived or modified by the Approving Authority as may be the requirements for the amount of detail in the plans listed above.
- b. **Circulation Plan** - Each site plan shall also show the applicable data called for in the Circulation Plan may be waived or modified by the Approving Authority as may be the requirements for the amount of detail in the plans listed above.
- c. **Natural Resources Plan** - Each site plan shall also show the applicable data called for in the Natural Resources Plan may be waived or modified by the Approving Authority as may be the requirements for the amount of detail in the plans listed above.
- d. **Facilities Plan** - Each site plan shall also show the applicable data called for in the Natural Facilities Plan may be waived or modified by the Approving Authority as may be the requirements for the amount of detail in the plans listed above.
- e. **Flood Hazard Area Considerations** - Each site plan shall also show the applicable data called for in Flood Hazard Area Considerations in subsection 30-309.5 except that an Environmental impact Statement may be waived or modified by the Approving Authority as may be the requirements for the amount of detail in the plans listed above.

30-309.3 Sketch Plat Major Site Plan Standards

Sketch Plan for Major Site Plan and Approval shall include the following information:

- a. **Site Improvement Detail** - A Sketch Plat of a Major Site Plan shall show to scale the lot lines, proposed building(s) proposed use(s), parking, loading, on-site circulation, driveways, streams, approximate flood hazard area and wooded areas.
- b. **Contour Data** - A Sketch Plat of a Major Site Plan shall show contours based on U.S.G.S. or similar available datum.
- c. **Stormwater Improvements** - A Sketch Plat of a Major Site Plan shall show approximate on-site or on-tract storm water detention facilities.
- d. **Utility Improvements** - A Sketch Plat of a Major Site Plan shall show approximate on-site or on-tract water and sewer services.
- e. **Plan Scale** - A Sketch Plat of a Major Site Plan scale shall be 1' = 10', 20', 30', 40' or 50'.

30-309.4 Preliminary Site Plan Plat Standards.

- a. **Site Plan Sketch** - Each site plan shall be submitted at a scale of 1' = 10', 20', 30', 40' and 50'. If one sheet is not sufficient to contain the entire territory of the tract, the tract may be divided into sections to be shown on separate sheets of equal sizes, all sheets with the same scale, with references on each sheet to the adjoining sheets, provided that one sheet at a smaller scale is attached which shows the entire project on one sheet of the same size (see Section 30-107).
- b. **Site Plan Sketch** - All plats shall be submitted on one of the following standard sheet sizes: 30" × 42", 24" × 36", 18" × 24", 15" × 21", 9" × 12", 12" × 18", or 8-1/2" × 13". If one sheet is not sufficient to contain the entire territory of the tract, the tract may be divided into sections to be shown on separate sheets of equal sizes, all sheets with the same scale, with references on each sheet to the adjoining sheets, provided that one sheet at a smaller scale is attached which shows the entire project on one sheet of the same size (see Section 30-107).
- c. Each plan shall include the following data:
 - 1. **Name of the development.**

2. Appropriate places for the signatures of the Approving Authority Chairman and Secretary, the dates of the official Approving Authority actions and dates of the signatures.
3. A small key map giving the general location of the tract in relation to the remainder of the community.
4. Zone district(s) in which the lot(s) are located.
5. North Arrow.
6. Date of the original plan and each subsequent revision date.
7. Graphic scale.
8. Total tract acreage to one one-hundredth (1/100) of an acre.
9. An outbounds survey of the tract certified by a licensed land surveyor.
10. Existing and proposed streets and street names.
11. Existing and proposed streams and easements.
12. Flood hazard areas based on one-hundred-year-plus storms.
13. All dimensions and areas needed to confirm conformity to this ordinance, such as but not limited to building area, lot lines, parking and loading spaces, setbacks, buffers and yards.
14. The site in relation to all remaining contiguous lands in the applicants or owner's ownership.
15. All roads, driveways, watercourses and existing buildings within two hundred (200) feet of the tract.

30-309.5 Site Plan Information for Preliminary and Final Approval.

Each site plan shall have the following information shown thereon or be annexed thereto and shall be designed to comply with the applicable Design and Performance Standards (Article 7) and Chapter 30, Zoning Ordinance.

a. Building and Use Plan.

The Building and Use Plan shall include the following information in report format or included on the site plan:

1. Layout Information - This plan shall show the size, height, location, arrangement and use of all existing and proposed structures and signs.
2. Coverage Information - This plan shall show the proposed total building coverage in acres or square footage and percent of the lot coverage.
3. Architectural Plans - This plan shall include an architect's scaled elevations of the front, side and rear of any structure and sign to be erected or modified to the extent necessary to apprise the Approving Authority of the scope of the proposed work.
4. Existing Feature Information - This plan shall indicate if any existing structures on the site shall remain or will be removed.
5. Use Information - The plan shall include a written description of the proposed use(s).
6. Operation Information - The Plan shall include information on the number of employees or members of nonresidential buildings; the proposed number of nonresidential buildings; the proposed number of shifts to be worked and maximum employees of each shift; expected truck and tractor-trailer traffic; emission of noise, glare, vibration, heat, odor, air and water pollution; safety hazard; and anticipated expansion plans incorporated in the building design. Floor plans shall be submitted where more than one (1) use is proposed with different parking standards.

b. Circulation Plan.

The Circulation Plan shall include the following information in report format or included on the site plan:

1. Roadway Layout - This plan shall show access streets and street names, acceleration/deceleration lanes, access points to public streets, sight triangles, traffic channelization, easements, fire lane, driveways, aisles, lanes and curbs.
2. ADA Layout – This Plan shall show curb cuts with ramps for handicapped persons.
3. Parking Layout – This Plan shall number and location of parking and loading spaces (including the designated wider spaces for the handicapped), loading berths or docks, pedestrian walks, provisions for handicapped as required by the "Barrier Free Regulations," and all related facilities for the movement and storage of goods, vehicles and persons on the site.
4. Lighting Improvements – This Plan shall include information for improvements such as lights, lighting standards, signs and driveways within the tract.
5. Pedestrian Accommodations – This plan shall include information for pedestrian circulation such as sidewalks shall be shown from each entrance/exit along expected paths of pedestrian driveways, other buildings on the site and across common yard areas between buildings.
6. Cross Sections – Plans shall be accompanied by cross section of new streets, aisles, lanes, driveways and sidewalks.
7. Expansion Accommodations – Plans shall be accompanied by information to address anticipated expansion for the proposed use shall show feasible parking and loading expansion plans to accompany building expansion.

c. Natural Resources Plan.

1. This plan shall show existing and proposed wooded areas, buffer areas (including the intended screening devices and buffers), grading at two-foot contour intervals inside the tract and within fifty (50) feet of its boundaries, seeded and/or sodded areas, ground cover, retaining walls, fencing, signs, recreation areas, shrubbery, trees and other landscaping features. This plan shall also show the location and type of man-made improvements and the location, species and caliber and height of plant material and trees to be located on the tract. The plan shall show how the interior of paved areas, such as parking lots, shall be landscaped, and all portions of the property not utilized by building or paved surfaces shall be landscaped, utilizing combinations such as landscaping fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage and the planting of coniferous and/or deciduous trees native to the area, in order to maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades and landscaping on any site shall be planned for aesthetic, drainage and erosion control purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and siltation as well as to assure that the capacity of any downstream natural or man-made drainage system is sufficient to handle the water from the site and contributing upstream areas.
2. A separate written environmental impact statement shall be submitted, which shall comply with the requirements of the Environmental Impact Statement Article 5. Maps and data shall be submitted where required by Article 5 and 6 of this Ordinance, or any provision of Chapter 31, Zoning Ordinance.

d. Facilities Plan.

The Facilities Plan shall include the following information in report format or included on the site plan:

1. Roadway Layout - The plan shall show the existing and proposed locations of all drainage, open space, common property, fire, gas, electric, telephone, sewerage and water line locations; and solid waste collection and disposal methods, including proposed grades, sizes, capacities and materials to be used for facilities installed by the applicant.
2. Easements - All easements acquired or required on the tract and across adjacent properties shall be shown, and copies of legal documentation that support the granting of an easement by an adjoining property owner shall be included.
3. Sanitary Sewer Information - The method of sanitary waste disposal shall be shown.
4. Lighting Information - All proposed lighting shall be shown, including the direction angle, height and reflection of each source of light. All utilities shall be installed underground.

30-309.6 Final Site Plan Plat Standards.

The final plan shall include all data required on the preliminary site plan plat drawn to incorporate all changes required as a condition of preliminary approval and drawn by persons and to specifications as required to the preliminary site plan, the Approving Authority may waive the filing of a final site plan and may treat the preliminary as the final. The final plat shall reflect all changes on the site from that shown on the preliminary plat, including "as built" as to any improvements to the site done before final approval.

30-310 RESERVED.

30-311 INTERPRETATION REQUESTS.

Per N.J.S.A. 40:55D-70b, an applicant may apply to the Board for formal hearing for the Board to determine an interpretation of the zoning map or ordinance or for decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance. The Applicant shall provide the following information as part of application:

- a. Applicant shall submit formal application to the Board and include payment of required application fee and escrow fees per Chapter 30 Article 11.
- b. Applicant shall include submittal of proof that property taxes and assessments for the subject property are current certified by the responsible Borough official.
- c. Applicant shall include a written statement describing the nature of request and supporting data for their request.
- d. Applicant shall include supporting plans, surveyor, tax map and/or exhibits to enable the Board to understand location of subject property in relation to the zoning map and surrounding area. The map should also include sufficient detail for the Board to determine the interpretation request.
- e. Application must be submitted at least 10 days before hearing.

30-312 VARIANCE REQUESTS.

Applicant seeking approval of variance hardship/bulk or "C" Variance (N.J.S.A. 40:55-70c) or Use or "D" Variance (N.J.S.A. 40:55-70d) shall also apply for minor site plan and/or major site plan/subdivision. The variance application will require submitting variance application and then a minor or major site plan/ subdivision application. All applications for variance will require public notice for meetings and notification provided to property owners within 200' based on certified list provided by Borough Official.

ARTICLE 4 SOIL EROSION AND SEDIMENTATION CONTROL
(Ord. No. 642 ; readopted by Ord. No. 2020-1235)

30-401 PURPOSE.

The purpose of this chapter is to control and regulate soil removal, erosion and sedimentation in the Borough of Manville by requiring adequate provisions for the retention of topsoil and subsoil whenever necessary, to prevent erosion and sedimentation, exposed soil surfaces and such other harmful and objectionable conditions as are detrimental to the safety, health and general welfare of the citizens of the Borough of Manville.

30-402 DEFINITIONS.

The following definitions shall apply to the interpretations and enforcement of this chapter, unless otherwise specifically stated:

APPLICANT

A person, partnership, corporation or public agency requesting permission to engage in soil removal or land disturbance activity.

APPLICATION FOR DEVELOPMENT

A proposed subdivision of land, site plan, conditional use, zoning variance, construction permit or planned development permit.

CERTIFICATION

A written endorsement of a plan for soil erosion and sediment control by the Somerset-Union Soil Conservation District which indicates that the plan meets the standards promulgated by this chapter and P.L. 1975, c. 251.

CRITICAL AREA

A sediment-producing land area or highly erodible or severely eroded land area.

DISTURB

To dig, dredge, excavate, remove, deposit, grade, clear, level, fill or alter or change the location or contour of land or otherwise cause land to be exposed to the dangers of erosion.

EROSION

Detachment and movement of soil or rock fragments by water, wind, ice or gravity.

EXCAVATION or CUT

Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

LAND

Any ground, soil or earth, including marshes, swamps, drainageways and areas not permanently covered by water, within the municipality.

MAN-MADE STRUCTURE

Any artificial improvements to land, including but not limited to buildings of any type, parking lots, driveways and sidewalks, fences, storm culverts, swimming pools, tennis courts, towers, telephone or utility poles, roads and paths of any type.

MULCHING

The application of plant residue or other suitable organic materials to the land surface to conserve moisture, hold soil in place and aid in establishing plant cover.

PERMIT

A certificate issued to perform work regulated under this chapter.

PERSON

Any individual, corporation, association, partnership, joint venture or organization, as well as any federal, state, county or municipal government or body, authority or board and any department, agency or subdivision thereof or any combination of the above.

REMOVE

To physically transfer soil from any location on a site to any other location not on the same site, regardless of whether the sites are contiguous or of common ownership.

SEDIMENT

Solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by water, wind, ice or gravity as a product of erosion.

SEDIMENT BASIN

A barrier or drain built at suitable locations to retain rock, sand, gravel, silt or other sedimentary material.

SITE

Any plot, parcel or parcels of land, including, by way of illustration, the smallest of lots as shown on the tax maps of the Borough of Manville, a subdivided lot as approved by the Planning Board or an individual tract as set forth in the deed conveying title to the owner.

SOIL

All unconsolidated mineral and organic material, such as earth, sand, clay, loam, gravel, humus, sludge, rock or dirt of any origin.

SOIL EROSION AND SEDIMENT CONTROL PLAN

A detailed plan indicating necessary land treatment measures, including a schedule of the timing of their implementation that will effectively minimize soil erosion and sedimentation. Such measures shall meet or exceed the standards.

STANDARDS

Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee.

STRIPPING

Any activity which disturbs vegetation or otherwise stabilized soil surfaces, including clearing and grubbing operations.

30-403 PERMIT REQUIRED.

- a. No land area shall be disturbed by any person, partnership, corporation or public agency nor shall any permit be issued unless the applicant has first obtained a permit or a waiver in accordance with the provisions of this chapter.
- b. No person, partnership, corporation or public agency shall excavate or otherwise remove soil in excess of 10 cubic yards for any use other than on the premises from which the soil shall be taken, without first obtaining a permit in accordance with the provisions of this chapter.
- c. No person, partnership, corporation or public agency shall import any soil into the Borough without first obtaining a permit for same. The permit fee for said import shall be determined by the Somerset-Union Soil Conservation District. A soil certification must accompany the permit for import of said soil.

30-404 DATA REQUIRED PRIOR TO ISSUANCE OF PERMIT.

- a. Soil erosion and sediment control. The applicant must submit a separate soil erosion and sediment control plan for each noncontiguous site where land disturbance will take place. Such plans shall contain:
 1. The location and description of natural and man-made features on and around the site, including topography and soil characteristics.
 2. The location and description of any proposed changes to the site.
 3. Measures for soil erosion and sediment control which must meet standards.

4. A schedule of the sequence of installation of planned soil erosion and sediment control measures as related to the progress of the project being undertaken.
 5. Any information as may be reasonably required by the Somerset-Union Soil Conservation District in order to adequately evaluate the application.
- b. Soil removal. The applicant must submit a description and plan, if required, for removing soil from any site within the Borough of Manville. The following information shall be provided:
1. The location and existence of natural and man-made features, including existing and proposed topography, if required.
 2. The quantity and method of removing soil from the site.
 3. The destination and route of delivery of soil to be removed.
 4. The proposed date of commencement.
 5. Any other information as may be reasonably required by the Somerset-Union Soil Conservation District in order to adequately evaluate the request for soil removal.

30-405 PROCEDURE FOR ISSUANCE OF PERMIT.

The applicant shall make all applications to the Somerset-Union Soil Conservation District, which shall have complete jurisdiction of the application, and the application can be obtained from the Somerset-Union Soil Conservation District. The applicant shall consult with the Somerset-Union Soil Conservation District in order to obtain the permit and in order to determine what procedures must be followed in order to obtain the issuance of that permit.

30-406 GENERAL DESIGN AND PROCEDURAL REQUIREMENTS.

- a. Soil erosion and sediment control.
1. Stripping of vegetation, grading or other soil disturbance shall be done in a manner which will minimize soil erosion.
 2. Whenever feasible, natural vegetation shall be retained and protected.
 3. The extent of the disturbed area and the duration of its exposure shall be kept within practical limits.
 4. Either temporary seeding, mulching or other suitable stabilization measures shall be used to protect exposed critical areas during construction or other land disturbance.
 5. Drainage provisions shall accommodate increased runoff, resulting from modified soil and surface conditions, during and after development or disturbance. Such provisions shall be in addition to all existing requirements.
 6. Water runoff shall be minimized and retained on site wherever possible to facilitate groundwater recharge.
 7. Sediment shall be retained on site to the maximum extent feasible.
 8. Diversions, sediment basins and similar required structures shall be installed prior to any on-site grading or disturbance.
 9. Any other recommendations of the Somerset-Union Soil Conservation District shall be followed by the applicant.
- b. Soil removal.
1. Soil erosion and sediment control practices will be required in conjunction with the removal of any soil.
 2. Sufficient topsoil shall be retained on site and shall be respread and seeded after completion of the soil removal.
 3. The applicant shall be required to follow the route prescribed by the Construction Official and shall be responsible for keeping the streets free from dirt resulting from soil removal work.
 4. Generally, topsoil shall not be permitted to be removed from the Borough.

30-407 MAINTENANCE.

- a. Soil erosion and sediment control. It shall be the duty of the person, persons or legal entity from time to time owning or controlling the land which has been disturbed in accordance with an approved soil erosion and sediment control plan to adequately maintain the same according to the grades approved by said plan and to maintain all of the measures, devices and plantings provided for in said plan in effective condition.
- b. Soil removal. It shall be the duty of the applicant to provide such maintenance as is required by the conditions of the permit issued. All public roadways utilized in the transportation of soil shall be kept free of dirt and other spillage which may result from the soil removal operation.

30-408 INSPECTION AND ENFORCEMENT.

- a. The applicant shall have an approved copy of the soil erosion and sediment control plan at the construction site at all times. The requirements of this chapter shall be enforced by representatives from the Somerset-Union Soil Conservation District. Representatives from the Somerset-Union Soil Conservation District shall inspect the site in order to confirm compliance at such times as may be deemed necessary. If the Somerset-Union Soil Conservation District officials find existing conditions not in accordance with the permit issued, the District may refuse to approve future work and may require immediate remedy by the applicant. Under such conditions, the Construction Official is also empowered to place a stop-work notice and to seek other penalties as provided for in this chapter in the bylaws of the State of New Jersey.
- b. No certificate of occupancy for a project shall be issued by the Construction Official unless there has been compliance with a certified permit and plan as issued under the provisions of this chapter.

30-409 FEE.
Upon each application for a permit, the applicant shall pay to the Somerset-Union Soil Conservation District a fee as prescribed by their rules and regulations.

30-410 VIOLATIONS AND PENALTIES.

- a. Any person convicted of violating any of the provisions of this chapter shall be liable for the payment of a fine of not less than \$25 nor more than \$3,000, to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.). The Superior Court, County Court, County District Court or Municipal Court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.
- b. The building permit of any person who, after notice of a violation hereunder, fails to correct a violation shall be subject to revocation by the Construction Official.
- c. Nothing in this section shall be construed to prevent the Borough of Manville from seeking injunctive relief to enforce the provisions of this chapter.
- d. Remedy. If any person violates any of the provisions of this chapter or any standards promulgated pursuant to this chapter or fails to comply with the provisions of a certified plan, the municipality may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner. The Borough may proceed either by injunctive relief or by invoking the penalty provisions of this chapter.

30-411 EXEMPT ACTIVITIES.

The following activities are specifically exempt from this chapter:

- a. Reserved.
- b. Use of land for gardening primarily for home consumption.
- c. Agricultural use of land when such use will not cause excessive erosion and sedimentation.
- d. Land disturbance of less than 5,000 square feet.
- e. Soil removal of less than 10 cubic yards; provided, however, that land disturbance is less than 5,000 square feet.

ARTICLE 5 ENVIRONMENTAL IMPACT STATEMENT
(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-501 INTENT AND PURPOSE.

It is the intent and purpose of this Ordinance to provide proper guidelines and requirements for the Environmental Impact Statement to be filed with certain applications for land disturbance and development in the Borough of Manville, to preserve and enhance the quality of the natural environment, to promote the general health, safety and welfare, to recognize the existence in the Borough of Manville of certain critical areas, and to provide a coordinated approach to development and changes and thereby improve the Borough of Manville and prevent adverse environmental impact.

30-502 DEFINITIONS.

ENVIRONMENT. The conditions and influences, both natural and man-made, that affect the general health, safety, and welfare of the Borough of Manville.

ENVIRONMENTAL IMPACT STATEMENT. The Environmental Impact Statement is a separate written description and analysis of all possible direct and indirect effects development will have on the site itself as well as adjacent and non-contiguous areas with particular reference to the effect of the project on the public safety, health and welfare, the protection of public and private property and the protection, preservation and enhancement of the natural environment.

SITE. Any plot, parcel or tract of land.

CRITICAL AREA:

- a. Any land within a flood hazard area (floodway or flood fringe area) as delineated by the Department of Environmental Protection, State of New Jersey, or
- b. Any land which contains slopes exceeding twelve (12) percent grade, or
- c. Any land where the water table or surface waters cause particular problems of development, or where development is likely to cause damage to the ground water system.

30-503 APPLICABILITY.

No site shall be disturbed by any person, partnership, corporation, public agency, or entity within the municipality unless Environmental Impact Statement has been reviewed and the proposed development has been approved by the Borough Planning Board in accordance with the specifications and procedures required by this Ordinance. Exemptions from this ordinance are only as listed below:

- a. Applications for a construction permit in a residential district for a single-family residence, where the Construction Official, Zoning Officer, or Borough Engineer has determined that no part of the property in question falls in a critical area as defined herein, provided that this exemption shall not apply wherever three (3) or more dwelling units are proposed to be constructed under common ownership or control on contiguous lots or on lots within a major subdivision.
- b. Applications for a single use, business or industrial, where the property is one acre or less and where no part of the property is in a critical area as defined herein.
- c. Sign permits as required under Chapter 31, Zoning Ordinance.

The Environmental Impact Statement shall contain information and analysis with respect to the following:

- a. The location of the project and a description of the project specifying what is to be carried out, including:
 - 1. Reason for the project,
 - 2. The detailed plans for proposals and any alternative mapped and/or described,
 - 3. Parks, recreational sites, wildlife, refuges and historic sites mapped and described,
 - 4. Existing land use, zoning and master plan delineation of project mapped and described.
- b. An Inventory of existing environmental conditions at the project site and in the surrounding region (i.e., any area that might be affected by the proposal) which shall describe contours (at intervals not exceeding five feet), air quality, water quality, water supply, hydrology, geology, soils, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics and history.
- c. A listing of all licenses, permits or other approvals as required by Municipal, County or State law and the status of each.
- d. An assessment of the probable impact of the project, both adverse and beneficial, on the topics described in paragraph b.
- e. Any probable adverse environmental effects which cannot be avoided, including:
 - 1. Water quality,
 - 2. Air quality,
 - 3. Noise,
 - 4. Undesirable land use patterns,
 - 5. Damage and destruction of significant plant or wildlife systems or other resources,
 - 6. Aesthetic values,
 - 7. Displacement of people and business,
 - 8. Displacement of viable farms,
 - 9. Employment and property tax,
 - 10. Destruction of man-made resources,
 - 11. Disruption of desirable community and regional growth,
 - 12. Health, safety and well-being of the public,
 - 13. Traffic.
- f. A thorough discussion of the steps to be taken, during and after construction, both at the project site and in the surrounding area, to minimize the adverse environmental effects as described in paragraph e.
- g. Alternatives to the proposed project, including:
 - 1. That of no project,
 - 2. Description of alternatives with an objective evaluation of the alternatives that might avoid some or all of the adverse environmental effects with the rationale for acceptability or nonacceptability of each alternative,
 - 3. An analysis of the costs and social impact of the alternatives.
- h. Implications of the proposed action for population distribution or concentration should be estimated and an assessment made of the effect of any possible change in population patterns upon the resource base, including land use, water and public service of the area impacted.
- i. The relationship between local short-term uses of the environmental and the maintenance and enhancement of long-term productivity, assessing the project for each generation as a trustee of the environment for future generations.
- j. A reference list of pertinent published information relating to the project, project site and surrounding area.
- k. Particular data is required as to:
 - 1. Sewerage disposal facilities. Applicant must show:
 - (a) Estimated sewage to be generated in gallons per day together with the provision for connection to the public sewer system.
 - (b) Compliance with State Department of Environmental Protection regulations, where applicable.
 - (c) Compliance with the rules and regulations of the treatment authority into which sewerage will flow.
 - 2. Water Supply. Applicant must show:
 - (a) Compliance with State and local regulations.
 - (b) Location and depth of all private and public water supplies within five hundred (500) feet of the realty improvement.
 - (c) Location and adequacy of public water supplies to serve the proposed realty improvement.
 - 3. Drainage: storm water control. Applicant must show:

- (a) Estimated existing surface water runoff and volume.
 - (b) Compliance with State regulations.
 - (c) Compliance with local ordinances relating to drainage and surface water control.
 - (d) Submission of an erosion and sediment control plan reviewed by the Somerset-Union Soil Conservation District (see Article 4 of this Ordinance).
4. Solid Waste Disposal. Applicant must submit a statement of the character and estimated tons per week of solid waste to be generated together with a plan for the disposal of solid wastes in compliance with State Sanitary Code.
 5. Air Pollution. Applicant must show that the proposal will have no deleterious effects to the ambient air quality or that no visible smoke or deleterious chemical changes will be produced in the atmosphere by any heating, air conditioning, or incinerating devices or by processing of material.
 6. Critical Impact Area. These areas include, but are not limited to: stream corridors, steams, wetlands, estuaries slopes greater than twelve (12%) percent high acid and highly erodible soils, area of high water table and aquifer recharge and discharge areas. Applicant must show:
 - (a) A statement of impact on critical impact areas and of adverse effects which cannot be avoided.
 - (b) Environmental protective measures, procedures and schedules to minimize danger to critical impact areas.

30-505 REVIEWS AND INSPECTIONS.

Six (6) copies of the Environmental Impact Statements shall be submitted at the time of submission of the Preliminary Plat, when a major subdivision shall be involved, or upon submission of the site plan for site plan review, where no subdivision shall be involved. Copies of the same shall be furnished by the Secretary of the Planning Board to the following:

- a. To the Borough Engineer.
- b. To the Borough Environmental Commission.
- c. To the Planning Consultant, if deemed advisable by the Planning Board.

A copy of such Statement shall also be submitted to the Somerset County Planning Board in any case where the County Planning Board shall have subdivision or site plan review jurisdiction.

The Borough Engineer and Borough Environmental Commission (and Borough Planner, where applicable) shall have the authority to seek from the applicant additional data where required to make a proper review and recommendation. The respective reports shall be made to the Planning Board within a reasonable time, recognizing that each should have at least thirty (30) days for such review. Such reports shall be made part of the record at any public hearing required in connection with Planning Board action.

The cost of review by the Borough Engineer and Borough Planner (where applicable) shall be deemed part of the cost of development and shall be borne by the applicant and paid to the Borough of Manville in accordance with fees established therefor by the governing body on file in the offices of the Borough Clerk. In any case where it appears that the services of another type of expert consultant shall be required, the applicant shall be required to bear the cost of such expert; in any case the applicant shall be notified in advance and shall deposit with the Borough Clerk the estimated costs for such consultant and such deposit shall be used for the payment by the Borough of such consultant.

30-506 CONDITIONS OF APPROVAL.

In addition to the requirements of other applicable ordinances and conditions which may be imposed thereunder, the Planning Board. In making determinations relative to environmental impact, may condition approval upon compliance with recommendations contained in the reports of the Borough Engineer, Environmental Commission, County Planning Board, and Somerset-Union Soil Conservation District and may impose conditions and safeguards reasonably designed to promote the purpose of this Ordinance. Time limits for completion of work shall be included in any resolution of approval.

30-507 RESERVED.

30-508 EXEMPTIONS.

The Planning Board shall have the power to exempt an application, otherwise subject to this Ordinance, from the requirements of a full environmental impact statement, provided that following factors are taken into consideration and the Planning Board determines that a full impact statement is not required because of the nature of the specified application:

- a. Stability of the soil during and after the proposed alteration
- b. Drainage patterns and effect on surface water runoff
- c. Effects on springs
- d. Potential effect on animals and significant plant species
- e. Potential air and water pollution, especially any increase in siltation
- f. Effect on any construction plans or other environmental changes on critical slope areas or sewage disposal systems
- g. Problems related to rock removal
- h. Amount of resulting non-agricultural displacement of soil
- i. Potential noise pollution
- j. Increase in amount of industrial waste
- k. Increase problems of industrial or non-industrial waste disposal (subject to review of such problems by the Board of Health)

- I. Circumstances or conditions that are peculiar to site or to the application under consideration, that are not generally applicable to site or applications in the same general locality, and that would result in imposition of an undue burden on the applicant if an environmental impact statement were required.

30-509 BOARD OF ADJUSTMENT AS APPROVING AUTHORITY.

Whenever the term "Planning Board" is used in this Article, the same shall be taken to include the term "Board of Adjustment" wherever the Board of Adjustment is acting as the Approving Authority under the Land Development Ordinance.

ARTICLE 6 STORMWATER MANAGEMENT PROGRAM (Ord. No. 642; Ord. No. 2006-1031; Ord. No. 2007-1059; readopted by Ord. No. 2020-1235)

30-601 SCOPE AND PURPOSE

a. Policy Statement

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

b. Purpose

It is the purpose of this Article 6 to establish minimum stormwater management requirements and controls for "major development," as defined in Section 30-602.

c. Applicability

1. This Article shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
 - (a) Non-residential major developments; and
 - (b) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
2. This Article shall also be applicable to all major developments undertaken by the Borough of Manville.
3. Stormwater improvements included as part of developments that are not defined as major developments under this Article, will be required to be designed if proposed by applicant or requested by Board to address site conditions to be based on guidance documents listed in this article. Exemptions from such standards will only be as approved by the Borough Engineer. The Applicant would not be required by the Borough to obtain approval from NJDEP for such exemptions for developments that are not major developments.

d. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this Article are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this Article shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This Article is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this Article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

30-602 DEFINITIONS.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application. All words and phrases in this section shall have the same definitions as found in the Stormwater Management Rules at N.J.A.C. 7:8-1.2 with the exemption to definition of major development shall be as noted below as permitted by N.J.A.C 7:8-4.2(a), and any successor rules or regulations thereto.

DEVELOPMENT. The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act. N.J.S.A 4:1C-1 et seq.

MAJOR DEVELOPMENT. Any "development" that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

30-603 GENERAL STANDARDS.

a. Design and Performance Standards for Stormwater Management Measures.

1. Stormwater Management Measures shall be designed and constructed per New Jersey Department of Environmental Protection (NJDEP) publications including NJ Stormwater Best Practices Manual (BPM) and related Stormwater Operation and Maintenance Guidelines (latest editions). These documents shall be understood as a standard and not a guidance document.
2. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Section 30-604. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

3. The standards in this Article apply to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

30-604 STORMWATER MANAGEMENT REQUIREMENTS FOR MAJOR DEVELOPMENT.

- a. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 30-610.
- b. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- c. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 30-604f and g.
1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
 2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
 3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of fourteen (14) feet, provided that the access is made of permeable material.
- d. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 30-604f. and g. may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 30-604f. and g. to the maximum extent practicable;
 3. The applicant demonstrates that, in order to meet the requirements of Sections 30-604f. and g. existing structures currently in use, such as homes and buildings, would need to be condemned; and
 4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under paragraph d.3. above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 30-604f. and g. that were not achievable on-site.
- e. Nonstructural Stormwater Management Strategies.
1. To the maximum extent practicable, the standards in Sections 30-604f. and g. shall be met by incorporating nonstructural stormwater management strategies set forth at Section 30-604e. into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in paragraph e.2. below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
 2. Nonstructural stormwater management strategies incorporated into site design shall:
 - (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - (c) Maximize the protection of natural drainage features and vegetation;
 - (d) Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
 - (e) Minimize land disturbance including clearing and grading;
 - (f) Minimize soil compaction;
 - (g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - (i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 30-604 e.3 below.
 - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
 - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
 3. Site design features identified under Section 30-604e.2(i)(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 30-604e.3(c) below.
 - (a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than one-half (0.5) inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

(b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

(c) This standard does not apply.

(1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(2) Where flows from the water quality design storm as specified in Section 30-604g.1. are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(i) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

(ii) A bar screen having a bar spacing of 0.5 inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section 30-604g.1.;

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 30-604 f. and g. shall be **dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction** that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 30-607 or found on the Department's website at www.njstormwater.org.

f. Erosion Control, Groundwater Recharge and Runoff Quantity Standards.

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

(a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

(b) The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 30-605, either:

(i) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

(ii) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to paragraph (3) below.

(3) The following types of stormwater shall not be recharged:

(i) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(ii) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.

(c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5, complete one of the following:

- (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
- (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
- (3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or
- (4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with paragraphs (c)(1), (c)(2) and (c)(3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

2. Any application for a new agricultural development that meets the definition of major development at Section 30-602 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

g. Stormwater Runoff Quality Standards.

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 30-607, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 30-607. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.
3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See Section 6.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 30-604 f. and g.
6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 30-607.
7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - (a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - (1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
 - (2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.
 - (b) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
 - (c) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
 - (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - (2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
 - (3) Temperature shall be addressed to ensure no impact on the receiving waterway;
 - (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - (5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
 - (6) All encroachments proposed under this section shall be subject to review and approval by the Department.
 - (d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by the Borough of Manville through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 30-604 g.8. has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for the waterway. A stream corridor protection plan for a waterway subject to Section 30-604 g.8. shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Section 30-604 g.8(a)(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.
 - (e) Section 30-604 g.8. does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

30-605 CALCULATION OF STORMWATER RUNOFF AND GROUNDWATER RECHARGE.

- a. Stormwater runoff shall be calculated in accordance with the following:
 1. The design engineer shall calculate runoff using one of the following methods:
 - (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds; or
 - (b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Section 30-605 a.1(a) and the Rational and Modified Rational Methods at Section 30-605 a.1(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
 3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.
 4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds and other methods may be employed.
 5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- b. Groundwater recharge may be calculated in accordance with the following:
1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

30-606 STANDARDS FOR STRUCTURAL STORMWATER MANAGEMENT MEASURES.

- a. Standards for structural stormwater management measures are as follows:
1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
 2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance, and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.D.
 3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4. and 7.5 shall be deemed to meet this requirement.
 4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
 5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 30-608.
- b. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 30-604 of this Article.
- c. Manufactured treatment devices may be used to meet the requirements of Section 30-604 of this Article, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

30-607 SOURCES FOR TECHNICAL GUIDANCE.

- a. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publication, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.
1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
 2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.
- b. Additional technical guidance for stormwater management measures can be obtained from the following:
1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;
 2. The Rutgers Cooperative Extension Service, 732-932-9306; and
 3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

30-608 SAFETY STANDARDS FOR STORMWATER MANAGEMENT BASINS.

- a. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.
- b. Requirements for Trash Racks, Overflow Grates and Escape Provisions.
1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - (a) The trash rack shall have parallel bars, with no greater than six (6) inch spacing between the bars.
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - (d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.
 2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300lbs./ft sq.
 3. For purposes of this paragraph b.3., escape provisions mean the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
 - (a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 30-608c. a free-standing outlet structure may be exempted from this requirement.
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 30-608d. for an illustration of safety ledges in a stormwater management basin.
 - (c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.
- c. Variance or Exemption from Safety Standards.
1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the Borough of Manville that the variance or exemption will not constitute a threat to public safety.
- d. Illustration of Safety Ledges. Illustration on file at the Borough Offices.

30-609 REQUIREMENTS FOR A SITE DEVELOPMENT STORMWATER PLAN.

- a. Submission of Site Development Stormwater Plan.
1. Whenever an applicant seeks municipal approval of a development subject to this Article, ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 30-609c. below as part of the submission of the applicant's application for subdivision or site plan approval.
 2. The applicant shall demonstrate that the project meets the standards set forth in this Article.
 3. The applicant shall submit copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 30-609c. of this Article.
- b. Site Development Stormwater Plan Approval.

The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal Board or Official from which municipal approval is sought. That municipal Board or Official shall consult the engineer retained by the Planning Board to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this Article.

- c. Checklist Requirements.

The following information shall be required:

1. Topographic Base Map.

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1" =200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
2. Environmental Site Analysis.

A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s).

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan.

This plan shall provide a demonstration of how the goals and standards of Section 30-603 through 30-606 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map.

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- (a) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations.

- (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 30-604 of this Article.
- (b) When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan.

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 30-610.

8. Waiver from Submission Requirements.

The municipal Official or Board reviewing an application under this ordinance may, in consultation with the Municipal Engineer, waive submission of any of the requirements in Sections 30-609C.1. through 30-609C.9. when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

30-610 MAINTENANCE AND REPAIR.

a. Applicability.

- 1. Projects subject to review as in Section 30-601C. shall comply with the requirements of Sections 30-610b. and c.

b. General Maintenance.

- 1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- 2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- 3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
- 4. If the person responsible for maintenance identified under Section 30-610b.2. above is not a public agency, the maintenance plan and any future revisions based on Section 30-610b.7. below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- 5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement, restoration of vegetation; and repair or replacement of nonvegetated linings.
- 6. The person responsible for maintenance identified under Section 30-610b.2. above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
- 7. The person responsible for maintenance identified under Section 30-610b.2. above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
- 8. The person responsible for maintenance identified under Section 30-610b.2. above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Section 30-610b.6 and b.7.
- 9. The requirements of Sections 30-610b.3. and b.4. do not apply to stormwater management facilities that are dedicated to and accepted by the Borough of Manville or another governmental agency.

10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the Borough of Manville shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The Borough of Manville, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the Borough of Manville or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

c. Nothing in this section shall preclude the Borough of Manville in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

30-611 PENALTIES.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the following penalties, as specified in the Borough of Manville Code Chapter 1, Section 1-5.

30-612 RESERVED.

ARTICLE 7 DESIGN AND PERFORMANCE STANDARDS (Ord. No. 642; readopted by Ord. No. 2020-1235)

30-701 GENERAL.

30-701.1 Development Objectives.

Any development shall demonstrate conformance to design standards that will encourage sound development patterns within the Borough. Where either an Official Map or Master Plan has been adopted, the development shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, public parks and playgrounds, scenic sites, historic sites and flood control basins shown on the officially adopted Master Plan or Official Map shall be considered in approval of development plans. In accordance with good design practices, extreme deviations from rectangular lot shapes and straight lot lines shall not be allowed unless approved in accordance with the Municipal Land Use Law. All improvements shall be installed and connected with existing facilities or installed in required locations to enable future connections with approved systems or contemplated systems and shall be adequate to handle all present and probable future development.

30-701.2 Character of the Land.

Land which the Approving Authority finds to be in areas identified in the Natural Resources Inventory as having severe or moderate soil characteristics particularly as the land relates to flooding, improper drainage, steep slopes, rock formations, soil conditions, adverse topography, utility easements, or other features which can reasonably be expected to be harmful to the health, safety and general welfare of the present or future inhabitants of the development, and/or its surrounding areas, shall not be subdivided and site plans shall not be approved unless adequate and acceptable methods are formulated by the developer to solve the problems by methods meeting this ordinance and all other regulations.

30-701.3 Plats Straddling Municipal Boundaries.

Whenever a development abuts or crosses a municipal boundary, access to those lots within this Borough shall be from within this Borough as a general rule. Whenever access to a development is required across land in an adjoining community as the exception, the Approving Authority may require documentation that such access is legally established, and that the access road is adequately improved.

30-701.4 Development Name.

The proposed name of the development shall not duplicate, or too closely approximate, the name of any other development in this Borough. The Approving Authority shall have final authority to designate the name of the development which shall be determined at the sketch plat stage.

30-702 REQUIRED IMPROVEMENTS.

Prior to final approval, the subdivider shall have installed or shall have furnished performance guarantees for the completion of the following improvements:

30-702.1 Roads.

a. Excavation and Embankment.

1. **Description.** Excavation and embankment shall consist of grading the full width of the right-of-way in conformity with the specifications, accurately to approved line and grade. Grading shall include clearing and grubbing, removal of obstructions, excavating, forming embankments, shaping and sloping, compacting, and all other work that may be necessary to bring the roadway and its side slopes to the required grade, alignment and cross sections. Grading of all intersections (roadway, driveways and approaches) and adjacent properly to the limit of the slope lines is included in this section.
2. **Clearing and Grubbing.** The developer shall remove and dispose of all trees, stumps, roots, brush, weeds, etc., and fill the holes with suitable material and thoroughly compact the same. Disposal by burning shall be permitted only with the express permission of the Fire Marshal. Culverts shall be cleaned and cleared of obstructions. All branches of trees which hang within sixteen (16') feet of the surface of the roadway shall be removed.
3. **Roadway Excavation.** Roadway excavation shall include the removal and satisfactory disposal of all materials taken from within the limits of the work that are necessary for the construction and preparation of the roadbed, embankment, subgrade, shoulders, slopes, side ditches, drainage structures, trenches, waterways, intersections, approaches and private entrances, as indicated or directed. All suitable materials removed from the excavations shall be used as far as practicable in the formation of the embankment, subgrade and shoulders, and at such other places as directed. Ditches and waterways shall be excavated to the depth and width shown on plans, or as may be indicated or directed by the Borough Engineer. During the construction of the roadway the roadbed shall be maintained in such condition that it will be well drained at all times.
4. **Embankments.** Embankments shall be formed of suitable material placed in successive layers of not more than six (6") inches in depth for the full width of the cross section commencing on a subgrade approved by the Borough Engineer, and shall be compacted by approved mechanical equipment and by distributing the necessary hauling uniformly over each succeeding layer. Stumps, trees, rubbish and/or unsuitable material or substance shall not be placed

5. **Borrow** Required. When embankment from "off-site" is required, sufficient suitable material shall be obtained by the developer from borrow pits located beyond the limits of the work. This material, known as "Borrow," shall be of a quality satisfactory for the purpose for which it is required, and it shall be approved by the Borough Engineer. Borrow will include the furnishing, removal, placing and satisfactory compaction of the additional material necessary to complete the embankments, subgrade and shoulders.
6. **Formation of Subgrade.** The bottom of the excavation of the box to receive the pavement surface shall be true to line, grade and cross-section established or indicated on approved drawings. After all drains and drainage structures have been installed and the subgrade has been shaped and compacted, it shall be brought to a firm unyielding surface by rolling the entire area with an approved three wheel power roller weighing not less than ten tons. Any areas which are soft and yielding or which will not compact readily when rolled or tamped shall be removed. All loose rock or boulders found in the earth excavation shall be removed or broken off to a depth of not less than six (6") inches below the surface of the subgrade. All holes or depressions made by the removal of material shall be filled with suitable material and the whole surface compacted uniformly.

If the surface of a present roadway conforms approximately to the surface of the finished subgrade, it shall be scarified or rooted to a uniform depth for the full width of the paved surface sufficient to eliminate all depressions and irregularities and to permit uniform reshaping. When necessary, additional approved material shall be added to bring the subgrade to the desired elevation and cross section, and the whole shall be rolled as previously specified, until thoroughly compacted. Sod roots and other objectional material shall not be used in forming the subgrade.
7. **Protection of Subgrade.** All ditches and drains shall be completed before placing any pavement construction material. The developer shall protect the subgrade and keep it drained at all times. Neither foundation nor surfacing material shall be deposited on the subgrade until the subgrade has been checked and approved by the Borough Engineer.
8. **Slopes.** Slopes in embankment and excavation shall be formed with a slope not steeper than one (1) unit vertically to two (2) units horizontally, unless otherwise directed by the Borough Engineer.
9. **Miscellaneous Structures.** The developer shall install underdrains, storm water drains, manholes, inlets, catch basins, gutters, curb and headers, rubble walls, headwalls and culverts, monuments, guard fence, pipe railing, street signs and sidewalks or any other miscellaneous structures required on the approved drawings. The work shall be done in accordance with the current specifications of the New Jersey State Department of Transportation (Highways).

Storm water drains shall be installed to conduct the drainage along or across the right-of-way. Inlets, basins, manholes, culverts, and headwalls shall be installed in accordance with the approved plans.

Curbing shall be installed on all streets and intersections.

Metal street signs on metal posts set in concrete foundations shall be installed at street intersection as directed by the Borough Engineer. There shall be at least one (1) street sign furnished at "T" intersections and one (1) additional street sign for each additional intersecting street.

- b. **Street Widths.** Pursuant to the Master Plan, the required widths for design types shall be as follows:

<u>Design Type</u>	<u>R.O.W. Width</u>	<u>Moving Lanes</u>	<u>Paving Width</u>
Regional arterials	110'	Design Specs.	per N.J.D.O.T.
Minor arterials	80'	2 each 12' wide	48'
Primary collectors	70'	2 each 12' wide	36'
Secondary Collectors	60'	2 each 12' wide	30'
Local streets	50'	2 each 12' wide	30'

- c. **Street Pavement**

1. **Foundation Course.** The foundation course shall be a minimum compacted thickness of four (4") inches and shall be constructed of 4" Type 5 Class A road stone or 4" of dense graded aggregate, as may be approved by the Borough Engineer. The width of pavement shall be thirty (30') feet or wider as required by the Approving Authority. The method of construction will be in accordance with then current New Jersey State Department of Transportation Specifications.
2. **Prime Coat; Base Course; Top Course;** There shall be a minimum for (4") bituminous stabilized base course HMA 19M64 and a two (2") inch HMA 9.5M64 top course. The base course shall be cleaned and tack coated prior to placement of the top course, and the top course shall not be placed until the Borough Engineer has approved the base course and has approved the placement of the top course.

At any time during construction, and in any event prior to acceptance of the completed roadway, core samplings, in areas selected by the Borough Engineer, shall be submitted by the developer to show compliance with this Article and with the plans as finally approved.

A minimum of five (5) cores shall be taken for each 10,000 S.Y. of bituminous concrete surface or stabilized base course. In all cases, a minimum of five (5) pavement samples shall be taken for each bituminous concrete course. Pavement construction required by site plan approval will normally be exempted from required pave sampling.

A discretion of the Borough of Engineer, a NJDOT rideability test may be required prior to acceptance of improvements at cost of the Applicant.

30-702.2 Curbing.

Every street shall have curbing, being concrete curbing eight (8") inches thick and twenty (20") inches deep having a curb face of seven (7") inches and shall be constructed in accordance with the then current New Jersey State Department of Transportation Specifications. The height of depressed curb shall be one and one-half (1-1/2") inches above the gutter grade. All concrete curbing shall have a curing compound applied and sealing agent applied.

30-702.3 Sidewalks.

Every street shall have concrete walks four (4") feet wide, four (4") inches thick, six (6") inches thick at driveways, with six (6") inch concrete or bituminous concrete apron, placed one (1") foot from the property line. Sidewalks shall be provided with score joints and expansion joints and shall be constructed with then current New Jersey State Department of Transportation Specifications. All concrete sidewalks shall have a curing compound applied and sealing agent applied.

30-702.4 Storm Sewers; Drainage.

- a. Storm sewers shall be designed in accordance with accepted engineering practices and be subject to the approval of the Borough Engineer.
- b. Pipes shall be considered "flowing full" at maximum capacity.
- c. The minimum design velocities at the flowing full condition shall be a minimum of 3 fps and maximum of 15 fps. Drainage inlets are to have a concrete invert with pipes cut flush with walls. Inlets shall be self-cleaning under low flow conditions.
- d. All transitions in slope, horizontal direction, and change in pipe size shall be confined to manholes, catch basins or similar accessible structures.

- e. All stormwater improvements are subject to compliance with NJDEP and NJDOT standards.
- f. All stormwater improvements installed by entity other than Borough or Sewer Authority will be required to mandrel test line (7.5%) and video inspect line prior to Borough Engineer accepting improvements.
- g. Stormwater improvements will be required to be added to NJDEP MS4 GIS online mapping tool if required by Borough Engineer or Department of Public Works prior to final approval of site.

30-702.5 Sanitary Sewers.

Provision shall be made for sanitary sewage in an approved sanitary sewer system and treatment facility, and shall be adequate for all present and probable future development.

Sanitary sewers shall be installed and connected in accordance with requirements of the Borough Engineer.

Sanitary sewer main and lateral installed by entity other than Borough or Sewer Authority will be required to pressure test line, mandrel test line (7.5%) and video inspect line prior to Borough Engineer accepting improvements.

Sanitary sewer shall be subject to standards established by NJDEP and NJDOT and/or Sewer Authority.

30-702.6 Utilities.

Utilities shall be installed in accordance with the rules and regulations of the Public Utility Commission and the utility corporations involved.

All utilities within a subdivision containing three or more lots shall be installed underground in accordance with sound installation practices and the requirements of the Public Utility Commission regulating underground installations; provided, however, that this requirement may be waived by the Approving Authority in particular circumstances and for special reasons in subdivisions of less than twenty (20) lots.

30-702.7 Street Lighting.

Appropriate street lighting shall be installed where designated by the Mayor and Council.

30-702.8 Monuments.

Monuments of the size and shape required by Chapter 141 of the Laws of New Jersey of 1960, as amended and supplemented, shall be placed in accordance with said statute.

30-702.9 Topsoil Protection.

No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least four (4) inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting. See also Article 4 of this Ordinance.

30-702.10 Shade Trees.

Shade tree shall be planted on each side of every street at intervals of approximately fifty (50) feet and shall be size 1-3/4" to 2" and of the following types: European or Silver Linden; London or Oriental Plane; Norway or Sugar Maple; Red, Pin, Black, Chestnut or Scarlet Oak The type of tree to be planted will subject to adjustment based on latest planting recommendations by New Jersey Department of Environmental Protection or authority agency accepted by the Borough or Borough Engineer.

30-702.11 Water.

The proposed system of water supply shall be shown.

30-702.12 Standards for Design and Construction

All work shall be done in conformance with the current construction standards of the Borough of Manville or, in lieu thereof, the current edition of the New Jersey State Highway Department, Standard Specifications for Road and Bridge Construction, 2019, with amendments and revisions thereto, and with the New Jersey Department of Transportation standard construction details. This applies to construction completed on private property and within the public right of way.

30-702.13 Concrete Standards

Minimum concrete strength permitted for construction within Borough of Manville shall be 4,500 PSI air-entrained concrete. This applies to construction completed on private property and within the public right of way. Exemption from requirement can be considered by Borough Engineer and/or Department of Public Works.

30-703 OFF-SITE AND OFF-TRACT IMPROVEMENTS.

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

30-703.1 Essential Off-Site Improvements.

- a. In cases in which a development has no direct access to a public street, improved and meeting the standards of N.J.S.A. 40:55D-34 and N.J.S.A. 40:55D-35, or in which it has no direct access to a public sanitary sewer, the Approving Authority may nevertheless grant final plat approval, if otherwise meeting the requirements of this Ordinance, if the developer shall acquire, improve and dedicate to the Borough such street or sanitary sewer connection between the development and an existing improved public street or sanitary sewer, as the case may be, as shall be approved by the Approving Authority and the Mayor and Council. Such off-site and off-tract connections shall be subject to the provisions of this Article as if they were required improvements for the development. The dedication thereof shall be subject to approval of the Borough Attorney as to form. The provisions of this section shall be applicable only upon the request and with the consent of the developer.

In cases in which surface or other drainage waters are to be diverted from the proposed development into other drainage facilities, ditches or stormwater systems or onto other lands or onto any streets or roadways, and it appears that such off-site and off-tract facilities are not adequate to accommodate the additional waters from the site of the developer or the volume in which the waters from the site of the developer will be discharged, or that the changes in grade on-site or diversion of surface waters therefrom will be likely to cause damages to other properties or facilities, so that provision is required to extend or enlarge or create publicly controlled drainage facilities off-site or off-tract, and the need for such additional, enlarged and/or new off-site and off-tract facilities is occasioned by the needs of the developer and the proposed development, and that the costs of each additional, enlarged or new facilities will not be an unreasonable burden upon the developer if borne solely by the developer in the light of the relationship of such costs to the entire project of the developer, the Approving Authority may nevertheless grant final approval if the developer shall acquire, improve and dedicate to the Borough such enlarged, additional or new drainage facilities, as the case may be, as shall be approved by the Approving Authority and Mayor and Council. Such off-site and off-tract drainage improvements shall be subject to the provisions of this Article, as if they were required improvements within the development. The dedication thereof shall be subject to the approval of the Borough Attorney as to form. In lieu of the developer's performing such off-site and off-tract drainage work, the developer and the Mayor and Council may enter into an agreement for such work to be performed by the Borough or its contractors at the costs of the developer. The provisions of this section shall be applicable only upon the request and with the consent of the developer.

- c. Where the Approving Authority shall determine that off-site and off-tract improvements would be essential to the development, as set forth in paragraphs a. and/or b., above, so that the development cannot proceed without such off-site and off-tract improvements being made as part of the development, and the developer does not request and consent as above set forth, the application shall be denied, without prejudice to a future application at such time as the conditions which would make off-site and off-tract improvements essential no longer apply.

30-703.2 Advisable Off-Site and Off-Tract Improvements.

Where the Approving Authority finds that off-site and off-tract improvements would be advisable and would promote the objectives of this Ordinance and that the same can be most appropriately accomplished in connection with the development, but that said off-site and off-tract improvements are not essential to the development as set forth in either subsection 30-703.1a. or b., above, and particularly where the off-site and off-tract improvements would be required to be made as a local improvement by the Borough, with the costs thereof to be assessed against all properties (including the property of the developer) specially benefited thereby, then the provisions of this subsection 30-703.2 shall apply, as follows:

- a. At such time during the processing of the development application as the desirability of such off-site and off-tract improvements shall become apparent to the Approving Authority, but in no event beyond the time for the action on the preliminary plat, the Approving Authority shall refer the matter of off-site and off-tract improvements to the Mayor and Council, with recommendations to the Mayor and Council with regard thereto.
- b. If the Mayor and Council agree that the matter should be considered, then the Borough Engineer or other authority retained by the Mayor and Council for such purpose shall determine the nature of the off-site and off-tract improvements required or likely to be required in the area, including:
1. The needs created by the developer's proposed on-site construction or work.
 2. The then existing needs in the area, notwithstanding any work of the developer.
 3. The reasonably anticipated improvements or foreseeable work on other lands in the area.
- c. Said Engineer or other authority shall determine the total estimated costs of such estimated work, including all costs which would be included in any local improvements ordinance which said Borough would be authorized to adopt for said project, and including construction costs, engineering costs, costs of any easement or right-of-way acquisition, legal and advertising costs, contingencies and bonding and assessment costs, and costs of temporary financing.
- d. Said Engineer or other authority shall further determine, from the nature of the area and the nature of the work and estimated costs, the anticipated amount that the lands of the developer would be expected to be assessed under local improvement procedures pursuant to N.J.S.A. 40:58-21 et seq., as the same may be amended and supplemented from time to time.
- e. The Engineer or other authority shall report to the Mayor and Council the scope of the recommended project, the estimated total costs, as computed under paragraph c. above, and the estimated share of the developer, as computed under paragraph d. above.
- f. Based upon the report of the Engineer or other authority as aforesaid, and the recommendation of the Approving Authority, the Mayor and Council shall determine whether to undertake such off-site and off-tract improvements or portions thereof as a local improvement, the cost of which will be specially assessed against properties specially benefited thereby in proportion to and not in excess of the benefits received pursuant to Chapter 56, Title 40 of the Revised Statutes of New Jersey.
- g. If the determination of the Mayor and Council shall be that it will not adopt such ordinance for the making of such improvements as a local improvement, the final development layout shall be designed accordingly, and the Approving Authority shall base its further proceedings upon such determination.
- h. If the determination of the Mayor and Council shall be to proceed to adopt such local improvement ordinance, it shall proceed in the following manner:
1. If sufficient Borough funds are available to the initial appropriation required for said ordinance, the Mayor and Council may proceed to appropriate such funds and adopt such ordinance, an all subsequent proceedings for the making and for the assessment of the costs of the off-site and off-tract improvements shall be in accordance with such ordinance and the aforesaid statutes of New Jersey, and the final development layout shall be compatible with the off-site and off-tract improvements and the Approving Authority shall proceed accordingly.
 2. If sufficient Borough funds are not available for the initial appropriation required for said ordinance, the Mayor and Council may determine the anticipated amount that the lands of the developer would be expected to be assessed, accepting the recommendation of the Borough Engineer, or other authority under paragraph d. above, or making its own determination as to such estimated amount.
 - (a) The amount so determined by the Mayor and Council shall then be deposited by the developer with the Borough Treasurer prior to final approval of the development and prior to introduction of such local improvement ordinance.
 - (b) Such deposit shall be made concurrent with an agreement between the developer and the Borough concerning the uses of same, which shall include the following stipulations; that said funds shall be used by the Borough solely for the construction of such off-site and off-tract improvements as specified in said agreement and for the other expenses incidental thereto, as more particularly set forth in paragraph c. above, and the acquisition of any easements or rights-of-way in connection therewith; that such deposit may be appropriated by the Borough, with other funds of the Borough, toward the accomplishment of such purposes, and in that connection may be co-mingled with such other funds so appropriated and may be extended by the Borough in connection with such purposes; that if such deposit is not used by the Borough within a specified time agreed upon by the developer, said funds shall be returned to the developer, that upon completion of the work by the Borough or its contractors, the properties specially benefited by such improvement shall be assessed as provided by law, including the property of developer; that such deposit of developer shall be credited against the assessment made upon developer's property (whether or not developer is then the owner thereof), and that if such deposit shall have been less than the amount ultimately assessed and confirmed against such property, then the then owner or owners of said property shall pay the difference between the deposit and such assessment, or if the deposit shall exceed the amount so assessed and confirmed, the excess shall be refunded to the developer, without interest.

3. In any case where, although the off-site and off-tract improvements may not be found to be the type of essential off-site and off-tract improvements as defined in subsection 30-703.1a. or b. hereof, said off-site and off-tract improvements are found by the Approving Authority to be advisable and important to the sound development of the site, and the Mayor and Council has concurred in said findings and has determined to proceed in accordance with paragraph h. hereof, particularly paragraphs h. 2(a) and (b) above, but the developer is unwilling to make such deposit as specified thereunder, then and in that event there shall be no final approval of said development until funds become available for the initial appropriation required to adopt the local improvement ordinance. The determination of priority of Borough funds and availability thereof for such appropriation is a legislative function of the Mayor and Council.
 4. The determination of the availability of Borough funds for appropriation to a local improvement ordinance shall be in the sole discretion of the Mayor and Council.
- i. The determination of the Mayor and Council as to whether to proceed toward the adoption of a local improvement ordinance under paragraph g. or h., above shall be made as soon as practicable after referral by the Approving Authority, but in any case the Mayor and Council shall make such determination within forty (40) days after the referral and recommendation of the Approving Authority, unless such time shall be extended by the consent of the developer. If no such determination shall be made within such forty (40) day period of within such time as extended, the Approving Authority may proceed as if the Mayor and Council had determined that it would not adopt such local improvement ordinance.

30-703.3 Required Improvements.

Applicants shall be required, as a condition for approval of any “development application”, including a subdivision, site plan or conditional use, to pay their pro rata share of the cost of providing reasonable and necessary street improvements and/or water, sewerage and drainage facility improvements, and any necessary easements therefor, located outside the property limits of the subject premises, but necessitated or required by construction or improvements within such subdivision or development. The following criteria shall be utilized in determining the developer’s proportionate pro rata monetary share for the necessary off-tract developments. (Ord. No. 95-840)

30-703.4 Improvements to be Constructed at the Expense of the Developer.

In cases where the need for an off-tract improvement is created by the proposed subdivision or development application and where no other property owners receive a special benefit thereby (as opposed to a mere incidental benefit), the applicant may be required, as a condition of approval and at the applicant’s sole expense, to acquire and/or improve lands outside the tract and dedicate such lands to the Borough of Manville or Somerset County or, in lieu thereof, require the subdivider or developer to deposit with the Borough a sum of money sufficient to allow the Borough to acquire and/or improve such lands on conditions it may deem appropriate under the circumstances. (Ord. No. 95-840)

30-703.5 General Standards for Other Improvements.

In cases where the need for any off-tract improvement to be implemented now or in the future is necessitated by the proposed development application, and where it is determined that properties outside the development will also be benefited by the improvement, the following criteria, together with the provisions or rules and regulations of the Borough of Manville or any department thereof, may be utilized in determining the developer’s proportionate share of such improvements:

- a. **SANITARY SEWERS.** For distribution facilities, including the installation, relocation or replacement of collector, trunk and interceptor sewers and the installation, relocation or replacement of the appurtenances associated therewith, the applicant’s proportionate share shall be computed as follows:
 1. The capacity and the design of the sanitary sewer system shall be based on the Rules and Regulations for the Preparation and Submission of Plans for Sewerage Systems, New Jersey State Department of Environmental Protection, and all Borough of Manville sewer design standards, including infiltration standards.
 2. **Developer’s pro rata share:**
 - (a) The capacity of the existing system to serve the entire improved drainage area shall be computed. If the system is able to carry the total development drainage basin, no improvement or enlargement cost will be assigned to the developer although some charges, including, but not limited to, capacity charges may be imposed. If the existing system does not have adequate capacity for the total development drainage basin, the pro-rated enlargement or improvement share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Enlargement or Improvement Cost}} = \frac{\text{Development gpd}}{\text{Total Tributary gpd}}$$
 - (b) If it is necessary to construct a new system in order to develop the subdivision or development, the pro-rated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Project Cost}} = \frac{\text{Development Tributary gpd}}{\text{Total Tributary gpd to New System}}$$
 - (c) The plans for the improved system or the extended system shall be prepared by the developer’s engineer. All work shall be calculated by the developer and approved by the Borough Engineer.
- b. **ROADWAYS.** For street widening, alignment, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvement uncovered elsewhere, the construction or reconstruction of new or existing streets and other associated streets or traffic improvements, the applicant’s proportionate cost shall be determined as follows:
 1. The applicant’s engineer shall provide the Borough Engineer with the existing and anticipated peak-hour volumes which impact the off-tract areas in question, which volumes shall analyze pedestrian, bicycle and motor vehicle traffic.
 2. The applicant shall furnish a plan for the proposed off-tract improvements, which shall include the estimated peak-hour traffic generated by the proposed development. The ratio of the peak-hour traffic generated by the proposed development to the future peak-hour traffic shall form the basis of the proportionate share. The pro-rated share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Cost of Roadway Improvement and/or Extension}} = \frac{\text{Additional Peak-Hour Traffic Generated by the Development}}{\text{Future Total Peak-Hour Traffic}}$$
- c. **DRAINAGE IMPROVEMENTS.** For the storm water and drainage improvements, including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, riprap or improved drainage ditches and appurtenances thereto and the relocation or replacement of other storm drainage facilities or appurtenances associated therewith, the applicant’s proportionate share shall be determined as follows:

1. The capacity and design of the drainage system to accommodate storm water runoff shall be based on a method described in Urban Hydrology for Small Watershed, Technical Release 55, Soil Conservation Service' USDA, January 1975, as amended, and shall be computed by the developer's engineer and approved by the Borough Engineer.
2. The capacity of the enlarged, extended or improved system required for the subdivision or development and areas outside of the subdivision or development shall be computed by the developer's engineer and be subject to the approval of the Borough Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system shall be calculated by the Borough Engineer. The pro-rated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Enlargement or Improvement Cost of Drainage Facilities}} = \frac{\text{Development cfs}}{\text{Total Tributary cfs}}$$

(Ord. No. 95-840)

30-703.6 Escrow Accounts.

Where the proposed off-tract improvement is to be undertaken at a future date, funds required for the improvement shall be deposited to the credit of the Borough of Manville in a separate account until such time as the improvement is constructed. In lieu of a cash escrow account, developers may present irrevocable letters of credit for the term required in a form acceptable to the Borough Attorney. If the off-tract improvement is not begun within ten (10) years of the deposit, all monies and interest shall be returned to the applicant or the letter of credit, as the case may be, surrendered. An off-tract improvement shall be considered "begun" if the Borough of Manville has taken legal steps to provide for the design and financing of such improvements. (Ord. WO. 95-840)

30-703.7 Referral to Borough Council.

- a. Where applications for development suggest the need for off-tract improvements, whether to be installed in conjunction with development in question or otherwise, the Planning Board shall forthwith forward to the Borough Council a list and description of all such improvements together with a request that the Borough Council determine and advise the Board of the procedure to be followed in construction or installation thereof, including timing. The Board shall defer final action upon the subdivision or site plan unless receipt of the Borough Council's determination or the expiration of forty-five (45) days after the forwarding of such list and description to the Borough Council without determination having been made, whichever comes sooner.
- b. The Borough Council, within forty-five (45) days after receipt of the list and description, shall determine and advise the Planning Board concerning the procedure to be followed and advise the Board with regard to suggested conditions of approval, if any, to adequately protect the municipality.
- c. In the event that the Planning Board is required by statute to act upon the application prior to receipt of the Borough Council's determination as to construction of off-tract improvements, it shall request the applicant to consent to an extension of time within which to act, of sufficient duration to enable the Borough Council to make the aforesaid determination. In the event that the applicant is unwilling to consent to the requested extension of time, the Planning Board shall in its discretion, either itself determine the procedure to be followed in constructing the aforesaid improvements, or shall condition its approval upon the subsequent determination of the Borough Council. (Ord. No. 95-840)

30-703.8 Implementation of Off-Tract Improvements.

- a. In all cases, developers shall be required to enter into an agreement or agreements with the Borough of Manville in regard to off-tract improvements, in accordance with this chapter and any other ordinances, policies, rules and regulations of the Borough of Manville, Somerset County and the State of New Jersey and any departments, authorities or agencies thereof.
- b. Where properties outside the subject tract will be benefited by the improvements, the Borough Council may require the applicant to escrow sufficient funds, in accordance with subsection 30-703.6, Escrow Accounts, hereinabove, to secure the developer's pro rata share of the eventual cost of providing future structural improvements based upon the standards expressed herein.
- c. Where properties outside the subject will benefit by the improvements, the Borough Council may determine that the improvement or improvements are to be installed by the municipality as a general improvement, the cost of which is to be borne as a general expense. If the Borough Council shall determine that the improvement or improvements shall be constructed or installed as a general improvement or general improvements, the Borough Council may direct the Planning Board to estimate, with the aid of the Borough Engineer or such other persons who have pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the subject tract, will be specifically benefited thereby, and the subdivider or developer shall be liable to the municipality for such expense.
- d. If the Borough Council shall determine that the improvement or improvements shall be constructed or installed as a local improvement, all or a part of the cost of which is to be assessed against properties benefited thereby in proportion to the benefits conferred by the improvements in accordance with Chapter 56 of Title 40 of the Statutes of the State of New Jersey, the developer may be required to sign an agreement acknowledging and agreeing to this procedure and, in addition, the Borough Council may require that the developer shall be liable to the municipality, in addition to the amount of any special assessments against the subject property for benefits conferred by the improvement or improvements, the difference between the total amount by which all properties, including the subject tract, are specially benefited by the improvement as the same may be determined by the Tax Assessors.
- e. If the Borough Council shall determine that the improvements are to be constructed or installed by the applicant, such agreement may contain provisions, consistent with the standards in this chapter and any other rules, regulations or policies of the Borough of Manville, County of Somerset and the State of New Jersey and any departments, authorities and agencies thereof with jurisdiction therein, whereby the applicant shall be reimbursed by the municipality or otherwise, as a result of any participation fees, connection charges, charges paid in regard to developer's agreements with other applicants and the like, all in accordance with an agreement between the Borough Council and the applicant.
- f. In determining the procedure to be followed in the event of the submission of a list and request from the Planning Board, the Borough Council shall be guided by the following standards and considerations:
 1. The local trends in regard to the probability of development within the drainage or circulation area in question and the intensity of such development;
 2. The risk and exposure that neighboring areas are subject to in the event that the improvements to be required are delayed;
 3. The extent to which temporary measures may sufficiently alleviate the condition or conditions requiring the off-tract improvement and the likelihood that larger, regional or subregional facilities will be required in the future to serve the development tract and the general area of the municipality in which the same is located; and
 4. The extent to which the health, safety and welfare of the residents, both current and future, depend upon the immediate implementation of the off-tract improvement. (Ord. No. 95-840)

30-704 EASEMENTS.

30-704.1 Flood Plain and Conservation.

Flood plain and conservation easements shall be indicated on the preliminary and final plats and shown in such a manner that their boundaries can be accurately determined.

30-704.2 Tress and Ground Cover.

The removal of trees and ground cover shall be prohibited in a conservation easement or flood plain except for the following purposes: the removal of dead or diseased trees; limited thinning of trees and growth to encourage the most desirable growth; and the removal of trees to allow for structures designed to impound water or in areas to be flooded in the creation of ponds or lakes.

30-704.3 Boundary Lines.

The boundary line of any easement shall be monumented at its intersection with all existing or proposed street lines. Such easement dedication shall be expressed on the plat as follows; "_____ easement granted to the Borough of Manville as provided for in the Land Development Ordinance of the Borough of Manville."

30-704.4 Drainage.

Whenever the internal grading of a lot is part of the design of the drainage or storm water system, as by swale, berm, or other topographical feature designed to intercept or direct waters, the same shall be designated as an easement on the map to be filled, or shall be dedicated by recorded instrument, in such a way as to give notice to future owners of said property and to insure continued maintenance of such drainage feature.

30-704.5 Easement Width.

Easement width shall be as recommended by the Borough Engineer, and may involve both permanent and temporary areas. As a general rule, no permanent drainage easement shall be less than twenty (20") feet in width, subject to minimum recommendations by NJDOT and NJDEP.

30-704.6 Recording Instrument.

Where storm drains, sewers, utilities or any other rights-of-way or easements are to be located on lands within the subdivision other than within the roads to be dedicated to the public, said easements and rights-of-way shall be shown upon the plats, and, in addition thereto, shall be described in a separate instrument, approved by the Borough Attorney, to be recorded setting forth the terms thereof.

30-705 LOTS IN ALL SUBDIVISIONS.

30-705.1 Lots Requirements.

Lots shall conform to the requirements of the Zoning Ordinance, and insofar as is practical side lot lines shall be either at right angles or radial to street lines.

30-705.2 Lot Frontage.

Each lot must front upon an approved public street, which street right-of-way is at least fifty (50') feet in width. Through lots with frontage on two (2) streets, will be permitted only under the following conditions:

- a. Where the lot abuts an arterial or collector street;
- b. Where the length of the lot between both streets is of such length that future division of the lot into two (2) lots is improbable; and
- c. Where access shall be to one (1) street only, which street shall be the one with the lower traffic function, and the portion of the lot abutting the other street shall be clearly labeled on the plat and in any deed that street access is prohibited.

30-705.3 Measurement.

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

30-706 LIGHTING.

All area lighting shall provide for lights focused downward, translucent fixtures and shielding or such other light orientation and shielding as to prevent light spillage off the site. The light intensity provided at ground level shall be a minimum of three-tenths (0.3) footcandle anywhere and shall average a maximum of five-tenths (0.5) footcandle over the entire area. No light source shall exceed a height of twenty-five (25') feet. For each fixture and lighted sign, the total quantity of light radiated above a horizontal plane passing through the light source shall not exceed seven and one-half (7-1/2%) of the total quantity of light emitted from the light source. Any outdoor lighting shall be shown on the site plan in sufficient detail to allow determination of the effects at the property line and on nearby streets, driveways, residences and overhead sky glow. The objective of these specifications is to minimize undesirable off-site effects. No light shall shine directly into windows or onto streets and driveways in such a manner as to create a nuisance or interfere with or distract driver vision. To achieve these requirements, the intensity of such light sources, light shielding and similar characteristics shall be subject to site plan approval.

30-706.1 Intensity.

Maximum intensity of lighting at property lines shall be 1.0 fc.

30-706.2 Shielding.

All lights shall be shielded to restrict the maximum apex angle of the cone illumination to 150 degrees. Lights may not be pointed toward oncoming traffic.

30-706.3 Visible Lighting.

Lighting visible to adjoining residential properties shall be appropriately shielded.

30-706.4 Review of Details.

Details and specifications for the fixtures intended for use, as well as a plan which shows the isolux trace of lighting on the ground surface, shall be submitted for review.

30-706.5 Colored Lighting.

Generally, lights and signs utilizing red, amber or green lighting shall not be permitted, and any colored lighting to be used shall be reviewed by the Chief of Police with regard to possible interference by drivers with recognition of traffic signals.

30-707 LOCATION SURVEY.

No construction work whatsoever, beyond that of the foundation of a building or structure may be proceeded with until the Construction Official shall have approved the location and construction of such foundation, and no back-filling of, or around, any foundation to be hereafter constructed shall be made until the approval hereby required shall have been obtained.

No approval of the building or structure shall be given by the Construction Official, or any person authorized to act in his behalf, unless and until an accurate survey, showing the actual physical location of such foundation shall have been presented to and filed in the office of the Enforcing Agency, and found by the Construction Official to conform in all respects with the requirements and provisions of this Ordinance, with the State Uniform Construction Code, and with the requirements and provisions of Chapter 30, Zoning Ordinance, or of any resolution of the Approving Authority applicable thereto.

No location survey required as aforesaid shall be accepted for filing in the office of the Enforcing Agency unless it shall have been made by an authorized licensed professional of the State of New Jersey, and shall bear the official seal. See Section 30-107.

30-708 COMPLIANCE WITH OTHER ORDINANCES.

The enumeration of ordinances and statutes herein shall not relieve any developer from complying with all applicable ordinances or statutes which may be in effect at the time of his application for final approval or the granting thereof.

30-709 RECYCLING AND SOLID WASTE REQUIREMENTS FOR NEW DEVELOPMENTS OF MULTI-FAMILY RESIDENTIAL UNITS OR COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTIES.
(Ord. No.780; Ord. No. 2008-1063)

30-709.1 Definitions.

MULTI-FAMILY HOUSING. A building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings;

RECYCLING AREA. Allocated for collection and storage of source separate recyclable materials.

30-709.2 Recycling Plan to be Included in Applications to Planning Board or Board of Adjustment.

There shall be included in any application to the Borough Planning Board or Board of Adjustment that requires subdivision or site plan approval for the construction of multifamily housing, single-family developments of fifty (50) or more units or any commercial, institutional, or industrial development for the utilization of one thousand (1,000) square feet or more of land, a recycling plan. The plan must contain, at a minimum, the following:

- a. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and
- b. Locations documented on the application’s site plan that provide for an indoor or outdoor recycling area for the collection and storage of residentially-generated recycling materials.
 - 1. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located; and
 - 2. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the municipal Recycling Coordinator, and shall be consistent with the District Recycling Plan adopted pursuant to section 3 or P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the municipal Master Plan, adopted pursuant to section 26 of P.L. 1987, c. 102; and
 - 3. The location of the recycling area shall be convenient for the residential disposition of source separated recycling materials, preferably near, but clearly separated from, a refuse dumpster; and
 - 4. The plan shall represent that:
 - (a) The recycling area shall be well lit, and shall be safely and easily accessible by recycling personnel and vehicles; and
 - (b) Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles.

30-709.3 Protection of Recycling Area.

Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recycling materials, bins or containers.

30-709.4 Hauling Contract Required for Certificate of Occupancy.

Prior to the issuance of a Certificate of Occupancy by the Borough, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the Borough does not otherwise provide this service.

30-709.5 Design of Containers.

The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recycling paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.

30-709.6 Signs.

Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

30-709.7 Screening.

Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

30-709.8 Provision for Solid Waste Storage and Pickup Required.

Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Borough Engineer.

30-801 FINAL PLAT APPROVAL, REQUIREMENTS.

No final plat shall be approved until all items required by this Ordinance, such as but not limited to streets, street signs, curbs, gutters, culverts, trees, surveyor's monuments, soil erosion and stormwater control measures, water mains, storm sewers, sewage treatment plant, sanitary sewers, dry sanitary sewers and such other improvements, on-site, off-site, and off-tract, as required in the public interest, have been completely and satisfactorily installed, inspected, certified and approved by the Borough Engineer and accepted by the Mayor and Council, and a maintenance guarantee has been filed and accepted by the Mayor and Council, in accordance with the requirements of this Ordinance, or their installation shall have been provided for by a performance guarantee accepted and approved by the Mayor and Council in accordance with the requirements of this Ordinance before approval of the final plat. No maintenance bond shall be accepted nor shall any partial facility be accepted for any item which has further stages of work to be completed or which will need to be altered or reworked in any manner due to the installation or connection of any other facility. Any improvements installed prior to final plat application that do not meet Borough standards shall be added to the performance guarantee.

30-802 IMPROVEMENTS BY UTILITY COMPANY.

No performance guarantee or maintenance guarantee shall be required for the installation of improvements for utilities, which improvements have been installed by the utility company involved.

30-803 ITEMIZED COST ESTIMATE.

The applicant shall submit an engineer's itemized cost estimate for review and consideration by the Borough Engineer. The Borough Engineer shall review same and shall prepare a performance guarantee estimate and submit same to the Approving Authority as part of his report on final plat review, completely detailing the scope of work and cost required for the construction of necessary public improvements. Said guarantee shall cover maintenance of these improvements until final acceptance by the Mayor and Council. The cost estimate shall separate out improvements to be completed in the public right way, work to be dedicated to the Borough, work to within other agency jurisdictions, and improvements described below in 30-804 that the Borough is permitted to request bonds for and work that the Borough is not permitted to request bonds for.

30-804 GUARANTEES.

- a. Before recording final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65, the Borough or Planning Board may require and shall accept, in accordance with the standards adopted herein, for the purpose of assuring the installation and maintenance of certain on-tract improvements;
1. The furnishing of a performance guaranty in favor of the Borough in an amount equal to 120% of the cost of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the developer and approved by the municipal engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by "the map filing law," P.L.1960, c.141, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements. The performance guarantee may also be required to include, at the discretion of the Borough or Planning Board, a guarantee for the installation of privately-owned perimeter buffer landscaping. At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping. The developer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee for review and approval by the municipal engineer, which improvements shall be appended to each performance guarantee posted by the obligor.
 2. The developer shall post with the Borough, prior to the release of the performance guarantee, a maintenance guarantee in an amount equal to 15% of the cost of the installation of the improvements covered under the performance guarantee, along with the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which itemized cost shall be determined by the developer and approved by the municipal engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4. The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.
 3. The furnishing of a "safety and stabilization guarantee" in favor of the Borough to ensure that the Borough has an adequate guarantee to return the property that has been disturbed to a safe and stable condition or otherwise implement measures to protect the public from access to an unsafe or unstable condition. The Borough shall be permitted to access the guarantee when (a) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure; and (b) work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the guarantee. At the developer's option, the "safety and stabilization guarantee" may be included as a line item for safety and stabilization in the performance guarantee rather than in the form of a separate guarantee. The amount of the safety and stabilization guarantee shall be calculated pursuant to N.J.S.A. 40:55D-53.4 as follows:
 - (a) \$5,000 for the first \$100,000 of bonded improvement costs, plus
 - (b) Two and a half percent (2.5%) of bonded improvement costs in excess of \$100,000 up to \$1,000,000; plus
 - (c) One percent (1%) of bonded improvement costs in excess of \$1,000,000.
- b. The time allowed for installation of the bonded improvements for which the performance guaranty has been provided may be extended by the governing body by resolution. As a condition or part of any such extension, the amount of any performance guaranty shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation as determined by the developer and approved by the municipal engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.
- c. If the required bonded improvements are not completed or corrected in accordance with the performance guaranty, the obligor and surety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected, and the Borough may, either prior to or after the receipt of the proceeds thereof, complete such improvements.
- d. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements and the connection of same to the public system, the obligor may notify the governing body in writing by certified mail addressed in care of the Municipal Clerk of the completion or substantial completion of bonded improvements and shall send a copy thereof to the municipal engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon the Municipal Engineer shall inspect all bonded improvements of which such notice has been given and shall file a detailed report, in writing, with 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.

e. The governing body, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the municipal engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the municipal engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee and "safety and stabilization guarantee" posted may be retained to ensure completion and acceptability of all improvements. The "safety and stabilization guarantee" shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction.

For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate which formed the basis of the performance guaranty and appended to the performance guarantee pursuant to subsection a. of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70 percent of the total amount of the performance guarantee, then the municipality may retain 30 percent of the amount of the total performance guarantee and "safety and stabilization guarantee" to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a "temporary certificate of occupancy guarantee" has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the municipality below 30 percent.

- f. 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.
- g. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the Municipal Engineer.
- h. The obligor shall reimburse the municipality for reasonable inspection fees paid to the Municipal Engineer for the foregoing inspection of the improvements, which fees shall not exceed the sum of the amount set forth in N.J.S.A. 40:55D-53. The municipality may require of the developer to post the inspection fees in escrow in an amount calculated as follows: (a) except for extraordinary circumstances, the greater of \$500 or 5% of the cost of improvements subject to a performance guarantee; plus (b) an amount not to exceed 5% of the cost of private site improvements not subject to a performance guarantee, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4.

If the Borough determines that the amount in escrow for the payment of inspection fees, as calculated herein, is insufficient to cover the cost of additional required inspections, the Borough may require the developer to deposit additional funds in escrow provided that the Borough delivers to the developer a written inspection escrow deposit request which informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.

- i. In the event that final approval is by stages or sections of development pursuant to Subsection a of Section 29 of the Municipal Land Use Law (N.J.S.A. 40:55D-38), the provisions of this section shall be applied by stage or section.
- j. In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee" in favor of the Borough in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a "temporary certificate of occupancy guarantee," all sums remaining under a performance guarantee, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released.
- The scope and amount of the "temporary certificate of occupancy guarantee" shall be determined by the construction code official, zoning officer, municipal engineer, or any other municipal official designated by ordinance. The "temporary certificate of occupancy guarantee" shall be released by the construction code official, zoning officer, municipal engineer, or other municipal official designated by ordinance upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.
- k. If the property or any part of same is sold, or otherwise conveyed to a successor Developer prior to the completion and acceptance of all improvements, an Assignment of Developer's Agreement, and new performance, maintenance or other guarantees shall be required from the new owner or successor Developer. Upon the transfer of ownership of property that is the subject of a construction permit, and prior to beginning or continuing work authorized by the construction permit, the new owner or successor Developer shall file with the building department an application for a permit update to notify the building department of the name and address of the new owner or successor Developer and of all other changes to information previously submitted to the building department. The building department shall not approve the application for a permit update until it receives notification from the governing body or its designee that the new owner or successor Developer has furnished adequate replacement performance, maintenance or other guarantees and Assignment of Developer's Agreement.

30-805 MAYOR AND COUNCIL APPROVAL OF PERFORMANCE GUARANTEE.

The Borough Clerk shall notify Approving Authority and the Borough Engineer prior to the Approving Authority's next regular meeting that the performance guarantee has been approved and accepted by the Mayor and Council.

30-806 RESERVED. (Ord. No. 724; Ord. No. 2017-1191)

Note: See now Fees and Escrow Deposits in Article 11.

30-807 PERFORMANCE OF WORK.

- a. In no case shall any work be done without permission from the Borough Engineer prior to any such construction so that a representative of the Borough Engineer's office may be present at the time the work is to be done. Prior to the installation of improvements, cut sheets identifying field control points shall be submitted to the Borough Engineer. At least one (1) up-to-date, complete, "approved for construction" set of plans is to be maintained at the site of the work, available for inspection by contractors, subcontractors, materials men and the Borough inspector during normal working hours.
- b. Construction procedures, safety equipment and site conditions shall provide for the safety of all personnel, are the continuing responsibility of the owner and shall fully comply with the provisions of the Federal Occupational Safety and Health Act (OSHA) and the State Safety Code, particularly as they relate to excavations, sheeting, shoring, pumping and baling.

c. All materials shall be new, free of defects, protected and stored in a safe manner prior to incorporation in the work. The exterior of all structural elements, including pipe materials, shall be clearly marked with the name of the manufacturer of trademark, strength class and standard, date and location of manufacture.

- d. No underground facilities or materials shall be installed until the trench or general excavation subgrade and materials have been inspected and approved by the Borough Engineer or his duly authorized representative. Defective or damaged materials shall be removed from the site and replaced at the owner's expense. Unacceptable subgrade conditions shall be corrected at the owner's direction, to the approval of the Borough Engineer. Installation procedures shall conform to manufacturer's recommendations and/or trade standards for first-class construction. No underground installation shall be back-filled prior to inspection of the completed work and remedy of any apparent defects in materials or workmanship, except as provided in Section 30-808, below.
- e. Backfill procedures shall be acceptable to the Borough Engineer incident to protection of the installed work, in addition to the owner's responsibility for safe and proper procedures. Backfill for all excavations within public road rights-of-way shall comply with standards promulgated by the Borough Engineer and adopted by the Mayor and Council. Backfill material shall be select excavated material of low plasticity or suitable off-site or off-tract select material, properly placed and tamped to eliminate unacceptable settlement of following or future surface improvements or adjacent underground improvements.
- f. The Borough Engineer shall be notified in writing with a copy to the Approving Authority and Construction Official not less than one (1) month in advance of the start-up of a new project and not less than two (2) weeks in advance of a general shutdown (winter or end of work) or general restart (spring) of construction on an active project.

30-808 CONSTRUCTION PERMITS.

Construction permits in a development or in an approved subdivision, except for model buildings in the first section of the development or subdivision, will be issued only when the installation of curbs, utilities in or under the street cartway, functioning water supply and waste water disposal facilities necessary underground and/or surface storm facilities to insure proper drainage of the lots and surrounding land, rough grading of lots according to the standard of the approved soil erosion and sediment control plan for the buffer plantings and berms, street subbase and base courses and such other improvements as are specifically required by the Planning Board are installed to serve all lots and structures within the development or within the section thereof to which final subdivision approval has been granted, prior to the issuance of building permits. The owner shall request and the Construction Official shall receive favorable reports from all involved utilities and inspection officials certifying the conditional acceptance for use subject to minor punch list repairs, and final acceptance by the governing body of necessary installed improvements, where appropriate. Permits for model buildings in the first section granted final approval may be issued on commencement of construction of improvements. The number of permits for such model buildings in the tract shall not be exceed six (6) or ten (10) percent of the total number of buildings to be erected upon residential building lots which have been granted preliminary subdivision approval in this subdivision or development, whichever number is less.

As a minimum, these certifications must be received from all involved utility companies, the Plumbing Subcode Official, the involved sewerage agency, and the Borough Engineer. Completion of all improvements within the development or approved subsection, including installation of any remaining utilities in or under the sidewalk, installation of sidewalks, surface course paving, final site grading and seeding and plantings, subject only to minor punch list repairs or replacements and final acceptance by the governing body, will be required prior to the issuance of the last thirty percent (30%) of occupancy permits in the development or approved subsection thereof and prior to issuance of building permits in any subsequent subsection of the development, or, in lieu thereof, the owner shall post a cash bond in an amount equal to the cost of said remaining improvements, as determined by the Borough Engineer, said costs to include allowances for contingency and engineering fees and the cost of a maintenance bond, all in accordance with the terms and conditions of the "Borough of Manville Standard Form of Escrow Agreement on Certificates of Occupancy," a copy of which is filed with the Borough Clerk and incorporated herein by reference.

30-809 STREET LIGHTING.

Public streetlighting as necessary shall be installed and operational prior to the issuance of any occupancy certificates. Additional public streetlighting as necessary shall be installed and operational prior to the issuance of additional occupancy certificates. The developer shall, in coordination with the electric utility company, Police Department and Mayor and Council, arrange for timely installation and activation of necessary facilities and shall pay all installation, operation and maintenance costs up to the date of final acceptance of the improvements.

30-810 FIRE HYDRANTS.

Fire hydrants as necessary within public road rights-of-way shall be installed and operational prior to the issuance of any certificate of occupancy. The developer, in coordination with the water utility company, Fire Company, Borough Engineer and Mayor and Council, shall arrange for the timely installation and activation of necessary facilities and shall pay all installation, operation and maintenance costs up to the date of final acceptance of the improvements.

30-811 BOROUGH LIABILITY.

Inspection by the Borough of the installation of improvements and utilities by the developer shall not subject the Borough 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 process or is completed, or any combination of conditions on all or a part of the tract, is upon the developer and his contractors or subcontractors, if any.

30-812 AS-BUILT PLANS.

After completing the construction of the public improvements covered by the performance guarantee, the developer shall prepare one (1) set of public improvements and utility plans and the profiles, updated to show "as built" conditions drawn with waterproof black ink on translucent linen, and apply to the Borough Engineer for final inspection of the work. (See Section 30-814.)

30-813 REDUCTION OF PERFORMANCE GUARANTEE.

The amount of the performance guarantee may be reduced by the Mayor and Council by resolution when portions of the required improvements have been installed and have been inspected and approved by the Borough Engineer, provided, however, that no such reduction shall be approved until the Borough Engineer shall have certified the estimated cost of completing any remaining required improvements, and provided further that no reduction shall be approved that will result in the performance guarantee or any portion of the performance guarantee being reduced to less than fifteen percent (15%) of the original cost of any improvement(s) until all improvements have been completely installed, approved and accepted by the Mayor and Council and a maintenance guarantee secured as outlined below. Reductions shall be made in the amount of outstanding bonds prior to any reduction of the cash deposit. If any improvements have not been installed in accordance with the performance guarantee, the obligor and surety shall be liable thereon to the Borough for the reasonable cost of completing the improvement(s).

30-814 PROCEDURE FOR APPROVALS.

Upon substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the obligor may notify the Mayor and Council in writing, by certified mail addressed in care of the Borough Clerk of the completion or substantial completion of improvements and shall send a copy thereof to the Borough Engineer. Thereupon the Borough Engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the Mayor and Council, 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.

The Mayor and Council 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 contents of said report and the action of the Mayor and Council with relation thereto, not later than 45 days after receipt of the 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 part 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 Mayor and Council to send or provide such notification to the obligor within 45 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.

The obligor shall reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements.

In the event that final approval is by stages or sections of development pursuant to subsection a. of Section 29 of the Municipal Land Use Law (40:55D-38), the provisions of this section shall be applied by stage or section.

30-815 REJECTION OF IMPROVEMENTS.

If any portion of the required improvements are 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.

30-816 SUSPENSION OF WORK.

Failure of the developer, his contractor, subcontractors or agents to conform to the specifications for installing and/or maintaining improvements as approved by the Approving Authority, or to proceed in a safe manner, rendering conditions hazardous to the workmen, materials, equipment, installation or the public, will be just cause for the suspension of work being performed, and no person, firm or corporation shall have the right to demand or claim damages from the Borough of Manville, its officers, agents or servants by reason of such suspension by the Borough Engineer. Directives for suspension of all or part of the work, as appropriate, shall be in writing delivered by the Borough Engineer, with a copy to the Borough Clerk, Construction Official, Chairman of the Approving Authority and Mayor within twenty-four (24) hours. If required, the police powers of the Borough may be used to enforce such suspension of work. Work shall not resume until the cause or causes of such suspension are eliminated to the satisfaction of the Borough Engineer.

30-817 CONDITIONS AND ACCEPTANCE OF IMPROVEMENTS.

The approval of any plat under this chapter by the Approving Authority shall in no way be construed as acceptance of any street, drainage system or other improvement required by this chapter, 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 favorable action by the Mayor and Council. No improvement shall be accepted by the Mayor and Council unless and until all of the following conditions have been met:

- a. The Borough Engineer shall have certified in writing to the Approving Authority and Mayor and Council that all the improvements are complete and that they comply fully with the requirements of this chapter and of other applicable local ordinances.
- b. Maintenance Guarantee.
 - 1. The developer shall have filed with the Mayor and Council and the Mayor and Council shall have accepted and approved a maintenance guarantee of not more than fifteen percent (15%) of the original estimates of the cost of installing the improvements, which guarantee shall run for a period of two (2) years. The final amount of the maintenance guarantee shall be based on the recommendation(s) of the Borough Engineer, who shall consider, among other things, the length of time the improvement has been installed prior to the filing of the maintenance guarantee.
 - 2. The procedures and requirements governing such maintenance guarantee shall be identical to the procedures and requirements for a performance guarantee set forth above.

30-818 RENEWAL OF PERFORMANCE OR MAINTENANCE GUARANTEES.

In any case where it becomes necessary to renew or extend a performance guarantee or maintenance guarantee, the amount thereof shall be re-computed by the Borough Engineer and may be increased to meet then current conditions and cost estimates.

ARTICLE 9 APPEALS
(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-901 RESERVED.

30-902 RESERVED.

30-903 RESERVED.

30-904 APPEALS FROM BOROUGH ENGINEER DECISIONS.

Any interested party may appeal to the Planning Board:

- a. Any decision of the Borough Engineer pursuant to Article 4 of this Ordinance (Soil Erosion and Sediment Control).
- b. Any decision of the Borough Engineer pursuant to Article 6 of this Ordinance (Storm Water Control).

The Planning Board shall establish procedures for handling any appeal brought to it under this Section.

30-905 APPEALS TO SUPERIOR COURT.

Appeals from decisions of the Board of Adjustment or Planning Board, or other agencies or officials, not provided for herein, shall be to the Superior Court or as otherwise provided for by law.

ARTICLE 10 PUBLIC HEARINGS AND NOTICE (Ord. No.642; readopted by Ord. No. 2020-1235)

30-1001 PUBLIC HEARINGS AND NOTICES.

30-1001.1 Where Public Hearing Required.

Public hearing, on notice as hereinafter set forth, shall be required in the following development applications:

- a. All applications which would be under the jurisdiction of the Board of Adjustment, of whatever nature.
- b. The following matters to be heard by the Planning Board:
 - 1. All applications for preliminary approval of major subdivisions.
 - 2. All matter before the Planning Board which, if heard by the Board of Adjustment, would require a public hearing.
 - 3. All site plan review involving preliminary or final major site plan approvals, or property located in whole or in part in any critical area.
- c. All applications requiring public notice under the Municipal Land Use Law.

30-1001.2 Notice of Public Hearing.

Whenever a public hearing is required on an application for development pursuant to the Municipal Land Use Law, or pursuant to this Ordinance, or pursuant to Chapter 31, Zoning Ordinance of the Borough, the applicant shall give notice thereof as required by the Municipal Land Use Law, as follows:

- a. Public notice shall be given by publication in the official newspaper of the Borough at least ten (10) days prior to the date of the hearing.
- b. Notice shall be given to the owners of all real property as shown on the current tax duplicate, located within two hundred (200) feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) personally serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail return receipt requested to the property owner at his address as shown on the said current tax duplicate. 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, a 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 two hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.
- c. Notice of hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality.
- d. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county map or on the county master plan, adjoining other county land or situated within two hundred (200) feet of a municipal boundary.
- e. Notice pursuant to subsections c. and d. of this section, above, shall not be deemed to be required unless public notice pursuant to Subsection 30-1001.1 and subsection 30-1001.2b. are required.
- f. All notices hereinabove specified in this section shall be given by the applicant at least ten (10) days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing on the application for development.
- g. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- h. Form of Notice. All notices required to be given pursuant to the terms of this Ordinance shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax office, and the location and times at which any maps and documents for which approval is sought area available as required by law.

30-1002 LIST OF PROPERTY OWNERS FURNISHED.

Pursuant to the provisions of N.J.S.A. 40:55D-12C, as amended, the Administrative Officer of the municipality, upon the written request of an applicant, shall, within seven (7) days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subsection 30-1001.2b. The applicant 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. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.

Note: The list supplied by the Administrative Officer will contain only those properties located within the Borough of Manville and within two hundred (200) feet in all directions of the property which is the subject to such hearing. If the two hundred (200) feet distance in all directions of the property which is the subject of such hearing shall extend into another municipality or municipalities, the applicant shall have the responsibility of obtaining the names and addresses from the current tax duplicates of such other municipality or municipalities.

All matters not requiring public hearing on notice, as above set forth, shall be considered at open public meetings, all actions taken shall be taken at regular, adjourned or special meetings of the approving authority.

ARTICLE 11 FEES AND CHARGES; DEPOSITS; TRANSCRIPTS
(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-1101 FEES AND ESCROW DEPOSITS.

(Ord No. 724; Ord. No. 727; Ord. No. 2017-1191)

- a. Each such application or appeal before the Planning Board of the Borough of Manville shall be accompanied by payment of a fee as follows or shall be paid in a method to be determine by the Borough Council, in its sole discretion, including but not limited to payment in installments:
 1. Escrow Deposits. In addition to the initial fees or charges as elsewhere set forth, the municipal agency shall require escrow deposits in accordance with the provisions of the fee and deposit schedule set forth in Article 11 hereof. The Chief Financial Officer of the Borough shall make all of the payments to professionals for services rendered to the Borough or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq. The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of developments under construction and for review by outside consultants, when an application is of a nature beyond the scope of the expertise of the professionals normally utilized by the Borough. The only cost that shall be added to any such charges shall be actual out-of-pocket expenses of such professionals or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements.
 2. Scope of reimbursed services. The Borough shall be entitled to be reimbursed for the review of applications, both as to completeness and as to content, for the review and preparation of documents such as, but not limited to, drafting resolutions, developer's agreements, and necessary correspondence with applicant or applicant's professionals.
 3. Deposit of escrow funds; refunds. Deposits received from any applicant in excess of \$5,000 shall be held by the Chief Financial Officer in a special interest-bearing deposit account, and upon receipt of bills from professionals and approval of said bills as hereinafter provided for, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. Applications for development fees are nonrefundable. The Borough shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100 for the year. If the amount of interest exceeds \$100, the entire amount shall belong to the applicant and shall be refunded to him by the Borough annually or at the time the deposit is repaid or applied for the purposes for which it was deposited, as the case may be, except that the Borough may retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses. All sums not actually so expended shall be refunded to the applicant within 90 days of the final decision by the appropriate municipal agency with respect to such application, upon certification of the Board Secretary that such application has been finally decided.
 4. Payments.
 - (a) Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional which voucher shall identify the personnel performing the service, and each date the services were performed, the hours spent to one-tenth-hour increments, the hourly rate and the expenses incurred. For Borough employees, the hourly rate shall be 200% of the employee's hourly base salary which shall be established annually by ordinance. All professionals shall submit vouchers to the Chief Financial Officer of the Borough on a monthly basis in accordance with the schedules and procedures established by the Chief Financial Officer. The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the Borough simultaneously to the applicant and, the municipal agency for whom said services were performed.
 - (b) The Chief Financial Officer shall prepare and send the applicant a statement which shall include an accounting of funds, listing all deposits, interest-earnings disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are \$1,000 or less, or on a monthly basis, if monthly charges exceeded \$1,000. If an escrow account or deposit contains insufficient funds to enable the Borough or approving authority to perform required application review or improvement inspections, the Chief Financial Officer shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall within a reasonable time period post a deposit to the account in an amount to be agreed upon by the Borough or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.
 5. Payments required prior to issuance of permits. No zoning permits, building permits, certificates of occupancy or any other types of permits may be issued with respect to any approved application for development until all bills for reimbursable services have been received by the Borough from professional personnel rendering services in connection with such application and payment has been made.
 6. Close-out procedures.
 - (a) The following close-out procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.A. 40:55D-1 et seq. and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrow and deposits, or after the improvements have been approved in accordance with N.J.S.A. 40:55D-53, in the case of improvement inspection escrows and deposits.
 - (b) The applicant shall send written notice by certified mail to the Chief Financial Officer of the Borough and the approving authority and to the relevant municipal professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the relevant professional shall render a final bill to the Chief Financial Officer of the Borough within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the Borough shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill. Any balances remaining in the deposit or escrow account including interests, in accordance with N.J.S.A. 40:55D-53.1, shall be refunded to the developer along with the final accounting.
 7. Scope of charges. All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary and in accordance with N.J.S.A. A. 40:55D-53(h), given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with the conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any state governmental agency and not under municipal jurisdiction except to the extent consultation with a state agency is necessary due to the effect of state approvals on the subdivision or site plan.
 8. Limitation of inspection fees. Inspection fees shall be charged only for work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work and such inspections shall be reasonably based on the approved development plans and documents.

9. Substitution of professionals. If the Borough retains a different professional or consultant in the place of a professional originally responsible for development application review, or inspection of improvements, the Borough or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the Borough or approving authority shall not bill the applicant or charge to the deposit or the escrow account for any such services.
10. Estimate of cost of improvements. The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Municipal Engineer, based on documented construction costs for the public improvements prevailing in the general area of the Borough. The developer may appeal the Municipal Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127.
11. Appeals.
 - (a) An applicant shall notify, in writing, the Land Use Administrator (who shall be the Borough Engineer or his or her Designee) with copies to the Chief Financial Officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for a service rendered to the Borough in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges made pursuant to N.J.S.A. 40:55D-53.2 The Land Use Administrator or their designee shall within a reasonable time attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127, any charge to an escrow account or deposit by any municipal professional or consultant or the cost of the installation of improvements estimated by the municipal engineer pursuant to N.J.S.A. 40:55D-53.4 An applicant or his authorized agent shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the Borough, approving authority, and any professional whose charges are the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by N.J.S.A. 40:55D-53.2(c), except that if the professional has not supplied the applicant with an informational copy for the voucher, then the applicant shall file his appeal within 60 days from the receipt of the municipal statement of activity against the deposit or escrow account required by N.J.S.A. 40:5D-53.2(c). An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.
 - (b) Appeals shall be taken in accordance with the rules and procedures established by the County Construction Board of Appeals.
 - (c) During the pendency of the appeal, the Borough or approving authority shall continue to process, hear and decide the application for development and to inspect the development in the normal course and shall not withhold, delay or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial Officer of the Borough may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial Officer of the Borough shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of a Borough, the professional or consultant shall reimburse the Borough in the amount of any such disallowed charge. A successful appellant may receive a refund of the appeal fee.

b. Schedule of Fees and Escrow Amounts.

1. Each such application or appeal shall be accompanied by payment of a fee as follows or shall be paid in a method to be determined by the Borough Council, in its sole discretion, including but not limited to payment in installments:

Schedule of Fees

Category	Application Fee	Escrow Fee
Minor subdivision, simple lot change (no variance)	\$250	\$1,500
Minor subdivision plat or minor site plan	\$200	\$1,500
a. Sketch Plat	\$200	\$1,500
b. Preliminary plat	\$250 plus \$100 per lot	\$1,500
c. Final plat	\$200 plus \$50 per lot	\$1,500
Major Site Plan		
a. Preliminary approval	\$500 plus \$5 per one thousand square feet of lot area or part thereof, plus \$5 per one hundred square feet of proposed floor area or part thereof	\$3,000
b. Final approval	25% of preliminary approval fee	\$3,000
Conditional use applications	\$250 in addition to other applicable fees	\$1,500
Variances and appeals		
a. Appeals (N.J.S.A. 40:55D-70a)	\$200 for the first lot \$100 for each additional lot	\$1,500
b. Interpretation (N.J.S.A. 40:55D-70b)	\$200 for the first lot \$100 for each additional lot	\$1,500
c. Hardship / bulk (N.J.S.A. 40:55D-70c)	\$250 for the first lot \$100 for each additional lot, in addition to other applicable fees	\$1,500
d. Use (N.J.S.A. 40:55D-70d)	\$350 for the first lot \$100 for each additional lot, in addition to other applicable fees	\$1,500
e. Permit (N.J.S.A. 40:55D-34 & 35)	\$200	\$1,500

Simple variance (If the application involves nothing more than the erection of a fence or shed on the property of a single- or two-family residence, construction of a swimming pool accessory to a single- or two-family residence, or construction of an addition to or an alteration of a single- or two-family residence not to exceed a total of 500 square feet.)	\$75	\$750
Amended subdivision or extension of approval	50% of initial fee	50% of initial escrow
Amended site plan or extension of approval	50% of initial fee	50% of initial escrow
Informal review of a concept plan (In the event that the developer subsequently submits a preliminary application or master development plan application for the proposed development, the amount of any informal review shall be credited towards those formal application fees.)	\$50 for each meeting of Planning Board For review by Planning Board engineer, one-third (1/3) of conventional preliminary fee or one-third (1/3) of master development plan fee, as appropriate	\$750
<p>2. Payment is made in two checks. One check is to be identified as the "application fee" and the second check is to be identified as the "escrow account."</p> <p>3. If the fee schedule for application fees or escrow deposits is modified during the course of an application, the new application and escrow fee due and payable will be that fee which is in effect at the time the application is deemed complete.</p> <p>4. All fees shall be paid at the time of application.</p> <p>5. In the event the application is for more than one (1) category of relief or action, the fee shall consist of the total of the normal fees for each category of action.</p> <p>6. Applicant shall be required to pay any extraordinary costs relating to the site plan review of conditional use approval, including engineering or other expert fees.</p> <p>7. The Board may require the taking of testimony stenographically and having the same transcribed, the cost of which shall be borne and paid by the appellant or applicant. The Board may require a deposit to be made for such purposes as shall be reasonable under the circumstance.</p> <p>8. Applicant shall be responsible for the publication of a decision of the governing body on an appeal in a newspaper, and shall be responsible for the actual cost of publication of same.</p>		
c. If the fee schedule for application fees or escrow deposits is modified during the course of an application, the new application and escrow fee due and payable will be that fee which is in effect at the time of decision by the Board.		

30-1102 TRANSCRIPTS.

30-1102.1 Copy of Transcript to Approving Authority.

Whenever any person, whether applicant, developer, or other interested party, shall order or obtain a transcript of any proceedings, or part thereof, before the Planning Board, and whether such transcript be prepared from tape recordings or court stenographer furnished by the Board or by an applicant, developer, or other interested party, the person shall furnish a copy of such transcript to the Approving Authority.

30-1102.2 Reserved.

30-1102.3 Choice of Transcripts.

Where a meeting has been recorded both electronically and by certified court reporter, the transcript shall be prepared from the record of the certified court reporter.

ARTICLE 12 VIOLATIONS AND PENALTIES (Ord. No. 642; readopted by Ord. No. 2020-1235)

30-1201 VIOLATIONS AND PENALTIES.

30-1201.1 Subdivision Violations and Penalties.

- a. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which approval is required by ordinance pursuant to this act, such persons shall be subject to a penalty not to exceed \$1,000.00 and each lot disposition so made may be deemed a separate violation.
- b. In addition to the foregoing, Borough 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, but only if the Borough (1) has a Planning Board and (2) has adopted by ordinance standards and procedures in accordance with N.J.S.A. 40:55D-38
- c. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within 2 years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within 6 years, if unrecorded.

30-1201.2 Other Violations.

a. Injunctive relief.

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 act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the Borough or an 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.

The maximum penalty upon conviction of the violation of any provision of this Ordinance shall be one or more of the following: a fine not to exceed two thousand (\$2,000.00) dollars, imprisonment in the County Jail for a period not to exceed ninety (90) days, and/or a period of community service not to exceed ninety (90) days; provided, however, the maximum fine for an owner for violations of housing or zoning codes shall not exceed one thousand two hundred fifty (\$1,250.00) dollars. Each and every day upon which a violation of any provision of this Ordinance exists shall constitute a separate violation. (Ord. No. 2006-1027)

30-1202 PARTIES LIABLE.

The owner of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, or be suffered, allowed or permitted to exist, and any architect, builder, developer, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of any such violation shall each be guilty of a separate violation, and upon conviction thereof shall be each liable to the fine or imprisonment, or both, specified in subsections 30-1201.1 and 30-1201.2, above.

30-1203 OTHER REMEDIES.

The penalties provided in this Article are additional to any other remedies available to the Borough of Manville or to residents or property owners of the Borough of Manville who may be affected by any violation of this Ordinance by law.

30-1204 REVOCATION AND RESCISSION OF APPROVAL AND/OR PERMITS.

Whenever it shall come to the attention of the Planning Board, that action was taken by the Board based upon fraud or misrepresentation by or on behalf of the applicant as to a material fact, the Board shall have the right to re-open the hearing on the application with at least ten (10) days' notice to the applicant, and the applicant shall show cause at such hearing as to why the Board should not rescind its previous action and/or order revocation of any approval, permit, or certificate theretofore granted upon such fraud or misrepresentation. The rights of rescission and revocation set forth in this paragraph shall be in addition to the right to proceed under the other paragraphs of this Section.

ARTICLE 13 VALIDITY

(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-1301 SEVERABILITY.

If any section, subsection, article, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid by a Court of competent jurisdiction, such adjudication shall apply only to the section, subsection, article, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

ARTICLE 14 REPEALER

(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-1401 REPEALER.

Except as may be specifically set forth in this Ordinance, any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent; provided, however, that the adoption of this Ordinance shall not prevent or bar the continuation or institution of any proceedings for offenses heretofore committed in violation of any existing ordinances of the Borough of Manville.

ARTICLE 15 EFFECTIVE DATE

(Ord. No. 642; readopted by Ord. No. 2020-1235)

30-1501 EFFECTIVE DATE.

This Ordinance shall take effect immediately upon publication of notice after final adoption, as provided in law.

This Ordinance, however, is a substantial reenactment of the Land Development Ordinance of the Borough of Manville, as amended, and the Planning Board heretofore appointed and serving shall remain as constituted at the time of adoption of this Ordinance, until the terms of the respective members shall expire.

Where construction has begun pursuant to the provisions of the Ordinance repealed hereby, such construction may continue pursuant to such prior approval and pursuant to the terms of the Ordinance in effect at the time of adoption of this Ordinance.